



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVII

TAX AVOIDANCE

CHAPTER II

TRANSFERS OF SECURITIES

Transfers with or without accrued interest: introductory

710 Meaning of “securities”, “transfer” etc. for purposes of sections 711 to 728.

- (1) ^{M1}This section has effect for the interpretation of sections 711 to 728.
- (2) “Securities” does not [^{F1}, except as provided by subsection (2A) below,] include shares in a company but, subject to subsection (3) below, includes any loan stock or similar security—
 - (a) whether of the government of the United Kingdom, any other government, any public or local authority in the United Kingdom or elsewhere, or any company or other body; and
 - (b) whether or not secured, whether or not carrying a right to interest of a fixed amount or at a fixed rate per cent. of the nominal value of the securities, and whether or not in bearer form.

[^{F2}(2A) “Securities” includes shares in a building society which are qualifying shares for the purposes of section 64(3E) of the Finance Act 1984 (qualifying corporate bonds).]

- (3) “Securities” does not include—
 - (a) securities on which the whole of the return is a distribution by virtue of section 209(2)(e)(iv) and (v);
 - (b) national savings certificates (including Ulster Savings Certificates);
 - (c) war savings certificates;

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- (d) certificates of deposit (within the meaning of section 56(5));
 - (e) any security which fulfils the following conditions, namely, it is redeemable, the amount payable on its redemption exceeds its issue price, and no return other than the amount of that excess is payable on it.
- (4) Securities are to be taken to be of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.
- (5) ^{M2} “Transfer”, in relation to securities, means transfer by way of sale, exchange, gift or otherwise.
- (6) ^{M3} Where an agreement for the transfer of securities is made, they are transferred, and the person to whom they are agreed to be transferred becomes entitled to them, when the agreement is made and not on a later transfer made pursuant to the agreement; and “entitled”, “transfer” and cognate expressions shall be construed accordingly.
- (7) ^{M4} A person holds securities—
- (a) at a particular time if he is entitled to them at the time;
 - (b) on a day if he is entitled to them throughout the day or he becomes and does not cease to be entitled to them on the day.
- (8) ^{M5} A person acquires securities when he becomes entitled to them.
- (9) ^{M6} Where—
- (a) one individual holds securities at a particular time, and
 - (b) any interest on them would, if it became payable at that time, be treated for the purposes of the Tax Acts as part of another individual’s income,
- then, for the purposes of section 715(1)(b) and section 715(2)(b) so far as relating to section 715(1)(b), each of them shall be treated as holding at that time the securities which the other holds as well as those which he actually holds.
- (10) ^{M7} Where in Scotland two or more persons carry on a trade or business in partnership, any partnership dealings shall be treated as dealings by the partners and not by the firm as such and the partners as being entitled to securities held by the firm.
- (11) ^{M8} The nominal value of securities is—
- (a) where the interest on them is expressed to be payable by reference to a given value, that value; and
 - (b) in any other case, the price of the securities when they were issued.
- (12) ^{M9} Where apart from this subsection the nominal value of securities would be a value (“the foreign value”) expressed in a currency other than sterling, then, for the purposes of section 715, their nominal value on a particular day is the sterling equivalent on that day of the foreign value.
- For the purposes of this subsection the sterling equivalent of a value on a particular day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.
- (13) ^{M10} Where there is a conversion of securities then,—
- (a) the person who was entitled to them immediately before the conversion shall be treated as transferring them on the day of the conversion (if there is no actual transfer); and

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- (b) the interest period in which the conversion is made shall be treated as ending on the day on which it would have ended had the conversion not been made.

In this subsection “conversion” means a conversion within the meaning of section 82 of the 1979 Act.

- (14) ^{M11}In relation to an underwriting member of Lloyd’s, “business” and “premiums trust fund” have the meanings given by section 457.

Textual Amendments

- F1** Words in s. 710(2) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 51, Sch. 10 para. 2(2)(4)
F2 S. 710(2A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 51, Sch. 10 para. 2(3)(4)

Marginal Citations

- M1** Source—1985 Sch.23 1
M2 Source—1985 Sch.23 2(2)
M3 Source—1985 Sch.23 2(3), (4)
M4 Source—1985 Sch.23 2(5), (6)
M5 Source—1985 Sch.23 2(7)
M6 Source—1985 Sch.23 2(8), (9)
M7 Source—1985 Sch.23 2(10)
M8 Source—1985 Sch.23 5
M9 Source—1985 Sch.23 10(6), (7)
M10 Source—1985 Sch.23 14(1), (3), (4)
M11 Source—1985 Sch.23 21

711 Meaning of “interest”, “transfers with or without accrued interest” etc.

- (1) ^{M12}This section has effect for the interpretation of sections 710 and 712 to 728.
- (2) An interest payment day, in relation to securities, is a day on which interest on them is payable; and, in a case where a particular payment of interest may be made on one of a number of days, the interest is for the purposes of this subsection payable on the first of those days.
- (3) Subject to subsection (4) below, the following are interest periods in relation to securities—
- (a) the period beginning with the day following that on which they are issued and ending with the first interest payment day to fall;
- (b) the period beginning with the day following one interest payment day and ending with the next to fall.
- (4) A period which would (apart from this subsection) be an interest period exceeding 12 months (“a long period”) is not an interest period, but the following shall apply to it—
- (a) the period of 12 months beginning with the day on which it begins is an interest period;
- (b) each successive period (if any) of 12 months falling within it is an interest period;
- (c) any period of it which remains after applying paragraphs (a) and (b) above is an interest period.

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- (5) Securities are transferred with accrued interest if they are transferred with the right to receive interest payable on—
- (a) the settlement day, if that is an interest payment day; or
 - (b) the next (or first) interest payment day to fall after the settlement day, in any other case;
- and they are transferred without accrued interest if they are transferred without that right.
- (6) ^{M13}Where section 710(13), 715(3), 720(4), 721(1), [^{F3}722(1) or (2) or 724(1A)] applies, the transfer shall be treated as made with accrued interest if the person treated as making the transfer was entitled to receive in respect of the securities interest payable on—
- (a) the settlement day, if that is an interest payment day; or
 - (b) the next (or first) interest payment day to fall after that day, in any other case;
- and they shall be treated as transferred without accrued interest if he was not so entitled.
- (7) ^{M14}The interest applicable to securities for an interest period is, subject to subsection (8) below, the interest payable on them on the interest payment day with which the period ends.
- (8) In the case of a period which is an interest period by virtue only of subsection (4) above or section 725(9)—
- (a) the interest applicable to securities for the period is the interest payable on them on the interest payment day with which the long or straddling period concerned ends; and
 - (b) section 713(6) shall have effect as if the references to the period were to the long or straddling period concerned.
- (9) “Interest” includes dividends and any other return (however described) except a return consisting of an amount by which the amount payable on a security’s redemption exceeds its issue price.

Textual Amendments

F3 1990 s.41 and Sch.6 para.9(2) on and after 24 May 1990 subject to the commencement provisions of paras.11 and 12. Previously “or 722(1) or (2)”.

Marginal Citations

M12 Source—1985 Sch.23 3(1)-(5)
M13 Source—1985 Sch.23 14(2), 31(2), 12(2), 13(3), 7(2)
M14 Source—1985 Sch.23 3(6)-(8)

712 Meaning of “settlement day” for purposes of sections 711 to 728.

- ^{M15}(1) This section has effect to determine, for the purposes of sections 711 and 713 to 728, the settlement day in relation to a transfer of securities.
- (2) Where the securities are transferred in accordance with the rules of a recognised market, the settlement day is the day on which the transferee agrees to settle or, if he

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may settle on one of a number of days, the day on which he settles; and, where they are transferred otherwise, subsections (3) to (5) below apply.

- (3) Where the consideration for the transfer is money alone, and the transferee agrees to pay the whole of it on or before the next (or first) interest payment day to fall after an agreement for transfer is made, the settlement day is the day on which he agrees to make the payment or, if payment may be made on one of a number of days, or on a number of different days, the latest of them to fall.
- (4) Where there is no consideration for the transfer, or the transfer is a transfer by virtue of sections 710(13), 715(3), 717(8), 720(4), 721 [^{F4}, 722 and 724(1A)], the settlement day is the day on which the securities are transferred.
- (5) In any other case, the settlement day is such day as an inspector decides; and the jurisdiction of the General Commissioners or the Special Commissioners on any appeal shall include jurisdiction to review such a decision of the inspector.

Textual Amendments

- F4** 1990 s.41 and Sch.6 para.9(3) on and after 24 May 1990 subject to the commencement provisions of paras.11 and 12. Previously “and 722”.

Modifications etc. (not altering text)

- C1** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(1)(2)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(3)(4)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(8)(10)
Ss. 710-728 modified (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(4), 184(3)

Marginal Citations

- M15** Source—1985 Sch.23 4; 1986 Sch.17 3(2)

Transfers with or without accrued interest: charge to tax and reliefs

713 Deemed sums and reliefs.

- ^{M16}(1) Subject to sections 714 to 728, this section applies whether the securities in question are transferred before, on or after 6th April 1988; and in this section references to a period are references to the interest period in which the settlement day falls.
- (2) If securities are transferred with accrued interest—
 - (a) the transferor shall be treated as entitled to a sum on them in the period of an amount equal to the accrued amount; and
 - (b) the transferee shall be treated as entitled to relief on them in the period of the same amount.
 - (3) If securities are transferred without accrued interest—
 - (a) the transferor shall be treated as entitled to relief on them in the period of an amount equal to the rebate amount; and
 - (b) the transferee shall be treated as entitled to a sum on them in the period of the same amount.

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- (4) In subsection (2) above “the accrued amount” means—
- (a) if the securities are transferred under an arrangement by virtue of which the transferee accounts to the transferor separately for the consideration for the securities and for gross interest accruing to the settlement day, an amount equal to the amount (if any) of gross interest so accounted for; and
 - (b) in any other case, an amount equal to the accrued proportion of the interest applicable to the securities for the period.
- (5) In subsection (3) above “the rebate amount” means—
- (a) if the securities are transferred under an arrangement by virtue of which the transferor accounts to the transferee for gross interest accruing from the settlement day to the next interest payment day, an amount equal to the amount (if any) of gross interest so accounted for; and
 - (b) in any other case, an amount equal to the rebate proportion of the interest applicable to the securities for the period.
- (6) In this section—
- (a) the accrued proportion is—

$$\frac{A}{B}$$

- (b) the rebate proportion is—

$$\frac{B - A}{B}$$

where—

A is the number of days in the period up to (and including) the settlement day, and

B is the number of days in the period.

- (7) ^{M17}For the purposes of subsection (2) above, in a case where the interest on the securities is payable in a currency other than sterling the accrued amount is to be determined as follows—
- (a) if subsection (4)(a) above applies and the sterling equivalent of the amount of gross interest there mentioned is shown in an agreement for transfer, the accrued amount is the sterling equivalent so shown;
 - (b) if subsection (4)(a) applies but paragraph (a) above does not, or if subsection (4)(b) above applies, the accrued amount is the sterling equivalent on the settlement day of the amount found by virtue of subsection (4)(a) or (b) (as the case may be).
- (8) For the purposes of subsection (3) above, in a case where the interest on the securities is payable in a currency other than sterling the rebate amount is to be determined as follows—
- (a) if subsection (5)(a) above applies and the sterling equivalent of the amount of gross interest there mentioned is shown in an agreement for transfer, the rebate amount is the sterling equivalent so shown;

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- (b) if subsection (5)(a) applies but paragraph (a) above does not, or if subsection (5)(b) above applies, the rebate amount is the sterling equivalent on the settlement day of the amount found by virtue of subsection (5)(a) or (b) (as the case may be).
- (9) ^{M18}For the purposes of subsections (7) and (8) above the sterling equivalent of an amount on a particular day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.

Modifications etc. (not altering text)

- C2** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(1)(2)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(3)(4)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(8)(10)
Ss. 710-728 modified (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(4), 184(3)
- C3** Ss. 710-728 modified (with effect in accordance with s. 105(1) of the modifying Act) by Finance Act 1996 (c. 8), Sch. 13 para. 11 (with Sch. 13 para. 16, Sch. 15)
- C4** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))
- C5** S. 713(2)(3) excluded (24.2.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 10 para. 4; S.I. 2003/120, art. 2, Sch. (with arts. 3, 4 (as amended by S.I. 2003/333, art. 14))

Marginal Citations

- M16** Source—1985 s.73
M17 Source—1985 Sch.23 10(1)-(3)
M18 1985 Sch.23 10(7)

714 Treatment of deemed sums and reliefs.

- ^{M19}(1) Subsection (2) below applies if a person is treated as entitled under section 713 to a sum on securities of a particular kind in an interest period, and either—
- (a) he is not treated as entitled under that section to relief on securities of that kind in the period; or
- (b) the sum (or total sum) to which he is treated as entitled exceeds the amount (or total amount) of relief to which he is treated as entitled under that section on securities of that kind in the period.
- (2) The person shall be treated as receiving on the day the period ends annual profits or gains whose amount is (depending on whether subsection (1)(a) or (1)(b) above applies) equal to the sum (or total sum) to which he is treated as entitled or equal to the amount of the excess; and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the chargeable period in which they are treated as received.
- (3) Subsection (4) below applies if a person is treated as entitled under section 713 to relief on securities of a particular kind in an interest period, and either—
- (a) he is not treated as entitled under that section to a sum on securities of that kind in the period; or
- (b) the amount (or total amount) of relief to which he is treated as entitled exceeds the sum (or total sum) to which he is treated as entitled under that section on securities of that kind in the period.

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- (4) The person shall be entitled to an allowance whose amount is (depending on whether subsection (3)(a) or (3)(b) above applies) equal to the amount (or total amount) of relief to which he is treated as entitled or equal to the amount of the excess; and subsection (5) below shall apply.
- (5) Any amount to which the person is entitled by way of interest which—
- (a) falls due on the securities at the end of the interest period, and
 - (b) is taken into account in computing tax charged for the chargeable period in which the interest period ends,
- shall for the purposes of the Tax Acts be treated as reduced by the amount of the allowance; but if the period is one which does not end with an interest payment day, he shall be treated as becoming, in the next interest period, entitled under section 713 to relief on the securities of an amount equal to the amount of the allowance.
- (6) Where, but for this subsection, a company would by virtue of subsection (2) above be treated as receiving profits or gains on a day which does not fall within an accounting period of the company, the profits or gains shall instead be treated as received by the company on the latest day of the interest period which does so fall.

