



Finance Act 2016

2016 CHAPTER 24

PART 1

INCOME TAX

Transactions in securities

33 Transactions in securities: company distributions

- (1) Chapter 1 of Part 13 of ITA 2007 (transactions in securities) is amended as follows.
- (2) In section 684 (person liable to counteraction), in subsection (1)—
 - (a) in the opening words, after “a person” insert “ (“the party”) ”;
 - (b) in paragraph (c), omit “the person in being a party to”;
 - (c) in paragraph (d), for “the person” substitute “ the party or any other person ”.
- (3) In that section, in subsection (2)—
 - (a) in paragraph (c), omit the final “and”;
 - (b) after paragraph (d) insert—
 - “(e) a repayment of share capital or share premium, and
 - (f) a distribution in respect of securities in a winding up.”
- (4) In section 685 (receipt of consideration in connection with distribution by or assets of close company)—
 - (a) in subsection (2)—
 - (i) in the opening words, for “the person” substitute “ a relevant person ”;
 - (ii) in the words after paragraph (c), after “and” insert “ the relevant person ”;
 - (b) in subsection (3)—
 - (i) in paragraph (a), for “the person” substitute “ a relevant person ”;
 - (ii) in paragraph (c), for “the person” substitute “ the relevant person ”;
 - (c) after subsection (3) insert—

Changes to legislation: Finance Act 2016, Section 33 is up to date with all changes known to be in force on or before 02 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“(3A) In subsections (2) and (3) “relevant person” means—

- (a) the party, or
- (b) any person other than the party in relation to whom the condition in section 684(1)(d) is met.”
- (d) omit subsection (6);
- (e) after subsection (7) insert—

“(7A) The references in subsection (4)(a)(i) and (ii) to assets do not include assets shown to represent return of sums paid by subscribers on the issue of securities merely because the law of the country in which the company is incorporated allows assets of that description to be available for distribution by way of dividend.

(7B) The references in subsections (4)(a)(i) and (5)(a) to assets which are available for distribution by way of dividend by the company include assets which are available for distribution to the company by way of dividend by any other company it controls.”

(5) In section 686 (excluded circumstances: fundamental change of ownership)—

- (a) in subsection (1)(a), for the words from “the person” to “party”)” substitute “the party ”;
- (b) for subsections (2) to (5) substitute—

“(2) There is a fundamental change of ownership of the close company if, as a result of the transaction or transactions in securities, the condition in subsection (3) is met.

(3) The condition in this subsection is that the original shareholder or original shareholders taken together with any associate or associates—

- (a) do not directly or indirectly hold more than 25% of the ordinary share capital of the close company,
- (b) do not directly or indirectly hold shares in the close company carrying an entitlement to more than 25% of the distributions which may be made by the close company, and
- (c) do not directly or indirectly hold shares in the close company carrying more than 25% of the total voting rights in the close company.

(4) In this section “original shareholder” means a person who, immediately before the transaction in securities (or the first of the transactions in securities), held any ordinary share capital of the close company.

(5) For the purposes of this section, shares of or share capital in the close company which are held by a person controlled by an original shareholder, or by two or more original shareholders taken together, count as shares or share capital held by that original shareholder or those original shareholders.”

(6) In section 687 (income tax advantage)—

- (a) in subsection (1), in the opening words, for “the person” substitute “a person ”;

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- (b) in subsection (2)—
 - (i) after “to the person” insert “ or an associate of the person ”;
 - (ii) for “the relevant consideration is received” substitute “ Condition A or B in section 685 is met ”.
- (7) In section 713 (interpretation), at the appropriate place insert—

““associate” is to be construed in accordance with section 681DL, but as if subsection (4) of that section also included, as persons associated with each other, a person as trustee of a settlement and an individual, where one or more beneficiaries of the settlement are connected or associated with the individual;”.
- (8) The amendments made by this section have effect in relation to—
 - (a) a transaction occurring on or after 6 April 2016, or
 - (b) a series of transactions any one or more of which occurs on or after that date.
- (9) Accordingly, Chapter 1 of Part 13 of ITA 2007 has effect without the amendments made by this section in relation to a tax advantage obtained on or after 6 April 2016 in consequence of—
 - (a) a transaction occurring before that date, or
 - (b) a series of transactions all of which occur before that date.
- (10) Where—
 - (a) before 6 April 2016 a person provides particulars to the Commissioners for Her Majesty's Revenue and Customs under section 701 of ITA 2007 in respect of a transaction or transactions,
 - (b) on the basis of Chapter 1 of Part 13 of ITA 2007 as it has effect apart from this section, notification is given under section 701 of that Act that no counteraction notice ought to be served about the transaction or transactions,
 - (c) the transaction, or any one or more of the transactions, occurs on or after 6 April 2016, and
 - (d) the person would, but for the notification, be liable for counteraction of an income tax advantage from the transaction or transactions under Chapter 1 of Part 13 of ITA 2007 as amended by this section,

the notification is void and section 702(2) of ITA 2007 does not apply in relation to the transaction or transactions.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)