



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 11 U.K.

#### MANUFACTURED PAYMENTS AND REPOS

### CHAPTER 4 U.K.

#### DEEMED MANUFACTURED PAYMENTS

##### *Repos*

#### **601 Repo cases in which deeming rules apply U.K.**

- (1) Section 602 applies if—
- (a) there is a repo in respect of securities,
  - (b) a distribution becomes payable in respect of the securities, and
  - (c) each of the conditions in the first or second set of relevant conditions is met.
- (2) This is the first set of relevant conditions—

##### *Condition 1.1*

As a result of the repo, the distribution is receivable otherwise than by the person who is the original owner under the repo.

##### *Condition 1.2*

There is no requirement under the sale agreement or the related agreement (if any) for a person to pay to the original owner, on or before the date when the repurchase price of the securities becomes due, an amount representative of the distribution.

##### *Condition 1.3*

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It is reasonable to assume that, in deciding the repurchase price of the securities, account was taken of the fact that the distribution is receivable otherwise than by the original owner.

(3) This is the second set of relevant conditions—

*Condition 2.1*

The distribution is receivable otherwise than by the person who is the original owner under the repo.

*Condition 2.2*

There is no requirement under the sale agreement or the related agreement (if any) for a person to pay to the original owner, on or before the date when the repurchase price of the securities becomes due, an amount representative of the distribution.

*Condition 2.3*

The original owner or a person connected with the original owner is required under the sale agreement or the related agreement (if any) to pay an amount representative of the distribution.

*Condition 2.4*

It is reasonable to assume that, in deciding the repurchase price of the securities, account was taken of the circumstances mentioned in Conditions 2.1 to 2.3.

**602 Deemed manufactured payments: repos U.K.**

- (1) If this section applies, the rules about manufactured payments apply as if the person from whom the securities are to be repurchased (“A”)—
- (a) were required, under the repo, to pay the repurchaser an amount representative of the distribution, and
  - (b) discharged the requirement when the repurchase price of the securities became due.
- (2) The amount mentioned in subsection (1)(a) is—
- (a) in the case of a dividend on UK shares (other than one within paragraph (b)), the amount of the dividend,
  - (b) in the case of a dividend on UK shares so far as—
    - (i) paid by a company to which Part 4 of FA 2006 applies in respect of profits of C (tax-exempt), or
    - (ii) paid by a group to which that Part applies in respect of profits of G (property rental business),
 the gross amount of the dividend,
  - (c) in the case of a periodical payment of interest on UK securities, the gross amount of the periodical payment of interest, and
  - (d) in the case of an overseas dividend on overseas securities, the gross amount of the overseas dividend.
- (3) But if A is not the person to whom the original owner agreed to sell the securities, A is not entitled (whether as a result of the rules about manufactured payments or otherwise) to an income deduction as a result of subsection (1).

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- (4) “Income deduction” means—
- (a) a deduction in calculating profits or gains for income tax purposes, or
  - (b) a deduction in calculating net income.

### **603 Deemed deductions of tax** **U.K.**

- (1) This section applies if—
- (a) an amount is treated as paid under section 602(1)(b) (deemed manufactured payments), and
  - (b) as a result, one of these sections applies—
    - (i) section 918 (deduction of income tax at source: manufactured dividends on UK shares: Real Estate Investment Trusts),
    - (ii) section 919 (deduction of income tax at source: manufactured interest on UK securities),
    - (iii) section 922 (deduction of income tax at source: manufactured overseas dividends).
- (2) So far as the deemed payment is representative of a dividend on UK shares—
- (a) paid by a company to which Part 4 of FA 2006 applies in respect of profits of C (tax-exempt), or
  - (b) paid by a group to which that Part applies in respect of profits of G (property rental business),
- any deduction which (as a result of section 918) is required to be made out of the gross amount of the payment is treated as made.
- (3) If the deemed payment is representative of a periodical payment of interest on UK securities, any deduction which (as a result of section 919) is required to be made out of the gross amount of the payment is treated as made.
- (4) If the deemed payment is representative of an overseas dividend on overseas securities, any deduction which (as a result of section 922) is required to be made out of the gross amount of the payment is treated as made.

### **604 Deemed increase in repurchase price: price differences under repos** **U.K.**

- (1) This section applies if—
- (a) an amount is treated as paid under section 602(1)(b) (deemed manufactured payments), and
  - (b) as a result, one of these sections applies—
    - (i) section 573 (manufactured dividends on UK shares),
    - (ii) section 576 (manufactured dividends on UK shares: Real Estate Investment Trusts),
    - (iii) section 578 (manufactured interest on UK securities),
    - (iv) section 581 (manufactured overseas dividends).
- (2) If the deemed payment is representative of a dividend on UK shares (other than one falling within subsection (3)), the repurchase price of the UK shares is treated for the purposes of section 607 (treatment of price differences under repos) as increased by an amount equal to the amount of the dividend.
- (3) So far as the deemed payment is representative of a dividend on UK shares—

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- (a) paid by a company to which Part 4 of FA 2006 applies in respect of profits of C (tax-exempt), or
- (b) paid by a group to which that Part applies in respect of profits of G (property rental business),

the repurchase price of the UK shares is treated for the purposes of section 607 as increased by the gross amount of the dividend.

- (4) If the deemed payment is representative of a periodical payment of interest on UK securities, the repurchase price of the UK securities is treated for the purposes of section 607 as increased by the gross amount of the periodical payment of interest.
- (5) If the deemed payment is representative of an overseas dividend on overseas securities, the repurchase price of the overseas securities is treated for the purposes of section 607 as increased by the gross amount of the overseas dividend.

**605 Deemed increase in repurchase price: other income tax purposes U.K.**

- (1) The deemed increase in the repurchase price which is made by section 604(2), (4) or (5) for the purposes of section 607 also has effect for all other income tax purposes (except sections 601, 602, 604 and this section), if condition A or B is met.
- (2) Condition A is that, as a result of the increase, there is no difference for the purposes of section 607 between the sale price and the repurchase price.
- (3) Condition B is that, as a result of either of the exceptions in section 608, section 607 does not apply.
- (4) For the effect of the deemed increase of the repurchase price for capital gains tax purposes see section 261F of TCGA 1992.

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