Modifications etc. (not altering text)

- C6** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(1)(2)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(3)(4)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(8)(10)
Ss. 710-728 modified (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(4), 184(3)

Marginal Citations

- M19** Source—1985 s.74

715 Exceptions from sections 713 and 714

- (1) ^{M20}Section 713(2)(a) or (3)(a) (as the case may be) does not apply—
- (a) if the transferor carries on a trade and the transfer falls to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade;
 - (b) if the transferor is an individual and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him exceeded £5,000;
 - (c) if the securities transferred form part of the estate of a deceased person, the transferor is that person's personal representative and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as the deceased's personal representative exceeded £5,000;
 - (d) ^{M21}where—
 - (i) if the transferor became entitled to any interest on the securities transferred and applied it for charitable purposes only, exemption could be granted under section 505(1)(c) in respect of the interest;
 - (ii) if the transferor became entitled to any interest on the securities transferred and applied it for the purposes mentioned in paragraph (d)

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of section 505(1), exemption could be granted under that paragraph in respect of the interest;

- (e) ^{M22}if the securities transferred are held on a disabled person's trusts, the transferor is trustee of the settlement and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as trustee of the settlement exceeded £5,000;
 - (f) if the transferor does not fulfil the residence requirement for the chargeable period in which the transfer is made and is not a non-resident United Kingdom trader in that period;
 - (g) if the transferor is not ordinarily resident in the United Kingdom during the chargeable period in which the transfer occurs and, if he became entitled in the period to any interest on the securities transferred, it would not be liable to income tax by virtue of section 47;
 - (h) if the securities transferred are FOTRA securities, the transferor is not domiciled in the United Kingdom at any time in the chargeable period in which the transfer occurs, and he is either not ordinarily resident in the United Kingdom during that period or a non-resident United Kingdom trader in that period;
 - (j) if the transferor is an individual who, if he became entitled in the year of assessment in which the transfer occurs to any interest on the securities transferred, would be liable, in respect of the interest, to tax chargeable under Case IV or V of Schedule D and computed on the amount of sums received in the United Kingdom; or
 - (k) ^{M23}where, if the transferor became entitled to any interest on the securities transferred, exemption could be allowed under section 592(2) in respect of the interest.
- (2) ^{M24}Section 713(2)(b) or (3)(b) (as the case may be) does not apply if—
- (a) the transferee carries on a trade, and if at the time he acquired the securities he were to transfer them that transfer would fall to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade; or
 - (b) any provision of subsection (1) above except paragraph (a) would apply if “transferor” read “transferee”.
- (3) ^{M25}If securities held on charitable trusts cease to be subject to charitable trusts the trustees shall be treated for the purposes of sections 710 to 728 as transferring the securities (in their capacity as charitable trustees) to themselves (in another capacity) at the time when the securities cease to be so subject.
- (4) ^{M26}For the purposes of this section a person fulfils the residence requirement for a chargeable period if he is resident in the United Kingdom during any part of the period or is ordinarily resident in the United Kingdom during the period.
- (5) For the purposes of this section a person is a non-resident United Kingdom trader in a chargeable period if during any part of it he is (though neither resident during any part of it nor ordinarily resident during it) carrying on a trade in the United Kingdom through a branch or agency and the securities transferred—
- (a) were situated in the United Kingdom and used or held for the purposes of the branch or agency at or before the time of the transfer (where the person concerned is a transferor); or

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- (b) were so situated at the time of the transfer and were acquired for use by or for the purposes of the branch or agency (where the person concerned is a transferee);

but the provisions of this subsection relating to the situation of the securities in the United Kingdom do not apply where the person concerned is a company.

- (6)^{M27} In any case where securities are transferred without accrued interest to a person (“the seller”) and a contract is made for the sale by the seller of securities of that kind (“the seller’s contract”) and the seller’s contract or any contract under which the securities are transferred to the seller is one in the case of which section 737 has effect and in relation to which the seller is the dividend manufacturer, then—

- (a) where the nominal value of the securities subject to the seller’s contract is greater than or equal to that of the securities transferred, the seller shall not be treated as entitled to any sum to which, but for this subsection, he would be treated as entitled under section 713(3)(b) on the securities transferred;
- (b) where the nominal value of the securities subject to the seller’s contract is less than that of the securities transferred, any sum (or the aggregate of any sums) to which he is treated as entitled under section 713(3)(b) on the securities transferred shall be reduced by the amount of any part of the sum (or aggregate) attributable to securities (“relevant securities”) of a nominal value equal to that of the securities subject to the seller’s contract;

and for the purposes of sections 710 to 728 the securities which the seller contracts to sell shall not be treated as transferred by him (though treated as transferred to the person to whom he contracts to sell).

- (7) In determining for the purposes of subsection (6)(b) above which of the securities transferred are relevant securities, those transferred to the seller earlier must be chosen before those transferred to him later.

- (8)^{M28} For the purposes of this section—

“disabled person’s trusts” means trusts falling within paragraph 5(1) of Schedule 1 to the 1979 Act;

“branch or agency” has the meaning given by section 12(3) of the 1979 Act;

“FOTRA securities” means securities issued with the condition mentioned in section 22(1) of the^{M29} Finance (No.2) Act 1931 (securities free of tax for residents abroad) as modified by virtue of section 60(1) of the^{M30} Finance Act 1940;

and the place where securities are situated shall be determined in accordance with section 18(4) of the 1979 Act.

Modifications etc. (not altering text)

C7 *These provisions are reproduced in Part II Vol.5.*

Marginal Citations

- M20** Source—1985 s.71(1) (a)-(c)
M21 Source—1985 Sch.23 30(1), (4)
M22 Source—1985 s.75(1)(d)-(h)
M23 Source—1985 Sch.23 32(1)
M24 Source—1985 s.75(2), Sch.23 30(2), (5), 32(2)
M25 Source—1985 Sch.23 31(1)
M26 Source—1985 s.75(3), (4)

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M27 Source—1985 Sch.23 43; 1986 Sch.17 5

M28 Source—1985 s.75(5), (6)

M29 1931 c. 49.

M30 1940 c. 29.

716 Transfer of unrealised interest.

^{M31}(1) This section applies where securities are transferred (whether before or after 6th April 1988) with the right to receive interest (“unrealised interest”) payable on them on an interest payment day falling before the settlement day.

(2) Where the settlement day falls within an interest period, section 714 shall (subject to subsection (5) below) apply as if the transferor were entitled under section 713 to a sum on them in the period of an amount equal to the unrealised interest (in addition to any other sum to which he may be treated as so entitled).

(3) Where the settlement day falls after the end of the last interest period in relation to the securities, the transferor shall be treated as receiving on the settlement day annual profits or gains of an amount equal to the unrealised interest; and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the chargeable period in which they are treated as received.

(4) Where the transferee receives the unrealised interest, and but for this subsection it would be taken into account in computing tax charged for the chargeable period in which the interest is received, it shall for the purposes of the Tax Acts be left out of account.

(5) ^{M32}Section 715 shall apply for the purposes of this section as if—

(a) in subsection (1)—

(i) the reference to section 713(2)(a) or (3)(a) were a reference to subsection (2) or (3) above; and

(ii) references to the year of assessment in which the interest period ends were references to the year in which the settlement day falls; and

(b) in subsection (2) the reference to section 713(2)(b) or (3)(b) were a reference to subsection (4) above.

Paragraph (b) above does not apply where the securities in question were transferred before 19th March 1986.

(6) ^{M33}Where the unrealised interest is payable in a currency other than sterling its amount is for the purposes of this section the sterling equivalent on the settlement day of the amount it would be apart from this subsection; and for this purpose the sterling equivalent is to be calculated by reference to the London closing rate of exchange for the day.

Modifications etc. (not altering text)

C8 Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(1)(2)

Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(3)(4)

Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(8)(10)

Ss. 710-728 modified (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(4), 184(3)

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- C9** Ss. 710-728 modified (with effect in accordance with s. 105(1) of the modifying Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 13 para. 11](#) (with [Sch. 13 para. 16](#), [Sch. 15](#))
- C10** Ss. 711-728 modified (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 161\(2\)\(a\)](#) (with [s. 161\(7\)](#))
- C11** S. 716 excluded (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), [s. 458\(1\)](#), [Sch. 10 para. 4](#); [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#) (as amended by [S.I. 2003/333](#), [art. 14](#)))

Marginal Citations

- M31** Source—1985 Sch.23 15(1)-(4)
- M32** Source—1985 Sch.23 15(5); 1986 Sch.17 2(2)
- M33** Source—1985 Sch.23 15(8)

717 Variable interest rate.

- ^{M34}(1) This section applies to securities other than securities falling within subsection (2) or (4) below.
- (2) Securities fall within this subsection if their terms of issue provide that throughout the period from issue to redemption (whenever redemption might occur) they are to carry interest at a rate which falls into one, and one only, of the following categories—
- (a) a fixed rate which is the same throughout the period;
 - (b) a rate which bears to a standard published base rate the same fixed relationship throughout the period;
 - (c) a rate which bears to a published index of prices the same fixed relationship throughout the period.
- (3) In subsection (2)(c) above “published index of prices” means the retail prices index or any similar general index of prices which is published by, or by an agent of, the government of any territory outside the United Kingdom.
- (4) Securities fall within this subsection if they are deep discount securities and the rate of interest for each (or their only) interest period is equal to or less than the yield to maturity.
- (5) In subsection (4) above “deep discount securities” and “yield to maturity” have the same meanings as in Schedule 4; and for the purposes of that subsection the rate of interest for an interest period is, in relation to securities, the rate of return (expressed as a percentage) attributable to the interest applicable to them for the interest period.
- (6) Subsections (7) to (11) below apply if securities to which this section applies are transferred at any time between the time they are issued and the time they are redeemed.
- (7) If the securities are transferred without accrued interest they shall be treated for the purposes of sections 710 to 728 as transferred with accrued interest.
- (8) The person entitled to the securities immediately before they are redeemed shall be treated for the purposes of those sections as transferring them with accrued interest on the day they are redeemed.
- (9) Where there is a transfer as mentioned in subsection (6) above or by virtue of subsection (8) above, section 713 shall have effect with the omission of subsection (2) (b) and with the substitution for subsections (3) to (6) of the following subsection—
- “(3) In subsection (2) above “the accrued amount” means such amount (if any) as an inspector decides is just and reasonable; and the jurisdiction of the General

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Commissioners or the Special Commissioners on any appeal shall include jurisdiction to review such a decision of the inspector.”.

(10) Subsection (11) below applies where there is a transfer by virtue of subsection (8) above and the settlement day in relation to the transfer falls after the end of a period which would (by virtue of section 711(3) and (4) and apart from this subsection) be the only or last interest period in relation to the securities.

(11) For the purposes of sections 710 to 728 the period beginning with the day following that interest period and ending with the settlement day shall be treated as an interest period in relation to the securities; and section 711(4) shall not apply to it.

Modifications etc. (not altering text)

- C12** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(1)(2)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(3)(4)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(8)(10)
Ss. 710-728 modified (27.7.1993) with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(4), 184(3)

Marginal Citations

- M34** Source—1985 Sch.23 15A, 15B, 15C; 1986 Sch.17 3

718 Interest in default.

^{M35}(1) This section applies where, because of any failure to fulfil the obligation to pay interest on securities, the value (on a day mentioned in section 711(7) or (8)(a), as the case may be) of the right to receive the interest payable on them on that day is less than the interest so payable.

(2) Section 711(7) or (8)(a), as the case may be, shall be construed as if the reference to that interest were to an amount equal to that value.

Modifications etc. (not altering text)

- C13** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(1)(2)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(3)(4)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(8)(10)
Ss. 710-728 modified (27.7.1993) with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(4), 184(3)
C14 Ss. 710-728 modified (with effect in accordance with s. 105(1) of the modifying Act) by Finance Act 1996 (c. 8), Sch. 13 para. 11 (with Sch. 13 para. 16, Sch. 15)
C15 Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))

Marginal Citations

- M35** Source—1985 Sch.23 15A, 15B, 15C; 1986 Sch.17 3

719 Unrealised interest in default

^{M36}(1) Where securities are transferred as mentioned in section 716(1) and, because of any failure to fulfil the obligation to pay interest on them, the value (on the day of the transfer) of the right to receive the unrealised interest is less than the amount of the

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unrealised interest, section 716 shall have effect as modified by subsections (2) to (4) below.

(2) In subsections (2) and (3) for “the unrealised interest” there shall be substituted “amount A”.

(3) For subsection (4) there shall be substituted—

“(4) Where the transferee receives an amount by way of the unrealised interest (amount B) and that amount falls to be taken into account in computing tax charged for the chargeable period in which it is received, it shall for the purposes of the Tax Acts be treated as reduced by an amount (amount C) equal to—

- (a) nil, if the amounts have been previously received by the transferee by way of the unrealised interest and their aggregate is equal to or greater than the value (on the day of the transfer to the transferee) of the right to receive the unrealised interest;
- (b) amount B, if that value is equal to or greater than amount B (aggregated with other amounts previously so received, if any);
- (c) that value, if no amount has been previously so received and that value is less than amount B; or
- (d) so much of that value as exceeds the aggregate of amounts previously so received, in any other case.”.

(4) The following shall be substituted for subsection (6)—

“(6) In this section “amount A” means, in a case where the transferor acquired the securities on or after 28th February 1986 with the right to received unrealised interest—

- (a) an amount equal to amount D less amount E; or
- (b) if amount D is equal to or less than amount E, nil.

(7) In this section “amount A” means, in a case not falling within subsection (6) above, an amount equal to amount D.

(8) In this section “amount D” means an amount equal to the value (on the day of the transfer by the transferor) of the right to receive the unrealised interest.

(9) In this section “amount E” means, in a case where the transferor (as transferee) has received in respect of the securities an amount or amounts falling within subsection (4) above—

- (a) an amount equal to amount F less the total received; or
- (b) if amount F is equal to or less than the total received, nil.

(10) In this section “amount E” means, in any other case, an amount equal to amount F.

(11) In this section “amount F” means an amount equal to the value (on the day of the transfer to the transferor) of the right to receive the unrealised interest.

(12) In determining for the purposes of this section which securities of a particular kind a person has transferred, he is to be taken to have transferred securities of that kind which he acquired later before securities of that kind which he acquired earlier.

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- (13) Where the unrealised interest is payable in a currency other than sterling—
- (a) any amount received by way of the interest is for the purposes of this section the sterling equivalent on the day it is received of the amount it would be apart from this subsection; and
 - (b) the value (on the day of a transfer) of the right to receive the interest is for the purposes of this section the sterling equivalent (on that day) of the value it would be apart from this subsection;
- and for this purpose the sterling equivalent is to be calculated by reference to the London closing rate of exchange for the day concerned.”

Modifications etc. (not altering text)

- C16** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(1)(2)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(3)(4)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(8)(10)
Ss. 710-728 modified (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(4), 184(3)
- C17** Ss. 710-728 modified (with effect in accordance with s. 105(1) of the modifying Act) by Finance Act 1996 (c. 8), Sch. 13 para. 11 (with Sch. 13 para. 16, Sch. 15)
- C18** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))

Marginal Citations

- M36** Source—1985 Sch.23 15A, 15B, 15C; 1986 Sch.17 3

Transfers with or without accrued interest: supplemental

720 Nominees, trustees etc.

- (1) ^{M37}Where securities are transferred by or to a person as nominee for another person, or as trustee for another person absolutely entitled as against the trustee, or for any person who would be so entitled but for being an infant or other person under disability, or for two or more persons who are or would be jointly so entitled, sections 713, 715 and 716 shall apply as if references to the transferor or the transferee (as the case may be) were to the person or persons for whom the nominee or trustee disposes or acquires.
- (2) ^{M38}It is hereby declared that for the purposes of subsection (1) above—
- (a) securities are transferred by a person as trustee for another person absolutely entitled as against the trustee if that other person has immediately before the transfer the exclusive right to direct how the securities shall be dealt with, subject only to satisfying any outstanding charge, lien or other right of the trustee to resort to the securities for payment of duty, taxes, costs or other outgoings; and
 - (b) securities are transferred to a person as trustee for another person so entitled if that other person has that right immediately after the transfer.
- (3) ^{M39}An underwriting member of Lloyd’s shall be treated for the purposes of sections 710 to 728 as absolutely entitled as against the trustees to the securities forming part of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd’s or required by the underwriting agent

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through whom his business or any part of it is carried on, to be kept in connection with the business.

