



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVIII

DOUBLE TAXATION RELIEF

CHAPTER III

MISCELLANEOUS PROVISIONS

807 Sale of securities with or without accrued interest.

^{F1}

Textual Amendments

F1 Ss. 807, 807A repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 27, **Sch. 10 Pt. 1** (with Sch. 9)

[^{F2}807A Disposals and acquisitions of company loan relationships with or without interest.

^{F3}]

Textual Amendments

F2 S. 807A inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 14 para. 46** (with Sch. 15)

F3 Ss. 807, 807A repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 27, **Sch. 10 Pt. 1** (with Sch. 9)

Status: Point in time view as at 01/04/2010.

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[^{F4}European cross-border transfers of business

Textual Amendments

- F4** S. 807B and preceding cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 257** (with Sch. 2 Pts. 1, 2)

807B Introduction to section 807C

^{F5}

Textual Amendments

- F5** Ss. 807B-807G repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 28, **Sch. 10 Pt. 1** (with Sch. 9)

[^{F6}807C Tax treated as chargeable in respect of transfer of loan relationship, derivative contract or intangible fixed assets

^{F7}]]

Textual Amendments

- F6** S. 807C inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 258** (with Sch. 2 Pts. 1, 2)
- F7** Ss. 807B-807G repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 28, **Sch. 10 Pt. 1** (with Sch. 9)

[^{F8}European cross-border mergers

Textual Amendments

- F8** S. 807D and preceding cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 259** (with Sch. 2 Pts. 1, 2)

807D Introduction to section 807E

^{F9}

Textual Amendments

- F9** Ss. 807B-807G repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 28, **Sch. 10 Pt. 1** (with Sch. 9)

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[^{F10} **807E Tax treated as chargeable in respect of transfer of loan relationship, derivative contract or intangible fixed assets**

^{F11}]]

Textual Amendments

- F10** S. 807E inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 260** (with Sch. 2 Pts. 1, 2)
- F11** Ss. 807B-807G repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 28, **Sch. 10 Pt. 1** (with Sch. 9)

^{F12}Transparent entities involved in cross-border transfers and mergers

Textual Amendments

- F12** S. 807F and preceding cross-heading inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 261** (with Sch. 2 Pts. 1, 2)

807F Introduction to section 807G

^{F13}

Textual Amendments

- F13** Ss. 807B-807G repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 28, **Sch. 10 Pt. 1** (with Sch. 9)

[^{F14} **807G Tax treated as chargeable in respect of relevant transactions**

^{F15}]]

Textual Amendments

- F14** S. 807G inserted (1.4.2009 with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), **Sch. 1 para. 262** (with Sch. 2 Pts. 1, 2)
- F15** Ss. 807B-807G repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 28, **Sch. 10 Pt. 1** (with Sch. 9)

808 Restriction on deduction of interest or dividends from trading income.

^{F16}

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Textual Amendments

- F16** S. 808 repealed (1.4.2010 with effect in accordance with s. 1184(1) of the repealing Act) by Corporation Tax Act 2010 (c. 4), Sch. 1 para. 115, **Sch. 3 Pt. 1** (with Sch. 2)

[^{F17} **808A Interest: special relationship.**

^{F18}

Textual Amendments

- F17** S. 808A inserted (16.7.1992 with application in relation to interest paid after 14.5.1992) by Finance (No. 2) Act 1992 (c. 48), **s.52**
- F18** Ss. 808A-809 repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 29, **Sch. 10 Pt. 1** (with Sch. 9)

[^{F19} **808B Royalties: special relationship.**

^{F20}

Textual Amendments

- F19** S. 808B inserted (with effect in accordance with Sch. 30 para. 25(2) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 30 para. 25(1)**
- F20** Ss. 808A-809 repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 29, **Sch. 10 Pt. 1** (with Sch. 9)

809 Relief in respect of discretionary trusts.

^{F21}

Textual Amendments

- F21** Ss. 808A-809 repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 29, **Sch. 10 Pt. 1** (with Sch. 9)

810 Postponement of capital allowances to secure double taxation relief.

^{F22}

Textual Amendments

- F22** S. 810 repealed (with effect in accordance with Sch. 30 para. 26(2) of the repealing Act) by Finance Act 2000 (c. 17), Sch. 30 para. 26(1), **Sch. 40 Pt. 2(13)**, Note

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811 Deduction for foreign tax where no credit allowable.

