



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 4 **U.K.**

SAVINGS AND INVESTMENT INCOME

CHAPTER 3 **U.K.**

DIVIDENDS ETC. FROM UK RESIDENT COMPANIES [^{F1}AND TAX [^{F2}TREATED AS PAID] IN RESPECT OF CERTAIN DISTRIBUTIONS]

Textual Amendments

- F1** Words in Pt. 4 Ch. 3 heading substituted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 2](#)
- F2** Words in Pt. 4 Ch. 3 heading substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 3](#)

Introduction

382 Contents of Chapter **U.K.**

(1) This Chapter—

- (a) imposes a charge to income tax on dividends and other distributions of UK resident companies (see section 383),
- (b) treats dividends as paid in some circumstances (see sections 386 to 391), ^{F3}...
- (c) makes special provision where the charge is in respect of shares awarded under [^{F4}a Schedule 2] share incentive plan (see sections 392 to 396)[^{F5}, and
- (d) treats distributions as made in some circumstances (see section 396A).]

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (2) This Chapter also makes provision about ^{F6}... tax being treated as paid and reliefs available in respect of certain distributions which applies whether or not the distributions are otherwise dealt with under this Chapter (see sections [^{F7}399] to 401).
- (3) For exemptions from the charge under this Chapter, see in particular—
 Chapter 3 of Part 6 (income from individual investment plans),
 Chapter 5 of that Part (venture capital trust dividends),
 section 770 (amounts applied by SIP trustees acquiring dividend shares or retained for reinvestment), and
 section 498 of ITEPA 2003 (no charge on shares ceasing to be subject to SIP in certain circumstances).
- (4) In this Chapter “dividends” does not include income treated as arising under section 410 (stock dividends).

Textual Amendments

- F3** Word in s. 382(1)(b) omitted (with effect in accordance with s. 19(10) of the amending Act) by virtue of [Finance Act 2015 \(c. 11\), s. 19\(3\)](#)
- F4** Words in s. 382(1)(c) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\), Sch. 8 paras. 54, 89](#) (with [Sch. 8 paras. 90-96](#))
- F5** S. 382(1)(d) and word inserted (with effect in accordance with s. 19(10) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 19\(3\)](#)
- F6** Words in s. 382(2) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 1 para. 4\(a\)](#)
- F7** Word in s. 382(2) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 1 para. 4\(b\)](#)

Charge to tax on dividends and other distributions

383 Charge to tax on dividends and other distributions **U.K.**

- (1) Income tax is charged on dividends and other distributions of a UK resident company.
- (2) For income tax purposes such dividends and other distributions are to be treated as income.
- (3) For the purposes of subsection (2), it does not matter that those dividends and other distributions are capital apart from that subsection.

384 Income charged **U.K.**

- (1) Tax is charged under this Chapter on the amount or value of the dividends paid and other distributions made in the tax year.
- (2) Subsection (1) is subject to—
 section 393(2) and (3) (later charge where cash dividends retained in SIPs are paid over), and
 section 394(3) (distribution when dividend shares cease to be subject to SIP).

^{F8}(3)

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

Textual Amendments

- F8** S. 384(3) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 1 para. 5**

385 Person liable **U.K.**

- (1) The person liable for any tax charged under this Chapter is—
- (a) the person to whom the distribution is made or is treated as made (see Part 6 of ICTA and sections 386(3) [^{F9}, 389(3) and 396A]), or
 - (b) the person receiving or entitled to the distribution.
- (2) Subsection (1) is subject to—
- section 393(4) (later charge where cash dividends retained in SIPs are paid over), and
 - section 394(4) (distribution when dividend shares cease to be subject to SIP).

