



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVII

TAX AVOIDANCE

CHAPTER II

TRANSFERS OF SECURITIES

Other transfers of securities

729 Sale and repurchase of securities.

F1

Textual Amendments

F1 S. 729 repealed (with effect in accordance with s. 159(1)(10) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), s. 159(1), [Sch. 41 Pt. 5\(21\)](#), Note; [S.I. 1996/2646](#), [art. 2](#)

730 Transfers of income arising from securities

^{M1}(1) Where in any chargeable period the owner of any securities (“the owner”) sells or transfers the right to receive any interest payable (whether before or after the sale or transfer) in respect of the securities without selling or transferring the securities, then, for all the purposes of the Tax Acts, that interest, whether it would or would not be chargeable to tax apart from the provisions of this section—

- (a) shall be deemed to be the income of the owner or, in a case where the owner is not the beneficial owner of the securities and some other person (“a beneficiary”) is beneficially entitled to the income arising from the securities, the income of the beneficiary, and

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- (b) shall be deemed to be the income of the owner or beneficiary for that chargeable period, and
 - (c) shall not be deemed to be the income of any other person.
- (2) For the purposes of subsection (1) above, in the case of a sale or other realisation the proceeds of which are chargeable to tax [^{F2}by virtue of section 18(3B)] the interest so deemed to be the income of the owner or beneficiary shall be deemed to be equal in amount to the amount of those proceeds.
- (3) Nothing in subsection (1) above shall affect any provision of this Act authorising or requiring the deduction of income tax—
- (a) from any interest which, under that subsection, is deemed to be the income of the owner or beneficiary, or
 - (b) from the proceeds of any subsequent sale or other realisation of the right to receive that interest;
- but the proceeds of any such subsequent sale or other realisation shall not, for any of the purposes of the Tax Acts, be deemed to be the income of the seller or the person on whose behalf the right is otherwise realised.
- (4) Where—
- (a) the securities are of such a character that the interest payable in respect thereof may be paid without deduction of income tax, and
 - (b) the owner or beneficiary does not show that the proceeds of any sale or other realisation of the right to receive the interest which is deemed to be his income by virtue of this section have been charged to tax [^{F2}by virtue of section 18(3B)],
- then the owner or beneficiary shall be chargeable to tax under Case VI of Schedule D in respect of that interest, but shall be entitled to credit for any tax which that interest is shown to have borne.
- (5) For the purposes of subsection (4) above, in any case where, if the interest had been chargeable under Case IV or Case V of Schedule D, the computation of tax would have been made by reference to the amount received in the United Kingdom, the tax under Case VI shall be computed on the full amount of the sums which have been or will be received in the United Kingdom in the year of assessment or any subsequent year in which the owner remains the owner of the securities.
- (6) In relation to corporation tax, subsections (4) and (5) above shall not apply but, subject to the provisions of the Tax Acts about distributions, the owner or beneficiary shall, in respect of any interest which is deemed to be his income by virtue of this section, be chargeable to corporation tax under Case VI of Schedule D unless he shows that the proceeds of any sale or other realisation of the right to receive that interest have been charged to tax [^{F2}by virtue of section 18(3B)].
- (7) In this section—
- “interest” includes dividends, annuities and shares of annuities, and
 - “securities” includes stocks and shares.
- (8) The Board may by notice require any person to furnish them within such time as they may direct (not being less than 28 days), in respect of all securities of which he was the owner at any time during the period specified in the notice, with such particulars as they consider necessary for the purposes of this section and for the purpose of discovering whether—

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- (a) tax has been borne in respect of the interest on all those securities; or
- (b) the proceeds of any sale or other realisation of the right to receive the interest on the securities have been charged to tax [^{F2}by virtue of section 18(3B)].

Textual Amendments

F2 Words in s. 730(2)(4)(b)(6)(8) substituted (with effect in accordance with Sch. 7 para. 32 of the amending Act) by Finance Act 1996 (c. 8), Sch. 7 para. 23 (with Sch. 7 paras. 33-35)

Marginal Citations

M1 Source—1970 s.470; 1971 Sch.6 71

[^{F3}730A Treatment of price differential on sale and repurchase of securities.

