



Corporation Tax Act 2010

2010 CHAPTER 4

[^{F1}PART 8B

TRADING PROFITS TAXABLE AT THE NORTHERN IRELAND RATE

[^{F1}CHAPTER 8

INTANGIBLE FIXED ASSETS

Textual Amendments

- F1** Pt. 8B inserted (with effect in accordance with s. 5 of the amending Act) by [Corporation Tax \(Northern Ireland\) Act 2015 \(c. 21\), s. 1](#)

Introductory

3570 Introductory

- (1) This Chapter makes provision about amounts which are treated by section 747 of CTA 2009 (intangible fixed assets held for purposes of trade) as receipts or expenses of a trade carried on by a Northern Ireland company.
- (2) In this Chapter “intangible fixed asset” has the same meaning as in Part 8 of CTA 2009 (see section 713 of that Act).

Calculating Northern Ireland profits or Northern Ireland losses

3570A Rules affecting calculation of Northern Ireland profits or losses

- (1) If a company is a Northern Ireland company in an accounting period, this section applies to the debits and credits that are given effect under section 747 of CTA 2009

Status: Point in time view as at 16/11/2017.

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(intangible fixed assets held for purposes of trade) as receipts or expenses of the company's trade in calculating the profits of the trade.

- (2) The Northern Ireland intangibles credits and Northern Ireland intangibles debits form part of the Northern Ireland profits or Northern Ireland losses of the trade.
- (3) Any other credits or debits to which this section applies form part of the mainstream profits or mainstream losses of the trade.
- (4) For the meaning of “Northern Ireland intangibles credits”, see section 357OB(2)(a) and (3) and 357OC(2).
- (5) For the meaning of “Northern Ireland intangibles debits”, see section 357OB(2)(b) and (4) and 357OC(3).

Northern Ireland intangibles credits and Northern Ireland intangibles debits

357OB Northern Ireland intangibles credits and debits: SMEs [^{F2}that are Northern Ireland employers]

- (1) This section applies to a company that—
 - (a) is a Northern Ireland company in an accounting period by virtue of the [^{F3}SME (Northern Ireland employer) condition] in section 357KA, and
 - (b) carries on a trade which is a qualifying trade by virtue of section 357KB(1) (trade other than excluded trade).
- (2) If the company does not carry on an excluded activity—
 - (a) the Northern Ireland intangibles credits for the accounting period are—
 - (i) the credits treated by section 747(2) of CTA 2009 as receipts of the qualifying trade for the period, except credits in respect of pre-commencement assets and realisation credits, and
 - (ii) the Northern Ireland element of each realisation credit for the period, and
 - (b) the Northern Ireland intangibles debits for the accounting period are—
 - (i) the debits treated by section 747(3) of CTA 2009 as expenses of the qualifying trade for the period, except debits in respect of pre-commencement assets and realisation debits, and
 - (ii) the Northern Ireland element of each realisation debit for the period.
- (3) If the company carries on an excluded activity, the Northern Ireland intangibles credits for the accounting period are—
 - (a) the credits treated by section 747(2) of CTA 2009 as receipts of the qualifying trade for the period, to the extent that—
 - (i) they are neither credits in respect of pre-commencement assets nor realisation credits, and
 - (ii) they are not attributable to assets held for the purposes of the excluded activity, and
 - (b) the Northern Ireland element of each realisation credit for the period.
- (4) If the company carries on an excluded activity, the Northern Ireland intangibles debits for the accounting period are—

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- (a) the debits treated by section 747(3) of CTA 2009 as expenses of the qualifying trade for the period, to the extent that—
 - (i) they are neither debits in respect of pre-commencement assets nor realisation debits, and
 - (ii) they are not attributable to assets held for the purposes of the excluded activity, and
 - (b) the Northern Ireland element of each realisation debit for the period.
- (5) For the meaning of “pre-commencement asset”, see section 357OH.
- (6) For the meaning of a “realisation credit” and “realisation debit” and of the “Northern Ireland element” of either, see sections 357OD and 357OE.

