



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### [<sup>F1</sup>PART 8A

PROFITS ARISING FROM THE EXPLOITATION OF PATENTS ETC

### [<sup>F1</sup>CHAPTER 5

RELEVANT IP LOSSES

#### Textual Amendments

- F1** Pt. 8A inserted (with effect in accordance with [Sch. 2 paras. 7, 8](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 2 para. 1\(1\)](#)

#### **357E Company with relevant IP losses: set-off amount**

Where a company would be entitled to make a deduction under section 357A(2) in calculating the profits of a trade of the company for an accounting period but for the fact that there are relevant IP losses of the trade for the accounting period, there is a “set-off amount” in relation to the trade of the company for the accounting period which is equal to the amount of the relevant IP losses.

#### **357EA Effect of set-off amount on company with more than one trade**

- (1) This section applies where—
  - (a) there is a set-off amount in relation to a trade of a company for an accounting period, and
  - (b) the company carries on any other trade.
- (2) The set-off amount is to be reduced (but not to below nil) by any relevant IP profits of that other trade for the accounting period.

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*Changes to legislation: There are currently no known outstanding effects for the Corporation Tax Act 2010, CHAPTER 5. (See end of Document for details)*

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- (3) Section 357A does not apply in relation to so much of the amount of relevant IP profits of that other trade for the accounting period as is equal to the amount by which the set-off amount is reduced under subsection (2).

### **357EB Allocation of set-off amount within a group**

- (1) This section applies where—
- (a) there is a set-off amount in relation to a trade of a company for an accounting period,
  - (b) the company is a member of a group, and
  - (c) the set-off amount has not been reduced to nil by the operation of section 357EA(2).
- (2) The set-off amount (or so much of it as remains after the operation of section 357EA(2)) is to be reduced (but not to below nil) by any relevant IP profits of a trade of a relevant group member for the relevant accounting period.
- (3) For the purposes of this section—
- (a) “relevant group member” means another member of the group that has made an election under [F2section 357A(1)] and is a qualifying company for the relevant accounting period, and
  - (b) “relevant accounting period”, in relation to a company, means the accounting period of the company in or at the end of which the accounting period mentioned in subsection (1)(a) ends.
- (4) Section 357A does not apply in relation to so much of the amount of relevant IP profits of the trade of the relevant group member for the relevant accounting period as is equal to the amount by which the set-off amount (or so much of it as remains after the operation of section 357EA(2)) is reduced under subsection (2).
- (5) Where there is more than one relevant group member, the relevant group members may jointly determine the order in which subsection (2) is to apply to them.
- (6) If no determination is made under subsection (5), subsection (2) is to apply first to the trade that has the greatest amount of relevant IP profits of any trade of any of the relevant group members for a relevant accounting period, then to the trade that has the second greatest amount of relevant IP profits of any of those trades for such a period, and so on.

#### **Textual Amendments**

**F2** Words in s. 357EB(3)(a) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 9 para. 15](#)

### **357EC Carry-forward of set-off amount**

- (1) This section applies where—
- (a) there is a set-off amount in relation to a trade of a company for an accounting period, and
  - (b) the set-off amount has not been reduced to nil by the operation of section 357EA(2) or 357EB(2).

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- (2) The set-off amount (or so much of it as remains after the operation of section 357EA(2) or 357EB(2)) is to be reduced (but not to below nil) by the amount of any relevant IP profits of the trade of the company for the current accounting period.

The “current accounting period” is the accounting period immediately following the accounting period mentioned in subsection (1)(a).

- (3) Section 357A does not apply in relation to so much of the amount of relevant IP profits of the trade of the company for the current accounting period as is equal to the amount by which the set-off amount (or so much of it as remains after the operation of section 357EA(2) or 357EB(2)) is reduced under subsection (2).
- (4) If any portion of the set-off amount remains after the operation of subsection (2), that portion (“the remaining portion”) is to be treated as the set-off amount in relation to the trade of the company for the current accounting period (and the provisions of this Chapter apply accordingly).
- (5) If there are relevant IP losses of the trade of the company for the current accounting period, the set-off amount in relation to the trade of the company for that accounting period is the aggregate of the remaining portion and an amount equal to the amount of those relevant IP losses (and the provisions of this Chapter apply accordingly).

