

*Status: Point in time view as at 21/07/2009.*

*Changes to legislation: Finance Act 2009, Part 3 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 16

#### CONTROLLED FOREIGN COMPANIES

#### PART 3

##### REDUCTION IN CHARGEABLE PROFITS FOR CERTAIN FINANCING INCOME

###### *Reduction in chargeable profits for certain financing income*

- 21 ICTA is amended as follows.
- 22 In the following provisions, after “751A” insert “ or 751AA ”
- (a) section 747(3A) and (5A) (imputation of chargeable profits and creditable tax of controlled foreign companies),
  - (b) section 749(10) (residence),
  - (c) section 749A(9) (elections and designations under section 749: supplementary provisions), and
  - (d) section 750(3)(ab) (territories with a lower level of taxation).
- 23 After section 751A insert—

###### **“751AA Reduction in chargeable profits for certain financing income**

- (1) This section applies if—
- (a) an apportionment under section 747(3) falls to be made as regards an accounting period (“the relevant accounting period”) of a controlled foreign company,
  - (b) the chargeable profits of the controlled foreign company for the relevant accounting period would, apart from this section, include an amount of income in respect of a payment made by another company (“the payer”),
  - (c) the amount that the payer brings into account for the purposes of corporation tax in respect of the payment is reduced (in part or in full) by virtue of Part 3 of Schedule 15 to FA 2009 (tax treatment of financing costs and income), and
  - (d) a company resident in the United Kingdom (“the UK resident company”) has a relevant interest in the controlled foreign company in the relevant accounting period.
- (2) The UK resident company may make an application to the Commissioners for Her Majesty's Revenue and Customs for the chargeable profits of the controlled foreign company for the relevant accounting period (“the chargeable profits”) to be reduced by an amount (“the specified amount”) specified in the application (including to nil).

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- (3) If the Commissioners grant the application—
- (a) the chargeable profits are treated as reduced by the specified amount, and
  - (b) the controlled foreign company's creditable tax (if any) for that period is treated as reduced by so much of that tax as, on a just and reasonable basis, relates to the reduction in the chargeable profits, for the purpose of applying section 747(3) to (5) for determining the sum (if any) chargeable on the UK resident company under section 747(4)(a) (but for no other purpose).
- (4) The Commissioners may grant the application only if they are satisfied that the specified amount does not exceed the relevant amount.
- (5) In subsection (4) “the relevant amount” means the amount (if any) by which it is just and reasonable that the chargeable profits should be treated as reduced, having regard to the effect of Parts 3 and 4 of Schedule 15 to FA 2009 on amounts brought into account for the purposes of corporation tax by the payer, or any other company.”
- 24 (1) Section 751B (supplementary) is amended as follows.
- (2) In the heading, for “Section 751A” substitute “ Sections 751A and 751AA ”.
  - (3) In subsections (1), (2), (3) (in each place) and (5), after “751A” insert “ or 751AA ”.
  - (4) In subsection (8)—
    - (a) after “ “the relevant amount” ” insert “—
      - (a) in the case of an appeal in respect of the refusal of an application under section 751A,” and
    - (b) after “mentioned in that subsection” insert “, and
      - (b) in the case of an appeal in respect of the refusal of an application under section 751AA, has the meaning given by subsection (5) of that section.”
  - (5) In subsection (10)—
    - (a) after “751A” insert “ or 751AA ”, and
    - (b) after “751A(1)” insert “ or 751AA(1) ”.

#### *Commencement*

- 25 (1) The amendments made by this Part have effect in relation to accounting periods of controlled foreign companies ending on or after 1 January 2010.
- (2) For this purpose “accounting period” and “controlled foreign company” have the same meaning as they have for the purposes of Chapter 4 of Part 17 of ICTA.

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