
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Cross Heading: Hybrid transfer deduction/non-inclusion mismatches: qualifying capital amounts. (See end of Document for details)

SCHEDULES

SCHEDULE 7

HYBRID AND OTHER MISMATCHES

Hybrid transfer deduction/non-inclusion mismatches: qualifying capital amounts

- 9 In section 259DB (meaning of “hybrid transfer arrangement”, “underlying instrument” etc), at the end insert—
- “(7) For the purposes of subsection (4) references to tax include any qualifying capital tax within the meaning given by section 259DD(11).”
- 10 In section 259DD (hybrid transfer deduction/non-inclusion mismatches: interpretation of section 259DC), at the end insert—
- “(6) A qualifying capital amount arising to a payee is treated as an amount of ordinary income of a payee and references to tax include any qualifying capital tax.
- (7) For the purposes of case 2—
- (a) a qualifying capital amount arising to a payee, for a permitted taxable period, is “under taxed” if the highest rate at which tax is charged on the amount, taking into account on a just and reasonable basis the effect of any credit for underlying tax, is less than the payee's full marginal rate for that period,
- (b) in determining the payee's “full marginal rate”, the reference to the taxable profits mentioned in subsection (4) includes any qualifying capital amount, and
- (c) in determining a “credit for underlying tax”, the reference to profits includes any qualifying capital amount.
- (8) If the rate at which a qualifying capital tax is charged on a qualifying capital amount of a payee exceeds the rate at which tax would be charged on an amount of income of the payee, the excess is to be ignored.
- (9) For the purposes of subsections (6) to (8) a “qualifying capital amount” means an amount of a capital nature on which a qualifying capital tax is charged.
- (10) A qualifying capital tax is not regarded for this purpose as charged on an amount so far as—
- (a) the amount is excluded, reduced or offset for the purposes of the tax by any exemption, exclusion, relief or credit that—
- (i) applies specifically to all or part of the amount (as opposed to amounts of a capital nature generally), or
- (ii) arises as a result of, or otherwise in connection with, a payment or quasi-payment that gives rise to the amount, or

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- (b) the tax is, or falls to be, refunded (and section 259BC(6) and (7) apply for the purposes of this paragraph with the necessary modifications).
- (11) For the purposes of subsections (6) to (10) a “qualifying capital tax” means—
 - (a) capital gains tax or the charge to corporation tax in respect of chargeable gains, or
 - (b) any tax chargeable under the law of a territory outside the United Kingdom that corresponds to a United Kingdom tax mentioned in paragraph (a),but does not include any tax chargeable at a nil rate.”

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