- (4)^{M40} Where a person who is entitled to securities becomes trustee of them, he shall be treated for the purposes of sections 710 to 728 as transferring them (in a capacity other than trustee) to himself (in his capacity as trustee), or to himself and any other trustees, at the time he becomes trustee.
- (5)^{M41} Annual profits or gains which by virtue of 714(2) or 716(3) are treated as received in a year of assessment by trustees shall be chargeable to income tax at a rate equal to the sum of the basic rate and the additional rate for that year.

This subsection does not apply where the profits or gains are treated as received by the investment manager of a common investment fund for the time being designated as mentioned in section 328(1).

- (6)^{M42} In any case where—
- (a) a trustee of a settlement is treated as receiving annual profits or gains under section 714(2), or
 - (b) a trustee of a settlement who is resident or domiciled outside the United Kingdom throughout any chargeable period in which an interest period (or part of it) falls would, at the end of the interest period, have been treated under section 714(2) as receiving annual profits or gains or annual profits or gains of a greater amount if he had been resident or domiciled in the United Kingdom during a part of each such chargeable period,

Chapters II to IV of Part XV shall have effect as if the amount which the trustee is or would be treated as receiving were income (within Chapter II) or income arising under the settlement (within Chapter III or IV).

- (7)^{M43} In any case where income of a trustee of a settlement who is resident or domiciled outside the United Kingdom throughout any chargeable period in which an interest period (or part of it) falls consists of interest which—
- (a) falls due at the end of the interest period; and
 - (b) would have been treated under section 714(5) as reduced by an allowance or an allowance of a greater amount if he had been resident or domiciled in the United Kingdom during a part of each such chargeable period;

then, for the purposes of Chapters II to IV of Part XV, the interest shall be treated as being reduced by the amount of the allowance or by the additional amount (as the case may be).

- (8)^{M44} In subsections (6) and (7) above—
- (a) “settlement” means settlement within the meaning of Chapter II, III or IV of Part XV (as the case may be); and
 - (b) references to a trustee of a settlement are, where there is no trustee of the settlement, to any person entitled to securities comprised in the settlement.

Marginal Citations

- M37** Source—1985 Sch.23 6(1), 15(6)
M38 Source—1985 Sch.23 6(2)
M39 Source—1985 Sch.23 22
M40 Source—1985 Sch.23 7(1)
M41 Source—1985 Sch.23 8(1), (2), (4); 1986 Sch.17 1(1)

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M42 Source—1985 Sch.23 9(1), (2)

M43 Source—1985 Sch.23 9(3), (4)

M44 Source—1985 Sch.23 9(5)

721 Death.

- (1)^{M45} Where an individual who is entitled to securities dies, he shall be treated for the purposes of sections 710 to 728 as transferring the securities to his personal representatives immediately before his death.
- (2) Where the securities are transferred with accrued interest by the personal representatives to a legatee in the interest period in which the individual died—
 - (a) section 713 shall not apply to the transfer, and
 - (b) the transfer of the securities which the individual is treated as making by virtue of subsection (1) above shall be treated as made to the legatee (and not to the personal representatives).
- (3) In subsection (2) above “legatee” includes any person taking (whether beneficially or as trustee) under a testamentary disposition or on an intestacy or partial intestacy, including any person taking by virtue of an appropriation by the personal representatives in or towards satisfaction of a legacy or other interest or share in the deceased’s property.
- (4) In the case of an individual who dies in an interest period, section 714(2) shall have effect as if the reference to the day the period ends were to the day he dies.
- (5)^{M46} Subsections (1) to (4) above do not apply where the individual concerned is an underwriting member of Lloyd’s and the securities concerned form part of a premiums trust fund, a special reserve fund or any other trust fund required or authorised by the rules of Lloyd’s or required by the underwriting agent through whom the individual’s business or any part of it is carried on, to be kept in connection with the business.
- (6) In a case where subsection (5) above applies the deceased’s personal representatives shall be treated for the purposes of sections 710 to 728 as the transferor or transferee in relation to transfers of securities as to which the deceased was the transferor or transferee (as the case may be) in the interest period in which he died.

Marginal Citations

M45 Source—1985 Sch.23 12(1), (3)-(5)

M46 Source—1985 Sch.23 27

722 Trading stock.

- ^{M47}(1) Where securities acquired by a person otherwise than as trading stock of a trade carried on by him are appropriated by him for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise), he shall be treated for the purposes of sections 710 to 728 as transferring them otherwise than in the course of the trade and re-acquiring them in the course of the trade on the day the appropriation is made.
- (2) Where securities forming part of the trading stock of a person’s trade are appropriated by him for any other purpose, or are retained by him on his ceasing to carry on the

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trade, he shall be treated for the purposes of sections 710 to 728 as transferring them in the course of the trade and re-acquiring them otherwise than in the course of the trade on the day the appropriation is made or (as the case may be) he ceases to carry on the trade.

Modifications etc. (not altering text)

- C19** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(1)(2)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(3)(4)
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(8)(10)
Ss. 710-728 modified (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(4), 184(3)
- C20** Ss. 710-728 modified (with effect in accordance with s. 105(1) of the modifying Act) by Finance Act 1996 (c. 8), Sch. 13 para. 11 (with Sch. 13 para. 16, Sch. 15)
- C21** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))

Marginal Citations

- M47** Source—1985 Sch.23 (13) (1), (2)

VALID FROM 29/04/1996

[^{F5}722A Gilt strips: deemed transfer.

- (1) For the purposes of sections 710 to 728, where a gilt-edged security is exchanged by any person for strips of that security the security shall be deemed to have been transferred by that person.
- (2) Nothing in subsection (1) above shall have effect to cause any person to be treated as the transferee of any securities for the purposes of section 713(2)(b).
- (3) For the purposes of sections 710 to 728, where strips of gilt-edged securities are exchanged by any person for a single gilt-edged security consolidating those strips, that security shall be deemed to have been transferred to that person.
- (4) Nothing in subsection (3) above shall have effect to cause any person to be treated as the transferor of any securities for the purposes of section 713(2)(a).
- (5) In this section—

“gilt-edged security” has the same meaning as in section 51A; and

“strip” means anything which, within the meaning of section 47 of the ^{M48}Finance Act 1942, is a strip of a gilt-edged security.]

Textual Amendments

- F5** S. 722A inserted (29.4.1996) by Finance Act 1996 (c. 8), Sch. 40 para. 6

Modifications etc. (not altering text)

- C22** Ss. 710-728 modified (with effect in accordance with s. 105(1) of the modifying Act) by Finance Act 1996 (c. 8), Sch. 13 para. 11 (with Sch. 13 para. 16, Sch. 15)

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Marginal Citations

M48 1942 c. 21.

723 Foreign securities: delayed remittances

- ^{M49}(1) This section applies where in an interest period a person is treated as entitled to a sum or sums under section 713(2)(a) in respect of a transfer or transfers of securities of a particular kind which are situated outside the United Kingdom.
- (2) Subject to subsection (3) below, the amount of any annual profits or gains which the person is treated under section 714 as receiving on the day the period ends in respect of securities of that kind shall be reduced—
- if the amount of the sum or aggregate of the sums exceeds the amount of the profits or gains, to nil; or
 - in any other case, by the amount of the sum or aggregate.
- (3) No reduction shall be made unless the person makes a claim and shows that the conditions in subsection (5) below are, so far as applicable, satisfied in the chargeable period in which the profits or gains are treated as received.
- (4) The claimant (or his personal representatives) shall be charged to tax under Case VI of Schedule D on the amount of the reduction for the chargeable period in which the conditions in subsection (5) below cease to be satisfied.
- (5) The conditions are—
- that the claimant was unable to remit the proceeds of the transfer or transfers to the United Kingdom;
 - that the inability was due to the laws of the territory in which the securities are situated, or to the executive action of its government, or to the impossibility of obtaining foreign currency in that territory; and
 - that the inability was not due to any want of reasonable endeavours on the part of the claimant.
- (6) No claim under this section shall be made in respect of a transfer more than six years after the end of the interest period in which the transfer occurred.
- (7) The personal representatives of a deceased person may make any claim which he might have made under this section if he had not died.
- (8) For the purposes of this section the place where securities are situated shall be determined in accordance with section 18(4) of the 1979 Act.

Marginal Citations

M49 Source—1985 Sch.23 11

724 Insurance companies.

- (1) ^{M50}The references in section 715(1)(a) and (2)(a) to computing the profits or losses of a trade shall not be taken as applying to a computation of income for the purposes of section 76(2).

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- [^{F6}(1A) If at any time securities held by an insurance company cease to be within one of the categories set out in section 440(4) and come within another of those categories, the company shall be treated for the purposes of sections 710 to 728 as transferring the securities to itself at that time.]
- (2) *Where an insurance company carrying on life assurance business is treated as receiving annual profits or gains under section 714(2) or 716(3) in respect of securities held as investments in connection with that business, the profits or gains shall be treated for the purposes of section 434(3) to (5) as if they were income from investments held in connection with that business*^{F7}.
- (3) ^{M51}Section 713(2)(a) or (3)(a) (as the case may be) shall not apply if the transferor is an insurance company [^{F8}to the extent that the securities transferred are immediately before the transfer referable to a business the profits of which are computed in accordance with section 436 or 441.]
- (4) ^{M52}Section 713(2)(b) or (3)(b) (as the case may be) shall not apply [^{F9}if the transferee is an insurance company to the extent that the securities transferred are immediately after the transfer referable to a business the profits of which are computed in accordance with section 436 or 441.]
- (5) ^{M53}Where an overseas life insurance company (within the meaning of section 431) is entitled to an allowance under section 714(4), section 714(5) and (6) shall not apply but subsections (6) and (7) below shall apply.
- (6) If the company is treated under section 714(2) as receiving annual profits or gains in an accounting period, the profits or gains shall be treated as reduced by any amount (“the deductible amount”) equal to the allowance or aggregate of the allowances, as the case may be, to which the company is entitled under section 714(4) in relation to an interest period or periods ending in the accounting period.
- (7) Where the deductible amount exceeds the amount of those annual profits or gains, the company may claim to have the excess treated as reducing any annual profits or gains the company is treated as receiving under section 714(2) in the company’s next accounting period or, if there is still an excess, the one after (and so on for future accounting periods).
- (8) Subsections (5) to (7) above do not apply to an overseas life insurance company if, by virtue of arrangements specified in an Order in Council under section 788, no charge to corporation tax under Case III of Schedule D arises under section 445 in respect of any income of the company.

Textual Amendments

- F6** 1990 s.41 and Sch.6 para.9(1) *on and after 24 May 1990 subject to the commencement provisions of paras.11 and 12.*
- F7** *Repealed by 1990 s.132 and Sch.19 Part IV.*
- F8** 1990 s.42 and Sch.7 para.4(a) *for accounting periods beginning on or after 1 January 1990 (see para.10). Previously*
 “and—(a) the transfer falls to be taken into account in computing its profits or losses for the purposes of section 436; or (b) if the company became entitled to any interest on the securities transferred, it would by virtue of section 441(1) be liable, in respect of the interest, to tax computed by reference to the amount of income received in the United Kingdom; or (c) if the company became entitled to

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any interest on the securities transferred and applied the interest for the purposes of its foreign life assurance fund, it would by virtue of section 441(2) not be liable to tax in respect of the interest.”

- F9** 1990 s.42 and Sch.7 para.4(b) for accounting periods beginning on or after 1 January 1990 (see para.10). Previously “if subsection (3) above would apply if in that subsection “transferor” read “transferee”.”.

Modifications etc. (not altering text)

- C23** S. 724(1A) excluded by Finance Act 1991 (c. 31, SIF 63:1), s. 48, Sch. 7 para. 6(4)

Marginal Citations

- M50** Source—1985 Sch.23 16, 17
M51 Source—1985 Sch.23 18(1), 19(1), (4)
M52 Source—1985 Sch.23 18(2), 19(2), (5)
M53 Source—1985 Sch.23 20(2)-(6)

725 Lloyd’s underwriters.

- (1) ^{M54}The securities forming part of a premiums trust fund at the beginning of 1st January of any year shall be treated for the purposes of sections 710 to 728 as transferred on that day to the trustees of the fund, and in relation to such a transfer, the settlement day is the day preceding that of the transfer (notwithstanding section 712).
- (2) The securities shall be treated as transferred with accrued interest if the trustees are entitled to receive in respect of them interest payable on—
 - (a) ^{M55}the day of the transfer, if that is an interest payment day, or
 - (b) the next (or first) interest payment day to fall after that day, in any other case;and they shall be treated as transferred without accrued interest if they are not so entitled.
- (3) Subsections (1) and (2) above do not apply as regards securities if the day preceding 1st January concerned is an interest payment day in relation to them.
- (4) ^{M56}The securities forming part of a premiums trust fund at the end of 31st December of any year shall be treated for the purposes of sections 710 to 728 as transferred on that day by the trustees of the fund, and in relation to such a transfer, the settlement day is the day of the transfer (notwithstanding section 712).
- (5) The securities shall be treated as transferred with accrued interest if the trustees are entitled to receive in respect of them interest payable on the next (or first) interest payment day to fall after the day of the transfer, and they shall be treated as transferred without accrued interest if they are not so entitled.
- (6) Subsections (4) and (5) above do not apply as regards securities if 31st December concerned is an interest payment day in relation to them.
- (7) ^{M57}Where securities are transferred by or to the trustees of a premiums trust fund, subsections (8) and (9) below shall have effect in relation to the trustees, though not in relation to the transferee or transferor (unless in turn constituting trustees of such a fund).
- (8) In subsection (9) below “straddling period” means a period which would (by virtue of section 711(3) and (4) and apart from subsection (9)) be in relation to the securities an interest period beginning on or before and ending after 31st December of any year.

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- (9) For the purposes of sections 710 to 728 a straddling period is not an interest period, but—
- (a) the period beginning with the day on which the straddling period begins and ending with 31st December concerned is an interest period; and
 - (b) the period beginning with the day following 31st December concerned and ending with the day with which the straddling period ends is an interest period.

[^{F10}(10) Subsection (11) below applies where the following state of affairs exists at the beginning of 1st January of any year or the end of 31st December of any year—

- (a) securities have been transferred by the trustees of a premiums trust fund in pursuance of an arrangement mentioned in section 129(1) or (2),
- (b) the transfer was made to enable another person to fulfil a contract or to make a transfer,
- (c) securities have not been transferred in return, and
- (d) section 129(3) applies to the transfer made by the trustees.

(11) The securities transferred by the trustees shall be treated for the purposes of subsections (1) to (6) above as if they formed part of the premiums trust fund at the beginning of 1st January concerned or the end of 31st December concerned (as the case may be).]

