*These notes refer to the Income Tax Act 2007 (c.3)*
*which received Royal Assent on 20 March 2007*

# INCOME TAX ACT 2007

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

### Part 14: Income tax liability: miscellaneous rules

### Relevance of "earned income"

### *Chapter 4: Other miscellaneous rules*

### Overview

2530. This Chapter contains miscellaneous income tax provisions.

### *Section 838: Local authorities and local authority associations*

2531. This section exempts United Kingdom local authorities and local authority associations from income tax. It is based on section 519 of ICTA.

### *Section 839: Issue departments of the Reserve Bank of India and the State Bank of Pakistan*

2532. This section exempts from income tax the income of the issue departments of the central banks of India and Pakistan. It is based on section 517 of ICTA.

### *Section 840: Government securities held by non-UK resident central banks*

2533. This section exempts from income tax certain income arising in the United Kingdom to overseas central banks. It is based on section 516 of ICTA.

2534. The scope of the exemption is specified in an order made by Her Majesty in Council. It does not extend to income arising in the normal course of a bank's trading operations in the United Kingdom.

### *Section 841: Official agents of Commonwealth countries etc*

2535. This section provides an exemption from income tax for certain income arising to official agents of Commonwealth countries and of the Republic of Ireland and of states or provinces of those countries. It is based on section 320(2) to (4) of ICTA.

2536. The exemption is the same as that given to members of the staff of a diplomatic mission under the Diplomatic Privileges Act 1964 which gives force to the United Kingdom's international obligations under the Vienna Convention on Diplomatic Relations. In most cases, provided the agent is not a United Kingdom national and is present in the United Kingdom solely for the purpose of the agent's duties, that is an exemption for the agent's official earnings and other income arising outside the United Kingdom. Private income arising in the United Kingdom remains liable to income tax.

2537. Section 320(1) of ICTA provides an exemption to an Agent-General and section 320(3)(a) an exemption to his or her personal staff. These exemptions have not been rewritten as they merely duplicate exemptions now given under the Commonwealth Countries and Republic of Ireland (Immunities and Privileges) Order SI 1985/1983.

2538. Section 320(3)(c), which provides an exemption to an official agent of a self-governing colony, has not been rewritten because there are no overseas territories now certified as self-governing colonies.

### *Section 842: European Economic Interest Groupings*

2539. This section sets out the basic rules that determine how the members of a European Economic Interest Grouping are to be taxed. It is based on section 510A of ICTA to the extent that it relates to income tax.

2540. Members of a Grouping may be companies, individuals or partnerships.

### *Section 843: Restriction of deductions for annual payments*

2541. This section prevents annual payments for which the consideration is either a dividend or not taxable from being deducted in calculating a person's income from any source. It is based on section 125(1) of ICTA.

2542. Section 899(5)(f) prevents the annual payments concerned from being qualifying annual payments. So they are not subject to deduction of tax at source, nor eligible for relief under Chapter 4 of Part 8 (annual payments and patent royalties). This section extends the ban on relief so that no annual payment that meets the definition in section 904 is an allowable deduction in calculating income in any circumstances.

### *Section 844: Letters patent etc: exempting provisions*

2543. This section voids the impact of exempting provisions in letters patent. It is based on section 829(4) of ICTA.

2544. The words "to be granted" in the source legislation have been omitted as it is not possible for an exemption to be in point until the letters patent are actually granted.

2545. *Subsection (3)* is drafted on the basis that purported exemptions in all letters patent etc are void.

2546. Section 829(4) of ICTA also contains the rule that any statute which purports to confer income tax exemptions on a particular person or class of persons is void. It is not considered that "statute" can have its modern meaning of "Act of Parliament", since it is always open to Parliament to enact specific tax exemptions if it chooses to do so. It is instead aimed at provisions of a quasi-legislative nature such as bye-laws. But the idea of a local rule overriding an Act of Parliament by providing an income tax exemption is no longer tenable. So this part of section 829(4) is repealed as obsolete.

### *Section 845: Extra return to be treated as interest etc*

2547. This section treats as interest certain "extra returns" that arise in some circumstances if new securities are issued of the same kind as existing securities. It is based on section 587A(1) to (3) of ICTA.

2548. The section applies where new securities are issued which are of the same kind as existing securities, except that at the issue date the existing securities will have accrued a certain amount of interest. In order to pay the same amount of "interest" on all the securities at the next interest payment date, the issue price of the new securities is increased to reflect the accrued interest on the existing securities. This section contains special rules for the treatment of the amount by which the issue price is increased.

2549. *Subsection (1)* sets out the conditions that must be met for the provision to operate. The total amount by which the issue price of the new securities is increased and which is then returned to the holder along with the true interest on the securities at the next interest payment date is called the “extra return”.

2550. *Subsection (2)*specifies that the extra return must be equal to the interest that accrued for the relevant period on an equivalent number of existing securities. The relevant period is defined in section 846.

2551. *Subsection (3)* ensures that the extra return is treated as a payment of interest. It then follows that where deduction of tax applies, it will apply to the whole amount of “interest” including the extra return.

2552. *Subsection (4)* ensures that no relief is given to the issuer for the extra return.

2553. For corporation tax purposes, section 587A of ICTA applies only if the new securities were issued before 1 April 1996. Accordingly, this provision has not been retained for corporation tax purposes.

### *Section 846: Interpretation of section 845*

2554. This section provides definitions for terms used in section 845. It is based on section 587A(3) to (6) of ICTA.