



# Income Tax (Trading and Other Income) Act 2005

## 2005 CHAPTER 5

### PART 4

#### SAVINGS AND INVESTMENT INCOME

### CHAPTER 2

#### INTEREST

##### *Other income taxed as interest*

#### **372 Building society dividends**

- (1) Any dividend paid by a building society is treated as interest for the purposes of this Act.
- (2) In this section “dividend”<sup>F1</sup> includes any distribution (whether or not described as a dividend)].

#### **Textual Amendments**

- F1** Words in s. 372(2) substituted (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 514](#) (with transitional provisions and savings in [Sch. 2](#))

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

- C1** S. 372 excluded (1.3.2013) by [The Building Societies \(Core Capital Deferred Shares\) Regulations 2013 \(S.I. 2013/460\)](#), regs. 1(1), [3\(1\)\(b\)](#) (with reg. 1(2))

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### 373 Open-ended investment company interest distributions

- (1) This section applies if the distribution accounts of an open-ended investment company show the total amount available for distribution to owners of shares in the company as available for distribution as yearly interest.
- (2) Subsection (1) is subject to [F<sup>2</sup>subsection (7)] .
- (3) For income tax purposes payments of yearly interest are treated as made to the owners of the shares by the company.
- (4) F<sup>3</sup> .....
- (5) The amount of the payment treated as made to each owner is so much of the total amount mentioned in subsection (1) as is proportionate to the owner's shares.
- (6) F<sup>3</sup> .....
- (7) This section does not apply if the open-ended investment company is an approved personal pension scheme.
- (8) See section 375 for the interpretation of this section and section 374.

#### Textual Amendments

- F2** Words in s. 373(2) substituted (1.4.2006 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), **reg. 91(2)**
- F3** S. 373(4)(6) repealed (with effect as mentioned in the commencing S.I.) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), ss. 17(1)(d), 19(1), 70, **Sch. 11 Pt. 2(3)**; S.I. 2006/982, **art. 2**

### 374 Date when interest payments under section 373 made

- (1) This section applies for determining the date on which payments of interest under section 373 are treated as made.
- (2) The date on which the payments are treated as made depends on whether a date is specified for any distribution for the distribution period in question by or in accordance with—
  - (a) the company's instrument of incorporation and its prospectus in issue for the time being (including any supplements), or
  - (b) in the case of an open-ended investment company which is part of an umbrella company, such parts of those documents of the umbrella company as apply to the open-ended investment company.
- (3) If such a date is so specified, the payments are treated as made on that date.
- (4) If no such date is so specified, the payments are treated as made on the last day of that period.

### 375 Interpretation of sections 373 and 374

- (1) In sections 373 and 374 and this section—
 

“approved personal pension scheme” has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),

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“distribution” includes investment on behalf of an owner of shares in respect of the owner's accumulation shares,

“distribution accounts” means the accounts showing how the total amount available for distribution to owners of shares is calculated,

“distribution period” means the period by reference to which that amount is ascertained,

“the OEIC Regulations” means the Open-ended Investment Companies (Tax) Regulations 1997 (S.I. 1997/1154),

“open-ended investment company” has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (11) of ICTA, as inserted by regulation 10 of the OEIC Regulations),

“owner of shares” has the same meaning as in that Chapter (see section 468(10) and (15) of that Act, as so inserted), and

[<sup>F4</sup>“umbrella company” has the meaning given by section 615 of CTA 2010.]

- (2) In subsection (1) “accumulation share” means a share in respect of which income is credited periodically to the capital part of the company's scheme property.
- (3) In subsection (2) “scheme property” has the same meaning as in Chapter 3 of Part 12 of ICTA (unit trust schemes etc.) (see section 468(10) and (13) of ICTA, as inserted by regulation 10 of the OEIC Regulations).