Textual Amendments

F10 1989 s.91(1) *in the case of transfers made by trustees after 18 August 1989.* (by virtue of S.I. 1989 No.1299—in Part III Vol.5.)

Marginal Citations

M54 Source—1985 Sch.23 24(1), (2)
M55 Source—1985 Sch.23, 24(3), (4)
M56 Source—1985 Sch.23 25
M57 Source—1985 Sch.23 26

^{F11}726

Textual Amendments

F11 S. 726 repealed (for the year 1991-92 and subsequent years of assessment) by Finance Act 1991 (c. 31, SIF 63:1), s. 123, Sch. 19 Pt. V, Note 6

[726A ^{F12}New issues of securities.

- (1) This section applies where—
- (a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,
 - (b) on a later occasion securities (new securities) of the same kind are issued,
 - (c) a sum (the extra return) is payable in respect of the new securities, by the person issuing them, to reflect the fact that interest is accruing on the old securities,

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- (d) the issue price of the new securities includes an element (whether or not separately identified) representing payment for the extra return, and
 - (e) the extra return is equal to the amount of interest payable for the relevant period on so many old securities as there are new (or, if there are more new securities than old, the amount of interest which would be so payable if there were as many old securities as new).
- (2) For the purposes of sections 710 to 728—
- (a) the new securities shall be treated as having been issued on the relevant day;
 - (b) they shall be treated as transferred to the person to whom they are in fact issued (though not treated as transferred by any person);
 - (c) the transfer shall be treated as a transfer with accrued interest and as made on the day on which the new securities are in fact issued;
 - (d) that day shall be treated as the settlement day (notwithstanding section 712);
- but this subsection is subject to subsection (7) below.
- (3) If the new securities are in fact issued under an arrangement by virtue of which the acquirer accounts to the issuer separately for the extra return mentioned in subsection (1) above and the rest of the issue price, in relation to the transfer mentioned in subsection (2)(b) above—
- (a) section 713(4) shall not apply, and
 - (b) for the purposes of section 713(2) the accrued amount shall be the amount found under subsection (4) or (5) below (as the case may be);
- and here “the acquirer” means the person to whom the new securities are in fact issued and “the issuer” means the person by whom they are in fact issued.
- (4) Subject to subsection (5) below, the amount is one equal to the amount (if any) of the extra return separately accounted for.
- (5) If the interest on the new securities is payable in a currency other than sterling, the amount is the sterling equivalent on the settlement day of the amount found under subsection (4) above; and for this purpose the sterling equivalent of an amount on the settlement day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.
- (6) If the new securities are in fact issued otherwise than as mentioned in subsection (3) above, section 713(4)(b) shall apply in relation to the transfer mentioned in subsection (2)(b) above.
- (7) If the new securities are securities to which section 717 applies (after applying subsection (2)(a) above) subsection (2)(b) to (d) above shall not apply.
- (8) For the purposes of this section the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are in fact issued.
- (9) For the purposes of this section the relevant day is—
- (a) the last (or only) interest payment day to fall in respect of the old securities before the day on which the new securities are in fact issued, or
 - (b) the day on which the old securities were issued, in a case where no interest payment day fell in respect of them before the day on which the new securities are in fact issued.]

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Textual Amendments

F12 S. 726A inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 54, Sch. 12 paras. 2, 5

Modifications etc. (not altering text)

- C24** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(1)(2)
 Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(3)(4)
 Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(8)(10)
 Ss. 710-728 modified (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(4), 184(3)
- C25** Ss. 710-728 modified (with effect in accordance with s. 105(1) of the modifying Act) by Finance Act 1996 (c. 8), Sch. 13 para. 11 (with Sch. 13 para. 16, Sch. 15)
- C26** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))

727 Stock lending.

- ^{M58}(1) The effect of section 129(3) shall be disregarded in construing section 715(1)(a) and (2)(a).
- (2) Where securities are transferred in circumstances such that by virtue of section 149B(9) of the 1979 Act (capital gains tax exemption) any disposal and acquisition are disregarded for the purposes of capital gains tax, sections 713(2) and (3) and 716 shall not apply.

Modifications etc. (not altering text)

C27 See S.I. No.1299 (in Part III Vol.5)—The Income Tax (Stock Lending) Regulations 1989.

Marginal Citations

M58 Source—1985 Sch.23 32C; 1986 Sch.17 4

VALID FROM 01/05/1995

^{F13}727A Exception for sale and repurchase of securities.

- (1) Where securities are transferred under an agreement to sell them, and under the same or any related agreement the transferor or a person connected with him—
- (a) is required to buy back the securities, or
 - (b) acquires an option, which he subsequently exercises, to buy back the securities,
- section 713(2) and (3) and section 716 do not apply to the transfer by the transferor or the transfer back.
- (2) For the purposes of this section agreements are related if they are entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).
- (3) Section 839 (connected persons) applies for the purposes of this section.
- (4) References in this section to buying back securities include buying similar securities.

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For this purpose securities are similar if they entitle their holders—

- (a) to the same rights against the same persons as to capital and interest, and
- (b) to the same remedies for the enforcement of those rights,

notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.

(5) For the purposes of this section—

- (a) a person connected with the transferor who is required to buy securities sold by the transferor shall be treated as being required to buy the securities back, and
- (b) a person connected with the transferor who acquires an option to buy securities sold by the transferor shall be treated as acquiring an option to buy the securities back,

notwithstanding that it was not he who sold them.]

Textual Amendments

F13 S. 727A inserted (with effect in accordance with s. 79(3) of the amending Act) by Finance Act 1995 (c. 4), s. 79(1) (with s. 79(4))

Modifications etc. (not altering text)

C28 S. 727A applied (with modifications) (2.1.1996) by The Sale and Repurchase of Securities (Modification of Enactments) Regulations 1995 (S.I. 1995/3220), regs. 1, 4

C29 S. 727A applied (with modifications) (2.1.1996) by The Sale and Repurchase of Securities (Modification of Enactments) Regulations 1995 (S.I. 1995/3220), regs. 1, 5

C30 Ss. 710-728 modified (with effect in accordance with s. 105(1) of the modifying Act) by Finance Act 1996 (c. 8), Sch. 13 para. 11 (with Sch. 13 para. 16, Sch. 15)

C31 Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))

C32 S. 727A(1) modified (1.1.1999) by The European Single Currency (Taxes) Regulations 1998 (S.I. 1998/3177), regs. 1, 14

728 Information.

^{M59}(1) In order to obtain for the purposes of sections 710 to 727 particulars relating to securities, an inspector may by notice require a return under subsection (2) or (3) below.

(2) A member of the Stock Exchange, other than a market maker, may be required to make a return giving, in relation to any transactions effected by him in the course of his business in the period specified in the notice, such particulars as may be so specified.

In relation to transactions before 27th October 1986 this subsection shall have effect with the substitution of “jobber” for “market maker”.

(3) A person (other than a member of the Stock Exchange), who acts as an agent or broker in the United Kingdom in transactions in securities, may be required to make a return giving, in relation to any such transactions effected by him in the period specified in the notice, such particulars as may be so specified.

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- (4) No person shall be required under subsection (2) or (3) above to include in a return particulars of any transaction effected more than three years before the service of the notice requiring him to make the return.
- (5) In order to obtain for the purposes of sections 710 to 727 particulars relating to securities, the Board or an inspector may by notice require any person in whose name any securities are registered to state whether or not he is the beneficial owner of those securities and, if he is not the beneficial owner of them or any of them, to furnish the name and address of the person or persons on whose behalf the securities are registered in his name.
- (6) In this section “market maker”, in relation to securities, means a person who—
- (a) holds himself out at all normal times in compliance with the rules of the Stock Exchange as willing to buy and sell securities of the kind concerned at a price specified by him; and
 - (b) is recognised as doing so by the Council of the Stock Exchange.
- (7) The Board may by regulations provide that—
- (a) subsections (2), (3) and (6)(a) above shall have effect as if references to the Stock Exchange were to any recognised investment exchange (within the meaning of the ^{M60}Financial Services Act 1986) or to any of those exchanges specified in the regulations; and
 - (b) subsection (6)(b) shall have effect as if the reference to the Council of the Stock Exchange were to the investment exchange concerned.
- (8) Regulations under subsection (7) above shall apply in relation to transactions effected on or after such day as may be specified in the regulations.

Modifications etc. (not altering text)

- C33** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(1)(2)
 Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(3)(4)
 Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. 63(8)(10)
 Ss. 710-728 modified (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(4), 184(3)

Marginal Citations

- M59** Source—1985 Sch.23 44(1)-(5A); 1986 Sch.17 6
M60 1986 c. 60.

Other transfers of securities

729 Sale and repurchase of securities.

- (1) ^{M61}Where the owner of any securities (“the owner”) agrees to sell or transfer those securities and by the same or any collateral agreement—
- (a) agrees to buy back or re-acquire the securities, or
 - (b) acquires an option, which he subsequently exercises, to buy back or re-acquire the securities,

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then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the following provisions shall have effect—

- (i) the interest so payable shall, whether it would or would not have been chargeable to tax apart from the provisions of this section, be deemed for all the purposes of the Tax Acts to be the income of the owner and not to be the income of any other person; and
 - (ii) if the securities are of such a character that the interest payable in respect thereof may be paid without deduction of tax, the owner shall be chargeable to tax under Case VI of Schedule D in respect of the interest which is so deemed to be his income, but shall be entitled to credit for any tax which that income is shown to have borne.
- (2) In relation to corporation tax—
 - (a) subject to the provisions of the Tax Acts about distributions, interest deemed under subsection (1)(i) above to be the income of the owner shall be chargeable under Case VI of Schedule D, and
 - (b) subsection (1)(ii) above shall not apply.
- (3) The references in subsection (1) above to buying back or re-acquiring the securities shall be deemed to include references to buying or acquiring similar securities, so, however, that where similar securities are bought or acquired, the owner shall be under no greater liability to tax than he would have been under if the original securities had been bought back or re-acquired.
- (4) Where any person carrying on a trade which consists wholly or partly in dealing in securities agrees to buy or acquire any securities, and by the same or any collateral agreement—
 - (a) agrees to sell back or re-transfer the securities, or
 - (b) acquires an option, which he subsequently exercises, to sell back or re-transfer the securities,then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable by him, no account shall be taken of the transaction in computing for any of the purposes of the Tax Acts the profits arising from or loss sustained in the trade.
- (5) Subsection (4) above shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities.
- (6) This section shall not apply to any income to which section 786(4) applies.
- (7) ^{M62}Subsections (1) and (2) above shall not apply where—
 - (a) the securities are Eurobonds or foreign government stock; and
 - (b) the owner of the securities carries on a trade which consists wholly or partly in dealing in securities and the person who agrees to buy or acquire the securities carries on such a trade.
- (8) Subsection (4) above shall not apply where—
 - (a) the securities are Eurobonds or foreign government stock; and
 - (b) the person from whom the person there mentioned agrees to buy or acquire the securities carries on a trade which consists wholly or partly in dealing in securities.

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- (9) In subsections (7) and (8) above—
 “Eurobond” has the same meaning as in section 732(5); and
 “foreign government stock” means stock which is issued by a government other than that of the United Kingdom and is denominated in a currency other than sterling.
- (10) ^{M63}For the purposes of this section—
 (a) “interest” includes a dividend;
 (b) “securities” includes stocks and shares, except securities which are securities for the purposes of sections 710 to 728; and
 (c) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.
- (11) ^{M64}The Board may by notice require any person to furnish them within such time as they may direct (not being less than 28 days), in respect of all securities of which he was the owner at any time during the period specified in the notice, such particulars as they consider necessary for the purposes of this section and for the purpose of discovering whether tax has been borne in respect of the interest on all those securities.
- (12) ^{M65}In any case where the owner agrees to sell or transfer before such day as the Board may by order appoint for the purposes of this section or the person referred to in subsection (4) above agreed to buy or acquire before that day—
 (a) subsections (1) and (2) above shall not apply if the owner’s agreement to sell or transfer constitutes a transfer to which section 713(2)(a) applies; and
 (b) subsection (10)(b) above shall have effect with the omission of the words “except securities which are securities for the purposes of sections 710 to 728”.

Modifications etc. (not altering text)

C34 By S.I. 1988 No.1002 (not reproduced) the appointed day is 9 June 1988.

Marginal Citations

- M61** Source—1970 s.469(1)-(6); 1971 Sch.6 70
M62 Source—1970 S.469(6A), (6B), (6C); 1986 Sch.18 1(1)
M63 Source—1970 s.469(7); 1986 Sch.18 1(4)
M64 Source—1970 s.469(8)
M65 Source—1986 Sch.18 1(5)

730 Transfers of income arising from securities

- ^{M66}(1) Where in any chargeable period the owner of any securities (“the owner”) sells or transfers the right to receive any interest payable (whether before or after the sale or transfer) in respect of the securities without selling or transferring the securities, then, for all the purposes of the Tax Acts, that interest, whether it would or would not be chargeable to tax apart from the provisions of this section—
 (a) shall be deemed to be the income of the owner or, in a case where the owner is not the beneficial owner of the securities and some other person (“a

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- beneficiary”) is beneficially entitled to the income arising from the securities, the income of the beneficiary, and
- (b) shall be deemed to be the income of the owner or beneficiary for that chargeable period, and
 - (c) shall not be deemed to be the income of any other person.
- (2) For the purposes of subsection (1) above, in the case of a sale or other realisation the proceeds of which are chargeable to tax under Schedule C or under section 123(3) the interest so deemed to be the income of the owner or beneficiary shall be deemed to be equal in amount to the amount of those proceeds.
- (3) Nothing in subsection (1) above shall affect any provision of this Act authorising or requiring the deduction of income tax—
- (a) from any interest which, under that subsection, is deemed to be the income of the owner or beneficiary, or
 - (b) from the proceeds of any subsequent sale or other realisation of the right to receive that interest;
- but the proceeds of any such subsequent sale or other realisation shall not, for any of the purposes of the Tax Acts, be deemed to be the income of the seller or the person on whose behalf the right is otherwise realised.
- (4) Where—
- (a) the securities are of such a character that the interest payable in respect thereof may be paid without deduction of income tax, and
 - (b) the owner or beneficiary does not show that the proceeds of any sale or other realisation of the right to receive the interest which is deemed to be his income by virtue of this section have been charged to tax under Schedule C or under section 123(3),
- then the owner or beneficiary shall be chargeable to tax under Case VI of Schedule D in respect of that interest, but shall be entitled to credit for any tax which that interest is shown to have borne.
- (5) For the purposes of subsection (4) above, in any case where, if the interest had been chargeable under Case IV or Case V of Schedule D, the computation of tax would have been made by reference to the amount received in the United Kingdom, the tax under Case VI shall be computed on the full amount of the sums which have been or will be received in the United Kingdom in the year of assessment or any subsequent year in which the owner remains the owner of the securities.
- (6) In relation to corporation tax, subsections (4) and (5) above shall not apply but, subject to the provisions of the Tax Acts about distributions, the owner or beneficiary shall, in respect of any interest which is deemed to be his income by virtue of this section, be chargeable to corporation tax under Case VI of Schedule D unless he shows that the proceeds of any sale or other realisation of the right to receive that interest have been charged to tax under Schedule C or under section 123(3).
- (7) In this section—
- “interest” includes dividends, annuities and shares of annuities, and
 - “securities” includes stocks and shares.
- (8) The Board may by notice require any person to furnish them within such time as they may direct (not being less than 28 days), in respect of all securities of which he was the owner at any time during the period specified in the notice, with such particulars

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as they consider necessary for the purposes of this section and for the purpose of discovering whether—

- (a) tax has been borne in respect of the interest on all those securities; or
- (b) the proceeds of any sale or other realisation of the right to receive the interest on the securities have been charged to tax under Schedule C or section 123(3).