Textual Amendments

- F2** Words in s. 357OB heading inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 7 para. 10\(2\)](#)
- F3** Words in s. 357OB(1)(a) substituted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 7 para. 10\(3\)](#)

357OC Northern Ireland intangibles credits and debits: [^{F4}SMEs that are not Northern Ireland employers and] large companies

- (1) This section applies to a company that is a Northern Ireland company in an accounting period by virtue of [^{F5}the SME (election) condition or] the large company condition in section 357KA.
- (2) The Northern Ireland intangibles credits for the accounting period are—
- (a) the credits treated by section 747(2) of CTA 2009 as receipts of the qualifying trade for the period, to the extent that—
 - (i) they are neither credits in respect of pre-commencement assets nor realisation credits,
 - (ii) they are not attributable to assets held for the purposes of an excluded activity, and
 - (iii) they would in accordance with the separate enterprise principle in section 357NC be attributed to the company's NIRE, and
 - (b) the Northern Ireland element of each realisation credit for the period.
- (3) The Northern Ireland intangibles debits for the accounting period are—
- (a) the debits treated by section 747(3) of CTA 2009 as expenses of the qualifying trade for the period, to the extent that—
 - (i) they are neither debits in respect of pre-commencement assets nor realisation debits,
 - (ii) they are not attributable to assets held for the purposes of an excluded activity, and
 - (iii) they would in accordance with the separate enterprise principle in section 357NC be attributed to the company's NIRE, and
 - (b) the Northern Ireland element of each realisation debit for the period.
- (4) For the meaning of “pre-commencement asset”, see section 357OH.

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- (5) For the meaning of a “realisation credit” and “realisation debit” and of the “Northern Ireland element” of either, see sections 357OD and 357OE.

Textual Amendments

- F4** Words in s. 357OC heading inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 7 para. 11\(2\)](#)
- F5** Words in s. 357OC(1) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 7 para. 11\(3\)](#)

Realisation credits and realisation debits

357OD “Realisation credit” and “realisation debit”

In this Chapter, a “realisation credit” or “realisation debit”, in relation to a trade carried on by a company in an accounting period, means a credit or debit which—

- (a) is brought into account by the company under Part 8 of CTA 2009 for the period as a result of Chapter 4 of that Part (realisation of intangible fixed assets),
- (b) is treated under section 747 of that Act as a receipt or expense of the trade, and
- (c) does not relate to a pre-commencement asset.

357OE The Northern Ireland element of a realisation credit or debit

- (1) This section has effect for the purposes of this Chapter.
- (2) A realisation credit or realisation debit can have a “Northern Ireland element” only if—
 - (a) the intangible fixed asset to which it relates has been held by the company, in an accounting period in which it was a Northern Ireland company, wholly or partly for the purposes of a qualifying trade carried on by the company, except so far as the trade consists of an excluded activity, or
 - (b) in the case of a realisation credit, roll-over relief was previously given in respect of an asset which was so held.
- (3) The “Northern Ireland element” of a realisation credit or realisation debit is determined in accordance with section 357OF or 357OG.
- (4) “Roll-over relief” means relief under Chapter 7 of Part 8 of CTA 2009 (roll-over relief in case of realisation and reinvestment).

357OF Northern Ireland element: general rule

- (1) If a realisation credit or realisation debit arises under section 735 of CTA 2009 (asset written down for tax purposes), its Northern Ireland element is determined by the formula—

$$A \times \text{NIC} - \text{TWDV}$$

where—

A is the amount of the realisation credit or realisation debit;

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NI is the total net Northern Ireland debits (see subsection (2));

C is the cost of the asset recognised for tax purposes, as defined by section 742(2) or 743(2) of CTA 2009;

TWDV is the tax written-down value of the asset within the meaning of Part 8 of CTA 2009 (see Chapter 5 of that Part).

- (2) In subsection (1) “the total net Northern Ireland debits” means—
- (a) in a case within section 742 of CTA 2009, the total debits previously brought into account for tax purposes under Part 8 of CTA 2009 in respect of the asset so far as they were Northern Ireland intangibles debits for the purposes of this Chapter, less the total credits previously so brought into account for tax purposes so far as they were Northern Ireland intangibles credits for the purposes of this Chapter, or
 - (b) in a case within section 743 of CTA 2009, the total debits previously brought into account for tax purposes under Part 8 of CTA 2009 in respect of the asset so far as they were Northern Ireland intangibles debits for the purposes of this Chapter.
- (3) Subsection (4) applies if—
- (a) a realisation credit or realisation debit arises under section 736 of CTA 2009 (asset shown in balance sheet and not written down for tax purposes), or
 - (b) a realisation credit arises under section 738 of CTA 2009 (asset not shown in balance sheet).
- (4) The Northern Ireland element of the realisation credit or realisation debit is such proportion of the realisation credit or realisation debit as can on a just and reasonable basis be attributed to the holding of the asset for the purposes of the relevant Northern Ireland trade.
- (5) This section does not apply to a realisation credit if section 357OG (cases involving roll-over relief) applies.
- (6) In this section “the relevant Northern Ireland trade” means the qualifying trade carried on by the company in an accounting period in which it was a Northern Ireland company, except so far as the trade consists of an excluded activity.

