



# Taxation (International and Other Provisions) Act 2010

## 2010 CHAPTER 8

### [<sup>F1</sup>PART 6A

#### HYBRID AND OTHER MISMATCHES

### CHAPTER 2

#### KEY DEFINITIONS

#### *[<sup>F1</sup>Payments and quasi-payments etc*

#### Textual Amendments

- F1** Pt. 6A inserted (with effect in accordance with Sch. 10 paras. 18-21 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 10 para. 1](#)

#### **259BB Meaning of “payment”, “quasi-payment”, “payer”, “payee” etc**

- (1) In this Part “payment” means any transfer—
  - (a) of money or money's worth directly or indirectly from one person (“the payer”) to one or more other persons, and
  - (b) in relation to which (disregarding this Part and any equivalent provision under the law of a territory outside the United Kingdom) an amount (a “relevant deduction”) may be deducted from the payer's income for a taxable period (the “payment period”) for the purposes of calculating the payer's taxable profits.
- (2) For the purposes of this Part, there is a “quasi-payment”, in relation to a taxable period (the “payment period”) of a person (“the payer”), if (disregarding this Part and any equivalent provision under the law of a territory outside the United Kingdom)—

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**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Cross Heading: Payments and quasi-payments etc. (See end of Document for details)

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- (a) an amount (a “relevant deduction”) may be deducted from the payer's income for that period for the purposes of calculating the payer's taxable profits, and
  - (b) making the assumptions in subsection (4), it would be reasonable to expect an amount of ordinary income to arise to one or more other persons as a result of the circumstances giving rise to the relevant deduction.
- (3) But a quasi-payment does not arise under subsection (2) if—
- (a) the relevant deduction is an amount that is deemed, under the law of the payer jurisdiction, to arise for tax purposes, and
  - (b) the circumstances giving rise to the relevant deduction do not include any economic rights, in substance, existing between the payer and a person mentioned in subsection (2)(b).
- (4) The assumptions are that (so far as would not otherwise be the case)—
- (a) any question as to whether an entity is a distinct and separate person from the payer is determined in accordance with the law of the payer jurisdiction,
  - (b) any persons to whom amounts arise, or potentially arise, as a result of the circumstances giving rise to the relevant deduction adopt the same approach to accounting for those circumstances as the payer, and
  - (c) any persons to whom amounts arise, or potentially arise, as a result of those circumstances—
    - (i) are, under the law of the payer jurisdiction, resident in that jurisdiction for tax purposes, and
    - (ii) carry on a business, in connection with which those circumstances arise, in the payer jurisdiction.
- (5) In this Part—
- (a) references to a quasi-payment include all the circumstances giving rise to the relevant deduction mentioned in subsection (2)(a), and
  - (b) references to a quasi-payment being made are to those circumstances arising.
- (6) In this Part “payee” means—
- (a) in the case of a payment, any person—
    - (i) to whom the transfer is made as mentioned in subsection (1)(a), or
    - (ii) to whom an amount of ordinary income arises as a result of the payment, and
  - (b) in the case of a quasi-payment, any person—
    - (i) to whom it would be reasonable to expect an amount of ordinary income to arise as mentioned in subsection (2)(b), or
    - (ii) to whom an amount of ordinary income arises as a result of the quasi-payment.
- (7) For the purposes of this Part, in the case of a quasi-payment, the payer is “also a payee” if—
- (a) an entity is not a distinct and separate person from the payer for the purposes of a tax charged under the law of the United Kingdom,
  - (b) that entity is a distinct and separate person from the payer for the purposes of a tax charged under the law of the payer jurisdiction, and
  - (c) it would be reasonable to expect an amount of ordinary income to arise to that entity as mentioned in subsection (2)(b).

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- (8) In this section “payer jurisdiction” means the jurisdiction under the law of which the relevant deduction may (disregarding this Part and any equivalent provision under the law of a territory outside the United Kingdom) be deducted.
- (9) In this Part “payee jurisdiction”, in relation to a payee, means a territory in which—
- (a) the payee is resident for tax purposes under the law of that territory, or
  - (b) the payee has a permanent establishment.]

**Changes to legislation:**

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