#### Textual Amendments

- F4** Words in s. 375(1) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 452](#) (with [Sch. 2](#))

### 376 Authorised unit trust interest distributions

- (1) This section applies if the distribution accounts of an authorised unit trust show the total amount available for distribution to unit holders as available for distribution as yearly interest.
- (2) Subsection (1) is subject to [<sup>F5</sup>subsection (7)] .
- (3) For income tax purposes payments of yearly interest are treated as made to the unit holders.
- (4) <sup>F6</sup>.....
- (5) The amount of the payment treated as made to each unit holder is so much of the total amount mentioned in subsection (1) as is proportionate to the unit holder's rights.
- (6) <sup>F6</sup>.....
- (7) This section does not apply if the authorised unit trust is an approved personal pension scheme.
- (8) See section 378 for the interpretation of this section and section 377.

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### Textual Amendments

- F5** Words in s. 376(2) substituted (1.4.2006 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Authorised Investment Funds \(Tax\) Regulations 2006 \(S.I. 2006/964\)](#), **reg. 91(3)**
- F6** S. 376(4)(6) repealed (with effect as mentioned in the commencing S.I.) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), ss. 17(1)(e), 19(1), 70, **Sch. 11 Pt. 2(3)**; S.I. 2006/982, **art. 2**

### 377 Date when interest payments under section 376 made

- (1) This section applies for determining the date on which payments of interest under section 376 are treated as made.
- (2) The date on which the payments are treated as made depends on whether a date is specified by or in accordance with the trust's terms for any distribution for the distribution period in question.
- (3) If such a date is so specified, the payments are treated as made on that date.
- (4) If no such date is so specified, the payments are treated as made on the last day of that period.

### 378 Interpretation of sections 376 and 377

In sections 376 and 377—

“approved personal pension scheme” has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of that Act),

“distribution” includes investment on behalf of a unit holder in respect of the holder's accumulation units,

“distribution accounts” means the accounts showing how the total amount available for distribution to unit holders is ascertained, and

“distribution period” means the period by reference to which that amount is ascertained.

### [<sup>F7</sup>378A Offshore fund distributions

- (1) This section applies where—
  - (a) a dividend is paid by an offshore fund, and
  - (b) the offshore fund fails to meet the qualifying investments test at any time in the relevant period.
- (2) The dividend is treated as interest for income tax purposes.
- (3) For the purposes of this section, an offshore fund fails to meet the qualifying investments test if the market value of the fund's qualifying investments exceeds 60% of the market value of all of the assets of the fund (excluding cash awaiting investment).
- (4) “The relevant period” means—
  - (a) the relevant period of account of the offshore fund, or
  - (b) if longer, the period of 12 months ending on the last day of that period.
- (5) “The relevant period of account” means—

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- (a) the last period of account ending before the dividend is paid, in a case in which the profits available for distribution at the end of that period (and not used since then by distribution or otherwise) equal or exceed the amount of the dividend (aggregated with any other distribution made by the offshore fund at the same time), and
  - (b) the period of account in which the dividend is paid, in any other case.
- (6) This section applies to a manufactured overseas dividend if, and only if, it is representative of a distribution to which this section would apply.
- (7) In this section—
- “dividend” includes any distribution that (but for this section) would be treated as a dividend for income tax purposes;
  - “manufactured overseas dividend” has the same meaning as in Chapter 2 of Part 11 of ITA 2007 (manufactured payments);
  - “offshore fund” has the same meaning as in <sup>F8</sup>section 354 of TIOPA 2010 (see sections 355 to 363 of that Act);
  - “qualifying investments” has the meaning given in section 494 of CTA 2009.]

#### Textual Amendments

- F7** S. 378A inserted (with effect in accordance with s. 39(5) of the amending Act) by [Finance Act 2009 \(c. 10\), s. 39\(3\)](#)
- F8** Words in s. 378A(7) substituted (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 168](#) (with [Sch. 9 paras. 1-9, 22](#))

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

- C2** S. 378A applied (1.12.2009) (with effect in accordance with art. 1(2)(3) of, Sch. 1 to the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\), regs. 1\(1\), 96\(3\)\(a\)](#)

