Income Tax Act 2007

2007 CHAPTER 3

PART 15

DEDUCTION OF INCOME TAX AT SOURCE

CHAPTER 12

FUNDING BONDS

939 Duty to retain bonds where issue treated as payment of interest

(1) This section applies if—

(a) there is an issue of funding bonds to a creditor in respect of a liability to pay interest on a debt incurred by a government, public institution, other public authority or body corporate,

(b) by virtue of section 582(1)(a) of ICTA or section 380 of ITTOIA 2005, the issue is treated as if it were a payment of an amount of interest ("the deemed interest"), and

(c) the person by or through whom the bonds are issued is required, under this Part, to deduct a sum representing income tax from the deemed interest.

(2) The person by or through whom the bonds are issued must retain bonds the value of which is, at the time of their issue, equal to income tax on the deemed interest at the [[F1]basic rate] in force for the tax year in which the bonds are issued.

(3) A person who retains bonds in accordance with subsection (2) is treated as complying with the duty to deduct a sum representing income tax from the deemed interest.

(4) The person may tender the bonds retained in satisfaction of any income tax to be collected from the person in respect of the deemed interest under Chapter 15 or 16.

[[F2](4A) If bonds are tendered in accordance with subsection (4), the Commissioners for Her Majesty's Revenue and Customs may tender the bonds in satisfaction of any amount that is payable by the Commissioners to the relevant creditor in connection with the relevant debt.

(4B) For the purposes of subsection (4A)—

(a) "relevant creditor" and "relevant debt" mean the creditor and the debt mentioned in subsection (1)(a), and

(b) a bond is to be taken to have the same value that it had at the time of its issue.

(4C) If bonds that are to be tendered in accordance with subsection (4) or (4A) are subject to restrictions on their tender or transfer, the restrictions do not prevent the bonds from being—

(a) tendered in accordance with that subsection, or

(b) transferred from the person tendering them to the person to whom they are tendered.**]**

F3(5) . . . .

(6) In this Chapter "funding bonds" includes any bonds, stocks, shares, securities or certificates of indebtedness.

Textual Amendments

F1 Words in s. 939(2) substituted (21.7.2008 with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 32**

F2 S. 939(4A)-(4C) inserted (21.7.2008 with effect in accordance with s. 134(5) of the amending Act) by Finance Act 2008 (c. 9), **s. 134(2)**

F3 S. 939(5) omitted (21.7.2008 with effect in accordance with s. 134(5) of the amending Act) by virtue of Finance Act 2008 (c. 9), **s. 134(3)**

940 Exception from duty to retain bonds

(1) This section applies if an issue of funding bonds is treated as a payment of interest ("the deemed interest") as mentioned in section 939(1) and—

(a) the person by or through whom the bonds are issued is required to retain bonds under section 939(2), but

(b) it is impracticable for the person to do so.

(2) The duty to deduct a sum representing income tax from the deemed interest under this Part does not apply if the person tells the Commissioners for Her Majesty's Revenue and Customs—

(a) the names and addresses of the persons to whom the bonds have been issued, and

(b) the amount of the bonds issued to each person.

(3) Accordingly—

(a) the duty to retain bonds under section 939(2) does not apply, and

(b) the provisions in Chapters 15 and 16 about the collection of income tax in respect of the deemed interest do not apply.

[F4940A No appropriate bond or combination of bonds

(1) This section applies if—

(a) the Commissioners for Her Majesty's Revenue and Customs hold one or more bonds tendered in accordance with section 939(4),

(b) the Commissioners wish to tender bonds in accordance with section 939(4A) in satisfaction of an amount payable to the relevant creditor, and

(c) the Commissioners consider that they do not hold a bond, or combination of bonds, that is appropriate for satisfying the amount payable.

(2) If requested to do so by the Commissioners, the bond issuer must secure that the Commissioners hold a bond, or combination of bonds, that the Commissioners consider to be appropriate for satisfying the amount payable.

(3) If requested to do so by the bond issuer, a person must assist the bond issuer to comply with subsection (2).

(4) The duty under subsection (2), or under subsection (3), does not apply if it would be impracticable for the bond issuer, or the other person, to comply with the duty.

(5) The matters which the Commissioners may take into account when considering whether or not a bond or combination of bonds is appropriate for satisfying the amount payable include—

(a) the value of a bond at the time of its issue,

(b) the interest which the relevant creditor, or any other person, has in a bond (including the nature or size of the interest), and

(c) the terms on which a bond is issued.

(6) For the purposes of this section—

(a) "bond issuer" means the person by or through whom bonds were issued, and

(b) "relevant creditor" and "relevant debt" have the same meanings as in section 939(4A).**]**

Textual Amendments

F4 S. 940A inserted (21.7.2008 with effect in accordance with s. 134(5) of the amending Act) by Finance Act 2008 (c. 9), **s. 134(4)**