



# Corporation Tax Act 2010

## 2010 CHAPTER 4

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

TRADING PROFITS TAXABLE AT THE NORTHERN IRELAND RATE

### [<sup>F1</sup>CHAPTER 15

PROFITS ARISING FROM THE EXPLOITATION OF PATENTS ETC

#### Textual Amendments

- F1** Pt. 8B inserted (with effect in accordance with s. 5 of the amending Act) by [Corporation Tax \(Northern Ireland\) Act 2015 \(c. 21\), s. 1](#)

#### *Introductory*

#### **357V** **Introductory**

- (1) This Chapter makes provision about the operation of Part 8A (profits arising from the exploitation of patents etc) in relation to an accounting period in which a company is a Northern Ireland company.
- (2) If a company—
  - (a) has made an election under section 357A (election for special treatment of profits from patents etc) with respect to a trade of the company in relation to an accounting period, and
  - (b) is a Northern Ireland company in that period,Part 8A has effect subject to the provisions of this Chapter.
- (3) In this Chapter “the relevant period” means the accounting period mentioned in subsection (2).

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*Changes to legislation: There are currently no known outstanding effects for the Corporation Tax Act 2010, CHAPTER 15. (See end of Document for details)*

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### *Modification of deduction*

#### **357VA Modification of section 357A**

- (1) Section 357A(2) has effect as if the reference to allowing a deduction to be made in calculating for corporation tax purposes the profits of the trade for the period were a reference to allowing a mainstream deduction and a Northern Ireland deduction to be made in accordance with this section.
- (2) The mainstream deduction is to be calculated in accordance with section 357A(3), but as if in the formula in that provision “RP” referred to the relevant mainstream IP profits of the trade.
- (3) The relevant mainstream IP profits of the trade are so much of the relevant IP profits of the trade of the company as are not by virtue of section 357VB or 357VC relevant Northern Ireland IP profits of the trade.
- (4) The amount of the Northern Ireland deduction is—

$$\text{RNIP} \times \left( \frac{\text{NIR} - \text{IPR}}{\text{NIR}} \right)$$

where—

RNIP is the relevant Northern Ireland IP profits of the company, as determined under section 357VB or 357VC,

NIR is the Northern Ireland rate of corporation tax, and

IPR is the special IP rate of corporation tax specified in section 357A(4).

- (5) The Northern Ireland deduction is allowed only if in the relevant period, or part of the relevant period, the Northern Ireland rate is higher than the special IP rate of corporation tax.
- (6) The mainstream deduction—
  - (a) is made in calculating for corporation tax purposes the profits of the trade for the period, and
  - (b) is treated as forming part of the mainstream profits or mainstream losses of the trade.
- (7) The Northern Ireland deduction—
  - (a) is made in calculating for corporation tax purposes the profits of the trade for the period, and
  - (b) is treated as forming part of the Northern Ireland profits or Northern Ireland losses of the trade.

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*“Relevant Northern Ireland IP profits”*

**357VB Relevant Northern Ireland IP profits: SMEs [<sup>F2</sup>that are Northern Ireland employers]**

- (1) This section applies if—
  - (a) the company is a Northern Ireland company in the relevant period by virtue of the [<sup>F3</sup>SME (Northern Ireland employer) condition] in section 357KA, and
  - (b) the trade is not an excluded trade.
- (2) The company's “relevant Northern Ireland IP profits” are its relevant IP profits of the trade for the period but—
  - (a) calculated without taking into account any amounts which are—
    - (i) treated by section 747 of CTA 2009 as receipts or expenses of the trade for the period, but
    - (ii) do not under section 357OA form part of the Northern Ireland profits or Northern Ireland losses of the trade for the period, and
  - (b) excluding so much of its relevant IP profits as are attributable to a qualifying IP right or an exclusive licence in respect of a qualifying IP right which (in either case) is held by the company for the purposes of an excluded activity.

**Textual Amendments**

- F2** Words in s. 357VB heading inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 7 para. 12\(2\)](#)
- F3** Words in s. 357VB(1)(a) substituted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 7 para. 12\(3\)](#)

**357VC Relevant Northern Ireland IP profits: [<sup>F4</sup>SMEs that are not Northern Ireland employers and] large companies**

- (1) This section applies if—
  - (a) the company is a Northern Ireland company in the relevant period by virtue of [<sup>F5</sup>the SME (election) condition or] the large company condition in section 357KA, and
  - (b) the trade is a qualifying trade by virtue of section 357KB(1) (trade other than excluded trade).
- (2) The company has “relevant Northern Ireland IP profits” for the period only if IP-related profits that (in accordance with Chapters 6 to 8) form part of its Northern Ireland profits or Northern Ireland losses for the period amount to Northern Ireland profits (rather than losses).
- (3) The company's “relevant Northern Ireland profits” for the period are the appropriate proportion of the relevant IP profits.
- (4) The “appropriate proportion” is—

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$$\frac{NI}{P}$$

where—

NI is so much of the IP-related profits as (in accordance with Chapters 6 to 8) forms part of its Northern Ireland profits;

P is the IP-related profits.

- (5) In this section the “IP-related profits” means the profits of the company's trade for the accounting period attributable to—
- (a) qualifying IP rights held by the company, or
  - (b) exclusive licences held by the company in respect of qualifying IP rights.

#### **Textual Amendments**

- F4** Words in s. 357VC heading inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 7 para. 13\(2\)](#)
- F5** Words in s. 357VC(1)(a) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 7 para. 13\(3\)](#)

#### *Relevant IP losses*

#### **357VD Relevant IP losses**

- (1) If any of the set-off provisions prevents section 357A from applying to an amount of relevant IP profits of the trade of the company for the relevant period, sections 357VA to 357VC have effect as if references to the relevant IP profits of the trade were references to the relevant IP profits reduced by that amount.
- (2) The “set-off provisions” are—
- (a) subsection (3) of section 357EA (effect of set-off amount on company with more than one trade),
  - (b) subsection (4) of section 357EB (allocation of set-off amount within a group), and
  - (c) subsection (3) of section 357EC (carry-forward of set-off amount).

#### *Interpretation*

#### **357VE Interpretation of Chapter**

In this Chapter—

“exclusive licence”, in relation to a right, has the same meaning as in Part 8A (see section 357BA);

“qualifying IP right” has the same meaning as in Part 8A (see section 357B(4));

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“relevant IP profits”, in relation to the trade of a company, is to be read in accordance with Chapter 3 of Part 8A (but subject to section 357VD);

“relevant period” has the meaning given by section 357V.]

**Changes to legislation:**

There are currently no known outstanding effects for the Corporation Tax Act 2010, CHAPTER 15.