



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 15

#### DEDUCTION OF INCOME TAX AT SOURCE

### CHAPTER 2

#### [<sup>F1</sup>MEANING OF “RELEVANT INVESTMENT” FOR PURPOSES OF SECTION 876]

#### Textual Amendments

- F1** Pt. 15 Ch. 2 heading substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 6 para. 4](#)

#### *Introduction*

#### **850 Overview of Chapter**

[<sup>F2</sup>(1) This Chapter has effect for the purposes of section 876 (duty under section 874 to deduct tax from payments of yearly interest: exception for deposit-takers).]

<sup>F3</sup>(2) .....

(3) Sections 853 to 856 set out some basic concepts, so that—

- (a) section 853 defines “deposit-taker” (and section 854 allows the Treasury by order to prescribe persons as deposit-takers),
- (b) section 855 defines “investment” and “deposit”, and
- (c) section 856 explains which investments are relevant investments.

(4) Section 856 is subject to—

- (a) section 857 (which sets out when investments must be treated as relevant and when they may be treated as not relevant), and

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- (b) sections [F4863] to 870 (which describe various kinds of investment which are not relevant investments).
- (5) Sections [F5872 and] 873 contain supplementary provisions.
- (6) For the purposes of this [F6Chapter, crediting] interest counts as paying it.

**Textual Amendments**

**F2** S. 850(1) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 5\(2\)](#)

**F3** S. 850(2) omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 5\(3\)](#)

**F4** Word in s. 850(4)(b) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 5\(4\)](#)

**F5** Words in s. 850(5) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 5\(5\)](#)

**F6** Words in s. 850(6) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 5\(6\)](#)

F7 ...

**Textual Amendments**

**F7** S. 851 cross-heading omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 1\(b\)](#)

**F8 851 Duty to deduct sums representing income tax**

.....

**Textual Amendments**

**F8** S. 851 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 1\(a\)](#)

**F9 852 Power to make regulations disapplying section 851**

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**Textual Amendments**

**F9** S. 852 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 6](#)

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### *Deposit-takers and relevant investments*

#### **853 Meaning of “deposit-taker”**

- (1) In this Chapter [<sup>F10</sup>and section 876] “deposit-taker” means—
  - (a) the Bank of England, or
  - (b) a person to whom one of the following subsections or section 854 applies.
- (2) This subsection applies to a person—
  - (a) who has permission under Part 4 of FISMA 2000 to accept deposits which are relevant investments, and
  - (b) who is not—
    - (i) a building society,
    - (ii) a society registered within the meaning of the Friendly Societies Act 1974 (c. 46) or incorporated under the Friendly Societies Act 1992 (c. 40),
    - (iii) a society registered as a credit union under [<sup>F11</sup>the Co-operative and Community Benefit Societies Act 2014] or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12)), or
    - (iv) an insurance company within the meaning of section 275 of FA 2004.
- (3) This subsection applies to a company [<sup>F12</sup>as defined in section 1(1) of the Companies Act 2006 (c. 46)] —
  - (a) in respect of which a resolution has been passed by a local authority under—
    - (i) section 48(3) of the Banking Act 1979 (c. 37), or
    - (ii) section 103(3) of the Banking Act 1987 (c. 22), and
  - (b) which is exempt from the prohibition in section 19 of FISMA 2000 on accepting deposits which are relevant investments.
- (4) This subsection applies to a local authority.
- (5) This subsection applies to an EEA firm which—
  - (a) is of the kind mentioned in paragraph 5(b) of Schedule 3 to FISMA 2000 (EEA passport rights), and
  - (b) has permission under paragraph 15 of that Schedule to accept deposits (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule).
- (6) This subsection applies to a person—
  - (a) who is authorised for the purposes of FISMA 2000, and
  - (b) whose business consists wholly or mainly of dealing in financial instruments as principal.

For the meaning of “financial instrument”, see section 984.

#### **Textual Amendments**

**F10** Words in s. 853(1) inserted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 7](#)

**F11** Words in s. 853(2)(b)(iii) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 108](#) (with Sch. 5)

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**F12** Words in s. 853(3) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **3(2)(b)**

## 854 Power to prescribe persons as deposit-takers

- (1) This section applies to a person who receives deposits in the course of carrying on business or activities and—
  - (a) is for the time being prescribed by order by the Treasury for the purposes of this section, or
  - (b) is a member of a class of persons which is for the time being so prescribed.
- (2) An order under this section may prescribe a person or class of person—
  - (a) in relation to all deposits which are relevant investments, or
  - (b) in relation to deposits which are relevant investments of a kind specified in the order.
- (3) If a person is prescribed only in relation to deposits which are relevant investments of a kind specified in the order, the reference in section [F13876(1)(b)] to “relevant investment” is to be read as a reference only to relevant investments of the kind so specified.