Marginal Citations

M66 Source—1970 s.470; 1971 Sch.6 71

VALID FROM 01/05/1995

[^{F14}730A Treatment of price differential on sale and repurchase of securities.

- (1) Subject to subsection (8) below, this section applies where—
 - (a) a person (“the original owner”) has transferred any securities to another person (“the interim holder”) under an agreement to sell them;
 - (b) the original owner or a person connected with him is required to buy them back either—
 - (i) in pursuance of an obligation to do so imposed by that agreement or by any related agreement, or
 - (ii) in consequence of the exercise of an option acquired under that agreement or any related agreement;
 - and
 - (c) the sale price and the repurchase price are different.
- (2) The difference between the sale price and the repurchase price shall be treated for the purposes of the Tax Acts—
 - (a) where the repurchase price is more than the sale price, as a payment of interest made by the repurchaser on a deemed loan from the interim holder of an amount equal to the sale price; and
 - (b) where the sale price is more than the repurchase price, as a payment of interest made by the interim holder on a deemed loan from the repurchaser of an amount equal to the repurchase price.
- (3) Where any amount is deemed under subsection (2) above to be a payment of interest, that payment shall be deemed for the purposes of the Tax Acts to be one that becomes due at the time when the repurchase price becomes due and, accordingly, is treated as paid when that price is paid.
- (4) Where any amount is deemed under subsection (2) above to be a payment of interest, the repurchase price shall be treated for the purposes of the Tax Acts (other than this section and sections 737A and 737C) and (in cases where section 263A of the 1992 Act does not apply) for the purposes of the 1992 Act—
 - (a) in a case falling within paragraph (a) of that subsection, as reduced by the amount of the deemed payment; and
 - (b) in a case falling within paragraph (b) of that subsection, as increased by the amount of the deemed payment.

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- (5) For the purposes of section 209(2)(d) and (da) any amount which is deemed under subsection (2)(a) above to be a payment of interest shall be deemed to be interest in respect of securities issued by the repurchaser and held by the interim holder.
- (6) Any amount which—
- (a) is deemed under subsection (2) above to be a payment of interest, and
 - (b) does not fall (apart from this subsection) to be treated as yearly interest,
- shall be treated for the purposes of section 338 as if the reference to yearly interest in subsection (3)(a) of that section included a reference to that amount.
- (7) The Treasury may by regulations provide for any amount which is deemed under subsection (2) above to be received as a payment of interest to be treated, in such circumstances and to such extent as may be described in the regulations, as comprised in income that is eligible for relief from tax by virtue of section 438, 592(2), 608(2)(a), 613(4), 614(2), (3) or (4), 620(6) or 643(2).
- (8) Except where regulations under section 737E otherwise provide, this section does not apply if—
- (a) the agreement or agreements under which provision is made for the sale and repurchase are not such as would be entered into by persons dealing with each other at arm's length; or
 - (b) all of the benefits or risks arising from fluctuations, before the repurchase takes place, in the market value of the securities sold accrue to, or fall on, the interim holder.
- (9) In this section references to the repurchase price are to be construed—
- (a) in cases where section 737A applies, and
 - (b) in cases where section 737A would apply if it were in force in relation to the securities in question,
- as references to the repurchase price which is or, as the case may be, would be applicable by virtue of section 737C(3)(b), (9) or (11)(c).]

Textual Amendments

- F14** Ss. 730A, 730B inserted (with effect in accordance with s. 80(5) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 80\(1\)](#)

Modifications etc. (not altering text)

- C35** S. 730A applied (with modifications) (2.1.1996) by [The Sale and Repurchase of Securities \(Modification of Enactments\) Regulations 1995 \(S.I. 1995/3220\), regs. 1, 4](#)
- C36** S. 730A applied (with modifications) (2.1.1996) by [The Sale and Repurchase of Securities \(Modification of Enactments\) Regulations 1995 \(S.I. 1995/3220\), regs. 1, 5](#)
- C37** S. 730A modified by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 263A](#) (as inserted (with effect in accordance with s. 80(5) of the 1995 amending Act) by [Finance Act 1995 \(c. 4\), s. 80\(4\)](#))

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VALID FROM 01/05/1995

[^{F14}730B Interpretation of section 730A.

- (1) For the purposes of section 730A agreements are related if they are entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).
- (2) References in section 730A to buying back securities—
 - (a) shall include references to buying similar securities; and
 - (b) in relation to a person connected with the original owner, shall include references to buying securities sold by the original owner or similar securities,
 notwithstanding (in each case) that the securities bought have not previously been held by the purchaser; and references in that section to repurchase or to a repurchaser shall be construed accordingly.
- (3) In section 730A and this section “securities” has the same meaning as in section 737A.
- (4) For the purposes of this section securities are similar if they entitle their holders—
 - (a) to the same rights against the same persons as to capital, interest and dividends, and
 - (b) to the same remedies for the enforcement of those rights,
 notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.
- (5) Section 839 (connected persons) applies for the purposes of section 730A.]

Textual Amendments

F14 Ss. 730A, 730B inserted (with effect in accordance with s. 80(5) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 80\(1\)](#)

VALID FROM 10/07/2003

[^{F15}730BE Exchange gains and losses on sale and repurchase of securities

- (1) For the purposes of the Corporation Tax Acts, a company has a relationship to which this section applies in any case where—
 - (a) the circumstances are as set out in section 730A(1)(a) and (b);
 - (b) the company is the repurchaser of the securities or (subject to subsection (11) below) the interim holder;
 - (c) the conditions in subsection (2) or (3) below are satisfied; and
 - (d) subsection (10) below does not prevent this section from applying,
 and references to a relationship to which this section applies, and to a company’s being a party to such a relationship, shall be construed accordingly.

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- (2) The conditions in this subsection are that—
- (a) the sale price and the repurchase price are expressed in a currency other than sterling;
 - (b) there is a difference between—
 - (i) the sterling equivalent of the sale price as at the date of the transfer of the securities to the interim holder (“the first sum”); and
 - (ii) the sterling equivalent of the sale price as at the date they are bought back by the repurchaser (“the second sum”); and
 - (c) the case is not one where section 93 of the Finance Act 1993 (accounts of a company in a currency other than sterling) applies in relation to the company.
- (3) The conditions in this subsection are that—
- (a) the case is one where section 93 of the Finance Act 1993 applies in relation to the company;
 - (b) the sale price and the repurchase price are expressed in a currency other than the relevant foreign currency (within the meaning of that section) in relation to the company; and
 - (c) there is a difference between—
 - (i) the relevant foreign currency equivalent of the sale price as at the date of the transfer of the securities to the interim holder (“the first sum”); and
 - (ii) the relevant foreign currency equivalent of the sale price as at the date they are bought back by the repurchaser (“the second sum”).
- (4) Where a company has a relationship to which this section applies and—
- (a) the company is the repurchaser and the first sum exceeds the second sum; or
 - (b) the company is the interim holder and the second sum exceeds the first sum,
- the amount of the excess shall be treated for the purposes of the Corporation Tax Acts as an exchange gain (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships)) arising to the company from the relationship.
- (5) Where a company has a relationship to which this section applies and—
- (a) the company is the repurchaser and the second sum exceeds the first sum; or
 - (b) the company is the interim holder and the first sum exceeds the second sum,
- the amount of the excess shall be treated for the purposes of the Corporation Tax Acts as an exchange loss (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships)) arising to the company from the relationship.
- (6) Where an exchange gain or loss is treated by virtue of subsection (4) or (5) above as arising to a company from a relationship to which this section applies—
- (a) Chapter 2 of Part 4 of the Finance Act 1996 shall have effect in relation to the exchange gain or loss as it would have effect if it were an exchange gain or loss (as the case may be) arising to the company from a loan relationship to which it is a party; but
 - (b) the only debits and credits to be brought into account for the purposes of that Chapter by virtue of this section in respect of the relationship to which this section applies are those relating to the exchange gains and losses,
- and, subject to paragraph (b) above, references in the Corporation Tax Acts to a loan relationship accordingly include a reference to a relationship to which this section applies.

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- (7) Where a company has a relationship to which this section applies, the repurchase price shall be treated for the purposes of the Tax Acts (other than this section and sections 730A, 737A and 737C) and (in cases where section 263A of the 1992 Act does not apply) for the purposes of the 1992 Act—
- (a) in a case where an exchange gain arises to the company by virtue of subsection (4)(a) above or an exchange loss arises to the company by virtue of subsection (5)(b) above, as increased by the amount by which the first sum exceeds the second sum, and
 - (b) in a case where an exchange gain arises to the company by virtue of subsection (4)(b) above or an exchange loss arises to the company by virtue of subsection (5)(a) above, as reduced by the amount by which the second sum exceeds the first sum.
- (8) Any question whether debits or credits brought into account in accordance with subsection (6) above in relation to any company—
- (a) are to be brought into account under section 82(2) of the Finance Act 1996 (trading loan relationships); or
 - (b) are to be treated as non-trading debits or credits,
- shall be determined (subject to Schedule 11 to that Act (insurance companies)) according to the extent (if any) to which the company is a party to the repurchase in the course of activities forming an integral part of a trade carried on by that company.
- (9) To the extent that debits or credits fall to be brought into account by a company under section 82(2) of that Act in the case of a relationship to which this section applies, the company shall be regarded for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 as being a party to the relationship for the purposes of a trade carried on by the company.
- (10) Except where regulations under section 737E otherwise provide, this section does not apply if—
- (a) the agreement or agreements under which provision is made for the sale and repurchase are not such as would be entered into by persons dealing with each other at arm's length; or
 - (b) all of the benefits and risks arising from fluctuations, before the repurchase takes place, in the market value of the securities sold accrue to, or fall on, the interim holder.
- (11) Where—
- (a) the repurchase price is more than the sale price, so that by virtue of section 730A(2)(a) a payment of interest is treated as made by the repurchaser on a deemed loan from the interim holder; but
 - (b) the payment of interest is treated as made to a person other than the interim holder,
- references to the “interim holder” in subsections (1), (4) and (5) above shall be read as references to the person to whom the payment of interest is treated as made.
- (12) Any reference in this section to the “relevant foreign currency equivalent” of an amount is, in the case of any company, a reference to the amount's equivalent expressed in the relevant foreign currency (within the meaning of section 93 of the Finance Act 1993) in relation to the company.

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(13) Expressions used in this section and in section 730A have the same meaning in this section as in that section.]

Textual Amendments

F15 S. 730BB inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 38 para. 12

VALID FROM 29/04/1996

[^{F16}730C Exchanges of gilts: traders etc.

- (1) This section has effect for the purposes of computing the profits and gains arising from any trade, profession or vocation carried on by any person in so far as the computation is such as to require amounts in respect of the acquisition or redemption of a gilt-edged security (including any strip) to be brought into account.
- (2) Where a gilt-edged security is exchanged by any person for strips of that security—
 - (a) the security shall be deemed to have been redeemed at the time of the exchange by the payment to that person of its market value; and
 - (b) that person shall be deemed to have acquired each strip for the amount which bears the same proportion to that market value as is borne by the market value of the strip to the aggregate of the market values of all the strips received in exchange for the security.
- (3) Where strips of a gilt-edged security are consolidated into a single security by being exchanged by any person for that security—
 - (a) each of the strips shall be deemed to have been redeemed at the time of the exchange by the payment to that person of the amount equal to its market value; and
 - (b) that person shall be deemed to have acquired the security for the amount equal to the aggregate of the market values of the strips given in exchange for the security.
- (4) References in this section to the market value of a security given or received in exchange for another are references to its market value at the time of the exchange.
- (5) Subsections (3) and (4) of section 473 shall not apply in the case of any exchange to which subsection (2) or (3) above applies.
- (6) Without prejudice to the generality of any power conferred by section 202 of the Finance Act 1996, the Treasury may by regulations make provision for the purposes of this section as to the manner of determining the market value at any time of any gilt-edged security (including any strip).
- (7) Regulations under subsection (6) above may—
 - (a) make different provision for different cases; and
 - (b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.
- (8) This section does not apply for the purposes of corporation tax.

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(9) In this section—

“gilt-edged security” has the same meaning as in section 51A; and

“strip” means anything which, within the meaning of section 47 of the ^{M67}Finance Act 1942, is a strip of a gilt-edged security.]

Textual Amendments

F16 S. 730C inserted (29.4.1996) by [Finance Act 1996 \(c. 8\)](#), [Sch. 40 para. 7](#)

Marginal Citations

M67 1942 c. 21.

Purchase and sale of securities

731 Application and interpretation of sections 732 to 734.

^{M68}(1) In this section “the relevant provisions” means sections 732, 733, 734 and this section.

(2) Subject to subsections (3) to (10) below, the relevant provisions relate to cases of a purchase by a person (“the first buyer”) of any securities and their subsequent sale by him, the result of the transaction being that interest becoming payable in respect of the securities (“the interest”) is receivable by the first buyer.

(3) The relevant provisions do not relate to cases where—

- (a) the time elapsing between the purchase by the first buyer and his taking steps to dispose of the securities exceeded six months, or
- (b) that time exceeded one month and it is shown to the satisfaction of the Board that the purchase and sale were each effected at the current market price, and that the sale was not effected in pursuance of an agreement or arrangement made before or at the time of the purchase.

The jurisdiction of the General Commissioners or Special Commissioners on any appeal shall include jurisdiction to review any relevant decision taken by the Board in the exercise of their functions under this subsection.

(4) The reference in subsection (3) above to the first buyer taking steps to dispose of the securities shall be construed—

- (a) if he sold them in the exercise of an option he had acquired, as a reference to his acquisition of the option,
- (b) in any other case, as a reference to his selling them.

^{F17}(4A) For the purposes of subsection (3) above, where a purchase or sale is effected as a direct result of the exercise of a qualifying option, it shall be treated as effected at the current market price if the terms under which the first buyer acquired the option, or, as the case may be, became subject to it, were arm’s length terms.

(4B) For the purposes of subsection (4A) above an option is a “qualifying option” if it would be a traded option or financial option as defined in subsection (9) of section 137 of the 1979 Act were the reference in paragraph (b) of that subsection to the time of the abandonment or other disposal a reference to the time of exercise.