Textual Amendments

- F9** Words in s. 385(1)(a) substituted (with effect in accordance with s. 19(10) of the amending Act) by Finance Act 2015 (c. 11), **s. 19(4)**

^{F10}Purchase by company of exempt employee shareholder shares

Textual Amendments

- F10** S. 385A and cross-heading inserted (1.9.2013) by Finance Act 2013 (c. 29), **Sch. 23 paras. 16, 38; S.I. 2013/1755, art. 2**

385A No charge to tax on purchase by company of exempt employee shareholder shares **U.K.**

- (1) No tax is charged under this Chapter on the amount or value of a payment made by a company on the purchase of shares from an individual if—
- (a) the payment is made in respect of shares in the company,
 - (b) the shares are exempt employee shareholder shares, and
 - (c) at the time of the disposal, the individual is not an employee of, or an office-holder in, the employer company or an associated company of that company.
- (2) In this section—
- “exempt employee shareholder share”, “employer company” and “associated company” have the same meaning as in sections 236B to 236D of TCGA 1992 (capital gains tax treatment of employee shareholder shares);
 - “in respect of shares in the company” has the same meaning as in Part 23 of CTA 2010 (company distributions) (see section 1113 of that Act).]

Status: Point in time view as at 15/09/2016.

Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)*

Amounts treated as dividends

386 Open-ended investment company dividend distributions U.K.

- (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 dividends.
- (2) Subsection (1) is subject to subsection (5).
- (3) For income tax purposes dividends are treated as paid to the owners of the shares by the company.
- (4) The amount of the dividends treated as paid to each owner is so much of the total amount mentioned in subsection (1) as is proportionate to the owner's shares.
- (5) This section does not apply if the open-ended investment company is an approved personal pension scheme.
- (6) See section 388 for the interpretation of this section and section 387.

387 Date when dividends paid under section 386 U.K.

- (1) This section applies for determining the date on which dividends are treated as paid under section 386.
- (2) The date on which the dividends are treated as paid depends on whether a date is specified 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 dividends are treated as paid on that date.
- (4) If no such date is so specified, the dividends are treated as paid on the last day of that period.

388 Interpretation of sections 386 and 387 U.K.

- (1) In sections 386 and 387 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),
 - “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),

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“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

[^{F11}“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

F11 Words in s. 388(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. 453](#) (with [Sch. 2](#))

389 Authorised unit trust dividend distributions **U.K.**

- (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 dividends.
- (2) Subsection (1) is subject to subsection (6).
- (3) For income tax purposes dividends are treated as paid to the unit holders.
- (4) The amount of the dividends treated as paid to each unit holder is so much of the total amount mentioned in subsection (1) as is proportionate to the unit holder's rights.
- (5) The dividends are treated as paid on the shares and by the company referred to in [^{F12}section 617(1) of CTA 2010] (which relates to the trustees of an authorised unit trust being treated as a UK resident company in which the unit holders' rights are shares).
- (6) This section does not apply if the authorised unit trust is an approved personal pension scheme.
- (7) See section 391 for the interpretation of this section and section 390.

Textual Amendments

F12 Words in s. 389(5) 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. 454](#) (with [Sch. 2](#))

390 Date when dividends paid under section 389 **U.K.**

- (1) This section applies for determining the date on which dividends are treated as paid under section 389.

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (2) The date on which the dividends are treated as paid 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 dividends are treated as paid on that date.
- (4) If no such date is so specified, the dividends are treated as paid on the last day of that period.

391 Interpretation of sections 389 and 390 **U.K.**

In sections 389 and 390—

“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.

Shares in [F¹³Schedule 2] share incentive plans (“SIPs”)

Textual Amendments

F13 Words in s. 392 cross-heading substituted (6.4.2014) by Finance Act 2014 (c. 26), Sch. 8 paras. 55, 89 (with Sch. 8 paras. 90-96)

392 SIP shares: introduction **U.K.**

- (1) Sections 393 to 395 contain special rules about the charge under this Chapter in respect of shares awarded to an individual under [F¹⁴a Schedule 2] share incentive plan.
- (2) Those sections only apply if condition A or B was met at the time the shares in question were so awarded.
- (3) Condition A is that—
 - (a) the earnings from the eligible employment were general earnings (see section 7(3) of ITEPA 2003) to which any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 applied, or
 - (b) if there had been any earnings from it, they would have been such earnings.
- (4) In subsection (3)—
 - (a) “the eligible employment” means the employment resulting in the individual meeting the employment requirement in relation to the plan, and
 - (b) the reference to any of the charging provisions of Chapter 4 or 5 of Part 2 of ITEPA 2003 has the same meaning as it has in the employment income Parts of that Act (see sections 14(3) and 20(3) of that Act).
- (5) Condition B is that—
 - (a) the shares were awarded before 6th April 2003, and

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (b) the individual was liable for tax under Schedule E in respect of the relevant employment.
- (6) In subsection (5) “the relevant employment” means the employment by reference to which the individual met the requirements in paragraph 14 of Schedule 8 to FA 2000 (employee share ownership plans: the employment requirement) in relation to the plan.
- (7) See section 396 for the general interpretation of this section and sections 393 to 395.

