



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 15

#### DEDUCTION OF INCOME TAX AT SOURCE

### CHAPTER 6

#### DEDUCTION FROM ANNUAL PAYMENTS AND PATENT ROYALTIES

#### *Introduction*

#### **898 Overview of Chapter**

- (1) This Chapter deals with the deduction of sums representing income tax from—
  - (a) qualifying annual payments, and
  - (b) royalties or other sums paid in respect of the use of patents.
- (2) See also—
  - (a) Chapter 11 (payments between companies etc) for an exception from the duties to deduct sums representing income tax under this Chapter,
  - (b) Chapter 4 of Part 8, which gives relief for certain payments from which sums representing income tax must be deducted under this Chapter, and
  - (c) section 615(3) of ICTA (exemption from tax in respect of certain pensions) which contains a further exception from the duties to deduct sums representing income tax under this Chapter.
- (3) If a payment to which a provision of this Chapter applies is also one to which section 906 applies, it is treated as not being a payment to which a provision of this Chapter applies.

*Status: Point in time view as at 03/02/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 6. (See end of Document for details)*

## **899 Meaning of “qualifying annual payment”**

- (1) In this Chapter “qualifying annual payment” means an annual payment that meets the conditions in subsections (2) to (5).
- (2) The payment must arise in the United Kingdom.
- (3) If the recipient is a person other than a company, the payment must be—
  - (a) a payment charged to income tax under—
    - (i) Chapter 7 of Part 4 of ITTOIA 2005 (purchased life annuity payments),
    - (ii) section 579 of that Act (royalties etc from intellectual property),
    - (iii) Chapter 4 of Part 5 of that Act (certain telecommunication rights: non-trading income), or
    - (iv) Chapter 7 of Part 5 of that Act (annual payments not otherwise charged), or
  - (b) a payment charged to income tax under Part 9 of ITEPA 2003 because section 609 or 611 of that Act applies to it (certain employment-related annuities).
- (4) If the recipient is a company, the payment must be—
  - (a) a payment charged to income tax as mentioned in subsection (3)(a), or
  - (b) a payment charged to corporation tax under Case III of Schedule D.
- (5) The payment must not be—
  - (a) interest,
  - (b) a qualifying donation as defined in section 339 of ICTA (donations to charity by companies),
  - (c) a payment which is a qualifying donation for the purposes of Chapter 2 of Part 8 (gift aid),
  - (d) a payment in relation to which income tax is treated as having been paid under section 494(3) (income tax treated as paid by beneficiary or settlor in relation to discretionary trust),
  - (e) a payment which would fall within paragraph (d) but for the fact that the trustees making the payment are non-UK resident, or
  - (f) an annual payment to which section 904 applies (annual payments for dividends or non-taxable consideration).

### *Duty to deduct from annual payments*

## **900 Deduction from commercial payments made by individuals**

- (1) This section applies to any payment made in a tax year if—
  - (a) it is a qualifying annual payment,
  - (b) the person who makes it is an individual, and
  - (c) it is made for genuine commercial reasons in connection with the individual's trade, profession or vocation.
- (2) The individual must, on making the payment, deduct from it a sum representing income tax on it at the basic rate in force for the tax year.

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- (3) Income tax equal to the sum required to be deducted is to be collected through the individual's self-assessment return (see Chapter 17).

## **901 Deduction from annual payments made by other persons**

- (1) This section applies to any payment made in a tax year if—
- (a) it is a qualifying annual payment, and
  - (b) the person who makes it is not an individual.
- (2) But this section does not apply if—
- (a) an individual's personal representatives make the payment,
  - (b) the individual would have been liable to make it if the individual had not died, and
  - (c) the payment would not have been made for genuine commercial reasons in connection with the individual's trade, profession or vocation, had it been made by the individual.
- (3) If the person who makes the payment has some modified net income for the tax year (see section 1025)—
- (a) the person must, on making it, deduct from it a sum representing income tax on it at the basic rate in force for the tax year, and
  - (b) income tax equal to the sum required to be deducted is to be collected through the person's self-assessment return (see Chapter 17).
- (4) If the person who makes the payment has no modified net income for the tax year the person by or through whom the payment is made must, on making it, deduct from it a sum representing income tax on it at [<sup>F1</sup>the basic rate in force for the tax year in which the payment is made] .
- (5) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under subsection (4)—
- (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.