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- (4C) In subsection (4A) above the reference to arm's length terms is to terms—
- (a) agreed between persons dealing at arm's length, or
 - (b) not so agreed, but nonetheless such as might reasonably be expected to have been agreed between persons so dealing.]
- (5) For the purposes of the relevant provisions, a sale of securities similar to, and of the like nominal amount as, securities previously bought (“the original securities”) shall be equivalent to a sale of the original securities, and subsection (4) above shall apply accordingly; and where the first buyer bought parcels of similar securities at different times a subsequent sale of any of the securities shall, so far as may be, be related to the last to be bought of the parcels, and then to the last but one, and so on.
- (6) A person shall be under no greater liability to tax by virtue of subsection (5) above than he would have been under if instead of selling the similar securities he had sold the original securities.
- (7) Where at the time when a trade is, or is deemed to be, set up and commenced any securities form part of the trading stock belonging to the trade, those securities shall be treated for the purposes of this section—
- (a) as having been sold at that time in the open market by the person to whom they belonged immediately before that time, and
 - (b) as having been purchased at that time in the open market by the person thereafter engaged in carrying on the trade.
- (8) Subject to subsection (7) above, where there is a change in the persons engaged in carrying on a trade which is not a change on which the trade is deemed to be discontinued, the provisions of this section shall apply in relation to the person so engaged after the change as if anything done to or by his predecessor had been done to or by him.
- (9) ^{M69}For the purposes of the relevant provisions—
- “interest” includes a qualifying distribution and any dividend which is not a qualifying distribution, and in applying references to interest in relation to a qualifying distribution—
- (a) “gross interest” means the qualifying distribution together with the tax credit to which the recipient of the distribution is entitled in respect of it; and
 - (b) “net interest” means the qualifying distribution exclusive of any such tax credit;
- “person” includes any body of persons, and references to a person entitled to any exemption from tax include, in a case of an exemption expressed to apply to income of a trust or fund, references to the persons entitled to make claims for the granting of that exemption;
- “securities” includes stocks and shares, except securities which are securities for the purposes of sections 710 to 728.
- (10) For the purposes of the relevant provisions, securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred; and for the purposes of this subsection, rights guaranteed by the Treasury shall be treated as rights against the Treasury.

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Textual Amendments

F17 S. 731(4A)(4B)(4C) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 55(1)(2)

Modifications etc. (not altering text)

C38 See s.343—*company reconstruction without change of ownership.*

Marginal Citations

M68 Source—1970 s.471(1)-(5)

M69 Source—1970 s.471(6); 1973 sch.11 6; 1986 Sch.18 2(1)

732 Dealers in securities.

^{M70}(1) Subject to the provisions of this section, if the first buyer is engaged in carrying on a trade which consists of or comprises dealing in securities, then, in computing for any of the purposes of the Tax Acts the profits arising from or loss sustained in the trade, the price paid by him for the securities shall be reduced by the appropriate amount in respect of the interest, as determined in accordance with section 735.

(2) Subsection (1) above shall not apply if the subsequent sale is carried out by the first buyer after 26th October 1986 in the ordinary course of his business as a market maker in securities of the kind concerned.

[^{F18}(2A) Subsection (1) above shall not apply in prescribed circumstances if—

- (a) the first buyer is—
 - (i) a prescribed recognised clearing house, or
 - (ii) a member, of a prescribed class or description, of a prescribed recognised investment exchange, and
- (b) the subsequent sale is carried out by the first buyer after a prescribed date and in the ordinary course of his business.]

(3) Subsection (1) above shall not apply if the purchase of the securities by the first buyer and their resale, or as the case may be the subsequent sale of similar securities, constitute a transaction which is to be left out of account in computing profits or losses by virtue of section 729(4), or a transaction which would fall to be so left out of account apart from section 729(8).

(4) Subsection (1) above shall not apply if the securities are overseas securities bought by the first buyer on a stock exchange outside the United Kingdom in the ordinary course of his trade as a dealer in securities and the following conditions are satisfied, namely—

- (a) the interest is brought into account in computing for the purposes of the Tax Acts the profits arising from or loss sustained in the trade, and
- (b) where credit against tax would fall to be allowed in respect of the interest under section 788 or 790, the first buyer elects that credit shall not be so allowed.

In this subsection “overseas securities” means securities of the government of, or of a body of persons resident in, any country or territory outside the United Kingdom and the Republic of Ireland.

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- (5) Subsection (1) above shall not apply if the securities are Eurobonds bought by the first buyer in the ordinary course of his trade as a dealer in Eurobonds; and in this subsection “Eurobond” means a security—
- (a) which is neither preference stock nor preference share capital; and
 - (b) which is issued in bearer form; and
 - (c) which carries a right to interest either at a fixed rate or at a rate bearing a fixed relationship to a standard published base rate; and
 - (d) which does not carry a right to any other form of benefit, whether in the nature of interest, participation in profits or otherwise; and
 - (e) the interest on which is payable without any deduction in respect of income tax or of any tax of a similar character imposed by the laws of a territory outside the United Kingdom;

but, notwithstanding anything in paragraph (d) above, a security is not prevented from being a Eurobond by reason only that it carries a right to convert into a security of another description or to subscribe for further securities (whether of the same description or not).

[^{F19}(5A) Subsection (1) above shall not apply if the securities are rights in a unit trust scheme and the subsequent sale is carried out by the first buyer in the ordinary course of his business as manager of the scheme.]

- (6) For the purposes of subsection (2) above a person is a market maker in securities of a particular kind if he—
- (a) holds himself out at all normal times in compliance with the rules of the Stock Exchange as willing to buy and sell securities of that kind at a price specified by him; and
 - (b) is recognised as doing so by the Council of the Stock Exchange.

[^{F20}(7) For the purposes of subsection (2A) above—

“prescribed” means prescribed in regulations made by the Treasury;

“recognised clearing house” means a recognised clearing house within the meaning of the Financial Services Act 1986;

“recognised investment exchange” means a recognised investment exchange within the meaning of that Act.]

Textual Amendments

F18 S. 732(2A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 56(1)

F19 S. 732(5A) inserted (retrospectively) by Finance Act 1990 (c. 29), s.53(1)

F20 S. 732(7) added by Finance Act 1991 (c. 31, SIF 63:1), s. 56(2)

Marginal Citations

M70 Source—1970 s.472; 1982 s.57; 1986 Sch.18 1, 3

733 Persons entitled to exemptions.

^{M71}(1) If the first buyer is entitled under any enactment to an exemption from tax which, apart from this subsection, would extend to the interest, then the exemption shall not extend to an amount equal to the appropriate amount in respect of the interest, as determined in accordance with section 735.

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- (2) If the first buyer is so entitled and any annual payment is payable by him out of the interest, the annual payment shall be deemed as to the whole thereof to be paid out of profits or gains not brought into charge to income tax, and section 349(1) shall apply accordingly.

Marginal Citations

M71 Source—1970 s.473

734 Persons other than dealers in securities.

- ^{M72}(1) If the first buyer carries on a trade not falling within section 732, then in ascertaining whether any or what repayment of income tax is to be made to him under section 380 or 381 by reference to any loss sustained in the trade and the amount of his income for the year of assessment his income for which includes the interest, there shall be left out of account—
- (a) the appropriate amount in respect of the interest, as determined in accordance with section 735, and
 - (b) any tax paid on that amount.
- (2) Where the first buyer is a company which does not carry on a trade falling within section 732—
- (a) the appropriate amount in respect of the interest, as determined in accordance with section 735(2), and
 - (b) any tax paid in respect of or deducted from that amount,
- shall be disregarded except that, for the purposes of corporation tax on chargeable gains, the appropriate proportion of the net interest receivable by the first buyer as mentioned in section 735(2) shall be treated as if it were a capital distribution within the meaning of section 72(5)(b) of the 1979 Act received in respect of the holding of the securities concerned.
- (3) In applying references in this section to interest in relation to a qualifying distribution, references to any tax paid on or in respect of an amount shall be construed as references to so much of any related tax credit as is attributable to that amount; and for this purpose “related tax credit”, in relation to an amount, means the tax credit to which the recipient of the distribution of which that amount is a proportion is entitled.

Marginal Citations

M72 Source—1970 s.474; 1973 Sch.11 7; 1979(C) Sch.7; 1978 s.30(7)

735 Meaning of “appropriate amount in respect of” interest.

- ^{M73}(1) For the purposes of section 732 the appropriate amount in respect of the interest is the appropriate proportion of the net interest receivable by the first buyer.
- (2) For the purposes of sections 733 and 734 the appropriate amount in respect of the interest is the gross amount corresponding with the appropriate proportion of the net interest receivable by the first buyer.
- (3) For the purposes of this section the appropriate proportion is the proportion which—

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- (a) the period beginning with the date on which the securities were first listed in The Stock Exchange Daily Official List at a price excluding the value of the interest payment last payable before the interest receivable by the first buyer, and ending with the day before the day on which the first buyer bought the securities, bears to—
 - (b) the period beginning with that date and ending with the day before the first date after the purchase by the first buyer on which the securities are quoted in that List at a price excluding the value of the interest receivable by the first buyer.
- (4) Where the interest receivable by the first buyer was the first interest payment payable in respect of the securities, paragraphs (a) and (b) of subsection (3) above shall have effect with the substitution, for references to the date on which the securities were first quoted as mentioned in paragraph (a), of the beginning of the period for which the interest was payable; except that where the capital amount of the securities was not fully paid at the beginning of that period and one or more instalments of capital were paid during that period—
- (a) the interest shall be treated as divided into parts, calculated by reference to the amount of the interest attributable to the capital paid at or before the beginning of that period and the amount thereof attributable to each such instalment, and
 - (b) treating each of those parts as interest payable for that period or, where the part was calculated by reference to any such instalment, as interest payable for the part of that period beginning with the payment of the instalment, there shall be calculated, in accordance with the preceding provisions of this section, the amount constituting the appropriate proportion of each part, and
 - (c) the appropriate proportion of the interest for the purposes of this section shall be the proportion thereof constituted by the sum of those amounts.
- (5) In relation to securities not listed in the Stock Exchange Daily Official List, subsection (3) above shall have effect with the substitution for the periods therein mentioned of such periods as in the opinion of the Commissioners having jurisdiction in the matter, correspond therewith in the case of the securities in question.

Marginal Citations

M73 Source—1970 s.475; 1973 Sch.21 7

Miscellaneous provisions relating to securities

736 Company dealing in securities: distribution materially reducing value of holding.

- ^{M74}(1) Subsection (2) below applies where a company has, as a dealing company, a holding in another company resident in the United Kingdom (being a body corporate), and—
- (a) the holding amounts to, or is an ingredient in a holding amounting to, 10 per cent. of all holdings of the same class in that company, and
 - (b) a distribution is, or two or more distributions are, made in respect of the holding, and
 - (c) the value (at any accounting date or immediately before realisation or appropriation) of any security comprised in the holding is materially reduced below the value of the security at the time when it was acquired, and the whole

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or any part of this reduction is attributable to any distribution falling within paragraph (b) above;

and in relation to any security comprised in the holding, the company having the holding is in subsection (2) below referred to as “the dealing company” and so much of any reduction in the value of the security as is attributable to any distribution falling within paragraph (b) above is in that subsection referred to as “the relevant reduction”.

- (2) Where this subsection applies, an amount equal to the relevant reduction in the value of a security comprised in the holding—
- (a) shall, if and so long as the security is not realised or appropriated as mentioned below, be added to the value of the security for the purposes of any valuation;
 - (b) shall be treated, on any realisation of the security in the course of trade, as a trading receipt of the dealing company or, in the event of a partial realisation, shall be so treated to an appropriate extent, and
 - (c) shall be treated as a trading receipt of the dealing company if the security is appropriated in such circumstances that a profit on the sale of the security would no longer form part of the dealing company’s trading profits.
- (3) References in this section to a holding in a company refer to a holding of securities by virtue of which the holder may receive distributions made by the company, but so that—
- (a) a company’s holdings of different classes in another company shall be treated as separate holdings, and
 - (b) holdings of securities which differ in the entitlements or obligations they confer or impose shall be regarded as holdings of different classes.
- (4) For the purposes of subsection (2) above—
- (a) all a company’s holdings of the same class in another company are to be treated as ingredients constituting a single holding, and
 - (b) a company’s holding of a particular class shall be treated as an ingredient in a holding amounting to 10 per cent. of all holdings of that class if the aggregate of that holding and other holdings of that class held by connected persons amounts to 10 per cent. of all holdings of that class;
- and section 839 shall have effect in relation to paragraph (b) above as if, in subsection (7) of that section, after the words “or exercise control of” in each place where they occur there were inserted the words “or to acquire a holding in”.
- (5) Where this section applies in relation to a distribution which consists of or includes interest to which section 732 applies, any reduction under that section in the price paid for the securities in respect of which the distribution is made shall be adjusted in such manner as seems appropriate to the Board to take account of subsection (2) above.
- (6) For the purposes of this section “security” includes a share or other right and a company is a “dealing company” in relation to a holding if a profit on a sale of the holding would be taken into account in computing the company’s trading profits.

Modifications etc. (not altering text)

C39 See s.237—disallowance of reliefs in respect of bonus issues etc.

Marginal Citations

M74 Source—1970 s.476

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[^{F21}736A] **Manufactured dividends and interest.**

Schedule 23A to this Act shall have effect in relation to certain cases where under a contract or other arrangements for the transfer of shares or other securities a person is required to pay to the other party an amount representative of a dividend or payment of interest on the securities.]

Textual Amendments

F21 S. 736A inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 58(1) (with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified: 26.2.1992 specified for certain purposes by S.I. 1992/173, reg. 2(a); 30.6.1992 specified for certain purposes by S.I. 1992/1346, regs. 2, 3, 4; 21.4.1993 specified for certain purposes by S.I. 1993/933, regs. 2, 3(a), 4(1))

VALID FROM 19/03/1997

[^{F22}736B] **Deemed manufactured payments in the case of stock lending arrangements.**

- (1) This section applies where—
 - (a) any interest on securities transferred by the lender under a stock lending arrangement is paid, as a consequence of the arrangement, to a person other than the lender; and
 - (b) no provision is made for securing that the lender receives payments representative of that interest.
- (2) Where this section applies, Schedule 23A and the provisions for the time being contained in any regulations under that Schedule shall apply as if—
 - (a) the borrower were required under the stock lending arrangement to pay the lender an amount representative of the interest mentioned in subsection (1) (a) above;
 - (b) a payment were made by the borrower in discharge of that requirement; and
 - (c) that payment were made on the same date as the payment of the interest of which it is representative.
- (3) In this section—

“interest” includes dividends; and

“stock lending arrangement” and “securities” have the same meanings as in section 263B of the 1992 Act.]

