



Income Tax Act 2007

2007 CHAPTER 3

PART 15

DEDUCTION OF INCOME TAX AT SOURCE

CHAPTER 15

COLLECTION: DEPOSIT-TAKERS, BUILDING SOCIETIES AND CERTAIN COMPANIES

Introduction

945 Overview of Chapter

- (1) This Chapter provides—
 - (a) for persons who have made payments within section 946 (“section 946 payments”) to make returns of the payments, and
 - (b) for the collection of income tax in respect of those payments.
- (2) Sections 947 and 948 contain definitions and other provisions in relation to the following basic concepts used in the Chapter: “return period” and “accounting period”.
- (3) Section 949 requires persons who have made section 946 payments to deliver returns of those payments made in return periods falling within accounting periods, and section 950 requires such persons to deliver returns of those payments made otherwise than in accounting periods.
- (4) Section 951 explains—
 - (a) how much income tax is due from persons in respect of section 946 payments made by them, and
 - (b) when that income tax must be paid.

- (5) Sections 952 to 955 allow persons who have made section 946 payments to make claims for income tax they have suffered to be set off against income tax payable by them in respect of the payments.
- (6) Sections 956 to 960 explain what happens in cases where income tax payable in respect of section 946 payments is not paid when it is due, or where returns are incomplete or incorrect.
- (7) Sections 961 and 962 contain supplementary provisions.
- (8) For further provisions applying to returns and set-off claims under this Chapter, see TMA 1970 (in particular section 113(1) (returns) and section 42 and Schedule 1A (claims)).

946 Payments within this section

The payments within this section are—

- (a) a payment from which a deposit-taker or building society is required to deduct a sum representing income tax under section 851,
- (b) a payment from which a UK resident company is required to deduct a sum representing income tax under—
 - (i) section 874(2) (payments of yearly interest),
 - (ii) section 889(4) (payments in respect of building society securities),
 - (iii) section 892(2) (certain payments of UK public revenue dividends),
 - (iv) section 901(4) (annual payments made by persons other than individuals),
 - (v) section 903(7) (patent royalties),
 - (vi) section 906(5) (royalty payments etc where the owner lives abroad),
 - (vii) section 910(2) (proceeds of a sale of patent rights paid to non-UK residents),
 - (viii) section 928(2) (chargeable payments connected with exempt distributions), or
 - (ix) section 944(2) (directions for deduction from payments to non-UK residents), and
- (c) a payment from which a company is required to deduct a sum representing income tax under section 919(2) (manufactured interest on UK securities: payments by UK residents etc).

947 Return periods

- (1) For the purposes of this Chapter, the return periods which fall within a person's accounting period are determined as follows.
- (2) If at least one quarter date falls within the accounting period, each of the following is a return period which falls within the accounting period—
 - (a) any complete quarter which falls within the accounting period, and
 - (b) any part of the accounting period which is not a complete quarter and which—
 - (i) ends with the first (or only) quarter date in that period, or
 - (ii) begins immediately after the last (or only) quarter date in that period.

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- (3) If no quarter date falls within the accounting period, the accounting period itself is to be treated as a return period which falls within the accounting period.
- (4) In this section—
 - “quarter” means a period of three months ending—
 - (a) unless paragraph (b) applies, with the last day of March, June, September or December, or
 - (b) if the person mentioned in subsection (1) is a building society, with the last day of February, May, August or November, and
 - “quarter date” means—
 - (a) unless paragraph (b) applies, the last day of March, June, September or December, or
 - (b) if the person mentioned in subsection (1) is a building society, the last day of February, May, August or November.

948 Meaning of “accounting period”

- (1) In this Chapter “accounting period”, in relation to a deposit-taker who is not a company, means a period for which the deposit-taker’s accounts are drawn up.
“Deposit-taker” has the same meaning as in Chapter 2 (see section 853).
- (2) See section 12 of ICTA (basis of, and periods for, assessment) for provision about accounting periods of companies.

Returns of income tax

949 Payments in an accounting period

- (1) This section applies if a person makes a section 946 payment on a date which falls within an accounting period of the person.
- (2) The person must deliver a return to an officer of Revenue and Customs for each return period—
 - (a) which falls within the accounting period, and
 - (b) in which the person makes a section 946 payment.
- (3) The person must deliver the return within 14 days after the end of the return period to which it relates.
- (4) The return must show the amount of—
 - (a) any section 946 payments made by the person in the return period, and
 - (b) the income tax payable by the person in respect of those payments (see section 951).

