Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

[F1 PART 6A

HYBRID AND OTHER MISMATCHES

CHAPTER 10

DUAL TERRITORY DOUBLE DEDUCTION CASES

Counteraction

[F1 259JD Counteraction where mismatch arises because of a relevant multinational and is not counteracted in the parent jurisdiction

(1) This section applies where—

(a) the dual territory double deduction amount arises as a result of the company being a relevant multinational company,

(b) the United Kingdom is the PE jurisdiction, and

(c) it is reasonable to suppose that no provision of the law of the parent jurisdiction that is equivalent to section 259JC applies.

(2) For corporation tax purposes, the dual territory double deduction amount may not be deducted from the company's income for the deduction period unless it is deducted from dual inclusion income of the company for that period.

(3) So much of the dual territory double deduction amount (if any) as, by virtue of subsection (2), cannot be deducted from the company's income for the deduction period—

(a) is carried forward to subsequent accounting periods of the company, and

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Changes to legislation: *There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 259JD. (See end of Document for details)*

(b) for corporation tax purposes, may be deducted from dual inclusion income of the company for any such period (and not from any other income), so far as it cannot be deducted under this paragraph for an earlier period.

(4) If the Commissioners are satisfied that the company has ceased to be a relevant multinational company, any of the dual territory double deduction amount that has not been deducted from dual inclusion income in accordance with subsection (2) or (3) ("the stranded deduction") may be deducted at step 2 in section 4(2) of CTA 2010 in calculating the company's taxable total profits of the accounting period in which it ceased to be a relevant multinational company.

(5) So much of the stranded deduction (if any) as cannot be deducted, in accordance with subsection (4), at step 2 in section 4(2) of CTA 2010 in calculating the company's taxable total profits of the accounting period in which the company ceased to be a relevant multinational company—

(a) is carried forward to subsequent accounting periods of the company, and

(b) may be so deducted for any such period, so far as it cannot be deducted under this paragraph for an earlier period.

(6) Subsection (7) applies if it is reasonable to suppose that all or part of the dual territory double deduction amount is (in substance) deducted ("the illegitimate overseas deduction"), under the law of a territory outside the United Kingdom, from income of any person, for a taxable period, that is not dual inclusion income of the company for an accounting period.

(7) For the purposes of determining how much of the dual territory double deduction amount may be deducted (if any) for the accounting period of the company in which the taxable period mentioned in subsection (6) ends, and any subsequent accounting periods of the company, an amount of it equal to the illegitimate overseas deduction is to be taken to have already been deducted for a previous accounting period of the company.

(8) In this section "dual inclusion income" of the company for an accounting period means an amount that is both—

(a) ordinary income of the company for that period for corporation tax purposes, and

(b) ordinary income of the company for a permitted taxable period for the purposes of a tax charged under the law of a territory outside the United Kingdom.

(9) A taxable period of the company is "permitted" for the purposes of paragraph (b) of subsection (8) if—

(a) the period begins before the end of 12 months after the end of the accounting period mentioned in paragraph (a) of that subsection, or

(b) where the period begins after that—

(i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and

(ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.**]**

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Textual Amendments

F1 Pt. 6A inserted (with effect in accordance with Sch. 10 paras. 18-21 of the amending Act) by Finance Act 2016 (c. 24), **Sch. 10 para. 1**

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