- (1) Subject to subsection (8) below, this section applies where—
 - (a) a person (“the original owner”) has transferred any securities to another person (“the interim holder”) under an agreement to sell them;
 - (b) the original owner or a person connected with him is required to buy them back either—
 - (i) in pursuance of an obligation to do so imposed by that agreement or by any related agreement, or
 - (ii) in consequence of the exercise of an option acquired under that agreement or any related agreement;and
 - (c) the sale price and the repurchase price are different.
- (2) The difference between the sale price and the repurchase price shall be treated for the purposes of the Tax Acts—
 - (a) where the repurchase price is more than the sale price, as a payment of interest made by the repurchaser on a deemed loan from the interim holder of an amount equal to the sale price; and
 - (b) where the sale price is more than the repurchase price, as a payment of interest made by the interim holder on a deemed loan from the repurchaser of an amount equal to the repurchase price.
- (3) Where any amount is deemed under subsection (2) above to be a payment of interest, that payment shall be deemed for the purposes of the Tax Acts to be one that becomes due at the time when the repurchase price becomes due and, accordingly, is treated as paid when that price is paid.
- (4) Where any amount is deemed under subsection (2) above to be a payment of interest, the repurchase price shall be treated for the purposes of the Tax Acts (other than this section and sections 737A and 737C) and (in cases where section 263A of the 1992 Act does not apply) for the purposes of the 1992 Act—
 - (a) in a case falling within paragraph (a) of that subsection, as reduced by the amount of the deemed payment; and
 - (b) in a case falling within paragraph (b) of that subsection, as increased by the amount of the deemed payment.

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- (5) For the purposes of section 209(2)(d) and (da) any amount which is deemed under subsection (2)(a) above to be a payment of interest shall be deemed to be interest in respect of securities issued by the repurchaser and held by the interim holder.
- [^{F4}(6) For the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships)
- (a) interest deemed by virtue of subsection (2) above to be paid or received by any company shall be deemed to be interest under a loan relationship; and
 - (b) the debits and credits falling to be brought into account for the purposes of that Chapter so far as they relate to the deemed interest shall be those given by the use in relation to the deemed interest of an authorised accruals basis of accounting.
- (6A) Any question whether debits or credits brought into account in accordance with subsection (6) above in relation to any company—
- (a) are to be brought into account under section 82(2) of the Finance Act 1996 (trading loan relationships), or
 - (b) are to be treated as non-trading debits or credits,
- shall be determined (subject to Schedule 11 to that Act (insurance companies)) according to the extent (if any) to which the company is a party to the repurchase in the course of activities forming an integral part of a trade carried on by the company.]
- (7) The Treasury may by regulations provide for any amount which is deemed under subsection (2) above to be received as a payment of interest to be treated, in such circumstances and to such extent as may be described in the regulations, as comprised in income that is eligible for relief from tax by virtue of section 438, 592(2), 608(2) (a), 613(4), 614(2), (3) or (4), 620(6) or 643(2).
- (8) Except where regulations under section 737E otherwise provide, this section does not apply if—
- (a) the agreement or agreements under which provision is made for the sale and repurchase are not such as would be entered into by persons dealing with each other at arm's length; or
 - (b) all of the benefits or risks arising from fluctuations, before the repurchase takes place, in the market value of the securities sold accrue to, or fall on, the interim holder.
- (9) In this section references to the repurchase price are to be construed—
- (a) in cases where section 737A applies, and
 - (b) in cases where section 737A would apply if it were in force in relation to the securities in question,
- as references to the repurchase price which is or, as the case may be, would be applicable by virtue of section 737C(3)(b), (9) or (11)(c).]

Textual Amendments

- F3** Ss. 730A, 730B inserted (with effect in accordance with s. 80(5) of the amending Act) by Finance Act 1995 (c. 4), s. 80(1)
- F4** S. 730A(6)(6A) substituted for s. 730A(6) (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), Sch. 14 para. 37 (with Sch. 15)

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Modifications etc. (not altering text)

- C1** S. 730A applied (with modifications) (2.1.1996) by [The Sale and Repurchase of Securities \(Modification of Enactments\) Regulations 1995 \(S.I. 1995/3220\)](#), **regs. 1, 4**
- C2** S. 730A applied (with modifications) (2.1.1996) by [The Sale and Repurchase of Securities \(Modification of Enactments\) Regulations 1995 \(S.I. 1995/3220\)](#), **regs. 1, 5**
- C3** S. 730A modified by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), **s. 263A** (as inserted (with effect in accordance with s. 80(5) of the 1995 amending Act) by [Finance Act 1995 \(c. 4\)](#), **s. 80(4)**)
- C4** S. 730A(1) modified (1.1.1999) by [The European Single Currency \(Taxes\) Regulations 1998 \(S.I. 1998/3177\)](#), **regs. 1, 14**

[^{F3}730B Interpretation of section 730A.

