



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVII

TAX AVOIDANCE

CHAPTER II

TRANSFERS OF SECURITIES

Transfers with or without accrued interest: introductory

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

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

[^{F2}(2A) “Securities” includes shares in a building society which are qualifying shares for the purposes of section [^{F3}117(4) of the 1992 Act]] (qualifying corporate bonds).

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

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- (d) certificates of deposit (within the meaning of section 56(5));
 - [^{F4}(da) any security which fulfils the following conditions, namely, it is a right to receive an amount (with or without interest) in pursuance of a deposit of money, it subsists under an arrangement falling within section 56A, and no certificate of deposit (as defined in section 56(5)) has been issued in respect of it 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.
- (4) Securities are to be taken to be of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.
- (5) ^{M2} “Transfer”, in relation to securities, means transfer by way of sale, exchange, gift or otherwise.
- (6) ^{M3} Where an agreement for the transfer of securities is made, they are transferred, and the person to whom they are agreed to be transferred becomes entitled to them, when the agreement is made and not on a later transfer made pursuant to the agreement; and “entitled”, “transfer” and cognate expressions shall be construed accordingly.
- (7) ^{M4} A person holds securities—
- (a) at a particular time if he is entitled to them at the time;
 - (b) on a day if he is entitled to them throughout the day or he becomes and does not cease to be entitled to them on the day.
- (8) ^{M5} A person acquires securities when he becomes entitled to them.
- (9) ^{M6} Where—
- (a) one individual holds securities at a particular time, and
 - (b) any interest on them would, if it became payable at that time, be treated for the purposes of the Tax Acts as part of another individual’s income,
- then, for the purposes of section 715(1)(b) and section 715(2)(b) so far as relating to section 715(1)(b), each of them shall be treated as holding at that time the securities which the other holds as well as those which he actually holds.
- (10) ^{M7} Where in Scotland two or more persons carry on a trade or business in partnership, any partnership dealings shall be treated as dealings by the partners and not by the firm as such and the partners as being entitled to securities held by the firm.
- (11) ^{M8} The nominal value of securities is—
- (a) where the interest on them is expressed to be payable by reference to a given value, that value; and
 - (b) in any other case, the price of the securities when they were issued.
- (12) ^{M9} Where apart from this subsection the nominal value of securities would be a value (“the foreign value”) expressed in a currency other than sterling, then, for the purposes of section 715, their nominal value on a particular day is the sterling equivalent on that day of the foreign value.

For the purposes of this subsection the sterling equivalent of a value on a particular day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.

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- (13) ^{M10}Where there is a conversion of securities then,—
- (a) the person who was entitled to them immediately before the conversion shall be treated as transferring them on the day of the conversion (if there is no actual transfer); and
 - (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 ^{F3}132 of the 1992] Act.
- (14) ^{M11}In relation to an underwriting member of Lloyd’s, “business” and “premiums trust fund” have the meanings given by ^{F5}section 184 of the Finance Act 1993].

Textual Amendments

- F1** Words in s. 710(2) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 51, **Sch. 10 para. 2(2)(4)**
- F2** S. 710(2A) inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 51, **Sch. 10 para. 2(3)(4)**
- F3** 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)).
- F4** 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.
- F5** Words in s. 710(14) substituted (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, **ss. 183(4), 184(3)**

Modifications etc. (not altering text)

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

Marginal Citations

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

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

- (1) ^{M12}This section has effect for the interpretation of sections 710 and 712 to 728.
- (2) An interest payment day, in relation to securities, is a day on which interest on them is payable; and, in a case where a particular payment of interest may be made on one

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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) ^{M13}Where section 710(13), 715(3), 720(4), 721(1), [^{F6}722(1) or (2) or 724(1A)] applies, the transfer shall be treated as made with accrued interest if the person treated as making the transfer was entitled to receive in respect of the securities interest payable on—
- (a) the settlement day, if that is an interest payment day; or
 - (b) the next (or first) interest payment day to fall after that day, in any other case;
- and they shall be treated as transferred without accrued interest if he was not so entitled.
- (7) ^{M14}The interest applicable to securities for an interest period is, subject to subsection (8) below, the interest payable on them on the interest payment day with which the period ends.
- (8) In the case of a period which is an interest period by virtue only of subsection (4) above ^{F7}. . . —
- (a) the interest applicable to securities for the period is the interest payable on them on the interest payment day with which the long ^{F7}. . . period concerned ends; and
 - (b) section 713(6) shall have effect as if the references to the period were to the long ^{F7}. . . 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.

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Textual Amendments

- F6** 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)”.
- F7** 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)

- C2** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. **63(1)(2)**
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. **63(3)(4)**
Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. **63(8)(10)**
Ss. 710-728 modified (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, **ss. 176(4), 184(3)**

Marginal Citations

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

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

- ^{M15}(1) This section has effect to determine, for the purposes of sections 711 and 713 to 728, the settlement day in relation to a transfer of securities.
- (2) Where the securities are transferred in accordance with the rules of a recognised market, the settlement day is the day on which the transferee agrees to settle or, if he 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 [^{F8}, 722 and 724(1A)], the settlement day is the day on which the securities are transferred.
- (5) In any other case, the settlement day is such day as an inspector decides; and the jurisdiction of the General Commissioners or the Special Commissioners on any appeal shall include jurisdiction to review such a decision of the inspector.

Textual Amendments

- F8** 1990 s.41 and Sch.6 para.9(3) on and after 24 May 1990 subject to the commencement provisions of paras.11 and 12. Previously “and 722”.

Modifications etc. (not altering text)

- C3** Ss. 710-728 modified (27.7.1993) by 1993 c. 34, s. **63(1)(2)**

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

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

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

Marginal Citations

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

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