



# 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) <sup>M1</sup>This section has effect for the interpretation of sections 711 to 728.

[<sup>F1</sup>(1A) Sections 711 to 728 shall not apply for the purposes of corporation tax except as respects transfers of securities taking place before 1st April 1996.]

(2) “Securities” does not [<sup>F2</sup>, 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.

[<sup>F3</sup>(2A) “Securities” includes shares in a building society which are qualifying shares for the purposes of section [<sup>F4</sup>117(4) of the 1992 Act]] (qualifying corporate bonds).

(3) “Securities” does not include—

- (a) <sup>F5</sup>.....

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- (b) national savings certificates (including Ulster Savings Certificates [<sup>F6</sup>, as defined in section 693(7) of ITTOIA 2005]);
  - (c) war savings certificates;
  - [<sup>F7</sup>(ca) uncertificated eligible debt security units within the meaning of section 552(2) of that Act;]
  - (d) certificates of deposit (within the meaning of [<sup>F8</sup>section 552(2) of that Act]);
  - [<sup>F9</sup>(da) any security which [<sup>F10</sup>is a right falling within section 552(1)(c) of that Act] at the time of the transfer concerned;]
  - (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;
  - [<sup>F11</sup>[<sup>F12</sup>(f) any security that is a deeply discounted security for the purposes of Chapter 8 of Part 4 of ITTOIA 2005 (see section 430 of that Act).]]
- [<sup>F13</sup>(3A) Paragraph (f) of subsection (3) does not apply to a security on the transfer of which Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) would apply subject to the rules in sections 454 to 456 of that Act (see section 453(2) and (3) of that Act).]
- (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) <sup>M2</sup> “Transfer”, in relation to securities, means transfer by way of sale, exchange, gift or otherwise [<sup>F14</sup>, but—
    - (a) does not include the vesting of securities in a person’s personal representatives on his death; <sup>F15</sup> . . . ]
    - [<sup>F16</sup>(b) except as otherwise provided by subsections (1) and (3) of section 722A, does not include any transaction forming part of any such exchange as is mentioned in either of those subsections;][<sup>F17</sup>and
    - (c) does not include any transfer of a security to which Chapter 8 of Part 4 of ITTOIA 2005 applies subject to the rules in sections 454 to 456 of that Act.]
  - (6) <sup>M3</sup>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) <sup>M4</sup>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) <sup>M5</sup>A person acquires securities when he becomes entitled to them.
  - (9) <sup>M6</sup>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.

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- (10) <sup>M7</sup>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) <sup>M8</sup>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) <sup>M9</sup>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) <sup>M10</sup>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
  - (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 <sup>F4</sup>132 of the 1992] Act.

<sup>F18</sup>(13A) Where a security is deemed to have been transferred by virtue of section 722A(1), the interest period in which the exchange in question takes place shall be treated as ending on the day on which it would have ended had the exchange not taken place.

(13B) Where a security is deemed to have been transferred by virtue of section 722A(3), the interest period in which the exchange in question takes place shall be treated as having begun on such day as shall for that purpose be specified in the security.]

<sup>F19</sup>(14) . . . . .

#### Textual Amendments

- F1** S. 710(1A) inserted (with effect in accordance with s. 105(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 14 para. 36](#) (with Sch. 15)
- F2** Words in s. 710(2) inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 51, [Sch. 10 para. 2\(2\)\(4\)](#)
- F3** S. 710(2A) inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 51, [Sch. 10 para. 2\(3\)\(4\)](#)
- F4** Words in s. 710(2A)(13) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10 para. 14\(36\)\(a\)\(b\)](#) (with ss. 60, 101(1), 171, 201(3)).
- F5** S. 710(3)(a) repealed (with effect in accordance with s. 37 of the repealing Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(2\)](#), Note
- F6** Words in s. 710(3)(b) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 294\(2\)\(a\)](#) (with Sch. 2)
- F7** S. 710(3)(ca) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 294\(2\)\(b\)](#) (with Sch. 2)

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- F8** Words in s. 710(3)(d) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 294(2)(c)** (with Sch. 2)
- F9** S. 710(3)(da) inserted (16.7.1992 with effect as mentioned in Sch. 8 para. 6 of the amending Act) by **Finance (No.2) Act 1992 (c. 48), s. 34, Sch. 8 paras. 5, 6.**
- F10** Words in s. 710(3)(da) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 294(2)(d)** (with Sch. 2)
- F11** S. 710(3)(f) inserted (with effect in accordance with Sch. 39 para. 6(1)(b)(2) of the amending Act) by **Finance Act 2003 (c. 14), Sch. 39 para. 5(4)**
- F12** S. 710(3)(f) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 294(2)(e)** (with Sch. 2)
- F13** S. 710(3A) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 294(3)** (with Sch. 2)
- F14** S. 710(5)(a) and preceding word inserted (with effect in accordance with s. 158(5) of the amending Act) by **Finance Act 1996 (c. 8), s. 158(1)**
- F15** Word at the end of s. 710(5)(a) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 294(4)(a), Sch. 3** (with Sch. 2)
- F16** S. 710(5)(b) inserted (29.4.1996) by **Finance Act 1996 (c. 8), Sch. 40 para. 3(1)**
- F17** S. 710(5)(c) and preceding word inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 294(4)(b)** (with Sch. 2)
- F18** S. 710(13A)(13B) inserted (29.4.1996) by **Finance Act 1996 (c. 8), Sch. 40 para. 3(2)**
- F19** S. 710(14) repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years) by 1993 c. 34, s. 213, **Sch. 23 Pt. III(12)** Note 2

#### 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)
- C2** 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)

#### 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)

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

- (1) <sup>M11</sup>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

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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.

(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) <sup>M12</sup>Where section 710(13), 715(3), 720(4), 721(1) [<sup>F20</sup>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.

[<sup>F21</sup>(6A) In any case where section 722A(1) or (3) applies, the deemed transfer shall be treated as made—

- (a) without accrued interest in any such case where the exchange in question is made at any time after the balance has been struck for a dividend on the security but before the day on which that dividend is payable;
- (b) with accrued interest in any other such case.]

(7) <sup>M13</sup>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 <sup>F22</sup> . . . —

- (a) the interest applicable to securities for the period is the interest payable on them on the interest payment day with which the long <sup>F22</sup> . . . period concerned ends; and

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- (b) section 713(6) shall have effect as if the references to the period were to the long <sup>F22</sup> . . . 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

- F20** 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)”.
- F21** S. 711(6A) inserted (29.4.1996) by Finance Act 1996 (c. 8), **Sch. 40 para. 4**
- F22** Words in s. 711(8) repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years) by 1993 c. 34, s. 213, **Sch. 23 Pt.III(12)** Note 2

#### Modifications etc. (not altering text)

- C3** 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)**
- C4** 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)
- C5** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. **161(2)(a)** (with s. 161(7))

#### Marginal Citations

- M11** Source—1985 Sch.23 3(1)-(5)
- M12** Source—1985 Sch.23 14(2), 31(2), 12(2), 13(3), 7(2)
- M13** Source—1985 Sch.23 3(6)-(8)

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

- <sup>M14</sup>(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 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 [<sup>F23</sup>, 722 [<sup>F24</sup>, 722A] and 724(1A)], the settlement day is the day on which the securities are transferred.

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- (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

**F23** 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”.

**F24** Words in s. 712(4) inserted (29.4.1996) by Finance Act 1996 (c. 8), **Sch. 40 para. 5**

#### 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)**
- C7** 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)
- C8** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), **s. 161(2)(a)** (with s. 161(7))

#### Marginal Citations

**M14** 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.

- <sup>M15</sup>(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—
- the transferor shall be treated as entitled to a sum on them in the period of an amount equal to the accrued amount; and
  - 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—
- the transferor shall be treated as entitled to relief on them in the period of an amount equal to the rebate amount; and
  - the transferee shall be treated as entitled to a sum on them in the period of the same amount.
- (4) In subsection (2) above “the accrued amount” means—
- 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
  - in any other case, an amount equal to the accrued proportion of the interest applicable to the securities for the period.

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- (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) <sup>M16</sup>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;
  - (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) <sup>M17</sup>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.



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- C9** 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)
- C10** 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)
- C11** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))
- C12** 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

- M15** Source—1985 s.73  
**M16** Source—1985 Sch.23 10(1)-(3)  
**M17** 1985 Sch.23 10(7)

## 714 Treatment of deemed sums and reliefs.

- <sup>M18</sup>(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—
- he is not treated as entitled under that section to relief on securities of that kind in the period; or
  - 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 [<sup>F25</sup>income of an amount which] 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 [<sup>F26</sup>the income] shall be chargeable to tax <sup>F27</sup>. . . for the chargeable period in which [<sup>F28</sup>it is] treated as received.

