



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

[^{F1}PART 6A

HYBRID AND OTHER MISMATCHES

CHAPTER 8

MULTINATIONAL PAYEE DEDUCTION/NON-INCLUSION MISMATCHES

Application of Chapter

[^{F1}259HB] **Multinational payee deduction/non-inclusion mismatches and their extent**

- (1) There is a “multinational payee deduction/non-inclusion mismatch”, in relation to a payment or quasi-payment, if—
- (a) the relevant deduction exceeds the sum of the amounts of ordinary income that, by reason of the payment or quasi-payment, arise to each payee for a permitted taxable period, and
 - (b) all or part of that excess arises by reason of one or more payees being multinational companies.

[But there is no multinational payee deduction/non-inclusion mismatch so far as the ^{F2}(1A) relevant deduction is—

- (a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or
- (b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections.]

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

- (2) The extent of the multinational payee deduction/non-inclusion mismatch is equal to the excess that arises as mentioned in subsection (1)(b).
- [The excess is to be taken (so far as would not otherwise be the case) to arise for the purposes of subsection (1)(b) by reason of a payee being a multinational company so far as it would not arise if it is assumed—
- ^{F3}(2A) (a) that the company is not regarded, under the law of the parent jurisdiction, the PE jurisdiction or any other territory, as carrying on a business in the PE jurisdiction through a permanent establishment in that jurisdiction, and
- (b) that, for tax purposes under the law of the parent jurisdiction, all amounts of ordinary income arising, by reason of the payment or quasi-payment, to the company are regarded as arising to it in that jurisdiction and nowhere else.]
- (3) For the purposes of subsection (1)(b)—
- (a) where the law of a PE jurisdiction in relation to a payee that is a multinational company makes no provision for charging tax on any companies, so much of the excess as arises as a result is to be taken not to arise by reason of that payee being a multinational company, but
- (b) subject to that, it does not matter whether the excess or part arises for another reason as well as one or more payees being multinational companies (even if it would have arisen for that other reason regardless of whether any payees are multinational companies).
- (4) A taxable period of a payee is “permitted” in relation to an amount of ordinary income that arises as a result of the payment or quasi-payment if—
- (a) the period begins before the end of 12 months after the end of the payment period, or
- (b) where the period begins after that—
- (i) a claim has been made for the period to be a permitted period in relation to the amount of ordinary income, and
- (ii) it is just and reasonable for the amount of ordinary income to arise for that taxable period rather than an earlier period.]

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](#)
- F2** S. 259HB(1A) inserted (retrospectively) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [s. 24\(8\)\(13\)](#)
- F3** S. 259HB(2A) inserted (with effect in accordance with Sch. 7 para. 19(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 7 para. 12](#)

Changes to legislation:

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