INCOME TAX ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 15: Deduction of income tax at source

Overview

Chapter 9: Manufactured payments

Overview

Section 922: Manufactured overseas dividends: payments by UK residents etc

2820. This section imposes an obligation on the payer of a MOD to deduct income tax from the gross amount of the MOD. It is based on paragraphs 4(1) and 4(2) of Schedule 23A to ICTA. It is the first of a group of sections concerned with MODs (sections 922 to 925).

2821. *Subsection (1)* sets out three conditions for the section to apply. First, the person must pay a MOD as defined in section 581. Second, the MOD must be paid in the circumstances set out in section 581(1). Third, the payer must be either (a) UK resident or (b) paying the MOD in the course of a trade carried on through a branch or agency in the United Kingdom.

2822. Paragraph 4(2) of Schedule 23A to ICTA deems the MOD to be an annual payment within section 349 of ICTA. This section avoids the use of deeming. *Subsection (2)* spells out that the payer of the MOD must, on making the payment, deduct from the gross amount of the manufactured overseas dividend a sum equal to the relevant withholding tax on the gross amount.

2823. *Subsection (3)* explains that this section is subject to certain other provisions. Unlike section 919, this section is not subject to Chapter 11 of this Part (payments between companies etc: exception from duties to deduct), because section 349A(4)(b) of ICTA excludes MODs from the provisions of sections 349A to 349D of that Act.

2824. *Subsection (4)* is a signpost to the powers in sections 586 and 925 to make regulations about collection of tax. The collection rules about MODs, and the rules about tax vouchers for MODs, are given by secondary legislation: regulations 11 and 15 respectively of SI 1993/2004, made under paragraph 8 of Schedule 23A to ICTA. The relevant provisions of paragraph 8 are rewritten in section 586.