F23

Textual Amendments

F23 S. 811 repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 29, Sch. 10 Pt. 1 (with Sch. 9)

812 Withdrawal of right to tax credit of certain non-resident companies connected with unitary states.

^{M1}(1) In any case where—

- (a) a company has, or is an associated company of a company which has, a qualifying presence in a unitary state, and
- (b) at any time when it or its associated company has such a qualifying presence, the company is entitled by virtue of arrangements having effect under [^{F24}section 2(1) of TIOPA 2010] to a tax credit in respect of qualifying distributions made to it by companies which are resident in the United Kingdom which is equal to one half of the tax credit to which an individual resident in the United Kingdom would be entitled in respect of such distributions,

then, notwithstanding anything to the contrary in the arrangements, the company shall not be entitled to claim under [^{F25}section 397(2)(a) of ITTOIA 2005] to have that tax credit set against the income tax chargeable on its income for the year of assessment in which the distribution is made [^{F26}nor, by virtue of section 30(9) of the Finance (No. 2) Act 1997, where] the credit exceeds that income tax, to have the excess paid to it.

(2) ^{M2}In this section and sections 813 and 814, “unitary state” means a province, state or other part of a territory outside the United Kingdom [^{F27}in relation to] which the arrangements referred to in subsection (1) above have been made which, in taxing the income or profits of companies from sources within that province, state or other part, takes into account, or is entitled to take into account, income, receipts, deductions, outgoings or assets of such companies, or associated companies of such companies, arising, expended or situated, as the case may be, outside that territory and which has been prescribed under subsection (6) below as a unitary state for the purposes of this subsection.

(3) ^{M3}A company shall be treated as having a qualifying presence in a unitary state if it is a member of a group and, in any period for which members of the group make up their accounts ending after the relevant date, 7½ per cent. or more in value of the property, payroll or sales of such members situated in, attributable to or derived from the territory outside the United Kingdom, of which that state is a province, state or other part, are situated in, attributable to or derived from that state.

(4) For the purposes of subsection (3) above—

- (a) [^{F28}7½ per cent. or more in value of such property, payroll or sales as are referred to in that subsection shall be treated as being situated in, attributable to or derived from the state there referred to, unless, on making any claim under section 231(3), the claimant proves otherwise to the satisfaction of the Board; and]

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- (b) the value of the property, payroll or sales of a company shall be taken to be the value as shown in its accounts for the period in question and for this purpose the value of any property consisting of an interest in another member of the group or of any sales made to another such member shall be disregarded.
- (5) ^{M4}Except where the context otherwise requires, in this section and sections 813 to 815—
- (a) “arrangements” means the arrangements referred to in subsection (1) above;
- (b) “group” and “member of a group” shall be construed in accordance with section 272(1) of the 1970 Act with the omission of the restriction in paragraph (a) of that subsection and the substitution of the words “ 51 per cent.” for the words “75 per cent.” wherever they occur;
- [^{F29}(c) whether a person is connected with another is determined in accordance with [^{F30}section 1122 of CTA 2010];]
- [^{F31}(d) sections 449 to 451 of CTA 2010 apply but with the substitution in section 449 of “6 years” for “12 months”.]
- (e) “the relevant date” means the earliest of the following dates—
- (i) the date on which this section comes into force;
- (ii) the earliest date on which a distribution could have been made in relation to which the provisions of this section and sections 813 and 814 are applied by an order under this section;
- (iii) the earliest date on which a distribution could have been made in relation to which the provisions of section 54 of the Finance Act 1985 were applied by an order under that section.
- (6) ^{M5}The Treasury may by order prescribe those provinces, states or other parts of a territory outside the United Kingdom which are to be treated as unitary states for the purposes of subsection (2) above, but no province, state or other part of such a territory shall be so prescribed which only takes into account such income, receipts, deductions, outgoings or assets as are mentioned in that subsection—
- (a) if the associated company was incorporated under the law of the territory; or
- (b) for the purposes of granting relief in taxing dividends received by companies.
- (7) The Treasury may by order prescribe that for subsections (3) and (4) above (or for those subsections as they have effect at any time) there shall be substituted [^{F32}either the following subsection—
- “(3) A company shall be treated as having a qualifying presence in a unitary state if it is liable in such a state to a tax charged on its income or profits by whatever name called for any period ending after the relevant date for which that state charges tax.”;
- or the following subsections—
- “(3) A company shall be treated as having a qualifying presence in a unitary state if it has its principal place of business in such a state at any time after the relevant date.
- (4) For the purposes of subsection (3) above the principal place of business of a company shall include both the place where central management and control of the company is exercised and the place where the immediate day-to-day management of the company as a whole is exercised.”].

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- (8) ^{M6}The provisions of this section and sections 813 to 815 shall come into force on such date as the Treasury may by order appoint and the Treasury may in the order prescribe that those provisions shall apply in relation to distributions made, in accounting periods ending after 5th April 1988, before the date on which the order is made.
- (9) ^{M7}No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the House of Commons.