- [<sup>F29</sup>(2A) Income tax chargeable by virtue of subsection (2) shall be charged on the full amount of the income treated as received.

- (2B) The person liable for any tax so charged shall be the person treated as receiving the income.]

- (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—
- he is not treated as entitled under that section to a sum on securities of that kind in the period; or
  - 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.

- (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.

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- (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) <sup>F30</sup> .....

#### Textual Amendments

- F25** Words in s. 714(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 295(2)(a)* (with Sch. 2)
- F26** Words in s. 714(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 295(2)(b)* (with Sch. 2)
- F27** Words in s. 714(2) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 295(2)(c), Sch. 3* (with Sch. 2)
- F28** Words in s. 714(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 295(2)(d)* (with Sch. 2)
- F29** S. 714(2A)(2B) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 295(3)* (with Sch. 2)
- F30** S. 714(6) repealed (with effect in accordance with s. 105(1) of the repealing Act) by *Finance Act 1996 (c. 8), Sch. 41 Pt. 5(3)*, Note

#### 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

- M18** Source—1985 s.74

## 715 Exceptions from sections 713 and 714

- (1) <sup>M19</sup>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

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- of assessment the nominal value of securities held by him as the deceased's personal representative exceeded £5,000;
- (d) <sup>M20</sup>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) of section 505(1), exemption could be granted under that paragraph in respect of the interest;
- (e) <sup>M21</sup>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) <sup>F31</sup>.....
- (h) <sup>F31</sup>.....
- (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 [<sup>F32</sup>charged in accordance with section 832 of ITTOIA 2005 (relevant foreign income charged on the remittance basis)]; or
- (k) <sup>M22</sup>where, if the transferor became entitled to any interest on the securities transferred, exemption could be allowed under [<sup>F33</sup>section 186 of the Finance Act 2004] in respect of the interest.
- (2) <sup>M23</sup>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) <sup>M24</sup>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) <sup>M25</sup>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) <sup>M26</sup>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 <sup>F34</sup> . . . [ <sup>F35</sup> paragraph 3 or 4 of Schedule 23A] 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) <sup>M27</sup>For the purposes of this section—

“disabled person’s trusts” means trusts falling within paragraph [ <sup>F36</sup>1(1) of Schedule 1 to the 1992] Act;

“branch or agency” has the meaning given by section [ <sup>F36</sup>10(6) of the 1992] Act;

<sup>F37</sup>

and the place where securities are situated shall be determined in accordance with [ <sup>F38</sup>sections 275(1) and (2)(b) and 275C] [ <sup>F36</sup>of the 1992] Act.

#### Textual Amendments

- F31** S. 715(1)(g)(h) repealed (with effect in accordance with s. 154(9) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. 5\(18\)](#), Note
- F32** Words in s. 715(1)(j) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 296](#) (with [Sch. 2](#))
- F33** Words in s. 715(1)(k) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 35 para. 30](#) (with [Sch. 36](#))
- F34** Words in s. 715(6) repealed (with effect in accordance with Sch. 18 Pt. 6(10) Note 1 of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(10\)](#); S.I. 1997/991, [art. 2](#)
- F35** Words in s. 715(6) inserted (with application in accordance with s. 123(6) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 123\(1\)](#)

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- F36** Words in s. 715(8) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 14(37)** (with ss. 60, 101(1), 171, 201(3))
- F37** S. 715(8): definition of "FOTRA securities" repealed (with effect in accordance with s. 154(9) of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(18)**, Note
- F38** Words in s. 715(8) substituted (with effect in accordance with Sch. 4 para. 10(1) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 4 para. 1(2)**

#### 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))
- C19** S. 715(1)(a) restricted (*retrospectively*) by Finance (No.2) Act 1992 (c. 48), **s. 65(2)(b)(5)(6)**  
S. 715(2)(a) restricted (*retrospectively*) by Finance (No.2) Act 1992 (c. 48), **s. 65(2)(c)(5)(6)**

#### Marginal Citations

- M19** Source—1985 s.71(1) (a)-(c)
- M20** Source—1985 Sch.23 30(1), (4)
- M21** Source—1985 s.75(1)(d)-(h)
- M22** Source—1985 Sch.23 32(1)
- M23** Source—1985 s.75(2), Sch.23 30(2), (5), 32(2)
- M24** Source—1985 Sch.23 31(1)
- M25** Source—1985 s.75(3), (4)
- M26** Source—1985 Sch.23 43; 1986 Sch.17 5
- M27** Source—1985 s.75(5), (6)

## 716 Transfer of unrealised interest.

<sup>M28</sup>(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 [<sup>F39</sup>income] of an amount equal to the unrealised interest; and [<sup>F40</sup>the income] shall be chargeable to tax <sup>F41</sup>. . . for the chargeable period in which [<sup>F42</sup>it is] treated as received.

[<sup>F43</sup>(3A) Income tax chargeable by virtue of subsection (3) shall be charged on the full amount of the income treated as received.

(3B) The person liable for any tax so charged shall be the person treated as receiving the income.]

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- (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) <sup>M29</sup>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) <sup>M30</sup>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.

#### Textual Amendments

- F39** Word in s. 716(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 297(2)(a)* (with Sch. 2)
- F40** Words in s. 716(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 297(2)(b)* (with Sch. 2)
- F41** Words in s. 716(3) repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 297(2)(c), Sch. 3* (with Sch. 2)
- F42** Words in s. 716(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 297(2)(d)* (with Sch. 2)
- F43** S. 716(3A)(3B) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by *Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 297(3)* (with Sch. 2)

#### Modifications etc. (not altering text)

- C20** 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)
- C21** 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)
- C22** Ss. 711-728 modified (31.7.1998) by *Finance Act 1998 (c. 36), s. 161(2)(a)* (with s. 161(7))
- C23** 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

- M28** Source—1985 Sch.23 15(1)-(4)
- M29** Source—1985 Sch.23 15(5); 1986 Sch.17 2(2)
- M30** Source—1985 Sch.23 15(8)

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## 717 Variable interest rate.

- <sup>M31</sup>(1) This section applies to securities other than securities falling within subsection (2) <sup>F44</sup> . . . 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) <sup>F45</sup> . . . . .
- (5) <sup>F45</sup> . . . . .
- (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 <sup>F46</sup>is just and reasonable.”.
- (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.

### Textual Amendments

**F44** Words in s. 717(1) repealed (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. 3\(22\)](#)

**F45** [S. 717\(4\)\(5\)](#) repealed (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. 3\(22\)](#)

**F46** Words in s. 717(9) substituted (with effect in accordance with s. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 35](#)

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#### 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))
- C27** S. 717 excluded (1.1.1999) by The European Single Currency (Taxes) Regulations 1998 (S.I. 1998/3177), regs. 1, 33(2)

#### Marginal Citations

- M31** Source—1985 Sch.23 15A, 15B, 15C; 1986 Sch.17 3

### 718 Interest in default.

- <sup>M32</sup>(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)

- C28** 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)
- C29** 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)
- C30** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))

#### Marginal Citations

- M32** Source—1985 Sch.23 15A, 15B, 15C; 1986 Sch.17 3

### 719 Unrealised interest in default

- <sup>M33</sup>(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 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—



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“(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.

(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

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- (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)**

- C31** 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)
- C32** 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)
- C33** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))

**Marginal Citations**

- M33** Source—1985 Sch.23 15A, 15B, 15C; 1986 Sch.17 3

*Transfers with or without accrued interest: supplemental*

**720 Nominees, trustees etc.**

- (1) <sup>M34</sup>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) <sup>M35</sup>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.
- <sup>F47</sup>(3) .....
- (4) <sup>M36</sup>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) [<sup>F48M37</sup>Income] which by virtue of 714(2) or 716(3) [<sup>F49</sup>is treated] as received in a year of assessment by trustees shall be chargeable to income tax [<sup>F50</sup>at the rate applicable to trusts] for that year.

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F51

- (6) <sup>M38</sup>In any case where—
- (a) [<sup>F52</sup>the trustees of a settlement are] treated as receiving [<sup>F53</sup>income] under section 714(2), or
  - (b) [<sup>F54</sup>the trustees of a settlement who are] 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 [<sup>F55</sup>income or income] of a greater amount if he had been resident or domiciled in the United Kingdom during a part of each such chargeable period,

[<sup>F56</sup>Chapter 5 of Part 5 of ITTOIA 2005 (settlements: amounts treated as income of settlor) and Chapter 1C of Part 15 of this Act (liability of trustees)] shall have effect as if the amount which [<sup>F57</sup>the trustees are] or would be treated as receiving were income [<sup>F58</sup>arising under the settlement].