357OG Northern Ireland element: credits where roll-over relief involved

- (1) This section applies if a realisation credit relates to an asset (“the new asset”) whose cost recognised for tax purposes is reduced as a result of roll-over relief previously given on the realisation of another asset (“the old asset”).
- (2) To calculate the Northern Ireland element of the realisation credit on the realisation of the new asset, take the following steps—
- Step 1* Calculate the part (if any) of the realisation credit that is attributable to the total net debits in respect of the new asset.
 - Step 2* Calculate the Northern Ireland element of the result of Step 1 by applying to it the proportion that the total net Northern Ireland debits bears to the total net debits.

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Step 3 If the realisation credit exceeds the total net debits, calculate any part of the excess that is attributable to the reduction in the cost of the new asset recognised for tax purposes that resulted from the roll-over relief.

Step 4 If, in the absence of roll-over relief, a proportion of the realisation credit on the realisation of the old asset would in accordance with section 357OF have been a Northern Ireland element, calculate the Northern Ireland element of the result of Step 3 by applying that proportion to it.

Step 5 If any remaining amount of the realisation credit has not been attributed under Step 1 or 3, calculate the Northern Ireland element of that remaining amount by determining how much of that remaining amount can on a just and reasonable basis be attributed to the holding of the new asset for the purposes of the relevant Northern Ireland trade.

(3) The Northern Ireland element of the realisation credit is the total of the Northern Ireland elements calculated at Steps 2, 4 and 5.

(4) In this section—

“the relevant Northern Ireland trade” means the qualifying trade carried on by the company in an accounting period in which it was a Northern Ireland company, except so far as the trade consists of an excluded activity;

“the total net debits” means—

- (a) in a case within section 742 of CTA 2009, the total debits previously brought into account for tax purposes under Part 8 of CTA 2009 in respect of the asset, less the total credits previously so brought into account (if any), or
- (b) in a case within section 743 of CTA 2009, the total debits previously brought into account for tax purposes under Part 8 of CTA 2009 in respect of the asset;

“the total net Northern Ireland debits” has the meaning given by section 357OF(2).

Pre-commencement assets

357OH Pre-commencement asset

- (1) An intangible fixed asset is a “pre-commencement asset” if it was created before the commencement day.
- (2) “The commencement day” has the meaning given by section 5(4) of the Corporation Tax (Northern Ireland) Act 2015.
- (3) Subsections (1) and (2) have effect for the purposes of this Chapter.
- (4) The general rule is that intangible fixed assets are treated for the purposes of subsection (1) as having been created before the commencement day if they were held (by the company or another person) at any time before that day.
- (5) The general rule is subject to the following provisions—
 - (a) section 357OI (goodwill);
 - (b) section 357OJ (assets representing production expenditure on films).

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357OI Goodwill

For the purposes of section 357OH(1) (pre-commencement asset), goodwill is treated as created—

- (a) before the commencement day in a case in which the business in question was carried on by the company or any other person at any time before that day, and
- (b) on or after the commencement day in any other case.

357OJ Assets representing production expenditure on films

- (1) In determining for the purposes of section 357OH(1) (pre-commencement asset) whether an asset representing production expenditure on a film was created before the commencement day or on or after that day, the asset is treated as created when the film is completed.
- (2) In this section—
 - (a) “completed” has the same meaning as in Part 15 of CTA 2009 (see section 1181(5) of that Act),
 - (b) “film” has the same meaning as in that Part (see section 1181 of that Act), and
 - (c) “production expenditure” has the same meaning as in that Part (see section 1184 of that Act).

357OK Fungible assets

- (1) This section and section 357OL have effect for the purposes of this Chapter in relation to assets to which section 858 of CTA 2009 (treatment of fungible assets) applies.
- (2) Section 858 of CTA 2009 applies as if—
 - (a) pre-commencement assets, and
 - (b) intangible fixed assets that are not pre-commencement assets,were assets of different kinds.
- (3) If section 858 of CTA 2009 applies (whether or not it is a case where subsection (2) has effect)—
 - (a) a single asset comprising pre-commencement assets is treated as itself being a pre-commencement asset, and
 - (b) a single asset comprising intangible fixed assets that are not pre-commencement assets is treated as itself being an asset which is not a pre-commencement asset.

357OL Realisation and acquisition of fungible assets

- (1) Subsection (2) applies if—
 - (a) a company realises a fungible asset, and
 - (b) apart from section 357OK(2), the asset would be treated as part of a single asset comprising both pre-commencement assets and assets that are not pre-commencement assets.
- (2) The realisation is treated as diminishing the single asset of the company comprising pre-commencement assets in priority to diminishing the single asset of the company comprising assets that are not pre-commencement assets.