### **357ED Company ceasing to carry on trade, etc**

- (1) This section applies where—
- there is a set-off amount in relation to a trade of a company for an accounting period, and
  - at any time in the accounting period immediately following that accounting period, the company meets any of the conditions in subsection (2).
- (2) The conditions are—
- that the company ceases to carry on the trade,
  - that the company ceases to be within the charge to corporation tax in respect of the trade, or
  - that any election made by the company under [<sup>F3</sup>section 357A(1)] ceases to have effect.
- (3) Sections 357EA to 357EC continue to have effect in relation to the set-off amount subject to the following provisions of this section.
- (4) Section 357EB has effect as if—
- the reference in subsection (1)(b) to the company being a member of a group were a reference to the company having been a member of the group at the time referred to in subsection (1)(b) of this section,
  - for subsection (2) there were substituted—
    - “(2) The set-off amount (or so much of it as remains after the operation of section 357EA(2)) is to become, or be added to, the set-off amount in relation to a trade of a relevant group member for the relevant accounting period.”,
    - subsection (4) were omitted,
    - for the words after “determine” in subsection (5) there were substituted “ the relevant group member to which subsection (2) is to apply ”, and

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- (e) for subsection (6) there were substituted—
- “(6) If no determination is made under subsection (5), subsection (2) is to apply to the trade that has the greatest amount of relevant IP profits of any trade of any of the relevant group members for a relevant accounting period.
- (7) If there is no relevant group member with any relevant IP profits of a trade for the relevant accounting period, subsection (2) is to apply to the trade that has the greatest set-off amount in relation to any trade of any of the relevant group members for a relevant accounting period.”
- (5) Sections 357EA to 357EC cease to have effect in relation to the set-off amount in relation to the trade of the company for an accounting period if—
- (a) the company is not carrying on any other trade in that accounting period, and
- (b) in the case of a company that was a member of a group at the time referred to in subsection (1)(b) of this section, none of the members of the group is a relevant group member (within the meaning of section 357EB).
- (6) In such a case, the set-off amount (so far as remaining after the operation of those sections) is to be reduced to nil.

**Textual Amendments**

**F3** Words in s. 357ED(2)(c) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 9 para. 16](#)

**357EE Transfer of a trade between group members**

- (1) This section applies where—
- (a) there is a set-off amount in relation to a trade of a company for an accounting period,
- (b) the company is a member of a group,
- (c) the company ceases to carry on the trade, and
- (d) another company (“the transferee”) that is a member of the group begins to carry on that trade.
- (2) For the purposes of this Chapter an amount equal to the set-off amount is to become, or be added to, the set-off amount in relation to the trade of the transferee for the accounting period in which the transferee begins to carry on the trade.

**357EF Payments between group members in consequence of section 357EB**

- (1) This section applies if—
- (a) there is a set-off amount in relation to a trade of a company for an accounting period,
- (b) subsection (2) of section 357EB has effect in relation to a relevant group member for the relevant accounting period (within the meaning of that section),
- (c) the company and the relevant group member have an agreement between them in relation to the relevant IP losses of the company, and

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- (d) as a result of the agreement the company makes a payment to the relevant group member that does not exceed the reduction in the relevant IP profits of the relevant group member arising under section 357EB(4).
- (2) The payment—
- (a) is not to be taken into account in determining the profits or losses of either company for corporation tax purposes, and
  - (b) is not for any purposes of the Corporation Tax Acts to be regarded as a distribution.
- (3) In a case where section 357ED applies (company ceasing to carry on trade, etc), the reference in subsection (1)(d) to the reduction in the relevant IP profits of the relevant group member is to be read as a reference to the amount that becomes, or is added to, the set-off amount in relation to a trade of the relevant group member for the relevant accounting period under section 357EB(2).]

**Changes to legislation:**

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