



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVII

TAX AVOIDANCE

CHAPTER IV

CONTROLLED FOREIGN COMPANIES

754 Assessment, recovery and postponement of tax.

^{M1}(1) Subject to the following provisions of this section, the provisions of section 747(4) (a) relating to [^{F1}the charging] of a sum as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Acts, and to any necessary modifications, all enactments applying generally to corporation tax, including [^{F2}those relating to company tax returns,] those relating to the assessing, collecting and receiving of corporation tax, those conferring or regulating a right of appeal and those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.

[^{F3}(1A) Accordingly (but without prejudice to subsection (1) above) the Management Act shall have effect as if—

- (a) any reference to corporation tax included a reference to a sum chargeable under section 747(4)(a) as if it were an amount of corporation tax; and
- (b) any reference to profits of a company included a reference to an amount of chargeable profits of a controlled foreign company which falls to be apportioned to a company under section 747(3).]

[^{F4}(2) For the purposes of the Taxes Acts, any sum chargeable on a company under section 747(4)(a) is chargeable for the accounting period of the company in which ends that one of the controlled foreign company's accounting periods the chargeable profits of which give rise to that sum.]

[^{F5}(2A) Where—

Status: Point in time view as at 13/08/2009. This version of this provision has been superseded.

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- (a) an apportionment under section 747(3) falls to be made as regards an accounting period of a controlled foreign company, and
 - (b) the apportionment falls to be made in accordance with section 752(4) on a just and reasonable basis, and
 - (c) a company tax return is made or amended using for the apportionment a particular basis adopted by the company making the return,
- the Board may determine that another basis is to be used for the apportionment.

(2B) ^{F6}

(2C) ^{F6}

(2D) Once the Board have determined under subsection (2A) above the basis to be used for the apportionment, matters shall proceed as if that were the only basis allowed by the Tax Acts.

(2E) A determination under subsection (2A) above may be questioned on an appeal against an amendment, made under paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998, of the company’s company tax return, but only on the ground that the basis of apportionment determined by the Board is not just and reasonable.]

[^{F7}(3) [^{F8}Subsection (3B) shall apply where] any appeal—

- (a) under paragraph 34(3) of Schedule 18 to the Finance Act 1998 against an amendment of a company tax return, or
- (b) under paragraph 48 of that Schedule against a discovery assessment or discovery determination under paragraph 41 of that Schedule (including an assessment by virtue of paragraph 52 of that Schedule),

involves any question concerning the application of this Chapter in relation to any particular person, [^{F9}and the question is one whose resolution is likely to affect the liability of more than one person under this Chapter in respect of the controlled foreign company concerned].

(3A) ^{F10}

(3B) Where this subsection applies—

- (a) each of the persons whose liability under this Chapter in respect of the controlled foreign company concerned is likely to be affected by the resolution of the question shall be entitled [^{F11}to be a party to any proceedings];
- (b) the [^{F12}tribunal] shall determine that question separately from any other questions in those proceedings; and
- (c) [^{F13}the tribunal's] determination on that question shall have effect as if made in an appeal to which each of those persons was a party.]

(4) ^{F14}

(5) Schedule 26 shall have effect with respect to the reliefs which may be claimed by a company resident in the United Kingdom which has a liability for tax in respect of an amount of chargeable profits; and no reliefs other than those provided for by that Schedule shall be allowed against any such liability.

(6) In any case where—

- (a) the whole or any part of the tax [^{F15}chargeable] on a company (“the [^{F15}chargeable] company”) by virtue of section [^{F16}747(4)(a)] is not paid before

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- the date on which it is due and payable in accordance with this Act or, as the case may be, the Management Act; and
- (b) the Board serve a notice of liability to tax under this subsection on another company (“the responsible company”) which is resident in the United Kingdom and holds or has held (whether directly or indirectly) [^{F17}the whole or any part of] the same interest in the controlled foreign company as is or was held by the [^{F15}chargeable] company,
- [^{F18}the whole or, as the case may be, the corresponding part of] the tax [^{F15}chargeable] on the [^{F15}chargeable] company or, as the case may be, so much of it as remains unpaid shall be payable by the responsible company upon service of the notice.
- (7) Where a notice of liability is served under subsection (6) above—
- (a) [^{F19}the whole, or (as the case may be) the corresponding part, of] any interest due on the tax [^{F20}chargeable] on the [^{F20}chargeable] company and not paid; and
- (b) any interest accruing due on that tax after the date of service, shall be payable by the responsible company [^{F21}(so far as referable to tax payable by the responsible company by virtue of the notice)].
- (8) In any case where—
- (a) a notice of liability is served on the responsible company under subsection (6) above, and
- (b) the relevant tax and any interest payable by the responsible company under subsection (7) above is not paid by that company before the expiry of the period of three months beginning on the date of service of the notice, that tax and interest may, without prejudice to the right of recovery from the responsible company, be recovered from the [^{F22}chargeable] company.
- (9) In this section “the Taxes Acts” has the same meaning as in the Management Act.

Textual Amendments

- F1** Words in s. 754(1) substituted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), Sch. 17 para. 9(2)(a); S.I. 1998/3173, art. 2
- F2** Words in s. 754(1) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), Sch. 17 para. 9(2)(b); S.I. 1998/3173, art. 2
- F3** S. 754(1A) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), Sch. 17 para. 9(3); S.I. 1998/3173, art. 2
- F4** S. 754(2) substituted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), Sch. 17 para. 9(4); S.I. 1998/3173, art. 2
- F5** S. 754(2A)-(2E) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), Sch. 17 para. 9(5); S.I. 1998/3173, art. 2
- F6** S. 754(2B)(2C) omitted (13.8.2009) by virtue of The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), art. 1, Sch. para. 21
- F7** S. 754(3)-(3B) substituted for s. 754(3) (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), Sch. 17 para. 9(6); S.I. 1998/3173, art. 2
- F8** Words in s. 754(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 155(2)(a)
- F9** Words in s. 754(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 155(2)(b)
- F10** S. 754(3A) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 155(3)

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- F11** Words in s. 754(3B)(a) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 155(4)(a)**
- F12** Word in s. 754(3B)(b) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 155(4)(b)**
- F13** Words in s. 754(3B)(c) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 155(4)(c)**
- F14** S. 754(4) repealed (with effect in accordance with Sch. 17 para. 37 of the repealing Act) by Finance Act 1998 (c. 36), Sch. 17 para. 9(7), **Sch. 27 Pt. 3(27)**, Note; S.I. 1998/3173, **art. 2**
- F15** Words in s. 754(6) substituted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 9(8)(a)**; S.I. 1998/3173, **art. 2**
- F16** Words in s. 754(6)(a) substituted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 9(8)(b)**; S.I. 1998/3173, **art. 2**
- F17** Words in s. 754(6)(b) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 9(8)(c)**; S.I. 1998/3173, **art. 2**
- F18** Words in s. 754(6) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 9(8)(d)**; S.I. 1998/3173, **art. 2**
- F19** Words in s. 754(7)(a) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 9(9)(a)**; S.I. 1998/3173, **art. 2**
- F20** Words in s. 754(7)(a) substituted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 9(9)(b)**; S.I. 1998/3173, **art. 2**
- F21** Words in s. 754(7)(b) added (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 9(9)(c)**; S.I. 1998/3173, **art. 2**
- F22** Word in s. 754(8) substituted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 9(10)**; S.I. 1998/3173, **art. 2**

Modifications etc. (not altering text)

- C1** See 1970(M) s.55(1)(g) and (6A).

Marginal Citations

- M1** Source—1984 s.89(1)-(4), (7)-(11)

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