### 379 <sup>F9</sup>Payments by registered societies or certain co-operatives]

- (1) Any dividend, bonus or other sum payable to a shareholder in—
- (a) <sup>F10</sup>registered society], or
  - (b) a UK agricultural or fishing co-operative,
- is treated as interest for income tax purposes if it is payable by reference to the amount of the shareholder's holding in its share capital.
- (2) In subsection (1)—
- <sup>F11</sup>“registered society” means—
  - (a) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014,
  - (b) a society registered or treated as registered under the Industrial and Provident Societies Act (Northern Ireland) 1969,
  - (c) a society registered as a credit union under the Credit Unions (Northern Ireland) Order 1985 ( S.I. 1985/1205 (N.I. 12)), or
  - (d) an SCE formed in accordance with Council Regulation ( EC ) No [1435/2003](#) on the Statute for a European Cooperative Society,] and

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“UK agricultural or fishing co-operative” means a co-operative association—

- (a) which is established in the United Kingdom and UK resident, and
  - (b) whose primary object is assisting its members in—
    - (i) carrying on agricultural or horticultural businesses on land occupied by them in the United Kingdom, or
    - (ii) carrying on businesses consisting in the catching or taking of fish or shellfish.
- (3) In subsection (2) “co-operative association” means a body with a written constitution from which the Secretary of State considers that it is in substance a co-operative association.
- (4) For the purposes of subsection (3), the Secretary of State must have regard to the way in which the body's constitution provides for its income to be applied for its members' benefit and all other relevant provisions.
- (5) In Northern Ireland subsections (3) and (4) apply with the substitution for “the Secretary of State” of “the Department of Agriculture and Rural Development”.

#### Textual Amendments

- F9** S. 379 heading substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 94\(2\)](#) (with Sch. 5)
- F10** Words in s. 379(1)(a) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 94\(3\)](#) (with Sch. 5)
- F11** Words in s. 379(2) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 94\(4\)](#) (with Sch. 5) (as amended by Finance Act 2014 (c. 26), Sch. 39 paras. 9, 15)

### 380 Funding bonds

- (1) This section applies to the issue of funding bonds to a creditor in respect of a liability to pay interest on a debt incurred by a government, public institution, other public authority or body corporate.
- (2) The issue is treated for income tax purposes as if it were the payment of so much of that interest as equals the market value of the bonds at their issue.
- (3) In this section “funding bonds” includes any bonds, stocks, shares, securities or certificates of indebtedness [<sup>F12</sup> (but does not include any instrument providing for payment in the form of goods or services or a voucher)] .

#### Textual Amendments

- F12** Words in s. 380(3) inserted (with effect in accordance with Sch. 11 para. 12(2) of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 11 para. 7](#)

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

- C3** S. 380 modified (7.4.2005) by [Finance Act 2005 \(c. 7\), s. 55, Sch. 2 para. 10](#)

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- C4** S. 380 modified (1.4.2010) by [Income Tax Act 2007 \(c. 3\)](#), s. 564M(2) (as inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 2 para. 14(2)** (with Sch. 9 paras. 1-9, 22))

### [<sup>F13</sup>380AFSCS payments representing interest

- (1) Any payment representing interest which is made under the FSCS is treated as interest for the purposes of this Act.
- (2) “Payment representing interest” means a payment calculated in the same way as interest which would have been paid to the recipient but for the circumstances giving rise to the making of payments under the FSCS.
- (3) Where a payment representing interest is made net of an amount equal to a sum representing income tax that would have been deducted on the payment of interest, the amount treated as interest by this section is the aggregate of the payment representing interest and that sum.
- (4) This section applies to payments made under the FSCS whether or not they are made (in whole or in part) on behalf of the Treasury or any other person.
- (5) In this section “the FSCS” means the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000).]

#### Textual Amendments

- F13** S. 380A inserted (with effect in accordance with s. 33(5) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), s. **33(3)**

### 381 Discounts

- (1) All discounts, other than discounts in deeply discounted securities, are treated as interest for the purposes of this Act.
- (2) In this section “deeply discounted securities” means securities to which Chapter 8 of this Part applies (profits from deeply discounted securities).

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

- C5** S. 381 applied (1.4.2010) by [Income Tax Act 2007 \(c. 3\)](#), s. **564R(2)** (as inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 2 para. 19(2)** (with Sch. 9 paras. 1-9, 22))

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