950 Payments otherwise than in an accounting period

- (1) This section applies if a person makes a section 946 payment on a date which does not fall within an accounting period of the person.
- (2) The person must deliver a return to an officer of Revenue and Customs within 14 days after the date on which the payment is made.

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- (3) The return must show the amount of—
- (a) the payment, and
 - (b) the income tax payable by the person in respect of that payment (see section 951).

Collection and payment of income tax

951 Collection and payment of income tax

- (1) Income tax in respect of a section 946 payment is due, from the person who makes the payment, on the date by which the return on which the payment must be included is required to be delivered.
- (2) The income tax due is equal to the sum which the person is required to deduct from the payment under the applicable provision mentioned in section 946.
- (3) The income tax is payable by the person without an officer of Revenue and Customs making any assessment.

Set-off

952 Conditions for a set-off claim

- (1) A person who makes a section 946 payment may make a set-off claim if conditions A and B are met at the end of a return period which falls within an accounting period of the person.
- (2) Condition A is that in the return period the person has—
 - (a) made a section 946 payment, or
 - (b) received a payment on which the person has suffered income tax by deduction.
- (3) Condition B is that at the end of the return period there is—
 - (a) a net amount of income tax suffered (see subsection (4)), and
 - (b) a net amount of income tax payable (see subsection (5)).
- (4) There is a net amount of income tax suffered at the end of a return period if—
 - (a) the person has received any payments on which income tax has been suffered by deduction in the return period or in any previous return period which falls within the accounting period, and
 - (b) the amount of income tax so suffered by the person on those payments exceeds the amount of such income tax treated as repaid for the accounting period to date as a result of any previous set-off claim.
- (5) There is a net amount of income tax payable at the end of a return period if—
 - (a) the person has made any section 946 payments in the return period or in any previous return period which falls within the accounting period, and
 - (b) the amount of income tax payable by the person in respect of those payments exceeds the amount of such income tax treated as paid for the accounting period to date as a result of any previous set-off claim.

953 How a set-off claim works

- (1) A set-off claim is a claim for the net amount of income tax suffered at the end of the return period to be set off against the net amount of income tax payable at the end of the return period.
- (2) The effect of a claim is that, to the extent of the set-off—
 - (a) the income tax comprised in the net amount of income tax suffered is treated as repaid, and
 - (b) the income tax comprised in the net amount of income tax payable is treated as paid.
- (3) Accordingly—
 - (a) any liability of the person making the set-off claim to pay any of the income tax treated as paid under subsection (2)(b) is discharged, and
 - (b) any of that income tax which has been paid is to be repaid to the person.
- (4) A set-off claim must be made in a return under section 949 for the return period.
- (5) A return may be made under that section for the purposes of making a set-off claim despite the fact that the person making the claim may not have made any section 946 payments in the return period.
- (6) Income tax suffered which is taken into account in a set-off claim may not also be taken into account for the purposes of—
 - (a) section 7(2) of ICTA (income tax deducted from payments to UK resident company to be set off against corporation tax), or
 - (b) section 11(3) of that Act (income tax deducted from payments to non-UK resident company to be set off against corporation tax).
- (7) Income tax suffered by a deposit-taker is to be taken into account in a set-off claim only if the payment on which the income tax is suffered is to be taken into account in calculating the deposit-taker's liability to corporation tax.

“Deposit-taker” has the same meaning as in Chapter 2 (see section 853).

954 Proceedings begun after a set-off claim is made

- (1) If a set-off claim has been made no proceedings for collecting income tax which would have to be discharged if the claim were allowed may be brought until the claim is finally determined.
- (2) Subsection (1) does not affect the date when the income tax is due.
- (3) Any income tax underpaid as a result of this section must be paid when the claim is finally determined.
- (4) In this section “proceedings” includes proceedings by way of distraint or attachment.

955 Proceedings begun before a set-off claim is made

- (1) This section applies if—
 - (a) a person has made a set-off claim, and
 - (b) before the claim was made, proceedings were brought for collecting income tax assessed, or interest on income tax assessed, under section 956 or 957.

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- (2) No effect is to be given to the set-off claim so as to affect or delay the collection or recovery of the income tax, or of interest on that income tax, until the claim is finally determined.
- (3) Any income tax overpaid as a result of this section must be repaid when the claim is finally determined.
- (4) In this section “proceedings” includes proceedings by way of distraint or attachment.