- (7) <sup>M39</sup>In any case where income of [<sup>F59</sup>the trustees 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 [<sup>F60</sup>Chapter 5 of Part 5 of ITTOIA 2005 and Chapter 1C of Part 15 of this Act], 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) <sup>M40</sup>In subsections (6) and (7) above—
- (a) <sup>F61</sup> .....
  - (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.

### Textual Amendments

- F47** S. 720(3) repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years) by 1993 c. 34, s. 213, **Sch. 23 Pt. III(12)** Note 2
- F48** Word in s. 720(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 298(2)(a)** (with Sch. 2)
- F49** Words in s. 720(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 298(2)(b)** (with Sch. 2)
- F50** Words in s. 720(5) substituted (27.7.1993 with effect for the year 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 79, **Sch. 6 paras. 13, 25**
- F51** Words in s. 720(5) repealed (with effect in accordance with s. 68 of the repealing Act) by **Finance Act 1999 (c. 16), Sch. 20 Pt. 3(17)**, Note
- F52** Words in s. 720(6)(a) substituted (6.4.2006) by **Finance Act 2006 (c. 25), Sch. 13 paras. 21(a), 27(1)**
- F53** Word in s. 720(6)(a) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 298(3)(a)** (with Sch. 2)
- F54** Words in s. 720(6)(b) substituted (6.4.2006) by **Finance Act 2006 (c. 25), Sch. 13 paras. 21(b), 27(1)**
- F55** Words in s. 720(6)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 298(3)(b)** (with Sch. 2)

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- F56** Words in s. 720(6) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 298(3)(c)** (with Sch. 2)
- F57** Words in s. 720(6) substituted (6.4.2006) by Finance Act 2006 (c. 25), Sch. 13 paras. 21(c), **27(1)**
- F58** Words in s. 720(6) substituted (with effect in accordance with s. 74(2) of the amending Act) by Finance Act 1995 (c. 4), **Sch. 17 para. 17(2)(b)**
- F59** Words in s. 720(7) substituted (6.4.2006) by Finance Act 2006 (c. 25), Sch. 13 paras. 21(d), **27(1)**
- F60** Words in s. 720(7) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 298(4)** (with Sch. 2)
- F61** S. 720(8)(a) repealed (6.4.2006) by Finance Act 2006 (c. 25), Sch. 13 paras. 21(e), 27(1), **Sch. 26 Pt. 3(15)**

**Modifications etc. (not altering text)**

- C34** 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)**
- C35** 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)
- C36** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), **s. 161(2)(a)** (with s. 161(7))

**Marginal Citations**

- M34** Source—1985 Sch.23 6(1), 15(6)
- M35** Source—1985 Sch.23 6(2)
- M36** Source—1985 Sch.23 7(1)
- M37** Source—1985 Sch.23 8(1), (2), (4); 1986 Sch.17 1(1)
- M38** Source—1985 Sch.23 9(1), (2)
- M39** Source—1985 Sch.23 9(3), (4)
- M40** Source—1985 Sch.23 9(5)

**721 Death.**

- (1) <sup>F62</sup> .....
- [<sup>F63</sup>(2) Where—
  - (a) an individual who is entitled to securities dies, and
  - (b) in the interest period in which the individual died, the securities are transferred by his personal representatives to a legatee,
 section 713 shall not apply to the transfer.]
- (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) <sup>F62</sup> .....
- <sup>F64</sup>(5) .....
- <sup>F64</sup>(6) .....

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### Textual Amendments

- F62** S. 721(1)(4) repealed (with effect in accordance with s. 158(5) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), s. 158(2)(4), [Sch. 41 Pt. 5\(20\)](#), Note
- F63** S. 721(2) substituted (with effect in accordance with s. 158(5) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 158(3)
- F64** S. 721(5)(6) repealed (27.7.1993 with effect for the year 1994 and subsequent underwriting years) by 1993 c. 34, s. 213, [Sch. 23 Pt. III\(12\)](#) Note 2

### Modifications etc. (not altering text)

- C37** 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)
- C38** 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](#))
- C39** Ss. 711-728 modified (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 161(2)(a) (with s. 161(7))
- C40** S. 721(1)-(4) excluded (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, [ss. 176\(3\)\(a\)](#), 184(3)

## 722 Trading stock.

- <sup>M41</sup>(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 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)

- C41** 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)
- C42** 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](#))
- C43** Ss. 711-728 modified (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 161(2)(a) (with s. 161(7))

### Marginal Citations

- M41** Source—1985 Sch.23 (13) (1), (2)

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### **[<sup>F65</sup>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 [<sup>F66</sup>50]; and
  - “strip” means anything which, within the meaning of section 47 of the <sup>M42</sup>Finance Act 1942, is a strip of a gilt-edged security.]

#### **Textual Amendments**

**F65** S. 722A inserted (29.4.1996) by Finance Act 1996 (c. 8), Sch. 40 para. 6

**F66** Word in s. 722A(5) substituted (with effect in accordance with s. 37(8) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 37(7)

#### **Modifications etc. (not altering text)**

**C44** 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)

**C45** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))

#### **Marginal Citations**

**M42** 1942 c. 21.

### **723 Foreign securities: delayed remittances**

- <sup>M43</sup>(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 [<sup>F67</sup>any income] 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—
  - (a) if the amount of the sum or aggregate of the sums exceeds the amount of [<sup>F68</sup>that income], to nil; or
  - (b) 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.

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- (4) The claimant (or his personal representatives) shall be charged to tax [<sup>F69</sup>on the full amount] of the reduction for the chargeable period in which the conditions in subsection (5) below cease to be satisfied.
- (5) The conditions are—
- (a) that the claimant was unable to remit the proceeds of the transfer or transfers to the United Kingdom;
  - (b) 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
  - (c) 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 [<sup>F70</sup>sections 275(1) and (2)(b) and 275C][<sup>F71</sup> of the 1992] Act.

#### Textual Amendments

- F67** Words in s. 723(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 299\(2\)\(a\)](#) (with [Sch. 2](#))
- F68** Words in s. 723(2) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 299\(2\)\(b\)](#) (with [Sch. 2](#))
- F69** Words in s. 723(4) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 299\(3\)](#) (with [Sch. 2](#))
- F70** Words in s. 723(8) substituted (with effect in accordance with [Sch. 4 para. 10\(1\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [Sch. 4 para. 2\(2\)](#)
- F71** Words in s. 723(8) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10 para. 14\(38\)](#) (with ss. 60, 101(1), 171, 201(3))

#### Modifications etc. (not altering text)

- C46** 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\(3\)](#)
- C47** 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](#))
- C48** Ss. 711-728 modified (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 161\(2\)\(a\)](#) (with s. 161(7))

#### Marginal Citations

- M43** Source—1985 Sch.23 11

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## 724 Insurance companies.

F72 .....

### Textual Amendments

F72 S. 724 repealed (with effect in accordance with s. 105(1) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 41 Pt. 5\(3\)](#), Note

F73 725 .....

### Textual Amendments

F73 S. 725 repealed (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by [1993 c. 34, s. 213](#), [Sch. 23 Pt. III\(12\)](#) Note 5

F74 726 .....

### Textual Amendments

F74 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 <sup>F75</sup>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,
  - (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.



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- (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.]

#### Textual Amendments

**F75** S. 726A inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 54, Sch. 12 paras. 2, 5

#### Modifications etc. (not altering text)

**C49** 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\(3\)](#)

**C50** 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](#))

**C51** Ss. 711-728 modified (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 161\(2\)\(a\)](#) (with s. 161(7))

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## 727 Stock lending.

<sup>M44</sup>(1) <sup>F76</sup> .....

- (2) Where securities are transferred in circumstances such that by virtue of [<sup>F77</sup>section 263B(2) of the 1992 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.