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- (3) Fungible assets acquired by a company that would not otherwise be treated as pre-commencement assets are so treated so far as they are identified, in accordance with the following rules, with pre-commencement assets realised by the company.
- (4) Rule 1 is that assets acquired are identified with pre-commencement assets of the same kind realised by the company within the period beginning 30 days before and ending 30 days after the date of the acquisition.
- (5) The reference in subsection (4) to assets “of the same kind” is to assets that are, or but for section 357OK(2) would be, treated as part of a single asset because of section 858 of CTA 2009.
- (6) Rule 2 is that assets realised earlier are identified before assets realised later.
- (7) Rule 3 is that assets acquired earlier are identified before assets acquired later.
- (8) In this section—
 - “fungible asset” means an intangible fixed asset to which section 858 of CTA 2009 applies;
 - “realisation”, in relation to a fungible asset, has the same meaning as in Part 8 of CTA 2009 (see sections 734 and 856 of that Act).

Assets treated as pre-commencement assets

357OM Assets whose value derives from pre-commencement assets

- (1) This section applies if—
 - (a) on or after the commencement day a company (“the acquiring company”) acquires an intangible fixed asset (“the acquired asset”) from a person (“the transferor”),
 - (b) the acquired asset is created on or after the commencement day,
 - (c) the value of the acquired asset derives in whole or in part from any other asset (“the other asset”), and
 - (d) the other asset meets the pre-commencement status conditions.
- (2) In the hands of the acquiring company the acquired asset is treated for the purposes of this Chapter as a pre-commencement asset so far as its value derives from the other asset.
- (3) If only part of the value of the acquired asset derives from the other asset, this Chapter has effect as if there were separate assets representing the part that does so derive and the part that does not so derive.
- (4) For the purposes of this section the cases in which the value of an asset may be derived from any other asset include any case where—
 - (a) assets have been merged or divided,
 - (b) assets have changed their nature, or
 - (c) rights or interests in or over assets have been created or extinguished.
- (5) Section 357ON supplements this section.

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357ON The pre-commencement status conditions

- (1) For the purposes of section 357OM(1) the other asset meets the pre-commencement status conditions if—
 - (a) it was created before the commencement day, or
 - (b) on or after the commencement day the other asset has been a pre-commencement asset in the hands of the transferor or any other person.
- (2) Any apportionment necessary for the purposes of section 357OM(3) must be made on a just and reasonable basis.
- (3) Sections 357OH(4), 357OI and 357OJ (provisions explaining when assets are treated as created) apply for the purposes of section 357OM as they apply for the purposes of section 357OH(1).
- (4) Expressions used in this section have the same meaning as in section 357OM.

357OO Assets acquired in connection with disposals of pre-commencement assets

- (1) This section applies if—
 - (a) a person disposes of an asset which—
 - (i) in the case of an intangible fixed asset, is a pre-commencement asset, or
 - (ii) in the case of any other asset, was created before the commencement day, and
 - (b) a company acquires an intangible fixed asset directly or indirectly in consequence of the disposal or otherwise in connection with it.
- (2) The acquired asset is treated for the purposes of this Chapter as a pre-commencement asset in the company's hands.
- (3) For the purposes of this section a person “disposes of” an asset if—
 - (a) for the purposes of TCGA 1992, the person makes a part disposal of the asset or any other disposal of it,
 - (b) in the case of an intangible fixed asset, there is for the purposes of Part 8 of CTA 2009 a realisation of the asset, or
 - (c) the person grants a licence in respect of the asset.
- (4) For the purposes of this section it does not matter whether—
 - (a) the asset that the person disposes of is the same asset as the acquired asset,
 - (b) the acquired asset is acquired at the time of the disposal, or
 - (c) the acquired asset is acquired by merging assets or otherwise.

Interpretation

357OP Interpretation of Chapter

In this Chapter—

- “the commencement day” has the meaning given by section 357OH(2);
- “the Northern Ireland element”, in relation to a realisation credit or realisation debit, is to be read in accordance with section 357OE;

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“Northern Ireland intangibles credits” means credits brought into account under Part 8 of CTA 2009 that are in accordance with section 357OB(2)(a) or (3) or section 357OC(2) Northern Ireland intangibles credits;

“Northern Ireland intangibles debits” means debits brought into account under Part 8 of CTA 2009 that are in accordance with section 357OB(2)(b) or (4) or section 357OC(3) Northern Ireland intangibles debits;

“pre-commencement asset” has the meaning given by section 357OH;

“realisation credit” and “realisation debit” are to be read in accordance with section 357OD;

“roll-over relief” has the meaning given by section 357OE.]

Status:

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