- (1) For the purposes of section 730A agreements are related if they are entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).
- (2) References in section 730A to buying back securities—
 - (a) shall include references to buying similar securities; and
 - (b) in relation to a person connected with the original owner, shall include references to buying securities sold by the original owner or similar securities, notwithstanding (in each case) that the securities bought have not previously been held by the purchaser; and references in that section to repurchase or to a repurchaser shall be construed accordingly.
- (3) In section 730A and this section “securities” has the same meaning as in section 737A.
- (4) For the purposes of this section securities are similar if they entitle their holders—
 - (a) to the same rights against the same persons as to capital, interest and dividends, and
 - (b) to the same remedies for the enforcement of those rights,notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.
- (5) Section 839 (connected persons) applies for the purposes of section 730A.]

Textual Amendments

- F3** Ss. 730A, 730B inserted (with effect in accordance with s. 80(5) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **s. 80(1)**

VALID FROM 10/07/2003

[^{F5}730BE Exchange gains and losses on sale and repurchase of securities

- (1) For the purposes of the Corporation Tax Acts, a company has a relationship to which this section applies in any case where—
 - (a) the circumstances are as set out in section 730A(1)(a) and (b);

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- (b) the company is the repurchaser of the securities or (subject to subsection (11) below) the interim holder;
 - (c) the conditions in subsection (2) or (3) below are satisfied; and
 - (d) subsection (10) below does not prevent this section from applying, and references to a relationship to which this section applies, and to a company's being a party to such a relationship, shall be construed accordingly.
- (2) The conditions in this subsection are that—
- (a) the sale price and the repurchase price are expressed in a currency other than sterling;
 - (b) there is a difference between—
 - (i) the sterling equivalent of the sale price as at the date of the transfer of the securities to the interim holder (“the first sum”); and
 - (ii) the sterling equivalent of the sale price as at the date they are bought back by the repurchaser (“the second sum”); and
 - (c) the case is not one where section 93 of the Finance Act 1993 (accounts of a company in a currency other than sterling) applies in relation to the company.
- (3) The conditions in this subsection are that—
- (a) the case is one where section 93 of the Finance Act 1993 applies in relation to the company;
 - (b) the sale price and the repurchase price are expressed in a currency other than the relevant foreign currency (within the meaning of that section) in relation to the company; and
 - (c) there is a difference between—
 - (i) the relevant foreign currency equivalent of the sale price as at the date of the transfer of the securities to the interim holder (“the first sum”); and
 - (ii) the relevant foreign currency equivalent of the sale price as at the date they are bought back by the repurchaser (“the second sum”).
- (4) Where a company has a relationship to which this section applies and—
- (a) the company is the repurchaser and the first sum exceeds the second sum; or
 - (b) the company is the interim holder and the second sum exceeds the first sum,
- the amount of the excess shall be treated for the purposes of the Corporation Tax Acts as an exchange gain (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships)) arising to the company from the relationship.
- (5) Where a company has a relationship to which this section applies and—
- (a) the company is the repurchaser and the second sum exceeds the first sum; or
 - (b) the company is the interim holder and the first sum exceeds the second sum,
- the amount of the excess shall be treated for the purposes of the Corporation Tax Acts as an exchange loss (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships)) arising to the company from the relationship.
- (6) Where an exchange gain or loss is treated by virtue of subsection (4) or (5) above as arising to a company from a relationship to which this section applies—
- (a) Chapter 2 of Part 4 of the Finance Act 1996 shall have effect in relation to the exchange gain or loss as it would have effect if it were an exchange gain or loss (as the case may be) arising to the company from a loan relationship to which it is a party; but