### Textual Amendments

- F76** S. 727(1) repealed (with effect in accordance with Sch. 18 Pt. 6(10) Note 1 of the repealing Act) by Finance Act 1997 (c. 16), **Sch. 18 Pt. 6(10)**; S.I. 1997/991, **art. 2**
- F77** Words in s. 727(2) substituted (with effect in accordance with Sch. 10 para. 7(1) of the amending Act) by Finance Act 1997 (c. 16), **Sch. 10 para. 5(3)**; S.I. 1997/991, **art. 2**

### Modifications etc. (not altering text)

- C52** 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)**
- C53** 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)
- C54** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), **s. 161(2)(a)** (with s. 161(7))

### Marginal Citations

- M44** Source—1985 Sch.23 32C; 1986 Sch.17 4

## [<sup>F78</sup>727A] Exception for sale and repurchase of securities.

- (1) Where securities are transferred under an agreement to sell them, [<sup>F79</sup>and the transferor or a person connected with him—
- (a) is required to buy them back in pursuance of an obligation imposed by, or in consequence of the exercise of an option acquired under, that agreement or any related agreement, or
  - (b) acquires an option to buy them back under that agreement or any related agreement which he subsequently exercises,]
- section 713(2) and (3) and section 716 do not apply to the transfer by the transferor or the transfer back [<sup>F80</sup>except in a case where section 730A of the Taxes Act 1988 is prevented from applying by subsection (8) of that section.]
- (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.
- 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,

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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

**F78** 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))

**F79** Words and paras. (a)(b) in s. 727A(1) substituted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 38 para. 4

**F80** Words in s. 727A(1) inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 38 para. 15

#### Modifications etc. (not altering text)

**C55** 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

**C56** 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

**C57** 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)

**C58** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))

**C59** S. 727A(1) modified (1.1.1999) by The European Single Currency (Taxes) Regulations 1998 (S.I. 1998/3177), regs. 1, 14

#### 728 Information.

<sup>M45</sup>(1) In order to obtain for the purposes of [F81sections 710 to 727A] 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 [<sup>F81</sup>sections 710 to 727A] 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 [<sup>F82</sup>Financial Services and Markets Act 2000]) 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.

#### Textual Amendments

- F81** Words in s. 728(1)(5) substituted (with effect in accordance with s. 79(3) of the amending Act) by Finance Act 1995 (c. 4), s. 79(2) (with s. 79(4))
- F82** Words in s. 728(7)(a) substituted (1.12.2001) by Financial Services and Markets Act 2000 (c. 8), s. 431(2), Sch. 20 para. 4(5); S.I. 2001/3538, art. 2(1)

#### Modifications etc. (not altering text)

- C60** 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)
- C61** 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)
- C62** Ss. 711-728 modified (31.7.1998) by Finance Act 1998 (c. 36), s. 161(2)(a) (with s. 161(7))

#### Marginal Citations

- M45** Source—1985 Sch.23 44(1)-(5A); 1986 Sch.17 6

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### Other transfers of securities

## 729 Sale and repurchase of securities.

F83 .....

### Textual Amendments

**F83** S. 729 repealed (with effect in accordance with s. 159(1)(10) of the repealing Act) by Finance Act 1996 (c. 8), s. 159(1), Sch. 41 Pt. 5(21), Note; S.I. 1996/2646, art. 2

## 730 [F84Transfers of rights to receive distributions in respect of shares]

<sup>M46</sup>(1) Where in any chargeable period the owner of any [F85shares] (“the owner”) sells or transfers the right to receive any [F86distribution] payable (whether before or after the sale or transfer) in respect of the [F85shares] without selling or transferring the [F85shares], then, for all the purposes of the Tax Acts, that [F86distribution], whether it would or would not be chargeable to tax apart from the provisions of this section—

- (a) shall be [F87treated as] the income of the owner or, in a case where the owner is not the beneficial owner of the [F85shares] and some other person (“a beneficiary”) is beneficially entitled to the income arising from the [F85shares], the income of the beneficiary, and
- (b) shall be [F88treated as] the income of the owner or beneficiary for that chargeable period, <sup>F89</sup> . . .
- (c) <sup>F89</sup> .....

[F90(2) This section does not have effect in relation to a sale or transfer if the proceeds of the sale or transfer are chargeable to tax.]

[F91(2A) <sup>F92</sup> .....

[F93(3) The proceeds of any subsequent sale or other realisation of the right to receive the distribution shall not, for any of the purposes of the Tax Acts, be regarded as the income of the seller or the person on whose behalf the right is otherwise realised.]

(4) Where—

- (a) the [F85shares] are of such a character that the [F86distribution] 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 [F86distribution] which is deemed to be his income by virtue of this section have been charged to [F94income tax under Chapter 13 of Part 4 of ITTOIA 2005 (sales of foreign dividend coupons)], [F95then that [F96distribution] shall be charged to income tax.

(4A) The income tax chargeable by virtue of subsection (4) above shall, subject to subsection (5) below, be charged on the full amount of the [F97distribution] in the year of assessment.

(4B) The person liable for any tax chargeable by virtue of subsection (4) above is the owner or beneficiary, but he shall be entitled to credit for any tax which the [F98distribution] is shown to have borne.]

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- (5) [<sup>F99</sup>But], in any case where, if the [<sup>F86</sup>distribution] had been [<sup>F100</sup>relevant foreign income], the computation of tax would have been made by reference to the amount received in the United Kingdom, [<sup>F101</sup>the income tax chargeable by virtue of subsection (4) above] 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 [<sup>F85</sup>shares].
- (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 [<sup>F86</sup>distribution] 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 [<sup>F86</sup>distribution] have been charged to tax [<sup>F102</sup>by virtue of section 18(3B)].
- [<sup>F103</sup>(7) In this section—
- “distribution”, in relation to shares in a company,—
- (a) has the same meaning as it has in the Corporation Tax Acts (see section 209), but
- (b) also includes any amount that would be a distribution if the company paying it were resident in the United Kingdom;
- “shares” means shares in a company.]
- (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 [<sup>F85</sup>shares] of which he was the owner at any time during the period specified in the notice, with such particulars as they consider necessary for the purposes of this section <sup>F104</sup> . . . .

#### Textual Amendments

- F84** S. 730 heading substituted (with effect in accordance with Sch. 7 para. 2(13) of the amending Act) by virtue of Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 2(12)**
- F85** Words in s. 730 substituted (with effect in accordance with Sch. 7 para. 2(13) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 2(2)(b)**
- F86** Words in s. 730 substituted (with effect in accordance with Sch. 7 para. 2(13) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 2(2)(a)**
- F87** Words in s. 730(1)(a) substituted (with effect in accordance with Sch. 7 para. 2(13) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 2(3)(a)**
- F88** Words in s. 730(1)(b) substituted (with effect in accordance with Sch. 7 para. 2(13) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 2(3)(b)**
- F89** S. 730(1)(c) repealed (with effect in accordance with Sch. 7 para. 2(13) of the repealing Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 7 para. 2(3)(c), **Sch. 11 Pt. 2(8)**, Note
- F90** S. 730(2) substituted (with effect in accordance with Sch. 7 para. 2(13) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 2(4)**
- F91** S. 730(2A) inserted (with effect in accordance with s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 25 para. 51**
- F92** S. 730(2A) repealed (with effect in accordance with Sch. 7 para. 2(13) of the repealing Act) by Finance (No. 2) Act 2005 (c. 22), Sch. 7 para. 2(5), **Sch. 11 Pt. 2(8)**, Note
- F93** S. 730(3) substituted (with effect in accordance with Sch. 7 para. 2(13) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **Sch. 7 para. 2(6)**
- F94** Words in s. 730(4)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 300(3)(a)** (with Sch. 2)

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- F95** Words in s. 730(4) and s. 730(4A)(4B) substituted for words in s. 730(4) (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 300\(3\)\(b\)](#) (with Sch. 2)
- F96** Word in s. 730(4) substituted (with effect in accordance with [Sch. 7 para. 2\(13\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 2\(7\)](#)
- F97** Word in s. 730(4A) substituted (with effect in accordance with [Sch. 7 para. 2\(13\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 2\(8\)](#)
- F98** Word in s. 730(4B) substituted (with effect in accordance with [Sch. 7 para. 2\(13\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 2\(9\)](#)
- F99** Word in s. 730(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 300\(4\)\(a\)](#) (with Sch. 2)
- F100** Words in s. 730(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 300\(4\)\(b\)](#) (with Sch. 2)
- F101** Words in s. 730(5) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 300\(4\)\(c\)](#) (with Sch. 2)
- F102** Words in s. 730(2)(4)(b)(6)(8) substituted (with effect in accordance with [Sch. 7 para. 32](#) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 7 para. 23](#) (with [Sch. 7 paras. 33-35](#))
- F103** S. 730(7) substituted (with effect in accordance with [Sch. 7 para. 2\(13\)](#) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 2\(10\)](#)
- F104** Words in s. 730(8) repealed (with effect in accordance with [Sch. 7 para. 2\(13\)](#) of the repealing Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), Sch. 7 para. 2\(11\), Sch. 11 Pt. 2\(8\)](#), Note

#### Marginal Citations

**M46** Source—1970 s.470; 1971 Sch.6 71

### [<sup>F105</sup>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;
  - [<sup>F106</sup>(b) the original owner or a person connected with him—
    - (i) is required to buy them back in pursuance of an obligation imposed by, or in consequence of the exercise of an option acquired under, that agreement or any related agreement, or
    - (ii) acquires an option to buy them back under that agreement or any related agreement which he subsequently exercises; 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.

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- (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 [F107 the excepted provisions specified in subsection (4A) below]) 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.

[F108 This subsection is subject to subsection (4B) below.]

