



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

[^{F1}PART 6A

HYBRID AND OTHER MISMATCHES

CHAPTER 3

HYBRID AND OTHER MISMATCHES FROM FINANCIAL INSTRUMENTS

Application of Chapter

[^{F1}259CA] **Circumstances in which the Chapter applies**

- (1) This Chapter applies if conditions A to D are met.
- (2) Condition A is that a payment or quasi-payment is made under, or in connection with, a financial instrument.
- (3) Condition B is that—
 - (a) the payer is within the charge to corporation tax for the payment period, or
 - (b) a payee is within the charge to corporation tax for an accounting period some or all of which falls within the payment period.
- (4) Condition C is that it is reasonable to suppose that, disregarding the provisions mentioned in subsection (5), there would be a hybrid or otherwise impermissible deduction/non-inclusion mismatch in relation to the payment or quasi-payment (see section 259CB).
- (5) The provisions are—
 - (a) this Chapter and Chapters 5 to 10, and

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 259CA. (See end of Document for details)

- (b) any equivalent provision under the law of a territory outside the United Kingdom.
- (6) Condition D is that—
- (a) it is a quasi-payment that is made as mentioned in subsection (2) and the payer is also a payee (see section 259BB(7)),
 - (b) the payer and a payee are related (see section 259NC) at any time in the period—
 - (i) beginning with the day on which any arrangement is made by the payer or a payee in connection with the financial instrument, and
 - (ii) ending with the last day of the payment period, or
 - (c) the financial instrument, or any arrangement connected with it, is a structured arrangement.
- (7) The financial instrument, or an arrangement connected with it, is a “structured arrangement” if it is reasonable to suppose that—
- (a) the financial instrument, or arrangement, is designed to secure a hybrid or otherwise impermissible deduction/non-inclusion mismatch, or
 - (b) the terms of the financial instrument or arrangement share the economic benefit of the mismatch between the parties to the instrument or arrangement or otherwise reflect the fact that the mismatch is expected to arise.
- (8) The financial instrument or arrangement may be designed to secure a hybrid or otherwise impermissible deduction/non-inclusion mismatch despite also being designed to secure any commercial or other objective.
- (9) Sections 259CD (cases where the payer is within the charge to corporation tax for the payment period) and 259CE (cases where a payee is within the charge to corporation tax) contain provision for the counteraction of the hybrid or otherwise impermissible deduction/non-inclusion mismatch.]

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](#)

Changes to legislation:

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 259CA.