Textual Amendments

- F24** Words in s. 812(1)(b) substituted (1.4.2010 with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), **Sch. 8 para. 30** (with Sch. 9)
- F25** Words in s. 812(1) 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. 326(a)** (with Sch. 2)
- F26** Words in s. 812(1) 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. 326(b)** (with Sch. 2)
- F27** Words in s. 812(2) substituted (with effect in accordance with s. 88(3) of the amending Act) by Finance Act 2002 (c. 23), **s. 88(2)(a)**
- F28** S. 812(4)(a) repealed (with effect in accordance with s. 134(2) of the repealing Act) by Finance Act 1996 (c. 8), Sch. 20 para. 38(2), **Sch. 41 Pt. 5(10)**, Note
- F29** S. 812(5)(c) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), **Sch. 1 para. 201** (with Sch. 2)
- F30** Words in s. 812(5)(c) substituted (1.4.2010 with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), **Sch. 1 para. 116(a)** (with Sch. 2)
- F31** S. 812(5)(d) substituted (1.4.2010 with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), **Sch. 1 para. 116(b)** (with Sch. 2)
- F32** Words in s. 812(7) substituted (with effect in accordance with s. 134(2) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 20 para. 38(3)**

Marginal Citations

- M1** Source—1985 s.54(1),(3)
- M2** Source—1985 s.54(6) Sch.13 5
- M3** Source—1985 s.54(4),(5)
- M4** Source—1985 s.54(6) Sch.13 5.
- M5** Source—1985 s.54(7)(b), Sch.13 5(1)
- M6** Source—1985 s.54(7)(a)
- M7** Source—1985 s.54(8)

813 Recovery of tax credits incorrectly paid.

^{M8}(1) Where—

- (a) section 812 applies so as to withdraw the entitlement of a company to claim to have a tax credit in respect of a qualifying distribution set against the income tax chargeable on its income and to have the excess of the credit over that income tax paid to it; and
- (b) the company (“the recipient company”) has either had that excess paid to it, or has received an additional amount in accordance with arrangements made under Regulation 2(1) of the ^{M9}Double Taxation Relief (Taxes on Income) (General) (Dividend) Regulations 1973;

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the recipient company shall be liable to a fine for the violation of the provisions of section 812 equal to twice the amount of the excess or the additional amount, as the case may be.

- (2) Any fine payable under subsection (1) above—
 - (a) shall be payable to the Board;
 - (b) shall be treated as having become payable at the date when the excess or additional amount was paid to the recipient company; and
 - (c) may be recovered in accordance with subsections (3) to (7) below;
 and any such fine is referred to below as “the recoverable amount”.
- (3) The recoverable amount may be assessed and recovered as if it were unpaid tax and section 30 of the Management Act (recovery of overpayment of tax etc.) shall apply accordingly.
- (4) Any amount which may be assessed and recovered as if it were unpaid tax by virtue of this section shall carry interest at the rate of 9 per cent. per annum from the date when it was payable in accordance with subsection (1) above until the date it is paid.
- (5) It is hereby declared that this section applies to a recoverable amount which is paid without the making of an assessment (but is paid after it is due) and that, where the recoverable amount is charged by any assessment (whether or not any part of it has been paid when the assessment is made), this section applies in relation to interest running before, as well as after, the making of the assessment.
- (6) Where the recoverable amount is not paid by the recipient company within six months from the date on which it became payable—
 - (a) the recoverable amount may at any time within six years from the date on which it became payable be assessed and recovered as if it were unpaid tax due from any person who—
 - (i) is or was at any time prior to the expiration of that six year period connected with the recipient company, or
 - (ii) would have been connected on the assumption that all the facts and circumstances relating to the recipient company at the time the excess or additional amount, as the case may be, was paid continued to apply for six years thereafter,
 and section 30 of the Management Act shall apply accordingly; and
 - (b)
- ^{F33}(7) Where a recoverable amount is assessed and recovered from a person connected with the recipient company in accordance with subsection (6)(a) above, that person shall be liable for the interest payable in accordance with subsection (4) above, and until the interest is so paid, subsection (6)(b) above shall apply as if the words “ the interest due in accordance with subsection (4) above is paid ” were substituted for the words “the recoverable amount is paid in accordance with the provisions of this section”.
- (8) Interest payable under this section shall be paid without any deduction of income tax and shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.
- (9) Where under the law in force in a territory outside the United Kingdom interest is payable subject to a deduction in respect of taxation and such deduction applies to an amount of interest paid in accordance with subsection (4) above, the reference to the rate of 9 per cent. per annum in that subsection shall be deemed to be a reference to

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such rate of interest as after such deduction shall be equal to the rate of 9 per cent. per annum.