[ The excepted provisions are—

- [F109 (4A) (a) this section,  
(b) section 730BB, apart from subsection (7),  
(c) section 737A, and  
(d) section 737C.

(4B) Where section 730BB(7) has effect (repurchase price to be treated as increased or reduced for certain purposes), subsection (4) above does not have effect for any purpose other than that of determining the amount that falls to be increased or reduced under section 730BB(7).]

- (5) For the purposes of section 209(2)(d) [F110] . . . 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.

[ For the purposes of the Corporation Tax Acts, a company has a relationship to which

- [F111 (5A) this section applies in any case where—
- (a) the circumstances are as set out in subsection (1) above; and
  - (b) interest on a deemed loan is deemed by virtue of subsection (2) above to be paid by or to the company;

and references to a relationship to which this section applies, and to a company's being party to such a relationship, shall be construed accordingly.]

[F112] [F113] (6) Where a company has a relationship to which this section applies—

- (a) Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships) shall, as respects that company, have effect in relation to the interest deemed by virtue of subsection (2) above to be paid or received by the company under that relationship as it would have effect if it were interest under a loan relationship to which the company is a party,

(b) [F114] .....

and

- (c) the only debits or credits to be brought into account for the purposes of that Chapter by virtue of this subsection in respect of a relationship are those relating to that deemed interest,

and, subject to [F115] paragraph (c)] above, references in the Corporation Tax Acts to a loan relationship accordingly include a reference to a relationship to which this section applies.]

- (6A) Any question whether debits or credits brought into account in accordance with subsection (6) above in relation to any company—



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- (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 the company.]

[ To the extent that debits or credits fall to be brought into account by a company under <sup>F116</sup>(6B) [<sup>F117</sup>section 82(2) of the Finance Act 1996] 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 [<sup>F118</sup>that Act] as being party to the relationship for the purposes of a trade carried on by the company.]

(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, [<sup>F119</sup>613(4) or 614(2), (3) or (4) or section 186 of the Finance Act 2004.]

(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 [<sup>F120</sup>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.

[ In this section references to the sale price are to be construed—

<sup>F121</sup>(8A) (a) in a case where the securities are bought back by the transferor or a person connected with him in compliance with a requirement imposed in consequence of the exercise of an option acquired under the agreement to sell the securities or any related agreement, as references to what would otherwise be the sale price plus the amount of any consideration given for the option, and

(b) in a case where the securities are so bought back in the exercise of an option so acquired, as references to what would otherwise be the sale price less the amount of any consideration so given,

unless the consideration is brought into account under Schedule 26 to the Finance Act 2002 (derivative contracts).]

(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

**F105** 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)

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- F106** S. 730A(1)(b) substituted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 38 para. 5**
- F107** Words in s. 730A(4) substituted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 38 para. 11(2)**
- F108** Words in s. 730A(4) added (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 38 para. 11(3)**
- F109** S. 730A(4A)(4B) inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 38 para. 11(4)**
- F110** Words in s. 730A(5) repealed (with effect in accordance with s. 37 of the repealing Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(2)**, Note
- F111** S. 730(5A) inserted (with effect in accordance with s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 25 para. 52(2)**
- F112** S. 730A(6)(6A) substituted for s. 730A(6) (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 37** (with Sch. 15)
- F113** S. 730A(6) substituted (with effect in accordance with s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 25 para. 52(3)**
- F114** S. 730A(6)(b) repealed (with effect in accordance with s. 52(3) of the repealing Act (as amended (retrospectively) by 2005 c. 7, Sch. 4 para. 50, **Sch. 11 Pt. 2(7)**) by Finance Act 2004 (c. 12), Sch. 10 para. 44(a), **Sch. 42 Pt. 2(6)**, Note 1
- F115** Words in s. 730A(6) substituted (with effect in accordance with s. 52(3) of the amending Act (as amended (retrospectively) by 2005 c. 7, Sch. 4 para. 50, **Sch. 11 Pt. 2(7)**) by Finance Act 2004 (c. 12), **Sch. 10 para. 44(b)**
- F116** S. 730A(6B) inserted (with effect in accordance with s. 82(2) of the amending Act) by Finance Act 2002 (c. 23), **Sch. 25 para. 52(4)**
- F117** Words in s. 730A(6B) substituted (with effect in accordance with Sch. 38 para. 21(3) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 38 para. 20(a)**
- F118** Words in s. 730A(6B) substituted (with effect in accordance with Sch. 38 para. 21(3) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 38 para. 20(b)**
- F119** Words in s. 730A(7) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), **Sch. 35 para. 31** (with Sch. 36)
- F120** Words in s. 730A(8)(b) substituted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 38 para. 16**
- F121** S. 730A(8A) inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 38 para. 10**

#### **Modifications etc. (not altering text)**

- C63** 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**
- C64** 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**
- C65** 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)**)
- C66** S. 730A(1) modified (1.1.1999) by The European Single Currency (Taxes) Regulations 1998 (S.I. 1998/3177), **regs. 1, 14**

#### **[<sup>F105</sup>730H] 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—

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- (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

**F105** 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)

#### [<sup>F122</sup>730BB] 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.
- (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 [<sup>F123</sup>section 92B or 92C of the Finance Act 1993 (company preparing accounts or operating in currency other than sterling)] applies in relation to the company.
- (3) The conditions in this subsection are that—

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- (a) the case is one where [<sup>F124</sup>section 92B or 92C of the Finance Act 1993 (company preparing accounts or operating in currency other than sterling)] applies in relation to the company;
- (b) the sale price and the repurchase price are expressed in a currency other than the [<sup>F125</sup>relevant currency]; and
- (c) there is a difference between—
  - (i) the [<sup>F126</sup>relevant 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 [<sup>F126</sup>relevant currency] equivalent of the sale price as at the date they are bought back by the repurchaser (“the second sum”).

[ In subsection (3), references to the relevant currency are—

- <sup>F127</sup>(3A) (a) in cases in which section 92B of the Finance Act 1993 applies, to the functional currency (within the meaning of that section), and
- (b) in cases in which section 92C of the Finance Act 1993 applies, to the accounts currency (within the meaning of that section).]

- (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.

- (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

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- 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) <sup>F128</sup> .....
- (13) Expressions used in this section and in section 730A have the same meaning in this section as in that section.]

#### Textual Amendments

**F122** 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

**F123** Words in s. 730BB(2)(c) substituted (with effect in accordance with s. 52(3) of the amending Act (as amended (retrospectively) by 2005 c. 7, Sch. 4 para. 50, Sch. 11 Pt. 2(7)) by Finance Act 2004 (c. 12), Sch. 10 para. 78(2)

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- F124** Words in s. 730BB(3)(a) substituted (with effect in accordance with s. 52(3) of the amending Act (as amended (retrospectively) by 2005 c. 7, Sch. 4 para. 50, **Sch. 11 Pt. 2(7)**) by Finance Act 2004 (c. 12), **Sch. 10 para. 78(3)(a)**)
- F125** Words in s. 730BB(3)(b) substituted (with effect in accordance with s. 52(3) of the amending Act (as amended (retrospectively) by 2005 c. 7, Sch. 4 para. 50, **Sch. 11 Pt. 2(7)**) by Finance Act 2004 (c. 12), **Sch. 10 para. 78(3)(c)**)
- F126** Words in s. 730BB(3)(c)(i)(ii) substituted (with effect in accordance with s. 52(3) of the amending Act (as amended (retrospectively) by 2005 c. 7, Sch. 4 para. 50, **Sch. 11 Pt. 2(7)**) by Finance Act 2004 (c. 12), **Sch. 10 para. 78(3)(c)**)
- F127** S. 730BB(3A) inserted (with effect in accordance with s. 52(3) of the amending Act (as amended (retrospectively) by 2005 c. 7, Sch. 4 para. 50, **Sch. 11 Pt. 2(7)**) by Finance Act 2004 (c. 12), **Sch. 10 para. 78(4)**)
- F128** S. 730BB(12) repealed (with effect in accordance with s. 52(3) of the repealing Act (as amended (retrospectively) by 2005 c. 7, Sch. 4 para. 50, **Sch. 11 Pt. 2(7)**) by Finance Act 2004 (c. 12), Sch. 10 para. 78(5), **Sch. 42 Pt. 2(6)**, Note 1)

### [<sup>F129</sup>730C Exchanges of gilts: traders etc.]

<sup>F130</sup> .....

#### Textual Amendments

- F129** S. 730C inserted (29.4.1996) by Finance Act 1996 (c. 8), **Sch. 40 para. 7**
- F130** S. 730C repealed (6.4.2005 with effect in accordance with s. 883(1) of the repealing Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 301, **Sch. 3** (with Sch. 2)

### *Purchase and sale of securities*

#### **731 Application and interpretation of sections 732 to 734.**

<sup>M47</sup>(1) In this section “the relevant provisions” means sections 732, 733, 734 and this section.