### Textual Amendments

**F13** Word in s. 854(3) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 6 para. 8**

## 855 Meaning of “investment” and “deposit”

- [F14(1) In this Chapter, and section 876, “investment” means a deposit with a deposit-taker.]
- (2) In this Chapter “deposit” means a sum of money paid on terms which mean that it will be repaid (with or without interest)—
    - (a) on demand, or
    - (b) at a time or in circumstances agreed by or on behalf of the person who pays it and the person who receives it.

### Textual Amendments

**F14** S. 855(1) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 6 para. 9**

## 856 Investments which are relevant investments

- (1) An investment is a relevant investment for the purposes of [F15section 876] if it meets—
  - (a) the individual interest condition (see subsection (3)),
  - (b) the Scottish partnership condition (see subsection (4)),
  - (c) the personal representative condition (see subsection (5)), or
  - (d) the settlement condition (see subsection (6)).

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- (2) But an investment is not a relevant investment if any of sections [F16863] to 870 prevent it from being a relevant investment.
- (3) An investment meets the individual interest condition if the only persons beneficially entitled to interest on the investment are individuals.
- (4) An investment meets the Scottish partnership condition if—
  - (a) a Scottish partnership is beneficially entitled to all interest on the investment, and
  - (b) that partnership consists only of individuals.
- (5) An investment meets the personal representative condition if personal representatives are entitled to any interest on the investment and they receive it in that capacity.
- (6) An investment meets the settlement condition if all interest on the investment is income arising to the trustees of a discretionary or accumulation settlement and they receive it in that capacity.

For the meaning of “discretionary or accumulation settlement”, see section 873(1).

#### Textual Amendments

- F15** Words in s. 856(1) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 10\(2\)](#)
- F16** Word in s. 856(2) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 10\(3\)](#)

### 857 Investments to be treated as being or as not being relevant investments

- (1) A deposit-taker<sup>F17</sup> ... must treat every investment with it as a relevant investment unless satisfied that the investment is not a relevant investment.
- (2) If a deposit-taker<sup>F17</sup> ... is satisfied that an investment is not a relevant investment, it may continue to treat the investment as not being a relevant investment until subsection (3) applies.
- (3) This subsection applies when the deposit-taker<sup>F17</sup> ... has information which can reasonably be taken to indicate that the investment is or may be a relevant investment.

#### Textual Amendments

- F17** Words in s. 857 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 11](#)

*F18*  
...

#### Textual Amendments

- F18** S. 858 cross-heading omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 12\(b\)](#)

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**F19858 Declarations of non-UK residence: individuals**

.....

**Textual Amendments**  
**F19** Ss. 858-861 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 6 para. 12(a)**

**F19859 Declarations of non-UK residence: Scottish partnerships**

.....

**Textual Amendments**  
**F19** Ss. 858-861 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 6 para. 12(a)**

**F19860 Declarations of non-UK residence: personal representatives**

.....

**Textual Amendments**  
**F19** Ss. 858-861 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 6 para. 12(a)**

**F19861 Declarations of non-UK residence: settlements**

.....

**Textual Amendments**  
**F19** Ss. 858-861 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 6 para. 12(a)**

**F20862 Inspection of declarations**

.....

**Textual Amendments**  
**F20** S. 862 omitted (13.8.2009) by virtue of The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), art. 1, **Sch. para. 51**

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*[<sup>F21</sup>Investments] which are not relevant investments*

**Textual Amendments**

- F21** Word in s. 863 cross-heading substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 13](#)

**863 General client account deposits**

- (1) An investment is not a relevant investment if it is a general client account deposit.
- (2) An investment is a general client account deposit for the purposes of this section if—
  - (a) it is a deposit held by a deposit-taker <sup>F22</sup>... in a client account, and
  - (b) provision made under any enactment requires the person whose account it is to make payments representing interest to some or all of the clients for whom, or on whose account, that person received the sums deposited in the account.
- (3) But an investment is not a general client account deposit if the account in which it is held is identified by the deposit-taker <sup>F22</sup>... as one in which sums are held only for one or more particular clients of the person whose account it is.

**Textual Amendments**

- F22** Words in s. 863 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 14](#)

**864 Qualifying uncertificated eligible debt security units**

An investment is not a relevant investment if it is a deposit in respect of which a deposit-taker <sup>F23</sup>... has issued a qualifying uncertificated eligible debt security unit (see section 986).

**Textual Amendments**

- F23** Words in s. 864 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 14](#)

**865 Qualifying certificates of deposit**

An investment is not a relevant investment if it is a deposit in respect of which a deposit-taker <sup>F24</sup>... has issued a qualifying certificate of deposit (see section 985).

**Textual Amendments**

- F24** Words in s. 865 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 14](#)

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## 866 Qualifying time deposits

- (1) An investment is not a relevant investment if it is a qualifying time deposit [<sup>F25</sup>made before 6 April 2012].
- (2) An investment is a qualifying time deposit for the purposes of this section if—
  - (a) it is a deposit consisting of a loan of at least £50,000,
  - (b) the terms of the deposit require its repayment at a specified time within 5 years beginning with the date on which it is made,
  - (c) those terms do not make provision for the transfer of the right to repayment, and
  - (d) those terms prevent partial withdrawals of, or additions to, the deposit.
- (3) If a deposit is denominated in a foreign currency, subsection (2)(a) has effect as if it referred to an amount which is at least the equivalent in that currency of £50,000 at the time the deposit is made.