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- (b) the only debits and credits to be brought into account for the purposes of that Chapter by virtue of this section in respect of the relationship to which this section applies are those relating to the exchange gains and losses, and, subject to paragraph (b) above, references in the Corporation Tax Acts to a loan relationship accordingly include a reference to a relationship to which this section applies.
- (7) Where a company has a relationship to which this section applies, the repurchase price shall be treated for the purposes of the Tax Acts (other than this section and sections 730A, 737A and 737C) and (in cases where section 263A of the 1992 Act does not apply) for the purposes of the 1992 Act—
- (a) in a case where an exchange gain arises to the company by virtue of subsection (4)(a) above or an exchange loss arises to the company by virtue of subsection (5)(b) above, as increased by the amount by which the first sum exceeds the second sum, and
- (b) in a case where an exchange gain arises to the company by virtue of subsection (4)(b) above or an exchange loss arises to the company by virtue of subsection (5)(a) above, as reduced by the amount by which the second sum exceeds the first sum.
- (8) Any question whether debits or credits brought into account in accordance with subsection (6) above in relation to any company—
- (a) are to be brought into account under section 82(2) of the Finance Act 1996 (trading loan relationships); or
- (b) are to be treated as non-trading debits or credits,
- shall be determined (subject to Schedule 11 to that Act (insurance companies)) according to the extent (if any) to which the company is a party to the repurchase in the course of activities forming an integral part of a trade carried on by that company.
- (9) To the extent that debits or credits fall to be brought into account by a company under section 82(2) of that Act in the case of a relationship to which this section applies, the company shall be regarded for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 as being a party to the relationship for the purposes of a trade carried on by the company.
- (10) Except where regulations under section 737E otherwise provide, this section does not apply if—
- (a) the agreement or agreements under which provision is made for the sale and repurchase are not such as would be entered into by persons dealing with each other at arm's length; or
- (b) all of the benefits and risks arising from fluctuations, before the repurchase takes place, in the market value of the securities sold accrue to, or fall on, the interim holder.
- (11) Where—
- (a) the repurchase price is more than the sale price, so that by virtue of section 730A(2)(a) a payment of interest is treated as made by the repurchaser on a deemed loan from the interim holder; but
- (b) the payment of interest is treated as made to a person other than the interim holder,

references to the “interim holder” in subsections (1), (4) and (5) above shall be read as references to the person to whom the payment of interest is treated as made.

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- (12) Any reference in this section to the “relevant foreign currency equivalent” of an amount is, in the case of any company, a reference to the amount’s equivalent expressed in the relevant foreign currency (within the meaning of section 93 of the Finance Act 1993) in relation to the company.
- (13) Expressions used in this section and in section 730A have the same meaning in this section as in that section.]

Textual Amendments

- F5** S. 730BB inserted (with effect in accordance with Sch. 38 para. 21(2) of the amending Act) by Finance Act 2003 (c. 14), Sch. 38 para. 12

[^{F6}730C Exchanges of gilts: traders etc.

- (1) This section has effect for the purposes of computing the profits and gains arising from any trade, profession or vocation carried on by any person in so far as the computation is such as to require amounts in respect of the acquisition or redemption of a gilt-edged security (including any strip) to be brought into account.
- (2) Where a gilt-edged security is exchanged by any person for strips of that security—
 - (a) the security shall be deemed to have been redeemed at the time of the exchange by the payment to that person of its market value; and
 - (b) that person shall be deemed to have acquired each strip for the amount which bears the same proportion to that market value as is borne by the market value of the strip to the aggregate of the market values of all the strips received in exchange for the security.
- (3) Where strips of a gilt-edged security are consolidated into a single security by being exchanged by any person for that security—
 - (a) each of the strips shall be deemed to have been redeemed at the time of the exchange by the payment to that person of the amount equal to its market value; and
 - (b) that person shall be deemed to have acquired the security for the amount equal to the aggregate of the market values of the strips given in exchange for the security.
- (4) References in this section to the market value of a security given or received in exchange for another are references to its market value at the time of the exchange.
- (5) Subsections (3) and (4) of section 473 shall not apply in the case of any exchange to which subsection (2) or (3) above applies.
- (6) Without prejudice to the generality of any power conferred by section 202 of the Finance Act 1996, the Treasury may by regulations make provision for the purposes of this section as to the manner of determining the market value at any time of any gilt-edged security (including any strip).
- (7) Regulations under subsection (6) above may—
 - (a) make different provision for different cases; and
 - (b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.

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(8) This section does not apply for the purposes of corporation tax.

(9) In this section—

“gilt-edged security” has the same meaning as in section [F750]; and

“strip” means anything which, within the meaning of section 47 of the ^{M2}Finance Act 1942, is a strip of a gilt-edged security.]

Textual Amendments

F6 S. 730C inserted (29.4.1996) by Finance Act 1996 (c. 8), Sch. 40 para. 7

F7 Word in s. 730C(9) substituted (with effect in accordance with s. 37(8) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 37(7)

Marginal Citations

M2 1942 c. 21.

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