(2) [<sup>F131</sup>Subject to subsections (2A) to (10) below], the relevant provisions [<sup>F132</sup>apply] 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.

[<sup>F133</sup>(2A) The relevant provisions do not apply where the first buyer is required under the arrangements for the purchase of the securities to make to the person from whom he purchased the securities, not later than the date on which he subsequently sells the securities, a payment of an amount representative of the interest, or is treated by virtue of section 737A(5) as required to make such a payment.]

[<sup>F134</sup>(2B) Subject to subsection (2E) below, where there is a repo agreement in relation to any securities—

(a) neither—

(i) the purchase of the securities by the interim holder from the original owner, nor

(ii) the repurchase of the securities by the original owner,

shall be a purchase of those securities for the purposes of subsection (2) above; and

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- (b) neither—
- (i) the sale of the securities by the original owner to the interim holder, nor
  - (ii) the sale by the interim holder under which the securities are bought back by the original owner,
- shall be taken for the purposes of subsection (2) above to be a subsequent sale of securities previously purchased by the seller.
- (2C) Accordingly, where there is a repo agreement, the securities repurchased by the original owner shall be treated for the purposes of subsection (2) above (to the extent that that would not otherwise be the case) as if they were the same as, and were purchased by the original owner at the same time as, the securities sold by him to the interim holder.
- (2D) For the purposes of subsections (2B) and (2C) above there is a repo agreement in relation to any securities if there is an agreement in pursuance of which a person (“the original owner”) sells the securities to another (“the interim holder”) <sup>F135</sup> and the original owner—
- (a) is required to buy them back in pursuance of an obligation imposed by, or in consequence of the exercise of an option acquired under, that agreement or any related agreement,
  - (b) acquires an option to buy them back under that agreement or any related agreement which he subsequently exercises, or
  - (c) under that agreement or any related agreement, is entitled], in pursuance of any obligation arising on a person’s becoming entitled to receive an amount in respect of the redemption of those securities, to receive from the interim holder an amount equal to the amount of the entitlement.
- (2E) Subsections (2B) and (2C) above do not apply if—
- (a) the agreement or agreements under which the arrangements are made for the sale and repurchase of the securities are not such as would be entered into by persons dealing with each other at arm’s length; or
  - (b) any of the benefits or risks arising from fluctuations, before the securities are repurchased, in the market value of the securities in question accrues to or falls on the interim holder.
- (2F) Section 730B applies for the purposes of subsections (2B) to (2E) above as it applies for the purposes of section 730A.]
- (3) The relevant provisions do not <sup>F136</sup> apply] 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 <sup>F137</sup> the purchase and sale were each effected at the current market price, and] the sale was not effected in pursuance of an agreement or arrangement made before or at the time of the purchase.
- <sup>F138</sup> .....
- (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.

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- [<sup>F139</sup>(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 [<sup>F140</sup>(8) of section 144 of the 1992 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.
- (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 [<sup>F141</sup>, or when a trade is subject to a relevant change,] 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.
- [<sup>F142</sup>(7A) For the purposes of subsection (7) above a trade is subject to a relevant change—
- (a) when there is a change in the persons carrying on the trade which involves all of the persons carrying it on before the change permanently ceasing to carry it on, or
  - (b) when a company starts to be within the charge to income tax under Chapter 2 of Part 2 of ITTOIA 2005 in respect of 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) <sup>M48</sup>For the purposes of the relevant provisions—

"interest" includes a qualifying distribution and any dividend which is not a qualifying distribution <sup>F143</sup> . . . ;

"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



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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.

[<sup>F144</sup>(9A) In applying references in the relevant provisions to interest in relation to a qualifying distribution <sup>F145</sup> . . . —

- (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.

(9B) <sup>F146</sup> . . . . .

(9C) <sup>F146</sup> . . . . .

(9D) <sup>F146</sup> . . . . .]

(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.

### Textual Amendments

- F131** Words in s. 731(2) substituted (with effect in accordance with s. 81(4) of the amending Act) by Finance Act 1995 (c. 4), **s. 81(3)(a)**
- F132** Word in s. 731(2) substituted (with effect in accordance with s. 81(4) of the amending Act) by Finance Act 1995 (c. 4), **s. 81(3)(a)**
- F133** S. 731(2A) inserted (with effect in accordance with s. 81(4) of the amending Act) by Finance Act 1995 (c. 4), **s. 81(2)**
- F134** S. 731(2B)-(2F) inserted (with application in accordance with s. 77(2) of the amending Act) by Finance Act 1997 (c. 16), **s. 77(1)**
- F135** Words in s. 731(2D) substituted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 38 para. 6**
- F136** Word in s. 731(3) substituted (with effect in accordance with s. 81(4) of the amending Act) by Finance Act 1995 (c. 4), **s. 81(3)(b)**
- F137** Words in s. 731(3)(b) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 20 para. 36(a)**
- F138** Words in s. 731(3) repealed (with effect in accordance with s. 134(2) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 20 para. 36(b), **Sch. 41 Pt. 5(10)**, Note
- F139** S. 731(4A)(4B)(4C) inserted by Finance Act 1991 (c. 31, SIF 63:1), **s. 55(1)(2)**
- F140** Words in s. 731(4B) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 14(40)** (with ss. 60, 101(1), 171, 201(3))
- F141** Words in s. 731(7) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 302(a)** (with Sch. 2)
- F142** S. 731(7A) inserted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), **Sch. 1 para. 302(b)** (with Sch. 2)
- F143** S. 731(9): words in definition of "interest" repealed (3.5.1994) by Finance Act 1994 (c. 9), Sch. 16 para. 17(2), **Sch. 26 Pt. 5(16)**

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- F144** S. 731(9A)-(9D) inserted (3.5.1994) by Finance Act 1994 (c. 9), **Sch. 16 para. 17(3)**
- F145** Words in s. 731(9A) repealed (with effect in accordance with Sch. 6 para. 14(4) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch 6 para. 14(2), **Sch. 8 Pt. 2(11)**, Note
- F146** S. 731(9B)-(9D) repealed (with effect in accordance with Sch. 6 para. 14(4) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch 6 para. 14(3), **Sch. 8 Pt. 2(11)**, Note

**Modifications etc. (not altering text)**

**C67** See s.343—*company reconstruction without change of ownership.*

**Marginal Citations**

- M47** Source—1970 s.471(1)-(5)
- M48** Source—1970 s.471(6); 1973 sch.11 6; 1986 Sch.18 2(1)

**732 Dealers in securities.**

<sup>M49</sup>(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.

[<sup>F147</sup>(1A) Subsection (1) above shall not apply if the interest receivable by the first buyer falls to be taken into account [<sup>F148</sup>either—

- (a) by virtue of section 366(1) of ITTOIA 2005 in computing profits chargeable to income tax under Chapter 2 of Part 2 of that Act, or
- (b) by virtue of section 95(1) of this Act in computing profits chargeable to corporation tax in accordance with the provisions of this Act applicable to Case I or II of Schedule D.]]

(2) <sup>F149</sup> .....

[<sup>F150</sup>(2A) <sup>F149</sup> .....]

(3) <sup>F151</sup> .....

(4) Subsection (1) above shall not apply if the securities are overseas securities bought by the first buyer <sup>F152</sup> . . . 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.

[<sup>F153</sup>In this subsection “overseas securities” means securities issued—

- (a) by a government or public or local authority of a territory outside the United Kingdom; or
- (b) by any other body of persons not resident in the United Kingdom.]

(5) <sup>F154</sup> .....

[<sup>F155</sup>(5A) <sup>F154</sup> .....]

(6) <sup>F154</sup> .....

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[<sup>F156</sup>(7) <sup>F154</sup>.....]

#### Textual Amendments

- F147** S. 732(1A) inserted (with effect in accordance with s. 26(8) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 26(2)
- F148** Words in s. 732(1A) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), Sch. 1 para. 303 (with Sch. 2)
- F149** S. 732(2)(2A) repealed (with effect in accordance with s. 26(8) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), s. 26(3), Sch. 8 Pt. 2(8), Note 2
- F150** S. 732(2A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 56(1)
- F151** S. 732(3) repealed (with effect in accordance with s. 159(1) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 41 Pt. 5(21), Note; S.I. 1996/2646, art. 2
- F152** Words in s. 732(4) repealed (with effect in accordance with s. 26(8) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), s. 26(3), Sch. 8 Pt. 2(8), Note 2
- F153** S. 732(4): definition of "overseas securities" substituted (with effect in accordance with s. 26(8) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 26(5)
- F154** S. 732(5)-(7) repealed (with effect in accordance with s. 26(8) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), s. 26(6)(7), Sch. 8 Pt. 2(8), Note 2
- F155** S. 732(5A) inserted (retrospectively) by Finance Act 1990 (c. 29), s.53(1)
- F156** S. 732(7) added by Finance Act 1991 (c. 31, SIF 63:1), s. 56(2)

#### Marginal Citations

- M49** Source—1970 s.472; 1982 s.57; 1986 Sch.18 1, 3

### 733 Persons entitled to exemptions.

- <sup>M50</sup>(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.
- (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

- M50** Source—1970 s.473

### 734 Persons other than dealers in securities.

- <sup>M51</sup>(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

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- (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 [F157]122(5)(b) of the 1992 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.

