



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XVII U.K.

#### TAX AVOIDANCE

### CHAPTER I U.K.

#### CANCELLATION OF [F<sup>1</sup>CORPORATION TAX] ADVANTAGES FROM CERTAIN TRANSACTIONS IN SECURITIES

#### 704 The prescribed circumstances. U.K.

<sup>M1</sup>The circumstances mentioned in section 703(1) are [F<sup>1</sup> as follows (and in this section references to “the section 703(1) company” are references to the company referred to in that section)]

(A) That in connection with the distribution of profits of a company, or in connection with the sale or purchase of securities being a sale or purchase followed by the purchase or sale of the same or other securities, the [F<sup>2</sup>section 703(1) company] receives an abnormal amount by way of dividend, and the amount so received is taken into account for any of the following purposes—

- (a) any exemption from [F<sup>3</sup>corporation tax], or
- (b) the setting-off of losses against profits or income, or
- (c) the giving of group relief, or
- (d) F<sup>4</sup> .....
- (e) F<sup>5</sup> .....
- (f) F<sup>6</sup> .....
- (g) F<sup>6</sup> .....

OR

(B) F<sup>7</sup> .....

*Status: Point in time view as at 21/07/2008. This version of this provision has been superseded.*

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F7  
 . . .

- (C) (1) That the [F8section 703(1) company] receives, in consequence of a transaction whereby any other person—
- (a) subsequently receives, or has received, an abnormal amount by way of dividend; F9 . . .
  - (b) F9 . . . . .
- a consideration which either—
- (i) is, or represents the value of, assets which are (or apart from anything done by the company in question would have been) available for distribution by way of dividend, or
  - (ii) is received in respect of future receipts of the company, or
  - (iii) is, or represents the value of, trading stock of the company,
- and the [F8section 703(1) company] so receives the consideration that [F10:it] does not pay or bear tax on it as income.
- (2) The assets mentioned in sub-paragraph (1) above do not include assets which (while of a description which under the law of the country in which the company is incorporated is available for distribution by way of dividend) are shown to represent a return of sums paid by subscribers on the issue of securities.

OR

- (D) (1) That in connection with the distribution of profits of a company to which this paragraph applies, the [F11section 703(1) company] so receives as is mentioned in paragraph C(1) above such a consideration as is therein mentioned.
- (2) The companies to which this paragraph applies are—
- (a) any company under the control of not more than five persons, and
  - (b) any other company which does not satisfy the condition that its shares or stocks or some class thereof (disregarding debenture stock, preferred shares or preferred stock), [F12are [F13included in the official UK list, and are dealt in on a recognised stock exchange in the United Kingdom] regularly or from time to time],
- so, however, that this paragraph does not apply to a company under the control of one or more companies to which this paragraph does not apply.
- (3) Subsections (2) to (6) of section 416 shall apply for the purposes of this paragraph.

OR

- (E) (1) That in connection with the transfer directly or indirectly of assets of a company to which paragraph D above applies to another such company, or in connection with any transaction in securities in which two or more companies to which paragraph D above applies are concerned, the [F14section 703(1) company] receives non-taxable consideration which is or represents the value of assets available for distribution by such a company, and which consists of any share capital or any security (as defined by section 254(1)) issued by such a company.
- (2) So far as sub-paragraph (1) above relates to share capital other than redeemable share capital, it shall not apply unless and except to the extent that the share capital is repaid (in a winding-up or otherwise), and, where

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section 703 applies to a [F15company] by virtue of sub-paragraph (1) above on the repayment of any share capital, any assessment to [F16corporation tax] under subsection (3) of that section shall be an assessment to [F16corporation tax] for [F17the accounting period] in which the share capital is repaid.

(3) In this paragraph—

“assets available for distribution” means assets which are, or apart from anything done by the company in question would have been, available for distribution by way of dividend, or trading stock of the company;

“non-taxable”, in relation to a [F18section 703(1) company] receiving consideration, means that the recipient does not pay or bear [F19corporation tax] on it as income (apart from the provisions of this Chapter);

“share” includes stock and any other interest of a member in a company;

and the references in sub-paragraph (2) above to the repayment of share capital include references to any distribution made in respect of any shares in a winding-up or dissolution of the company.

#### Textual Amendments

- F1** Words in s. 704 inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(2\)](#) (with Sch. 2)
- F2** Words in s. 704 para. A substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(3\)\(a\)](#) (with Sch. 2)
- F3** Words in s. 704 para. A(a) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(3\)\(b\)](#) (with Sch. 2)
- F4** S. 704 para. A(d) repealed (with effect in accordance with Sch. 3 para. 33(3) of the repealing Act) by [Finance Act 1998 \(c. 36\), Sch. 3 para. 33\(2\), Sch. 27 Pt. 3\(2\)](#), Note
- F5** S. 704 para. A(e) repealed (with effect in accordance with s. 20 of the repealing Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), Sch. 8 Pt. 2\(4\)](#), Note
- F6** S. 704 para. A(f)(g) repealed (6.4.2007 with effect in accordance with s. 1034(1) of the repealing Act) by virtue of [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(3\)\(c\), Sch. 3 Pt. 1](#) (with Sch. 2)
- F7** S. 704 para. B and word omitted (with effect in accordance with s. 66(5) of the repealing Act) by virtue of [Finance Act 2008 \(c. 9\), s. 66\(1\)\(a\)\(i\)](#)
- F8** Words in s. 704 para. C(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(6\)\(a\)](#) (with Sch. 2)
- F9** S. 704 para. C(1)(b) and preceding word omitted (with effect in accordance with s. 66(5) of the repealing Act) by virtue of [Finance Act 2008 \(c. 9\), s. 66\(1\)\(a\)\(ii\)](#)
- F10** Word in s. 704 para. C(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(6\)\(c\)](#) (with Sch. 2)
- F11** Words in s. 704 para. D(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(7\)](#) (with Sch. 2)
- F12** Words in s.704 para. D(2)(b) substituted (with effect in accordance with s.175(4) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 175\(1\)–\(3\)](#)
- F13** Words in s. 704 para. D(2)(b) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 26 para. 7\(7\)](#)
- F14** Words in s. 704 para. E(1) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(8\)\(a\)](#) (with Sch. 2)
- F15** Word in s. 704 para. E(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(8\)\(b\)\(i\)](#) (with Sch. 2)
- F16** Words in s. 704 para. E(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(8\)\(b\)\(ii\)](#) (with Sch. 2)
- F17** Words in s. 704 para. E(2) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), Sch. 1 para. 155\(8\)\(b\)\(iii\)](#) (with Sch. 2)

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- F18** Words in s. 704 para. E(3) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **Sch. 1 para. 155(8)(c)(i)** (with Sch. 2)
- F19** Words in s. 704 para. E(3) substituted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **Sch. 1 para. 155(8)(c)(ii)** (with Sch. 2)

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**Modifications etc. (not altering text)**

- C1** S. 704 modified (9.3.1999) by [The Corporation Tax \(Treatment of Unrelieved Surplus Advance Corporation Tax\) Regulations 1999 \(S.I. 1999/358\)](#), **regs. 1, 23**

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**Marginal Citations**

- M1** Source—1970 s.461; 1973 s.54, Sch.11 2(a), (b)

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