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

INCOME TAX ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 15: Deduction of income tax at source

Overview

Chapter 5: Deduction from payments of UK public revenue dividends

Overview

2685. This Chapter requires the deduction of sums representing income tax from payments of UK public revenue dividends. It is based on sections 4, 50 to 51AA, 349(3C) and (4), 350 and 350A of ICTA.

Section 890: Overview of Chapter

2686. This section provides an overview of the Chapter. It is new.

Section 891: Meaning of "UK public revenue dividend"

2687. This section defines "UK public revenue dividend" as being any income from securities which is paid out of the public revenue of the United Kingdom or Northern Ireland, but excludes interest on local authority stock. It is based on section 349(4) of ICTA.

2688. The reference to "Northern Ireland" in the definition of "UK public revenue dividend" reflects the fact that amounts paid out of the public revenue of the United Kingdom to the Northern Ireland Exchequer Consolidated Fund (from which securities may be issued under section 11(1)(c) of the Exchequer and Financial Provisions Act (Northern Ireland) 1950) are not "public revenue of the United Kingdom".

Section 892: Duty to deduct from certain UK public revenue dividends

2689. This section sets out the general duty to deduct a sum representing income tax from payments of UK public revenue dividends. It is based on sections 4, 50 and 349(3C) of ICTA.

2690. *Subsection (2)* makes it explicit that the rate at which deduction must be made is the savings rate, that being the rate applicable to income within Chapter 2 of Part 4 of ITTOIA.

Section 893: Payments of UK public revenue dividends which are payable gross

2691. This section sets out an exception to the general duty to deduct in section 892. It is based on sections 50 and 51(1) of ICTA.

2692. *Subsection (1)* provides that there is no duty to deduct if a payment of interest is made in respect of "gross-paying government securities" and no application has been made for the interest to be paid net of tax.

2693. *Subsection (2)* defines “gross-paying government securities” as being “gilt-edged securities” or securities which are the subject of a Treasury direction.

Section 894: Treasury directions

2694. This section is based on sections 50, 51 and 51AA of ICTA.

2695. *Subsections (1)* and *(2)* allow the Treasury to direct that securities issued under the National Loans Acts 1939 and 1968 are “gross-paying government securities”.

2696. *Subsection (3)* deals with the issue of Northern Ireland securities and allows the Treasury, at the request of the Department of Finance and Personnel, to direct that securities issued under section 11(1)(c) of the Exchequer and Financial Provisions Act (Northern Ireland) 1950 are “gross-paying government securities”.

2697. Section 51(2) of ICTA sets out the provisions of section 11(1)(c) of the 1950 Act by including the words, “for money borrowed by the Department of Finance and Personnel for the purposes of making issues from the Consolidated Fund of Northern Ireland”. These words have not been included as they do not alter the scope of the reference to section 11(1)(c) of the 1950 Act and are, therefore, unnecessary.

Section 895: Deduction at source application

2698. This section allows the holder of registered gross-paying government securities to make an application for the securities to be subject to deduction of a sum representing income tax under section 892. It is based on section 50 of ICTA.

2699. The application must be made to the Registrar in such form as is prescribed by the Registrar with the approval of the Treasury. It is effective one month after the application has been made and ceases to be effective when the person who made it is no longer the registered owner or when the election ceases to have effect following its withdrawal under section 896.

2700. *Subsections (4)* and *(5)* confirm that where the registered holders are trustees they can make an application for sums representing income tax to be deducted under section 892 without the consent of any other person and despite anything in the trust instrument.

2701. *Subsection (6)* defines “registered” and “the Registrar” for the purposes of the Chapter (but see also section 894(4)).

2702. The definition of “registered” has been extended to include gilts which are “recorded” in the books of the Registrar. This change provides legislative support for deduction at source applications under this section in respect of gilts held in CREST. See *Change 137* in Annex 1.

Section 896: Withdrawal of application

2703. This section is about the withdrawal of an application for net payment under section 895. It is based on section 50(5) of ICTA.

2704. The section sets out that a withdrawal of an application may be made by the registered holder of the securities only by notice to the Registrar in such form as is prescribed by the Registrar with the approval of the Treasury. Such a withdrawal will have effect one month after the date the Registrar receives the notice.

Section 897: Power to make regulations

2705. This section enables the Commissioners for Her Majesty’s Revenue and Customs to make regulations in relation to the Chapter. It is based on section 350A of ICTA.

2706. *Subsection (2)* allows regulations to be made which differentiate between different kinds of UK public revenue dividends and to make different provision for different circumstances. Subsection (2)(b) has been aligned to the wording of similar provisions. In particular it now includes a reference to incidental and consequential amendments.

2707. Section 350A(2)(b) of ICTA, which allowed regulations to be made in respect of the Bank of Ireland, has not been rewritten as it obsolete following the Bank of Ireland's decision to discontinue its stock registration business.

2708. As a result of that decision, the United Kingdom gilts registers managed by the Bank of Ireland were closed with effect from 25 October 2002 (SI 2002/2521). The holdings were transferred to the main United Kingdom gilts register managed by the Bank of England with effect from 28 October 2002. So the specific provisions in section 350A(2)(b) are no longer necessary. If the Commissioners for Her Majesty's Revenue and Customs were to wish to make similar provision in respect of a particular institution in future (including the Bank of Ireland) they could do so under the general power provided by section 897(2)(a).