#### Textual Amendments

**F157** Words in s. 734(2) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 14(41)** (with ss. 60, 101(1), 171, 201(3))

#### Marginal Citations

**M51** 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.

- <sup>M52</sup>(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 [F158, in relation to securities listed in the Official List of the Stock Exchange,] is the proportion which—
- (a) the period beginning with the date on which the securities were [F159, in accordance with announcements made by The Stock Exchange, first to be dealt in without carrying rights to] 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 [F160, in accordance with such announcements, first to be dealt in without carrying rights to] 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

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[<sup>F161</sup>to be dealt in] 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 [<sup>F162</sup>Official List of The Stock Exchange], subsection (3) above shall have effect [<sup>F163</sup>as it has effect in relation to securities which are so listed but] 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.

#### Textual Amendments

- F158** Words in s. 735(3) inserted (with effect in accordance with Sch. 38 para 9(4) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 38 para. 9(1)(a)**
- F159** Words in s. 735(3)(a) substituted (with effect in accordance with Sch. 38 para. 9(4) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 38 para. 9(1)(b)**
- F160** Words in s. 735(3)(b) substituted (with effect in accordance with Sch. 38 para. 9(4) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 38 para. 9(1)(c)**
- F161** Words in s. 735(4) substituted (with effect in accordance with Sch. 38 para. 9(4) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 38 para. 9(2)**
- F162** Words in s. 735(5) substituted (with effect in accordance with Sch. 38 para. 9(4) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 38 para. 9(3)(a)**
- F163** Words in s. 735(5) inserted (with effect in accordance with Sch. 38 para. 9(4) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 38 para. 9(3)(b)**

#### Marginal Citations

- M52** Source—1970 s.475; 1973 Sch.21 7

### *Miscellaneous provisions relating to securities*

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

- <sup>M53</sup>(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

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below the value of the security at the time when it was acquired, and the whole 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)**

**C68** See s.237—disallowance of reliefs in respect of bonus issues etc.

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### Marginal Citations

M53 Source—1970 s.476

## [<sup>F164</sup>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

**F164** 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))

## [<sup>F165</sup>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 [<sup>F166</sup>, subject to subsection (2A) below,] 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.

[ The borrower is not entitled, by virtue of anything in Schedule 23A or any provision <sup>F167</sup>(2A) of regulations under that Schedule, or otherwise—

- (a) to any deduction in computing profits or gains for the purposes of income tax or corporation tax, or
- (b) to any deduction against total income or, as the case may be, total profits, in respect of any such deemed requirement or payment as is provided for by subsection (2) above.

Where the borrower is a company, an amount may not be surrendered by way of group relief if a deduction in respect of it is prohibited by this subsection.]

- (3) In this section—

“interest” includes dividends; and

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

### Textual Amendments

- F165** 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
- F166** Words in s. 736B(2) inserted (with application in accordance with s. 84(4) of the amending Act) by Finance Act 2001 (c. 9), s. 84(2)
- F167** S. 736B(2A) inserted (with application in accordance with s. 84(4) of the amending Act) by Finance Act 2001 (c. 9), s. 84(3)

VALID FROM 19/07/2006

### [<sup>F168</sup>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—



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- (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—
- (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—
- <sup>F169</sup>(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.]]

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### Textual Amendments

- F168** 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)**
- F169** 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)**

VALID FROM 19/07/2006

### [<sup>F170</sup>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

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- (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—
  - (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

**F170** 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.

F171 .....

#### Textual Amendments

**F171** S. 737 repealed (with effect in accordance with Sch. 10 para. 16(1), Sch. 18 Pt. 6(10) Notes 3, 6 of the repealing Act) by Finance Act 1997 (c. 16), Sch. 10 para. 8, Sch. 18 Pt. 6(10) (with Sch. 10 para. 16(3)); S.I. 1997/991, art. 2

### [<sup>F172</sup>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, [<sup>F173</sup>and the transferor or a person connected with him—
  - (a) is required to buy them back in pursuance of an obligation imposed by, or in consequence of the exercise of an option acquired under, that agreement or any related agreement, or

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- (b) acquires an option to buy them back under that agreement or any related agreement which he subsequently exercises;]
- but this section does not apply unless [<sup>F174</sup>either the conditions set out in subsection (2) below or the conditions set out in subsection (2A) below] are fulfilled.
- (2) The [<sup>F175</sup>first set of conditions referred to in subsection (1) above] 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) <sup>F176</sup> . . . . .
  - (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.
- [ The second set of conditions referred to in subsection (1) above are that—
- <sup>F177</sup>(2A) (a) a dividend which becomes payable in respect of the securities is receivable otherwise than by the transferor,
- (b) the transferor or a person connected with him is required under any agreement mentioned in subsection (1) above to make a payment representative of the dividend,
  - (c) there is no requirement under any such agreement 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 is taken of the circumstances referred to in paragraphs (a) to (c).]

(3) For the purposes of [<sup>F178</sup>subsections (2) and (2A)] 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, <sup>F179</sup>. . . 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) [<sup>F180</sup>or (2A)(a)] above,
    - (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;

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and in that subsection “dividend manufacturing regulations” means regulations under Schedule 23A (whenever made).]

#### Textual Amendments

- F172** Ss. 737A-737C inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [s. 122](#)
- F173** Words and paras. (a)(b) in s. 737A(1) substituted (with effect in accordance with [Sch. 38 para. 21\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 7](#)
- F174** Words in s. 737A(1) substituted (with effect in accordance with [Sch. 38 para. 21\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 2\(2\)](#)
- F175** Words in s. 737A(2) substituted (with effect in accordance with [Sch. 38 para. 21\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 2\(3\)](#)
- F176** S. 737A(2)(b) repealed (with effect in accordance with s. 159(1), Sch. 41 Pt. 5(21) Note 1 of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), s. 159(1), [Sch. 41 Pt. 5\(21\)](#); S.I. 1996/2646, [art. 2](#)
- F177** S. 737A(2A) inserted (with effect in accordance with [Sch. 38 para. 21\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 2\(4\)](#)
- F178** Words in s. 737A(3) substituted (with effect in accordance with [Sch. 38 para. 21\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 2\(5\)](#)
- F179** Words in s. 737A(5) repealed (with effect in accordance with Sch. 18, Pt. 6(10) Notes 3, 4) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(10\)](#); S.I. 1997/991, [art. 2](#)
- F180** Words in s. 737A(5)(a) inserted (with effect in accordance with [Sch. 38 para. 21\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 2\(6\)](#)

#### Modifications etc. (not altering text)

- C69** 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](#)
- C70** 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](#)
- C71** S. 737A(1) modified (1.1.1999) by [The European Single Currency \(Taxes\) Regulations 1998 \(S.I. 1998/3177\)](#), [regs. 1, 14](#)

#### [<sup>F172</sup>737] 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—

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- (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
  - (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

F172 Ss. 737A-737C inserted (3.5.1994) by Finance Act 1994 (c. 9), s. 122

### [<sup>F172</sup>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) [<sup>F181</sup>or (2A)(a)] is a dividend on United Kingdom equities, and
  - (b) by virtue of section 737A(5), <sup>F182</sup>. . . paragraph 2 of Schedule 23A applies, in relation to the payment which is treated under section 737A(5) as having been made;
 and in subsection (3) below “the deemed manufactured dividend” means that payment.