Textual Amendments

F14 Words in s. 392(1) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 56](#), 89 (with [Sch. 8 paras. 90-96](#))

393 Later charge where cash dividends retained in SIPs are paid over U.K.

- (1) This section applies if a cash dividend is paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 (cash dividend paid over if not reinvested etc.).
- (2) Tax charged under this Chapter is charged for the tax year in which the cash dividend is paid over instead of the tax year in which it was originally paid.
- (3) Tax so charged is charged on the amount of the cash dividend paid over.
- (4) The person liable for any tax so charged is the participant.
- ^{F15}(5)
- (6) For the purposes of this Chapter, the question whether a cash dividend paid over to a participant under paragraph 68(4) of Schedule 2 to ITEPA 2003 is a dividend paid by a company that is UK resident is determined by reference to the tax year in which the dividend was originally paid.

Textual Amendments

F15 [S. 393\(5\)](#) omitted (with effect in accordance with [Sch. 1 para. 73](#) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 6](#)

394 Distribution when dividend shares cease to be subject to SIP U.K.

- (1) This section applies if dividend shares cease to be subject to [^{F16}a Schedule 2] share incentive plan before the end of the period of 3 years beginning with the date on which the shares were acquired on the participant's behalf.
- (2) For income tax purposes a distribution is treated as made to the participant in the tax year in which the shares cease to be subject to the plan.
- (3) The amount of the distribution treated as made is the amount of the cash dividend applied to acquire the shares on the participant's behalf, so far as it represents a cash dividend paid in respect of plan shares in a UK resident company.
- [^{F17}(3A) But if the shares cease to be subject to the plan by virtue of a provision of the kind mentioned in paragraph 65(2) of Schedule 2 to ITEPA 2003 (provision requiring dividend shares to be offered for sale), the amount of the distribution treated as made

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

is the amount equal to the relevant fraction of the market value of the shares at the time they are offered for sale if that amount is less than the amount given by subsection (3).

(3B) For the purposes of subsection (3A) “the relevant fraction” is—

A B

where—

A is so much of the amount of the cash dividend applied to acquire the shares on the participant's behalf as represents a cash dividend paid in respect of plan shares in a UK resident company, and

B is the amount of the cash dividend applied to acquire the shares on the participant's behalf.

(3C) Paragraph 92(2) of Schedule 2 to ITEPA 2003 (market value of shares subject to a restriction) applies for the purposes of subsection (3A).]

(4) The person liable for any tax charged on the distribution as a result of this section is the participant.

^{F18}(5)

(6) [^{F19}For] the purposes of this Chapter, the question whether the distribution under subsection (2) is a distribution by a company that is UK resident is determined by reference to the year in which the company paid the dividend applied to acquire the shares on the participant's behalf.

(7) For rules identifying shares ceasing to be subject to [^{F20}Schedule 2] share incentive plans, see section 508 of ITEPA 2003.

Textual Amendments

- F16** Words in s. 394(1) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 57\(2\)](#), 89 (with [Sch. 8 paras. 90-96](#))
- F17** S. 394(3A)-(3C) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 57\(3\)](#), 89 (with [Sch. 8 paras. 90-96](#))
- F18** S. 394(5) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 7\(a\)](#)
- F19** Word in s. 394(6) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 7\(b\)](#)
- F20** Words in s. 394(7) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 57\(4\)](#), 89 (with [Sch. 8 paras. 90-96](#))

395 Reduction in tax due in cases within section 394 **U.K.**

(1) This section applies if—

- (a) a person is liable to tax as a result of section 394, and
- (b) any tax is paid on any capital receipts under section 501 of ITEPA 2003 (charge on capital receipts in respect of plan shares) in respect of the shares that cease to be subject to the [^{F21}Schedule 2] share incentive plan.

(2) The tax due is to be reduced by an amount equal to the total tax so paid.