Textual Amendments

F22 S. 736B inserted (with effect in accordance with Sch. 10 para. 7(1) of the amending Act) by Finance Act 1997 (c. 16), Sch. 10 para. 3; S.I. 1997/991, art. 2

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VALID FROM 19/07/2006

[^{F23}736C] Deemed interest: cash collateral under stock lending arrangements

- (1) This section applies where—
 - (a) the borrower under a stock lending arrangement is treated under section 736B(2) as paying under that arrangement an amount representative of interest on any securities (“the relevant securities”),
 - (b) an amount of money (“cash collateral”) is payable to or for the benefit of the lender for the purpose of securing the discharge of the requirement to transfer the relevant securities back to the lender,
 - (c) the stock lending arrangement is designed to produce a return to the borrower which equates, in substance, to the return on an investment of money at interest, and
 - (d) the main purpose, or one of the main purposes, of the stock lending arrangement is the obtaining of a tax advantage.
- (2) Where this section applies—
 - (a) the Tax Acts are to apply as if the borrower receives an amount of interest payable in respect of the cash collateral, and
 - (b) the amount of the interest is calculated in accordance with the following provisions of this section (see, in particular, subsections (3) to (7)).
- (3) The interest is treated for the purposes of the Tax Acts as if it were received on the date (“the return date”) on which the borrower transfers the relevant securities back to the lender.
- (4) The interest is treated for the purposes of the Tax Acts as if it were payable in respect of the period (“the interest period”)—
 - (a) beginning with the date on which the lender transfers the relevant securities to the borrower, and
 - (b) ending with the return date.
- (5) The rate of interest payable in respect of the cash collateral is a rate that is reasonably comparable to the rate that the borrower could obtain by placing the cash collateral on deposit for the interest period.
- (6) For the purposes of this section, the amount of the cash collateral on which the interest is payable is taken to be—
 - (a) in any case where the amount of the cash collateral varies at any time on or before the return date, the highest amount of the cash collateral at any time on or before the return date, and
 - (b) in any other case, the amount of the cash collateral as at the return date.
- (7) The amount of the interest which the borrower is treated as receiving in respect of the cash collateral for the interest period is reduced (but not below nil) by any interest which the borrower actually receives in respect of that collateral for that period.
- (8) If the borrower is a person within the charge to income tax, the interest which the borrower is treated as receiving is charged to income tax under Chapter 2 of Part 4 of ITTOIA 2005 (interest).
- (9) If the borrower is a company within the charge to corporation tax—

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- (a) the interest which the borrower is treated as receiving is treated for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) as payable to it on a money debt,
 - (b) that money debt is treated for those purposes as a relationship to which section 100 of the Finance Act 1996 applies (money debts etc not arising from the lending of money), and
 - (c) the credits to be brought into account for those purposes in respect of the interest must be determined using an amortised cost basis of accounting.
- (10) The fact that the borrower is treated as receiving an amount of interest is not to be taken as implying that the interest is payable by the lender or any other person.
- (11) For the purposes of this section—
“money” includes money expressed in a currency other than sterling,
“stock lending arrangement” and “securities” have the same meanings as in section 263B of the 1992 Act,
“tax advantage” has the meaning given by section 709(1).
- (12) For the purposes of this section—
(a) any reference to the transfer of securities back has the same meaning as in section 263B of the 1992 Act (see, in particular, sections 263B(5) and 263C(1) of that Act), but
(b) if it becomes apparent that the borrower will not comply with the requirement to transfer any securities back, the borrower is treated as if he transfers them back on the date on which it becomes so apparent.
- (13) For the purposes of this section it does not matter—
(a) whether the cash collateral is payable by the borrower or by any other person,
(b) whether the cash collateral is payable under the stock lending arrangement or under any other arrangement,
(c) whether collateral in another form is also provided in connection with the stock lending arrangement.
- [See section 736D—
- ^{F24}(14) (a) for provision treating certain arrangements as stock lending arrangements for the purposes of this section, and
(b) for provision treating certain amounts as cash collateral for those purposes.]]

Textual Amendments

F23 S. 736C inserted (with effect in accordance with Sch. 6 para. 3(2)-(4) of the amending Act) by Finance Act 2006 (c. 25), Sch. 6 para. 3(1)

F24 S. 736C(14) inserted (with effect in accordance with Sch. 6 para. 4(4) of the amending Act) by Finance Act 2006 (c. 25), Sch. 6 para. 4(2)

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VALID FROM 19/07/2006

[^{F25}736D] Quasi-stock lending arrangements and quasi-cash collateral

- (1) In this section “quasi-stock lending arrangement” means so much of any arrangements between two or more persons as are not stock lending arrangements, but are arrangements under which—
 - (a) a person (“the lender”) transfers securities to another person (“the borrower”), and
 - (b) a requirement is imposed on a person to transfer any or all of the securities, or any other property, back to the lender or any other person,
 and it does not matter whether the person on whom that requirement is imposed is the borrower or any other person.
- (2) In this section “quasi-cash collateral”, in relation to any stock lending arrangement or quasi-stock lending arrangement, means—
 - (a) any money which is payable for a relevant purpose, plus
 - (b) any other property which is transferable for a relevant purpose.
- (3) Money or other property is payable or transferable for a relevant purpose if it is payable or transferable to or for the benefit of—
 - (a) the lender under the stock lending arrangement or quasi-stock lending arrangement, or
 - (b) a person connected with that lender,
 for the purpose of securing the discharge of the requirement to transfer any or all of the securities, or any other property, back to that lender or any other person.
- (4) For the purposes of sections 736B and 736C, a quasi-stock lending arrangement is treated as if it were a stock lending arrangement.
- (5) For the purposes of section 736C, in relation to any stock lending arrangement or quasi-stock lending arrangement,—
 - (a) quasi-cash collateral is treated as if it were cash collateral, and
 - (b) the amount of the quasi-cash collateral in relation to the stock lending arrangement or quasi-stock lending arrangement is taken to be the amount of the cash collateral.
- (6) If any property other than money is transferable for a relevant purpose, the amount of the quasi-cash collateral so far as relating to that property is determined by reference to its market value.
- (7) In any case where—
 - (a) section 736C applies in relation to a quasi-stock lending arrangement, and
 - (b) the person for whom the tax advantage was designed to be obtained is a person (“the other person”) other than the borrower under that arrangement,
 that section has effect as if the other person were the person who receives the amount of interest mentioned in that section.
- (8) In any case where section 736C applies in relation to a quasi-stock lending arrangement—

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- (a) any reference in that section to cash collateral being payable to or for the benefit of the lender includes its being payable to or for the benefit of a person connected with the lender,
 - (b) the reference in subsection (1)(c) of that section to a return to the borrower includes a return to any other person, and
 - (c) any reference in that section to the transfer back of the relevant securities by the borrower to the lender includes the transfer back of any or all of the securities, or any other property, by any person to the lender or any other person.
- (9) Section 839 (connected persons) applies for the purposes of this section.
- (10) In this section—
“money” includes money expressed in a currency other than sterling,
“property” means property in any form,
“stock lending arrangement” and “securities” have the same meaning as in section 263B of the 1992 Act,
“transfer” means a transfer otherwise than by way of sale.]

Textual Amendments

F25 S. 736D inserted (with effect in accordance with Sch. 6 para. 4(4) of the amending Act) by Finance Act 2006 (c. 25), Sch. 6 para. 4(3)

737 Manufactured dividends: treatment of tax deducted.

[^{F26}(1) Subject to the provisions of this section and of Schedule 23A, where, under a contract or other arrangements for the transfer of securities, one of the parties (the “dividend manufacturer”) is required to pay to the other an amount representative of a periodical payment of interest on the securities, section 350(1) and Schedule 16 shall apply as if the payment by the dividend manufacturer (the “manufactured dividend”) were an annual payment made, after due deduction of tax, wholly out of a source other than profits or gains brought into charge to income tax.]

(2) Subsection (1) of this section shall not apply where ^{F27} . . . the interest in question is payable without deduction of tax or where, under the rules of the stock exchange governing the transaction, the payment required to be made in respect of the interest is of the amount of the interest before deduction of tax.

[^{F28}(3) Subsection (1) above shall not apply in any case where—

- (a) the dividend manufacturer is a company resident in the United Kingdom; or
- (b) the manufactured dividend is a manufactured overseas dividend, within the meaning of Schedule 23A.]

^{F29}(4)

[^{F30}(5) Where the dividend manufacturer in relation to the contract or other arrangements mentioned in subsection (1) above is not resident in the United Kingdom and the manufactured dividend is paid by him otherwise than in the course of a trade which he carries on through a branch or agency in the United Kingdom, that subsection shall not apply; but if the manufactured dividend is received by a person resident in the

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United Kingdom (the “United Kingdom recipient”), then unless the United Kingdom recipient shows either—

- (a) that the dividend manufacturer was entitled to payment of the dividend as the registered holder of the securities, or
- (b) that the dividend manufacturer was entitled to payment of the dividend directly or indirectly from a person from whom he acquired the securities, or to whom he transferred them, and who was so entitled to the payment,

the United Kingdom recipient shall be assessable and chargeable with an amount of income tax in respect of the manufactured dividend equal to that which the dividend manufacturer would have been required to account for and pay had he been resident in the United Kingdom.]

[^{F31}(5A) Where this section applies in relation to a manufactured dividend, relief shall not be given to any person under any provision of the Tax Acts in respect of any amount which he is required to deduct from the manufactured dividend on account of income tax; and in this subsection “relief” means relief by way of—

- (a) deduction in computing profits or gains; or
- (b) deduction or set off against income or total profits.]

(6) In this section—

[^{F32}“dividend manufacturing regulations” means regulations made by the Treasury under Schedule 23A;

“prescribed” means prescribed in dividend manufacturing regulations;

“recognised investment exchange” means a recognised investment exchange within the meaning of the Financial Services Act 1986;]

“securities” includes shares and stock;

[^{F33}“transfer” includes any sale or other disposal;]

and references to a periodical payment of interest include references to a qualifying distribution and any dividend which is not a qualifying distribution.

(7) In the application of this section in a case where the references in subsection (1) above to a periodical payment of interest are construed as references to a qualifying distribution, subsection (2) above shall be omitted.

[^{F34}(7A) Where the dividend manufacturer—

- (a) is not resident in the United Kingdom but carries on a trade through a branch or agency in the United Kingdom, or
- (b) is a member, of a prescribed class or description, of a prescribed recognised investment exchange,

dividend manufacturing regulations may make provision for this section and such other provisions of the Tax Acts as may be prescribed to apply with prescribed modifications in connection with the manufactured dividend or any tax required to be deducted or accounted for in respect of it.

(7B) Without prejudice to the generality of subsection (7A) above, dividend manufacturing regulations made by virtue of that subsection may, in particular, include provision—

- (a) entitling the dividend manufacturer to any prescribed relief to which he would not otherwise be entitled;
- (b) denying the dividend manufacturer any prescribed relief to which he would otherwise be entitled;

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- (c) prescribing the manner in which amounts required to be deducted or accounted for on account of tax are to be accounted for and paid;
and, without prejudice to the generality of paragraph (c) above, any regulations made for the purpose specified in that paragraph may include provision, in a case falling within subsection (7A)(a) above, for the manufactured dividend to be a relevant payment for the purposes of Schedule 16 and for that Schedule to apply in relation to it with such modifications as may be prescribed.]
- (8) Where it appears to the Board that by reason of any transaction or transactions a person may by virtue of this section have incurred any liability to tax, the Board may by notice served on him require him, within such time not less than 28 days as may be specified in the notice, to furnish information in his possession with respect to the transaction or any of the transactions, being information as to matters, specified in the notice, which are relevant to the question whether he has incurred any such liability.

Textual Amendments

- F26** S. 737(1) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 58(2), **Sch. 13 para. 3(2)** (with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified: 26.2.1992 specified for certain purposes by S.I. 1992/173, **reg. 2(b)**; 30.6.1992 specified for certain purposes by S.I. 1992/1346, **regs.2, 3, 4**; 21.4.1993 specified for certain purposes by S.I. 1993/933, **regs.2, 3(c), 4(1)**)
- F27** Words in s. 737(2) repealed (for the year 1991-92 and the subsequent years of assessment) by Finance Act 1991 (c. 31, SIF 63:1), s. 123, **Sch. 19 Pt.V**, Note 6
- F28** S. 737(3) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 58(2), **Sch. 13 para. 3(3)** (with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified: 26.2.1992 specified for certain purposes by S.I. 1992/173, **reg. 2(b)**; 30.6.1992 specified for certain purposes by S.I. 1992/1346, **regs.2, 3, 4**; 21.4.1993 specified for certain purposes by S.I. 1993/933, **regs.2, 3(c), 4(1)**)
- F29** S. 737(4) repealed by Finance Act 1991 (c. 31, SIF 63:1), ss. 58(2), 123, **Sch. 13 para. 3(4), Sch. 19 Pt. V**, Note 9 (with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified: 26.2.1992 specified for certain purposes by S.I. 1992/173, **reg. 2(b)**; 30.6.1992 specified for certain purposes by S.I. 1992/1346, **regs.2, 3, 4**; 21.4.1993 specified for certain purposes by S.I. 1993/933, **regs.2, 3(c), 4(1)**)
- F30** S. 737(5) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 58(2), **Sch. 13 para. 3(4)** (with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified: 26.2.1992 specified for certain purposes by S.I. 1992/173, **reg. 2(b)**; 30.6.1992 specified for certain purposes by S.I. 1992/1346, **regs.2, 3, 4**; 21.4.1993 specified for certain purposes by S.I. 1993/933, **regs.2, 3(c), 4(1)**)
- F31** S. 737(5A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 58(2), **Sch. 13 para. 3(5)** (with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified): 26.2.1992 specified for certain purposes by S.I. 1992/173, **reg. 2(b)**; 30.6.1992 specified for certain purposes by S.I. 1992/1346, **regs.2, 3, 4**; 21.4.1993 specified for certain purposes by S.I. 1993/933, **regs.2, 3(c), 4(1)**)
- F32** Definitions in s. 737(6) substituted for definitions of "broker" and "market maker" by Finance Act 1991 (c. 31, SIF 63:1), s. 58(2), **Sch. 13 para. 3(6)(a)** (with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified: 26.2.1992 specified for certain purposes by S.I. 1992/173, **reg. 2(b)**; 30.6.1992 specified for certain purposes by S.I. 1992/1346, **regs.2, 3, 4**; 21.4.1993 specified for certain purposes by S.I. 1993/933, **regs.2, 3(c), 4(1)**)
- F33** Definition in s. 737(6) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 58(2), **Sch. 13 para. 3(6)(b)** (with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified: 26.2.1992 specified for certain purposes by S.I. 1992/173, **reg. 2(b)**; 30.6.1992 specified

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for certain purposes by S.I. 1992/1346, **regs.2, 3, 4**; 21.4.1993 specified for certain purposes by S.I. 1993/933, **regs.2, 3(c), 4(1)**)

- F34** S. 737(7A)(7B) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 58(2), **Sch. 13 para. 3(7)** (with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified: 26.2.1992 specified for certain purposes by S.I. 1992/173, **reg. 2(b)**; 30.6.1992 specified for certain purposes by S.I. 1992/1346, **regs.2, 3, 4**; 21.4.1993 specified for certain purposes by S.I. 1993/933, **regs.2, 3(c), 4(1)**)

Modifications etc. (not altering text)

- C40** S. 737 applied (with modifications) (24.9.1992) by S.I. 1992/2074, **reg. 14(1)**
C41 S. 737(1) modified (22.3.1992) by S.I. 1992/569, **reg. 13(2)**
C42 S. 737(5A) modified (22.3.1992) by S.I. 1992/569, **reg. 14(1)(2)**

VALID FROM 03/05/1994

[^{F35}737A Sale and repurchase of securities: deemed manufactured payments.