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- (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) [<sup>F181</sup>or (2A)(a)];
  - (b) the repurchase price of the securities shall be treated, for the purposes of [<sup>F183</sup>section 730A], as increased by an amount equal to the <sup>F184</sup> . . . amount of the deemed manufactured dividend.
- (4) <sup>F185</sup> . . . . .
- (5) <sup>F186</sup> . . . . .
- (6) <sup>F186</sup> . . . . .
- (7) Subsection (8) below applies where—
- (a) the dividend mentioned in section 737A(2)(a) [<sup>F181</sup>or (2A)(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 <sup>F187</sup> . . . ;
- and in subsection (8) below “the deemed manufactured interest” means the payment referred to in paragraph (b) above.
- (8) Where this subsection applies—
- [<sup>F188</sup>(a) the amount which by virtue of section 737A(5) is taken to be the gross amount of the deemed manufactured payment for the purposes of paragraph 3 of Schedule 23A shall be taken to be the gross amount of the deemed manufactured interest for the purposes of this section;]
  - (b) any deduction which, by virtue of [<sup>F189</sup>that paragraph], is required to be made out of the gross amount of the deemed manufactured interest shall be deemed to have been made.
- (9) Where <sup>F190</sup> . . . subsection (8) above applies, the repurchase price of the securities shall be treated, for the purposes of [<sup>F183</sup>section 730A], as increased by the gross amount of the deemed manufactured interest.
- (10) Subsection (11) below applies where—
- (a) the dividend mentioned in section 737A(2)(a) [<sup>F181</sup>or (2A)(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;

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- (c) the repurchase price of the securities shall be treated, for the purposes of [F183 section 730A], as increased by the gross amount of the deemed manufactured overseas dividend.

[ The deemed increase of the repurchase price which is made for the purposes of F191(11A) section 730A by subsection (3)(b), (9) or (11)(c) above shall also have effect—

- (a) for all the purposes of the Tax Acts, other than section 737A, and  
 (b) in cases where section 263A of the 1992 Act does not apply, for the purposes of the 1992 Act,

wherever in consequence of that increase there is for the purposes of section 730A no difference between the sale price and the repurchase price [F192 or where that section is prevented from applying by subsection (8) of that section.]]

[ F194 ..... ]  
 F193(11B)

(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

- F172** Ss. 737A-737C inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [s. 122](#)
- F181** Words in [s. 737C](#) inserted (with effect in accordance with [Sch. 38 para. 21\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 3](#)
- F182** Words in [s. 737C\(2\)\(b\)](#) repealed (with effect in accordance with [Sch. 18 Pt. 6\(10\) Notes 3, 4](#) of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(10\)](#); S.I. 1997/991, [art. 2](#)
- F183** Words in [s. 737C\(3\)\(b\)\(9\)\(11\)\(c\)](#) substituted (with effect in accordance with [s. 80\(5\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 80\(3\)](#)
- F184** Word in [s. 737C\(3\)\(b\)](#) repealed (with effect in accordance with [Sch. 38 para. 21\(1\)](#) of the repealing Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 1\(a\)](#), [Sch. 43 Pt. 3\(15\)](#), Note 1
- F185** [S. 737C\(4\)](#) repealed (with effect in accordance with [Sch. 38 para. 21\(1\)](#) of the repealing Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 1\(b\)](#), [Sch. 43 Pt. 3\(15\)](#), Note 1
- F186** [S. 737C\(5\)\(6\)](#) repealed (with effect in accordance with [Sch. 18 Pt. 6\(10\) Note 3](#) of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(10\)](#); S.I. 1997/991, [art. 2](#)
- F187** Words in [s. 737C\(7\)\(b\)](#) repealed (with effect in accordance with [Sch. 18 Pt. 6\(10\) Notes 3, 4](#) of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(10\)](#); S.I. 1997/991, [art. 2](#)
- F188** [S. 737C\(8\)\(a\)](#) substituted (with effect in accordance with [Sch. 10 para. 16\(1\)](#) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 10 para. 11\(2\)](#) (with [Sch. 10 para. 16\(3\)](#))
- F189** Words in [s. 737C\(8\)\(b\)](#) substituted (with effect in accordance with [Sch. 10 para. 16\(1\)](#) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 10 para. 11\(2\)](#) (with [Sch. 10 para. 16\(3\)](#))
- F190** Words in [s. 737C\(9\)](#) repealed (with effect in accordance with [Sch. 18 Pt. 6\(10\) Notes 3, 4](#) of the repealing Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(10\)](#); S.I. 1997/991, [art. 2](#)
- F191** [S. 737C\(11A\)](#) inserted (with effect in accordance with [s. 80\(5\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 80\(3\)](#)
- F192** Words in [s. 737C\(11A\)](#) inserted (with effect in accordance with [Sch. 38 para. 21\(2\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 38 para. 17](#)
- F193** [S. 737C\(11B\)](#) inserted (with effect in accordance with [s. 159\(3\)](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [s. 159\(3\)](#); S.I. 1996/2646, [art. 2](#)



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**F194** S. 737C(11B) repealed (with effect in accordance with Sch. 18 Pt. 6(10) Note 3 of the repealing Act) by Finance Act 1997 (c. 16), **Sch. 18 Pt. 6(10)**; S.I. 1997/991, **art. 2**

**Modifications etc. (not altering text)**

**C72** 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**

**C73** S. 737C modified (19.7.2006) by **Finance Act 2006** (c. 25), **s. 139(1)(5)**

*Supplemental*

**[<sup>F195</sup>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, [<sup>F196</sup>613(4) or 614(2), (3) or (4) or section 186 of the Finance Act 2004.]
- (2) In this section “manufactured payment” means any <sup>F197</sup>. . . manufactured interest or manufactured overseas dividend, within the meaning of Schedule 23A.]

**Textual Amendments**

**F195** Ss. 737D, 737E inserted (1.5.1995) by **Finance Act 1995** (c. 4), **s. 83(1)**

**F196** Words in s. 737D(1) substituted (6.4.2006) by **Finance Act 2004** (c. 12), s. 284(1), **Sch. 35 para. 32** (with Sch. 36)

**F197** Words in s. 737D(2) repealed (with effect in accordance with s. 102(10) of the repealing Act) by **Finance Act 1998** (c. 36), s. 102(3), **Sch. 27 Pt. 3(24)**, Note

**Modifications etc. (not altering text)**

**C74** S. 737D(2) modified (19.7.2006) by **Finance Act 2006** (c. 25), **s. 139(1)(6)**

**[<sup>F195</sup>737E]<sup>F198</sup> Power to modify sections 727A, 730A, 730BB and 737A to 737C]**

- (1) The Treasury may by regulations make provision for all or any of sections 727A, 730A [<sup>F199</sup>, 730BB] 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,

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- 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 [F199, 730BB] 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 [F200 or 730BB] 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 [F201 or 263D] of the 1992 Act as they are exercisable in relation to section 730A of this Act.
- (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 [F202 or 263D] 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
- [F203](b) that person or a person connected with him—

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- (i) is required to buy them back in pursuance of an obligation imposed by, or in consequence of the exercise of an option acquired under, that agreement or any related agreement, or
  - (ii) acquires an option to buy them back under that agreement or any related agreement which he subsequently exercises.]
- (9) Section 730B shall apply for the purposes of this section as it applies for the purposes of section 730A.]

#### Textual Amendments

- F195** Ss. 737D, 737E inserted (1.5.1995) by Finance Act 1995 (c. 4), s. 83(1)
- F198** S. 737E sidenote substituted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by virtue of Finance Act 2003 (c. 14), Sch. 38 para. 13(4)
- F199** Words in s. 737E(1)(2) inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 38 para. 13(2)
- F200** Words in s. 737E(3) inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 38 para. 13(3)
- F201** Words in s. 737E(4) inserted (with effect in accordance with Sch. 24 para. 3(3) of the amending Act) by Finance Act 2004 (c. 12), Sch. 24 para. 3(2)(a)
- F202** Words in s. 737E(6)(b) inserted (with effect in accordance with Sch. 24 para. 3(3) of the amending Act) by Finance Act 2004 (c. 12), Sch. 24 para. 3(2)(b)
- F203** S. 737E(8)(b) substituted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 38 para. 8

#### 738 Power to amend sections 732, 735 and 737.

- (1)<sup>M54</sup> The Board may by regulations provide for all or any of the following—
- (a)<sup>F204</sup> .....
  - (b)<sup>F204</sup> .....
  - (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.

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.

- <sup>F205</sup>(2) .....
- (3)<sup>F206</sup> .....
- (4)<sup>F206</sup> .....
- (5)<sup>M55</sup> In this section “recognised investment exchange”<sup>F207</sup> has the meaning given by section 285(1)(a) of the Financial Services and Markets Act 2000].

#### Textual Amendments

- F204** S. 738(1)(a)(b) repealed (with effect in accordance with s. 26 of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 8 Pt. 2(7), Note 2
- F205** 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

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**F206** S. 738(3)(4) repealed (with effect in accordance with Sch. 18 Pt. 6(10) Note 3 of the repealing Act) by Finance Act 1997 (c. 16), **Sch. 18 Pt. 6(10)**; S.I. 1997/991, **art. 2**

**F207** Words in s. 738(5) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 43**

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**Marginal Citations**

**M54** Source—1986 Sch.18 4

**M55** Source—1986 Sch.18 10(2)

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