Textual Amendments

F33 S. 813(6)(b) repealed (with effect in accordance with Sch. 3 para. 37(3) of the repealing Act) by Finance Act 1998 (c. 36), Sch. 3 para. 37(2), **Sch. 27 Pt. 3(2)**, Note

Modifications etc. (not altering text)

C1 *Reproduced in Part III Vol.5.*

Marginal Citations

M8 Source—1985 Sch.13 1

M9 S.I. 1973/317.

814 Arrangements to avoid section 812.

- ^{M10}(1) In any case where arrangements are made, whether before or after the coming into force of this section, as a result of which interest is paid or a discount is allowed by or through a person who is resident in the United Kingdom, or carries on business in the United Kingdom through a branch or agency, and it is reasonable to suppose that, if such payment or allowance had not been made, a qualifying distribution would have been made by that person, or by another company resident in the United Kingdom to a company which has, or is an associated company of a company which has, a qualifying presence in a unitary state at the time when the payment or allowance is made, then—
- (a) no person who receives that payment or allowance shall be entitled to relief from income tax or corporation tax thereon by virtue of arrangements having effect under [^{F34}section 2(1) of TIOPA 2010]; and
 - (b) the payment or allowance shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.
- (2) Without prejudice to the generality of subsection (1) above, where a payment or allowance is not of itself a payment or allowance to which that subsection applies, but is made in conjunction with other payments of whatever nature and taken together with those payments has substantially similar effect to a distribution, then, for the purposes of subsection (1) above it shall be treated as a payment or allowance within that subsection.
- (3) Any company which has received such a payment of interest as is referred to in subsection (1) above, from which income tax has not been deducted by the person making the payment, and has a qualifying presence in a unitary state at the time of the payment, shall be treated for the purposes of section 813 as a company—
- (a) from which the entitlement to claim payment of the excess of a tax credit over the income tax chargeable on its income has been withdrawn by section 812(1), and
 - (b) which has had paid to it such an excess in an amount equal to the income tax which should have been deducted from the payment of interest.

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Textual Amendments

F34 Words in s. 814(1)(a) substituted (1.4.2010 with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), **Sch. 8 para. 31** (with Sch. 9)

Modifications etc. (not altering text)

C2 [S. 814\(1\)](#) modified (with effect in accordance with s. 153(4) of the modifying Act) by [Finance Act 2003 \(c. 14\)](#), **s. 153(2)(a)**

Marginal Citations

M10 Source-1985 Sch. 13 3

815 Power to inspect documents.

F35

Textual Amendments

F35 [S. 815](#) omitted (13.8.2009) by virtue of The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 ([S.I. 2009/2035](#)), art. 1, Sch. para. 23

[^{F36}815A Transfer of a non-UK trade.

F37]

Textual Amendments

F36 [S. 815A](#) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), **s. 50**

F37 [Ss. 815A-815B](#) repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), Sch. 8 para. 32, **Sch. 10 Pt. 1** (with Sch. 9)

[^{F38}815AZK residents and foreign enterprises

F39]

Textual Amendments

F38 [S. 815AZA](#) inserted (with effect in accordance with s. 59(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **s. 59(1)**

F39 [Ss. 815A-815B](#) repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), Sch. 8 para. 32, **Sch. 10 Pt. 1** (with Sch. 9)

[^{F40}815AMutual agreement procedure and presentation of cases under arrangements.

F41]

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Textual Amendments

- F40** S. 815AA inserted (with effect in accordance with Sch. 30 para. 28(2)(3) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 30 para. 28(1)**
- F41** Ss. 815A-815B repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 32, **Sch. 10 Pt. 1** (with Sch. 9)

[^{F42}815B The Arbitration Convention.

^{F43}

Textual Amendments

- F42** S. 815B inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), **s. 51(1)**
- F43** Ss. 815A-815B repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 32, **Sch. 10 Pt. 1** (with Sch. 9)

[^{F44}815C Exchange of information with other [^{F45}territories].

^{F46}

Textual Amendments

- F44** S. 815C inserted (28.7.2000) by Finance Act 2000 (c. 17), **s. 146(1)**
- F45** Word in s. 815C sidenote substituted (with effect in accordance with s. 88(3) of the amending Act) by Finance Act 2002 (c. 23), **s. 88(2)(b)**
- F46** S. 815C repealed (19.7.2006) by Finance Act 2006 (c. 25), **Sch. 26 Pt. 8(2)**

816 Disclosure of information.

^{F47}

Textual Amendments

- F47** S. 816 repealed (1.4.2010 with effect in accordance with s. 381(1) of the repealing Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), Sch. 8 para. 32, **Sch. 10 Pt. 1** (with Sch. 9) (subject to the omission of s. 816(3), so far as it continues to have effect, by virtue of Finance Act 2011 (c. 11), Sch. 23 paras. 55(e), **65**)

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