Assessments and errors

956 Assessments where section 946 payment included in return

- (1) This section applies if any income tax in respect of a section 946 payment which is included in a return under this Chapter has not been paid at or before the date mentioned in section 951.
- (2) An officer of Revenue and Customs may make an assessment on the person who made the payment.
- (3) Income tax may be assessed under this section whether or not it has been paid when the assessment is made.

957 Assessments in other cases

- (1) This section applies if an officer of Revenue and Customs thinks—
 - (a) that there is a section 946 payment which should have been included in a return under this Chapter and which has not been so included, or
 - (b) that a return under this Chapter is otherwise incorrect.
- (2) An officer of Revenue and Customs may make an assessment, to the best of the officer’s judgement, on the person who made the return, or who should have made one.

958 Payer’s duty to deliver amended return

- (1) This section applies if a person who has made a section 946 payment becomes aware that—
 - (a) anything which should have been included in a return delivered by the person under this Chapter has not been so included,
 - (b) anything which should not have been included in a return delivered by the person under this Chapter has been so included, or
 - (c) any other error has occurred in a return delivered by the person under this Chapter.
- (2) The person must deliver an amended return correcting the error to an officer of Revenue and Customs without delay.
- (3) If the person delivers an amended return such assessments, adjustments, set-offs or payments or repayments of income tax as are necessary for achieving the objective mentioned in subsection (4) must be made.

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- (4) The objective is that the resulting liabilities to income tax (including interest on unpaid or overpaid income tax) of the person or any other person are the same as they would have been if a correct return had been delivered.

959 Application of Income Tax Acts provisions about time limits for assessments

- (1) This section deals with the application of the provisions of the Income Tax Acts about time limits for making assessments.
- (2) So far as the provisions refer or relate to—
- (a) the tax year for which an assessment is made, or
 - (b) the year to which an assessment relates,
- they apply to assessments under this Chapter despite the fact that an assessment under this Chapter may relate to a return period which is not a tax year.
- (3) Subsection (4) applies if an assessment under this Chapter relates to income tax due in respect of a payment required to be included in a return for a return period under section 949 (payments in an accounting period).
- (4) In that case, for the purposes of the provisions mentioned in subsection (1), the assessment is treated as made for the tax year in which the return period ends.
- (5) Subsection (6) applies if an assessment under this Chapter relates to income tax due in respect of a payment required to be included in a return under section 950 (payments otherwise than in an accounting period).
- (6) In that case, for the purposes of the provisions mentioned in subsection (1), the assessment is treated as made for the tax year in which payment is made.

960 Further provisions about assessments

- (1) Income tax assessed on a person under this Chapter is due on the date mentioned in section 951 and an appeal against the assessment does not affect the date when the income tax is due under that section.
- (2) On the determination of an appeal against an assessment under this Chapter any income tax overpaid must be repaid.
- (3) Any income tax assessable under any one or more of the provisions of this Chapter may be included in a single assessment if all the income tax is due on the same date.

Supplementary

961 Relationship between Chapter and Income Tax Acts powers

Nothing in this Chapter affects any powers conferred by the Income Tax Acts for the recovery of income tax by means of an assessment or otherwise.

962 Power to make regulations modifying Chapter

- (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations modify, replace or supplement any of the provisions of this Chapter for the purpose of regulating the time and manner in which persons making section 946 payments—

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- (a) are to account for and pay income tax which is to be collected from them in respect of those payments, and
 - (b) are to be repaid income tax in respect of payments received by them.
- (2) In particular, regulations under this section may, in relation to income tax for which a person is liable to account,—
 - (a) modify any provision of Parts 2 to 6 of TMA 1970, or
 - (b) apply any such provision with or without modifications.
- (3) Regulations under this section may—
 - (a) make different provision for different kinds of payer,
 - (b) make different provision for different circumstances, and
 - (c) authorise the Commissioners for Her Majesty’s Revenue and Customs, if they think there are special circumstances justifying it, to make special arrangements in relation to—
 - (i) income tax for which a person is liable to account, or
 - (ii) the repayment of income tax suffered by a person.
- (4) Regulations under this section may contain incidental, supplemental, consequential and transitional provision and savings.
- (5) The Commissioners for Her Majesty’s Revenue and Customs must not make any regulations under this section unless a draft of them has been laid before and approved by a resolution of the House of Commons.
- (6) References in this Act and in any other enactment to any of the provisions of this Chapter are to be read as references to those provisions as modified, replaced or supplemented by provision made by regulations under this section.