- (1) This section applies where on or after the appointed day a person (the transferor) agrees to sell any securities, and under the same or any related agreement the transferor or another person connected with him—
- (a) is required to buy back the securities, or
 - (b) acquires an option, which he subsequently exercises, to buy back the securities;
- but this section does not apply unless the conditions set out in subsection (2) below are fulfilled.
- (2) The conditions are that—
- (a) as a result of the transaction, a dividend which becomes payable in respect of the securities is receivable otherwise than by the transferor,
 - (b) the dividend is not, by virtue of any other provision of the Tax Acts, treated as income of the transferor,
 - (c) there is no requirement under any agreement mentioned in subsection (1) above for a person to pay to the transferor on or before the relevant date an amount representative of the dividend, and
 - (d) it is reasonable to assume that, in arriving at the repurchase price of the securities, account was taken of the fact that the dividend is receivable otherwise than by the transferor.
- (3) For the purposes of subsection (2) above the relevant date is the date when the repurchase price of the securities becomes due.
- (4) Where it is a person connected with the transferor who is required to buy back the securities, or who acquires the option to buy them back, references in the following provisions of this section to the transferor shall be construed as references to the connected person.
- (5) Where this section applies, section 737 and Schedule 23A and dividend manufacturing regulations shall apply as if—
- (a) the relevant person were required, under the arrangements for the transfer of the securities, to pay to the transferor an amount representative of the dividend mentioned in subsection (2)(a) above,

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- (b) a payment were made by that person to the transferor in discharge of that requirement, and
 - (c) the payment were made on the date when the repurchase price of the securities becomes due.
- (6) In subsection (5) above “the relevant person” means—
- (a) where subsection (1)(a) above applies, the person from whom the transferor is required to buy back the securities;
 - (b) where subsection (1)(b) above applies, the person from whom the transferor has the right to buy back the securities;
- and in that subsection “dividend manufacturing regulations” means regulations under Schedule 23A (whenever made).]

Textual Amendments

F35 Ss. 737A-737C inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), s. 122

Modifications etc. (not altering text)

C43 S. 737A applied (with modifications) (2.1.1996) by [The Sale and Repurchase of Securities \(Modification of Enactments\) Regulations 1995 \(S.I. 1995/3220\)](#), regs. 1, 4

C44 S. 737A applied (with modifications) (2.1.1996) by [The Sale and Repurchase of Securities \(Modification of Enactments\) Regulations 1995 \(S.I. 1995/3220\)](#), regs. 1, 5

VALID FROM 03/05/1994

[^{F35}737B Interpretation of section 737A.

- (1) In section 737A and this section “securities” means United Kingdom equities, United Kingdom securities or overseas securities; and—
 - (a) where the securities mentioned in section 737A(1) are United Kingdom securities, references in section 737A to a dividend shall be construed as references to a periodical payment of interest;
 - (b) where the securities mentioned in section 737A(1) are overseas securities, references in section 737A to a dividend shall be construed as references to an overseas dividend.
- (2) In this section “United Kingdom equities”, “United Kingdom securities”, “overseas securities” and “overseas dividend” have the meanings given by paragraph 1(1) of Schedule 23A.
- (3) For the purposes of section 737A agreements are related if each is entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).
- (4) In section 737A “the repurchase price of the securities” means—
 - (a) where subsection (1)(a) of that section applies, the amount which, under any agreement mentioned in section 737A(1), the transferor or connected person is required to pay for the securities bought back, or

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- (b) where subsection (1)(b) of that section applies, the amount which under any such agreement the transferor or connected person is required, if he exercises the option, to pay for the securities bought back.
- (5) In section 737A and subsection (4) above references to buying back securities include references to buying similar securities.
- (6) For the purposes of subsection (5) above securities are similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred; and “interest” here includes dividends.
- (7) For the purposes of section 737A and subsection (4) above—
 - (a) a person who is connected with the transferor and is required to buy securities sold by the transferor shall be treated as being required to buy the securities back notwithstanding that it was not he who sold them, and
 - (b) a person who is connected with the transferor and acquires an option to buy securities sold by the transferor shall be treated as acquiring an option to buy the securities back notwithstanding that it was not he who sold them.
- (8) Section 839 shall apply for the purposes of section 737A and this section.
- (9) In section 737A “the appointed day” means such day as the Treasury may by order appoint, and different days may be appointed in relation to—
 - (a) United Kingdom equities,
 - (b) United Kingdom securities, and
 - (c) overseas securities.]

Subordinate Legislation Made

P1 S. 737B(9) power exercised: 1.5.1995 appointed by S.I. 1995/1007, **art. 2**

P2 S. 737B(9) power exercised: 6.11.1996 appointed by S.I. 1996/2645, **art. 2**

Textual Amendments

F35 Ss. 737A-737C inserted (3.5.1994) by Finance Act 1994 (c. 9), **s. 122**

VALID FROM 03/05/1994

^{F35}737C Deemed manufactured payments: further provisions.

- (1) This section applies where section 737A applies.
- (2) Subsection (3) below applies where—
 - (a) the dividend mentioned in section 737A(2)(a) is a dividend on United Kingdom equities, and
 - (b) by virtue of section 737A(5), section 737 and paragraph 2 of Schedule 23A apply, or paragraph 2 of Schedule 23A applies, in relation to the payment which is treated under section 737A(5) as having been made;

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and in subsection (3) below “the deemed manufactured dividend” means that payment.

(3) Where this subsection applies—

- (a) the amount of the deemed manufactured dividend shall be taken to be an amount equal to the amount of the dividend mentioned in section 737A(2)(a);
- (b) the repurchase price of the securities shall be treated, for the purposes of the Tax Acts other than section 737A and of the 1992 Act, as increased by an amount equal to the gross amount of the deemed manufactured dividend.

(4) In subsection (3) above the reference to the gross amount of the deemed manufactured dividend is to the aggregate of—

- (a) the amount of the deemed manufactured dividend, and
- (b) the amount of the tax credit that would have been issued in respect of the deemed manufactured dividend had the deemed manufactured dividend in fact been a dividend on the United Kingdom equities.

(5) Subsection (6) below applies where—

- (a) the dividend mentioned in section 737A(2)(a) is a periodical payment of interest on United Kingdom securities, and
- (b) by virtue of section 737A(5), section 737 applies in relation to the payment which is treated under section 737A(5) as having been made;

and in subsection (6) below “the deemed manufactured interest” means the payment referred to in paragraph (b) above.

(6) Where this subsection applies, the amount of the deemed manufactured interest shall be taken to be an amount equal to the gross amount of the periodical payment referred to in subsection (5)(a) above reduced by an amount equal to income tax thereon at the basic rate for the year of assessment in which that periodical payment is made.

(7) Subsection (8) below applies where—

- (a) the dividend mentioned in section 737A(2)(a) is a periodical payment of interest on United Kingdom securities, and
- (b) by virtue of section 737A(5), paragraph 3 of Schedule 23A applies in relation to the payment which is treated under section 737A(5) as having been made (whether or not section 737 also applies in relation to that payment);

and in subsection (8) below “the deemed manufactured interest” means the payment referred to in paragraph (b) above.

(8) Where this subsection applies—

- (a) the gross amount of the deemed manufactured interest shall be taken to be the amount found under paragraph 3(4) of Schedule 23A;
- (b) any deduction which, by virtue of Schedule 23A, is required to be made out of the gross amount of the deemed manufactured interest shall be deemed to have been made.

(9) Where subsections (6) and (8) above apply, or where subsection (8) above applies, the repurchase price of the securities shall be treated, for the purposes of the Tax Acts other than section 737A and of the 1992 Act, as increased by the gross amount of the deemed manufactured interest.

(10) Subsection (11) below applies where—

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(a) the dividend mentioned in section 737A(2)(a) is an overseas dividend, and
 (b) by virtue of section 737A(5), paragraph 4 of Schedule 23A applies in relation to the payment which is treated under section 737A(5) as having been made; and in subsection (11) below “the deemed manufactured overseas dividend” means that payment.

(11) Where this subsection applies—

- (a) the gross amount of the deemed manufactured overseas dividend shall be taken to be the amount found under paragraph 4(5)(b) and (c) of Schedule 23A;
- (b) any deduction which, by virtue of paragraph 4 of Schedule 23A, is required to be made out of the gross amount of the deemed manufactured overseas dividend shall be deemed to have been made;
- (c) the repurchase price of the securities shall be treated, for the purposes of the Tax Acts other than section 737A and of the 1992 Act, as increased by the gross amount of the deemed manufactured overseas dividend.

(12) In this section—

- (a) “United Kingdom equities”, “United Kingdom securities” and “overseas dividend” have the meanings given by paragraph 1(1) of Schedule 23A;
- (b) “the repurchase price of the securities” shall be construed in accordance with section 737B(4).]

Textual Amendments

F35 Ss. 737A-737C inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), s. 122

Modifications etc. (not altering text)

C45 S. 737C applied (with modifications) (2.1.1996) by [The Sale and Repurchase of Securities \(Modification of Enactments\) Regulations 1995 \(S.I. 1995/3220\)](#), regs. 1, 5

Supplemental

VALID FROM 01/05/1995

[^{F36}737D] Power to provide for manufactured payments to be eligible for relief.

- (1) The Treasury may by regulations provide for any manufactured payment made to any person to be treated, in such circumstances and to such extent as may be described in the regulations, as comprised in income of that person that is eligible for relief from tax by virtue of section 438, 592(2), 608(2)(a), 613(4), 614(2), (3) or (4), 620(6) or 643(2).
- (2) In this section “manufactured payment” means any manufactured dividend, manufactured interest or manufactured overseas dividend, within the meaning of Schedule 23A.]

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Textual Amendments

F36 Ss. 737D, 737E inserted (1.5.1995) by Finance Act 1995 (c. 4), s. 83(1)

VALID FROM 01/05/1995

^{F36}737E Power to modify sections 727A, 730A and 737A to 737C.

- (1) The Treasury may by regulations make provision for all or any of sections 727A, 730A and 737A to 737C to have effect with modifications in relation to cases involving any arrangement for the sale and repurchase of securities where—
 - (a) the obligation to make the repurchase is not performed or the option to repurchase is not exercised;
 - (b) provision is made by or under any agreement for different or additional securities to be treated as, or as included with, securities which, for the purposes of the repurchase, are to represent securities transferred in pursuance of the original sale;
 - (c) provision is made by or under any agreement for any securities to be treated as not included with securities which, for the purposes of the repurchase, are to represent securities transferred in pursuance of the original sale;
 - (d) provision is made by or under any agreement for the sale price or repurchase price to be determined or varied wholly or partly by reference to fluctuations, occurring in the period after the making of the agreement for the original sale, in the value of securities transferred in pursuance of that sale, or in the value of securities treated as representing those securities; or
 - (e) provision is made by or under any agreement for any person to be required, in a case where there are any such fluctuations, to make any payment in the course of that period and before the repurchase price becomes due.
- (2) The Treasury may by regulations make provision for all or any of sections 727A, 730A and 737A to 737C to have effect with modifications in relation to cases where—
 - (a) arrangements, corresponding to those made in cases involving an arrangement for the sale and repurchase of securities, are made by any agreement, or by one or more related agreements, in relation to securities that are to be redeemed in the period after their sale; and
 - (b) those arrangements are such that the person making the sale or a person connected with him (instead of being required to repurchase the securities or acquiring an option to do so) is granted rights in respect of the benefits that will accrue from their redemption.
- (3) The Treasury may by regulations provide that section 730A is to have effect with modifications in relation to cases involving any arrangement for the sale and repurchase of securities where there is an agreement relating to the sale or repurchase which is not such as would be entered into by persons dealing with each other at arm's length.
- (4) The powers conferred by subsections (1) and (2) above shall be exercisable in relation to section 263A of the 1992 Act as they are exercisable in relation to section 730A of this Act.

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- (5) Regulations made for the purposes of this section may—
- (a) make different provision for different cases; and
 - (b) contain such supplementary, incidental, consequential and transitional provision as appears to the Treasury to be appropriate.
- (6) The supplementary, incidental and consequential provision that may be made by regulations under this section shall include—
- (a) in the case of regulations relating to section 730A, provision modifying subsections (3)(b), (9), (11)(c) and (11A) of section 737C; and
 - (b) in the case of regulations relating to section 263A of the 1992 Act, provision modifying the operation of that Act in relation to cases where by virtue of the regulations any acquisition or disposal is excluded from those which are to be disregarded for the purposes of capital gains tax.
- (7) In this section “modifications” includes exceptions and omissions; and any power under this section to provide for an enactment to have effect with modifications in any case shall include power to provide for it not to apply (if it otherwise would do) in that case.
- (8) References in this section to a case involving an arrangement for the sale and repurchase of securities are references to any case where—
- (a) a person makes a sale of any securities under any agreement (“the original sale”); and
 - (b) that person or a person connected with him either—
 - (i) is required under that agreement or any related agreement to buy them back; or
 - (ii) acquires, under that agreement or any related agreement, an option to buy them back.
- (9) Section 730B shall apply for the purposes of this section as it applies for the purposes of section 730A.]

Textual Amendments

F36 Ss. 737D, 737E inserted (1.5.1995) by [Finance Act 1995 \(c. 4\), s. 83\(1\)](#)

738 Power to amend sections 732, 735 and 737.

- (1) ^{M75}The Board may by regulations provide for all or any of the following—
- (a) that section 732(2) shall not apply unless the subsequent sale is carried out in compliance with further conditions specified in the regulations;
 - (b) that section 732(6) shall have effect as if the reference to the Stock Exchange in paragraph (a) were to any recognised investment exchange or to any of those exchanges specified in the regulations, and as if the reference to the Council of the Stock Exchange in paragraph (b) were to the investment exchange concerned;
 - (c) that for section 735(3) and (5) (which refer to the Stock Exchange Daily Official List) there shall be substituted such provisions as the Board think fit to take account of recognised investment exchanges.

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Regulations under this subsection shall apply where the subsequent sale is carried out by the first buyer on or after such day as is specified in the regulations.

^{F37}(2)

- (3) ^{M76}The Board may by regulations substitute for subsection (3) of section 737 a provision that subsection (1) of that section shall not apply to such persons and in such circumstances as are specified in the substituted provision, and make such incidental and consequential provisions (which may include the amendment of other provisions of section 737) as appear to the Board to be appropriate.
- (4) ^{M77}Regulations under [^{F38}subsection] (3) above shall apply where the [^{F39}contract or other arrangements for the transfer of securities] is made on or after such day as is specified in the regulations.
- (5) ^{M78}In this section “recognised investment exchange” means a recognised investment exchange within the meaning of the ^{M79}Financial Services Act 1986.

Textual Amendments

- F37** S. 738(2) repealed (with effect as mentioned in s. 58(3) of the repealing Act) by Finance Act 1991 (c. 31, SIF 63:1), ss. 58(2), 123, Sch. 13 para. 4, **Sch. 19 Pt. V**, Note 9; S.I. 1992/1346, **reg. 5**
- F38** Word in s. 738(4) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 58(2), **Sch. 13 para. 4(a)**(with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified)
- F39** Words in s. 738(4) substituted by Finance Act 1991 (c. 31, SIF 63:1), s. 58(2), **Sch. 13 para. 4(b)**(with effect as mentioned in s. 58(3) in relation to payments made on or after such day as may be specified)

Marginal Citations

- M75** Source—1986 Sch.18 4
- M76** Source—1986 Sch.18 9(1)(a), (c)
- M77** Source—1986 Sch.18 6(6), 9(2)
- M78** Source—1986 Sch.18 10(2)
- M79** 1986 c. 60.

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