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

- (3) In subsection (2) “the tax due” means the amount of tax due as a result of section 394
^{F22}....
- (4) For rules identifying shares ceasing to be subject to [^{F23}Schedule 2] share incentive plans, see section 508 of ITEPA 2003.

Textual Amendments

- F21** Words in s. 395(1)(b) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 58, 89](#) (with [Sch. 8 paras. 90-96](#))
- F22** Words in s. 395(3) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 8](#)
- F23** Words in s. 395(4) substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 58, 89](#) (with [Sch. 8 paras. 90-96](#))

396 Interpretation of sections 392 to 395 **U.K.**

- (1) This section and sections 392 to 395 form part of the SIP code (see section 488 of ITEPA 2003 (^{F24}... share incentive plans)).
- (2) Accordingly, expressions used in this section or those sections and contained in the index in paragraph 100 of Schedule 2 to that Act (^{F25}... share incentive plans) have the meaning indicated by that index.
- (3) In particular—
- for the meaning of “award of shares” see paragraph 5(1) of that Schedule,
 - for the meaning of “ceasing to be subject to plan” see paragraph 97 of that Schedule,
 - for the meaning of “dividend shares” see paragraph 62(3)(b) of that Schedule,
 - for the meaning of “employment requirement” see paragraph 15(3) of that Schedule,
 - for the meaning of “participant” see paragraph 5(4) of that Schedule,
 - for the meaning of “plan shares” see paragraphs 86 to 88 and 99(1) of that Schedule, and
 - for the meaning of “shares” see paragraphs 87(6) and 99(2) of that Schedule.

Textual Amendments

- F24** Word in s. 396(1) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 59, 89](#) (with [Sch. 8 paras. 90-96](#))
- F25** Word in s. 396(2) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 59, 89](#) (with [Sch. 8 paras. 90-96](#))

[^{F26}Other amounts treated as distributions

Textual Amendments

- F26** S. 396A and cross-heading inserted (with effect in accordance with s. 19(10) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [s. 19\(2\)](#)

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

396A Arrangements offering a choice of capital or income return **U.K.**

- (1) Subsection (2) applies if a person (“S”) has a choice either—
 - (a) to receive what would (ignoring this section) be a distribution of a company, or
 - (b) to receive from that company, or from a third party, anything else (“the alternative receipt”) which—
 - (i) is of the same or substantially the same value, and
 - (ii) (ignoring this section) would not be charged to income tax.
- (2) If S chooses the alternative receipt—
 - (a) for income tax purposes it is treated as a distribution made to S by that company in the tax year in which it is received by S, and
 - [^{F27}(b) for the purposes of sections 1100 to 1103 of CTA 2010 (statements and returns of details of distributions) it is treated as a distribution that—
 - (i) is so made, and
 - (ii) is one to which section 1100 of CTA 2010 applies.]
- (3) For the purposes of this section—
 - (a) it does not matter if the choice mentioned in subsection (1) is subject to any conditions being met or to the exercise of any power;
 - (b) where S is offered one thing subject to a right, however expressed, to choose another instead, S is to be regarded as making a choice if S abandons or fails to exercise such a right.
- (4) If at any time a tax other than income tax (“the other tax”) is charged in relation to the alternative receipt, in order to avoid a double charge to tax in respect of that receipt, a person may make a claim for one or more consequential adjustments to be made in respect of the other tax.
- (5) On a claim under subsection (4) an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.
- (6) Consequential adjustments may be made—
 - (a) in respect of any period,
 - (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
 - (c) despite any time limit imposed by or under an enactment.]

Textual Amendments

F27 S. 396A(2)(b) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by Finance Act 2016 (c. 24), **Sch. 1 para. 9**

[^{F28}396B Distributions in a winding up **U.K.**

- (1) For the purposes of this Chapter, a distribution made to an individual in respect of share capital in the winding up of a UK resident company is a distribution of the company if—
 - (a) Conditions A to D are met, and
 - (b) the distribution is not excluded (see subsection (7)).

Status: Point in time view as at 15/09/2016.

Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)*

- (2) Condition A is that, immediately before the winding up, the individual has at least a 5% interest in the company.
- (3) Condition B is that the company—
 - (a) is a close company when it is wound up, or
 - (b) was a close company at any time in the period of two years ending with the start of the winding up.
- (4) Condition C is that, at any time within the period of two years beginning with the date on which the distribution is made—
 - (a) the individual carries on a trade or activity which is the same as, or similar to, that carried on by the company or an effective 51% subsidiary of the company,
 - (b) the individual is a partner in a partnership which carries on such a trade or activity,
 - (c) the individual, or a person connected with him or her, is a participator in a company in which he or she has at least a 5% interest and which at that time—
 - (i) carries on such a trade or activity, or
 - (ii) is connected with a company which carries on such a trade or activity,or
 - (d) the individual is involved with the carrying on of such a trade or activity by a person connected with the individual.
- (5) Condition D is that it is reasonable to assume, having regard to all the circumstances, that—
 - (a) the main purpose or one of the main purposes of the winding up is the avoidance or reduction of a charge to income tax, or
 - (b) the winding up forms part of arrangements the main purpose or one of the main purposes of which is the avoidance or reduction of a charge to income tax.
- (6) The circumstances referred to in subsection (5) include in particular the fact that Condition C is met.
- (7) A distribution to an individual is excluded if or to the extent that—
 - (a) the amount of the distribution does not exceed the amount that would result in no gain accruing for the purposes of capital gains tax, or
 - (b) the distribution is a distribution of irredeemable shares.
- (8) In this section—

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable;

“effective 51% subsidiary” has the meaning given by section 170(7) of TCGA 1992;

“participator” has the meaning given by section 454 of CTA 2010.
- (9) For the purposes of this section, an individual has at least a 5% interest in a company if—
 - (a) at least 5% of the ordinary share capital of the company is held by the individual, and
 - (b) at least 5% of the voting rights in the company are exercisable by the individual by virtue of that holding.

Status: Point in time view as at 15/09/2016.

Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)*

(10) For the purposes of subsection (9) if an individual holds any shares in a company jointly or in common with one or more other persons, he or she is to be treated as sole holder of so many of them as is proportionate to the value of his or her share (and as able to exercise voting rights by virtue of that holding).]

Textual Amendments

F28 S. 396B inserted (with effect in accordance with s. 35(3) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 35\(1\)](#)

F29 ... Payment and deduction of tax

Textual Amendments

F29 Words in s. 397 cross-heading omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 1 para. 10](#)

F31 397 Tax credits for qualifying distributions [F30 of UK resident companies] : UK residents and eligible non-UK residents **U.K.**

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Textual Amendments

F30 Words in s. 397 heading inserted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 12 para. 3](#)

F31 Ss. 397-398 omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 1 para. 1\(1\)](#)

F31 397A Tax credits for distributions of non-UK resident companies: UK residents and eligible non-UK residents **U.K.**

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Textual Amendments

F31 Ss. 397-398 omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 1 para. 1\(1\)](#)

F31 397AA Tax credit under section 397A: conditions **U.K.**

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Textual Amendments

F31 Ss. 397-398 omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 1 para. 1\(1\)](#)

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

F32 397B Tax credits under section 397A: manufactured overseas dividends **U.K.**

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Textual Amendments

F32 S. 397B omitted (1.1.2014) by virtue of [Finance Act 2013 \(c. 29\), Sch. 1 para. 52, Sch. 29 para. 15](#)

F31 397B Meaning of “qualifying territory” **U.K.**

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Textual Amendments

F31 Ss. 397-398 omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 1 para. 1\(1\)](#)

F31 397C Meaning of “minority shareholder” **U.K.**

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Textual Amendments

F31 Ss. 397-398 omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 1 para. 1\(1\)](#)

F31 398 Increase in amount or value of dividends where tax credit available **U.K.**

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Textual Amendments

F31 Ss. 397-398 omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 1 para. 1\(1\)](#)

399 [^{F33}**Tax treated as paid on distributions received by non-UK resident persons**] **U.K.**

[^{F34}(1) This section applies if—

- (a) a person's income for a tax year includes a distribution of a company, and
- (b) the person is non-UK resident.]

(2) The person is treated as having paid income tax at the dividend ordinary rate on the amount or value of the distribution ^{F35}....

^{F36}(3)

^{F36}(4)

^{F36}(5)

Status: Point in time view as at 15/09/2016.

Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)*

^{F37}(5A)

(6) The income tax treated as paid under subsection (2) is not repayable.

^{F38}(7)

Textual Amendments

- F33** S. 399 heading substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 11(7)**
- F34** S. 399(1) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 11(2)**
- F35** Words in s. 399(2) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 11(3)**
- F36** S. 399(3)-(5) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 11(4)**
- F37** S. 399(5A) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 11(5)**
- F38** S. 399(7) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 11(6)**

Modifications etc. (not altering text)

- C1** S. 399(2) excluded (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **ss. 594(3)**, 1034 (with transitional provisions and savings in [Sch. 2](#))
- C2** S. 399(2) excluded (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **ss. 593(3)**, 1034 (with transitional provisions and savings in [Sch. 2](#))
- C3** S. 399(2) excluded (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **ss. 592(3)**, 1034 (with transitional provisions and savings in [Sch. 2](#))
- C4** S. 399(2)(6) excluded (6.4.2007 with effect as stated in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), **ss. 504(4)(c)**, 1034 (with transitional provisions and savings in [Sch. 2](#))
- C5** S. 399(2) excluded (6.4.2014) by [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **12(3)(b)**
- C6** S. 399(6) excluded (6.4.2014) by [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **12(3)(b)**

^{F39}**400 Non-qualifying distributions** **U.K.**

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Textual Amendments

- F39** S. 400 omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 1(1)**

401 Relief: [^{F40}**distribution repaying shares or security issued in earlier distribution**] **U.K.**

[^{F41}(1) Where a person is liable to income tax on a CD distribution, the person's liability to income tax on a subsequent non-CD distribution is reduced in accordance with this section if the non-CD distribution consists of a repayment of—

- (a) the share capital, or

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

(b) the principal of the security,
which constituted the CD distribution.

(1A) The reduction is—

- (a) the amount of income tax to which the person is liable on the CD distribution,
or
- (b) if lower, the amount of income tax to which the person is liable on the non-CD distribution.

(1B) For the purposes of calculating the amounts mentioned in subsection (1A)(a) and (b) assume—

- (a) that the CD distribution is the lowest part of the person's dividend income in the tax year (“year 1”) in which it is made,
- (b) that the non-CD distribution, if it is made in year 1, is the part of the person's dividend income in year 1 that is next lowest after the CD distribution, and
- (c) that the non-CD distribution, if it is made after year 1, is the lowest part of the person's dividend income in the tax year in which it is made.]

[^{F42}(6A) The reduction under this section is given effect at Step 6 of the calculation in section 23 of ITA 2007.]

(7) In this section [^{F43}—

“CD distribution” means a distribution which is a distribution for the purposes of the Corporation Tax Acts only because it falls within paragraph C or D in section 1000(1) of CTA 2010 (redeemable share capital or security issued as bonus in respect of shares in, or securities of, the company),

“non-CD distribution” means a distribution which is not a CD distribution, and

“security”] has the meaning given in [^{F44}section 1117(1) of CTA 2010].

Textual Amendments

- F40** Words in s. 401 heading substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 12(4)**
- F41** S. 401(1)-(1B) substituted for s. 401(1)-(6) (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 12(2)**
- F42** S. 401(6A) inserted (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. 518** (with transitional provisions and savings in [Sch. 2](#))
- F43** Words in s. 401(7) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 12(3)**
- F44** Words in s. 401(7) 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. 455** (with [Sch. 2](#))

^{F45}**401A Recovery of overpaid tax credit etc** **U.K.**

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Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

Textual Amendments

F45 S. 401A omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 1 para. 13**

[^{F46} **401B** Power to obtain information **U.K.**

- (1) An officer of Revenue and Customs may, for the purposes of [^{F47}this Chapter], by notice require any person in whose name any shares or loan capital are registered—
 - (a) to state whether or not that person is the beneficial owner of the shares or loan capital, and
 - (b) if that person is not the beneficial owner of the shares or loan capital, to provide the name and address of the person on whose behalf the shares or loan capital are registered in that person's name.
- (2) Subsections (3) and (4) apply if a company (“the issuing company”) appears to an officer of Revenue and Customs to be a close company.
- (3) The officer may, for the purposes of [^{F47}this Chapter], by notice require the issuing company to provide the officer with—
 - (a) particulars of any bearer securities issued by the company,
 - (b) the names and addresses of the persons to whom the securities were issued, and
 - (c) details of the amounts issued to each person.
- (4) The officer may, for the purposes of [^{F47}this Chapter], by notice require—
 - (a) any person to whom bearer securities were issued by the company, or
 - (b) any person to or through whom bearer securities issued by the company were subsequently sold or transferred,
 to provide any further information that the officer reasonably requires with a view to enabling the officer to find out the names and addresses of the persons beneficially interested in the securities.
- (5) In this section—

