



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 15

#### DEDUCTION OF INCOME TAX AT SOURCE

### CHAPTER 11

#### PAYMENTS BETWEEN COMPANIES ETC: EXCEPTION FROM DUTIES TO DEDUCT

#### *Introduction*

#### **929 Overview of Chapter**

- (1) This Chapter makes provision allowing some payments made by companies, local authorities and qualifying partnerships to be paid gross where they would otherwise be subject to specified duties to deduct sums representing income tax under this Part.
- (2) Section 930 disapplies specified duties to deduct where a payment is made by a company, local authority or qualifying partnership which reasonably believes that the payment is an excepted payment.
- (3) Section 931 confers power on an officer of Revenue and Customs to disapply section 930 by direction.
- (4) Section 932 defines “qualifying partnership”.
- (5) Sections 933 to 937 make provision as to when a payment is an excepted payment.
- (6) Section 938 deals with what happens when a company, local authority or qualifying partnership makes a payment without deducting a sum representing income tax under a reasonable but incorrect belief that the payment is an excepted payment.

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 11. (See end of Document for details)*

*Exception from duties to deduct for excepted payments*

**930 Exception from duties to deduct sums representing income tax**

- (1) The duties to deduct sums representing income tax mentioned in subsection (2) do not apply to a payment if—
  - (a) it is made by a company, local authority or qualifying partnership, and
  - (b) at the time the payment is made, the company, authority or partnership reasonably believes that it is an excepted payment.
- (2) The duties to deduct are those under—
  - (a) section 874(2) (certain payments of yearly interest),
  - (b) section 889(4) (payments in respect of building society securities),
  - (c) section 901(4) (annual payments made by persons other than individuals),
  - (d) section 903(7) (patent royalties),
  - (e) section 906(5) (certain royalty payments etc where the owner lives abroad),
  - (f) section 910(2) (proceeds of a sale of patent rights paid to non-UK residents),
  - (g) section 919(2) (manufactured interest on UK securities: payments by UK residents etc), and
  - (h) section 928(2) (chargeable payments connected with exempt distributions).
- (3) Subsection (1) has effect subject to any directions under section 931.
- (4) Subsection (1) does not apply to a payment made by a company, or qualifying partnership, acting as trustee or agent for another person.

**931 Power to make directions disapplying section 930**

- (1) An officer of Revenue and Customs may give a direction to a company, local authority or qualifying partnership directing that section 930 is not to apply in relation to any payment that—
  - (a) is made by the company, authority or partnership after the giving of the direction, and
  - (b) is specified in the direction or is of a description so specified.
- (2) A direction under this section may be given only if the officer has reasonable grounds for believing, as respects each payment to which the direction relates, that the payment will not be an excepted payment at the time it is made.
- (3) A direction under this section may be varied or revoked by a later direction.
- (4) A variation or revocation of a direction under this section has effect only in relation to payments made after the date of the variation or revocation.

**932 Meaning of “qualifying partnership”**

For the purposes of this Chapter a partnership is a “qualifying partnership” if any partner in the partnership is a company or a local authority.

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### *Excepted payments*

#### **933 UK resident companies**

A payment is an excepted payment if the person beneficially entitled to the income in respect of which the payment is made is a UK resident company.

#### **934 Non-UK resident companies**

- (1) A payment is an excepted payment if each of the following conditions is met in relation to the payment.
- (2) The person beneficially entitled to the income in respect of which the payment is made must be a non-UK resident company.
- (3) The non-UK resident company must carry on a trade in the United Kingdom through a permanent establishment.
- (4) The payment must be one that is required to be brought into account in calculating the chargeable profits (within the meaning given by [F1section 19 of CTA 2009]) of the non-UK resident company.

#### **Textual Amendments**

- F1** Words in s. 934(4) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 710** (with **Sch. 2 Pts. 1, 2**)

#### **935 PEP and ISA managers**

- (1) A payment is an excepted payment if each of the following conditions is met in relation to the payment.
- (2) The person to whom the payment is made must be, or must be the nominee of, the plan manager of a plan of a kind to which regulations under Chapter 3 of Part 6 of ITTOIA 2005 (income from individual investment plans) apply.
- (3) The plan manager must receive the payment in respect of investments under the plan.

#### **936 Recipients who are to be paid gross**

- (1) A payment is an excepted payment if it is made to, or to the nominee of, a recipient who is specified in subsection (2) as a recipient who is to be paid gross.
- (2) The following recipients are to be paid gross—
  - (a) a local authority,
  - (b) a health service body within the meaning of section 519A(2) of ICTA,
  - (c) a public office or department of the Crown other than one mentioned in section 978(2),
  - (d) a charity,
  - (e) a body for the time being mentioned in section 507(1) of ICTA (bodies that are allowed the same exemption from tax as charitable companies the whole income of which is applied to charitable purposes),

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- (f) an Association which complies with the conditions in section 508(1) of ICTA (scientific research organisations),
  - (g) the scheme administrator of a registered pension scheme,
  - (h) the sub-scheme administrator of a sub-scheme which forms part of a split scheme pursuant to the Registered Pensions (Splitting of Schemes) Regulations 2006 (S.I. 2006/569),
  - (i) the trustees of a scheme entitled to exemption under section 613(4) of ICTA (Parliamentary pension funds), and
  - (j) the persons entitled to receive the income of a fund entitled to exemption under section 614(3) of ICTA (certain colonial, etc pension funds).
- (3) The Treasury may by order amend this section so as to add to, restrict or otherwise alter the persons or bodies who are to be paid gross.

### 937 Partnerships

- (1) A payment is an excepted payment if each of the following conditions are met.
- (2) A partnership must be beneficially entitled to the income in respect of which the payment is made.
- (3) Each partner in the partnership must be—
- (a) a person or body mentioned in section 936, or
  - (b) a person or body to whom one of subsections (4) to (6) applies.
- (4) This subsection applies to a UK resident company.
- (5) This subsection applies to a company that—
- (a) is non-UK resident,
  - (b) carries on a trade in the United Kingdom through a permanent establishment, and
  - (c) is required to bring into account, in calculating its chargeable profits (within the meaning of [<sup>F2</sup>section 19 of CTA 2009]), the whole of any share of the payment that is attributable to it because of [<sup>F3</sup>Part 17 of that Act].
- (6) This subsection applies to the European Investment Fund.
- (7) The Treasury may by order amend this section to add to, restrict or otherwise alter the persons or bodies falling within subsection (3)(b).

#### Textual Amendments

- F2** Words in s. 937(5)(c) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 711(a)** (with Sch. 2 Pts. 1, 2)
- F3** Words in s. 937(5)(c) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 711(b)** (with Sch. 2 Pts. 1, 2)

*Incorrect belief that payment is an excepted payment*

### 938 Consequences of reasonable but incorrect belief

- (1) This section applies if—

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- (a) a payment is made by a company, local authority or qualifying partnership without a sum representing income tax on the payment being deducted from it,
  - (b) at the time the payment is made, the company, authority or partnership reasonably believes that it is an excepted payment,
  - (c) one of the duties to deduct sums representing income tax mentioned in section 930(2) would apply to the payment if the company did not so believe, and
  - (d) the payment is not an excepted payment at the time it is made.
- (2) This Part has effect in relation to the payment as if section 930(1) had never disapplied the duties to deduct mentioned in section 930(2).

**Status:**

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**Changes to legislation:**

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