### Textual Amendments

**F25** Words in s. 866(1) inserted (6.4.2012) (retrospective and with effect in accordance with s. 18(2) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 18\(1\)](#)

## 867 Lloyd's premium trust funds

- (1) An investment is not a relevant investment if it forms part of a premium trust fund of an underwriting or former underwriting member of Lloyd's.
- (2) In this section “premium trust fund” has the meaning given in section 184 of FA 1993.

## 868 Investments held outside the United Kingdom

- (1) An investment with a deposit-taker is not a relevant investment if—
  - (a) the deposit-taker is UK resident for income tax purposes or corporation tax purposes, and
  - (b) the investment is held at a branch of the deposit-taker situated outside the United Kingdom.
- (2) An investment with a deposit-taker is not a relevant investment if—
  - (a) the deposit-taker is non-UK resident for income tax purposes or corporation tax purposes, and
  - (b) the investment is not held at a branch of the deposit-taker situated in the United Kingdom.
- <sup>F26</sup>(3) .....
- (4) For the purposes of this section an investment is held at a branch of a deposit-taker <sup>F27</sup>... if the investment is recorded in its books as a liability of that branch.

### Textual Amendments

**F26** S. 868(3) omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 6 para. 15](#)



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**F27** Words in s. 868(4) omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 14](#)

**F28** **869 Sale and repurchase of securities**

**Textual Amendments**

**F28** S. 869 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 15](#)

**870 Other investments**

- (1) An investment with a deposit-taker is not a relevant investment if—
- (a) it is a loan made by a deposit-taker in the ordinary course of its business or activities,
  - (b) it is a debt on a security which is listed on a recognised stock exchange, or
  - (c) it is a debt on a debenture issued by the deposit-taker (see section 1022).

**F29**(2) .....

**Textual Amendments**

**F29** S. 870(2) omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 15](#)

*Supplementary*

**F30** **871 Power to make regulations to give effect to Chapter**

**Textual Amendments**

**F30** S. 871 omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 6 para. 16](#)

**872 Power to make orders amending Chapter**

- (1) The Treasury may by order amend this Chapter for the purposes of providing that investments of a kind specified in the order are, or are not, relevant investments.
- (2) An order under this section [<sup>F31</sup>may amend this Chapter]—
- (a) in [<sup>F32</sup>its application] to all deposit-takers, or
  - (b) in [<sup>F32</sup>its application] to such deposit-takers or classes of deposit-taker as the order may specify.

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(3) An order under this section may contain incidental, supplemental, consequential and transitional provision and savings.

<sup>F33</sup>(4) .....

<sup>F33</sup>(5) .....

**Textual Amendments**

- F31** Words in s. 872(2) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 6 para. 17(a)(i)**
- F32** Words in s. 872(2)(a)(b) substituted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 6 para. 17(a)(ii)**
- F33** S. 872(4)(5) omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **Sch. 6 para. 17(b)**

**873 Discretionary or accumulation settlements**

(1) A settlement is a discretionary or accumulation settlement for the purposes of this Chapter if any income arising to the trustees would (unless treated as income of the settlor) be to any extent income within subsection (2) for the tax year in which it arises.

(2) Income is within this subsection so far as it is—

- (a) accumulated or discretionary income as defined in section 480 (other than income arising under a [<sup>F34</sup>charitable trust] or an unauthorised unit trust in relation to which [<sup>F35</sup>regulation 12 of the Unauthorised Unit Trusts (Tax) Regulations 2013] applies), or
- (b) an amount of a type set out in section 482 (unless the trust is a unit trust scheme or the amount is income arising under a [<sup>F36</sup>charitable trust] or is excluded by section 481(5)).

<sup>F37</sup>(3) .....

<sup>F37</sup>(4) .....

<sup>F37</sup>(5) .....

<sup>F37</sup>(6) .....

**Textual Amendments**

- F34** Words in s. 873(2)(a) substituted (8.3.2012) (with effect in accordance with art. 17 of the commencing S.I.) by [Finance Act 2010 \(c. 13\)](#), **Sch. 6 paras. 23(5)**, 34(2); S.I. 2012/736, art. 17
- F35** Words in s. 873(2)(a) substituted (6.4.2014) by [The Unauthorised Unit Trusts \(Tax\) Regulations 2013 \(S.I. 2013/2819\)](#), regs. 1(3), **37(12)** (with reg. 32)
- F36** Words in s. 873(2)(b) substituted (8.3.2012) (with effect in accordance with art. 17 of the commencing S.I.) by [Finance Act 2010 \(c. 13\)](#), **Sch. 6 paras. 23(5)**, 34(2); S.I. 2012/736, art. 17
- F37** S. 873(3)-(6) omitted (with effect in accordance with Sch. 6 para. 28 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **Sch. 6 para. 18**

**Status:**

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

**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax Act 2007, Chapter 2.