“loan creditor” has the meaning given by section 453 of CTA 2010, and
 “securities” includes—

 - (a) shares, stocks, bonds, debentures and debenture stock, and
 - (b) any promissory note or other instrument evidencing indebtedness to a loan creditor of the company.]

Textual Amendments

F46 S. 401B inserted (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. 457** (with Sch. 2)

F47 Words in s. 401B substituted (15.9.2016) by Finance Act 2016 (c. 24), **Sch. 1 para. 14**

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)

[^{F48}Anti-avoidance

Textual Amendments

F48 S. 401C and cross-heading inserted (with effect in accordance with Sch. 45 para. 153(3) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 133](#)

401C Temporary non-residents **U.K.**

- (1) This section applies if—
 - (a) an individual is temporarily non-resident,
 - (b) a relevant distribution is made or treated as made to the individual in the temporary period of non-residence,
 - (c) the tax year in which it is made or treated as made (“the distribution year”) is a tax year for which the individual is UK resident, and
 - (d) the amount of income tax charged on the distribution under this Chapter is less than it would have been if the existence of double taxation relief arrangements were disregarded.
- (2) Subsections (3) and (4) have effect in cases where the distribution year is not the year of return.
- (3) The total income (see Step 1 of the calculation in section 23 of ITA 2007) on which the individual is charged to income tax for the year of return is to be increased by an amount equal to the amount on which tax would be charged under this Chapter in respect of the distribution disregarding any double taxation relief arrangements.
- (4) But the notional UK tax on that distribution is to be allowed as a credit against the individual's liability to income tax for the year of return under Step 6 of the calculation in section 23.
- (5) If the distribution year is the year of return, the tax charged under this Chapter in respect of the relevant distribution is to be charged and assessed without regard to the existence of double taxation relief arrangements.
- (6) For the purposes of this section, a dividend or other distribution is a “relevant distribution” if—
 - (a) it is a dividend or other distribution of a close company, and
 - (b) it is made or treated as made to the individual because the individual was at a relevant time—
 - (i) a material participator in the company, or
 - (ii) an associate of a material participator in the company.
- (7) But a dividend or other distribution within subsection (6) in the form of a cash dividend is not a “relevant distribution” to the extent that the dividend is paid in respect of post-departure trade profits.
- (8) “Post-departure trade profits” are—
 - (a) trade profits of the close company arising in an accounting period that begins after the start of the temporary period of non-residence, and

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Changes to legislation: *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3. (See end of Document for details)*

- (b) so much of any trade profits of the close company arising in an accounting period that straddles the start of that temporary period as is attributable (on a just and reasonable basis) to a time after the start of that temporary period.
- (9) The extent to which a dividend is paid in respect of post-departure trade profits is to be determined on a just and reasonable basis.
- (10) The “notional UK tax” on the relevant distribution is so much of the income tax paid by the individual for the distribution year as is attributable on a just and reasonable basis to the relevant distribution.
- (11) If section 393 applies, references in this section to a distribution being made to the individual are to a cash dividend being paid over to the individual.
- (12) In this section—
- “associate” and “participator” have the same meanings as in Part 10 of CTA 2010 (see sections 448 and 454);
 - “material participator” means a participator who has a material interest in the company, as defined in section 457 of that Act;
 - “relevant time” means—
 - (a) any time in the year of departure or, if the year of departure is a split year as respects the individual, the UK part of that year, or
 - (b) any time in one or more of the 3 tax years preceding that year;
 - “trade profits of the close company” means the profits of any trade carried on by the close company, as calculated in accordance with Part 3 of CTA 2009 (trading income).]

Status:

Point in time view as at 15/09/2016.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 3.