



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

[^{F1}PART 6A

HYBRID AND OTHER MISMATCHES

CHAPTER 13

ANTI-AVOIDANCE

[^{F1}259M Countering the effect of avoidance arrangements

- (1) This section applies where—
 - (a) relevant avoidance arrangements exist,
 - (b) as a result of those arrangements, any person (whether party to the arrangements or not) would, apart from this section, obtain a relevant tax advantage, and
 - (c) that person is—
 - (i) within the charge to corporation tax at the time the person would obtain the relevant tax advantage, or
 - (ii) would be within the charge to corporation tax at that time but for the relevant avoidance arrangements.
- (2) The relevant tax advantage is to be counteracted by making such adjustments to the person's treatment for corporation tax purposes as are just and reasonable.
- (3) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (4) A person obtains a “relevant tax advantage” if—

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

- (a) the person avoids, to any extent, any provision of this Part, or any equivalent provision of the law of a territory outside the United Kingdom, restricting whether or how that person may make a deduction from income for the purposes of calculating taxable profits,^{F2}...
 - (b) the person avoids, to any extent, an amount being treated as income of that person under any provision of this Part or any equivalent provision of the law of a territory outside the United Kingdom^{F3}, or
 - (c) the person does anything which, to any extent, results in an amount being treated as dual inclusion income of that person under any provision of this Part.]
- (5) “Relevant avoidance arrangements” means arrangements the main purpose, or one of the main purposes, of which is to enable any person to obtain a relevant tax advantage.
- (6) But arrangements are not “relevant avoidance arrangements” if the obtaining of the relevant tax advantage can reasonably be regarded as consistent with the principles on which the provisions of this Part, or the equivalent provisions under the law of a territory outside the United Kingdom, that are relevant to the arrangements are based (whether express or implied) and the policy objectives of those provisions.
- (7) For the purposes of determining the principles and policy objectives mentioned in subsection (6), regard may, where appropriate, be had to the Final Report on Neutralising the Effects of Hybrid Mismatch Arrangements published by the Organisation for Economic Cooperation and Development (“OECD”) on 5 October 2015 or any replacement or supplementary publication.
- (8) In subsection (7) “replacement or supplementary publication” means any document that is approved and published by the OECD in place of, or to update or supplement, the report mentioned in that subsection (or any replacement of, or supplement to, it).]

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](#)
- F2** Word in s. 259M(4) omitted (with effect in accordance with Sch. 7 paras. 37-39 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 7 para. 14](#)
- F3** S. 259M(4)(c) and word inserted (with effect in accordance with Sch. 7 paras. 37-39 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 7 para. 14](#)

Changes to legislation:

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 259M.