



# Taxation (International and Other Provisions) Act 2010

## 2010 CHAPTER 8

### [<sup>F1</sup>PART 9A

#### CONTROLLED FOREIGN COMPANIES

### [<sup>F1</sup>CHAPTER 21

#### MANAGEMENT

#### Textual Amendments

**F1** Pt. 9A inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 para. 1](#) (with [ss. 56-58](#))

#### **371UA Introduction to Chapter**

- (1) The HMRC Commissioners are responsible for the management of the CFC charge, including the collection of sums charged.
- (2) In this Chapter—
  - “closure notice” means a notice under paragraph 32 of Schedule 18 to FA 1998 (completion of enquiry and statement of conclusions),
  - “discovery assessment” means a discovery assessment or discovery determination under paragraph 41 of that Schedule (including an assessment by virtue of paragraph 52 of that Schedule), and
  - “the Taxes Acts” has the same meaning as in TMA 1970.

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*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 21. (See end of Document for details)*

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### **371UB Application of the Taxes Acts to the CFC charge**

- (1) The provision of step 5 in section 371BC(1) relating to the charging of a sum as if it were an amount of corporation tax is to be taken as applying all enactments applying generally to corporation tax.
- (2) This is subject to—
  - (a) the provisions of the Taxes Acts, and
  - (b) any necessary modifications.
- (3) The enactments referred to in subsection (1) include—
  - (a) those relating to returns of information and the supply of accounts, statements and reports,
  - (b) those relating to the assessing, collecting and receiving of corporation tax,
  - (c) those conferring or regulating a right of appeal, and
  - (d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.
- (4) In particular, TMA 1970 is to have effect as if—
  - (a) any reference to corporation tax included a reference to a sum charged at step 5 in section 371BC(1) as if it were an amount of corporation tax, and
  - (b) any reference to profits of a company included, in the case of a chargeable company in relation to a CFC's accounting period, references to the percentage of the CFC's chargeable profits in respect of which the company is charged at step 5 in section 371BC(1).
- (5) Nothing in—
  - (a) paragraph 10 of Schedule 18 to FA 1998 (claims or elections in company tax returns), or
  - (b) Schedule 1A to TMA 1970 (claims or elections not included in returns),
 applies to an election under section 371TB(8).

### **Payments in respect of a charge on a banking company: information to be provided**

**371UB**

- (1) This section applies if—
  - (a) a sum is charged on a chargeable company at step 5 in section 371BC(1),
  - (b) the chargeable company is a banking company (within the meaning of Chapter 4 of Part 7A of CTA 2010) for the relevant corporation tax accounting period, and
  - (c) a payment is made (whether or not by the chargeable company) that is wholly or partly in respect of the sum charged on the chargeable company as mentioned in paragraph (a).
- (2) The responsible company must notify an officer of Revenue and Customs in writing, on or before the date the payment is made, of the amount of the payment that is in respect of the sum charged on the chargeable company as mentioned in subsection (1) (a).
- (3) “The responsible company” is—
  - (a) if the chargeable company is party to relevant group payment arrangements, the company that is, under those arrangements, to discharge the liability of

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- the chargeable company to pay corporation tax for the relevant corporation tax accounting period, and
- (b) otherwise, the chargeable company.
- (4) “Relevant group payment arrangements” means arrangements under section 59F(1) of TMA 1970 (arrangements for paying of tax on behalf of group members) that relate to the relevant corporation tax accounting period.
- (5) The requirement in subsection (2) is to be treated, for the purposes of Part 7 of Schedule 36 to FA 2008 (information and inspection powers: penalties), as a requirement in an information notice.
- (6) This section is subject to any provision to the contrary in regulations under section 59E of TMA 1970 (further provision as to when corporation tax is due and payable).
- (7) In this section “relevant corporation tax accounting period” has the meaning given by section 371BC(3).]

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**Textual Amendments**

**F2** S. 371UBA inserted (with effect in accordance with Sch. 3 Pt. 3 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\), Sch. 3 para. 10](#)

**371UC Just and reasonable apportionments**

- (1) This section applies if—
- (a) an apportionment of a CFC's chargeable profits and creditable tax is to be made in accordance with section 371QC(2), and
- (b) a company tax return is made or amended using for the apportionment a particular basis adopted by the company making the return.
- (2) An officer of Revenue and Customs may determine that another basis is to be used for the apportionment; and matters are then to proceed as if that were the only basis allowed by the Taxes Acts.
- (3) The officer's determination may be questioned on an appeal against an amendment of the company's tax return made under paragraph 30 or 34 of Schedule 18 to FA 1998.
- (4) But it may be questioned only on the ground that the basis of apportionment determined by the officer is not just and reasonable.

**<sup>F3</sup>371UD Relief against sum charged**

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**Textual Amendments**

**F3** S. 371UD omitted (with effect in accordance with s. 36(3)-(5) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\), s. 36\(1\)](#)

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### **371UE Appeals affecting more than one person**

- (1) This section applies if—
  - (a) a relevant appeal involves any question concerning the application of this Part in relation to a particular person, and
  - (b) the resolution of that question is likely to affect the liability under this Part of any other person in relation to the CFC concerned.
- (2) Each of the following is a “relevant appeal”—
  - (a) an appeal under paragraph 34(3) of Schedule 18 to FA 1998 against an amendment of a company tax return, and
  - (b) an appeal under paragraph 48 of that Schedule against a discovery assessment.
- (3) The appeal is to be conducted as follows.
- (4) Each of the persons whose liability under this Part is likely to be affected by the resolution of the question is entitled to be a party to the proceedings.
- (5) The tribunal must determine the question separately from any other questions in the proceedings.
- (6) The tribunal's determination on the question is to have effect as if made in an appeal to which each of those persons was a party.

### **371UF Recovery of sum charged from other UK resident companies**

- (1) This section applies if a sum charged on a company (“the defaulting company”) at step 5 in section 371BC(1) as if it were an amount of corporation tax is not fully paid before the date on which it is due and payable in accordance with the Taxes Acts.
- (2) An officer of Revenue and Customs may give a notice of liability to another UK resident company which holds or has held (directly or indirectly) the whole or any part of the same interest in the CFC concerned as is or was held by the defaulting company.
- (3) If such a notice is given to a company (“the responsible company”), the following are payable by the responsible company—
  - (a) the whole or, as the case may be, the corresponding part of the sum charged so far as it is unpaid as at the time the notice is given,
  - (b) the whole or, as the case may be, the corresponding part of any unpaid interest due on the sum charged as at the time the notice is given, and
  - (c) any interest accruing on the sum charged after the notice is given so far as referable to the sum payable by the responsible company under paragraph (a).
- (4) Subsection (5) applies if any sum payable by the responsible company under subsection (3) is not fully paid by the end of the period of 3 months starting with the date on which the notice is given.
- (5) Without affecting the right of recovery from the responsible company, the outstanding amount may be recovered from the defaulting company.]

**Changes to legislation:**

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 21.