### **Textual Amendments**

- F1** Words in s. 901(4) 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. 29](#)

## **<sup>F2</sup>902 Meaning of “applicable rate” in section 901**

### **Textual Amendments**

- F2** S. 902 omitted (21.7.2008 with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 1 para. 30](#)

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### *Duty to deduct from patent royalties*

#### **903 Deduction from patent royalties**

- (1) This section applies to any payment made in a tax year if—
  - (a) it is a payment of a royalty or other sum in respect of the use of a patent, and
  - (b) it meets the conditions in subsections (2) to (4).
- (2) The payment must not be—
  - (a) a qualifying annual payment, or
  - (b) an annual payment to which section 904 applies (annual payments for dividends or non-taxable consideration).
- (3) The payment must arise in the United Kingdom.
- (4) The payment must be one that is charged to income tax or corporation tax.
- (5) If the person who makes the payment is an individual—
  - (a) the person must, on making the payment, deduct from it a sum representing income tax on it at the basic rate in force for the tax year, and
  - (b) income tax equal to the sum required to be deducted is to be collected through the person's self-assessment return (see Chapter 17).
- (6) If the person who makes the payment is not an individual, and has some modified net income for the tax year (see section 1025)—
  - (a) the person must, on making the payment, deduct from it a sum representing income tax on it at the basic rate in force for the tax year, and
  - (b) income tax equal to the sum required to be deducted is to be collected through the person's self-assessment return (see Chapter 17).
- (7) If the person who makes the payment—
  - (a) is not an individual, and
  - (b) has no modified net income for the tax year,
 the person by or through whom the payment is made must, on making it, deduct from it a sum representing income tax on it at the basic rate in force for the tax year.
- (8) See Chapter 8 which makes special provision in relation to royalties (double taxation arrangements: deduction at treaty rate and EU companies: discretion to pay gross).
- (9) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under subsection (7)—
  - (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.

### *Supplementary*

#### **904 Annual payments for dividends or non-taxable consideration**

- (1) For the purposes of section 899(5)(f) and 903(2)(b) this section applies to an annual payment which meets the conditions in subsections (2) to (7).
- (2) The payment must be a payment charged to—

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- (a) income tax under Part 5 of ITTOIA 2005 [<sup>F3</sup>otherwise than as relevant foreign income] , or
  - (b) corporation tax under Case III of Schedule D.
- (3) The payment must be made under a liability incurred for consideration in money or money's worth all or any of which—
- (a) consists of a dividend or the right to receive a dividend, or
  - (b) is not required to be brought into account in calculating for the purposes of income tax or corporation tax the income of the person making the payment.
- (4) The payment must not be a payment of income—
- (a) which arises under a settlement made by one party to a marriage or civil partnership by way of provision for the other—
    - (i) after the dissolution or annulment of the marriage or civil partnership, or
    - (ii) while they are separated under an order of a court, or under a separation agreement, or if the separation is likely to be permanent, and
  - (b) which is payable to, or applicable for the benefit of, the other party.
- (5) The payment must not be made by an individual for genuine commercial reasons in connection with the individual's trade, profession or vocation.
- (6) The payment must not be made to an individual under a liability incurred at any time in consideration of the individual surrendering, assigning or releasing an interest in settled property to or in favour of a person with a subsequent interest.
- (7) The payment must not be a payment of an annuity granted in the ordinary course of a business of granting annuities.
- (8) In the application of this section to Scotland the reference in subsection (6) to settled property is to be read as a reference to property held in trust.

#### Textual Amendments

- F3** Words in s. 904(2)(a) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Income Tax Act 2007 \(Amendment\) Order 2009 \(S.I. 2009/23\)](#), arts. 1(1), **5(4)**

## 905 Interpretation of Chapter

In this Chapter “individual” includes a Scottish partnership if at least one partner is an individual.

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