



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 15

#### DEDUCTION OF INCOME TAX AT SOURCE

### CHAPTER 7

#### DEDUCTION FROM OTHER PAYMENTS CONNECTED WITH INTELLECTUAL PROPERTY

*Certain royalties etc where usual place of abode of owner is abroad*

#### **906 Certain royalties etc where usual place of abode of owner is abroad**

- (1) This section applies to any payment made in a tax year if—
  - (a) it is a payment of any royalties, or sums payable periodically, in respect of a relevant intellectual property right (see section 907),
  - (b) it is one that is charged to income tax or corporation tax, and
  - (c) condition A or B is met.
- (2) Condition A is that the usual place of abode of the owner of the right is outside the United Kingdom.
- (3) Condition B is that—
  - (a) a person (“the seller”) has assigned the right to another person,
  - (b) the usual place of abode of the seller is outside the United Kingdom,
  - (c) the seller is entitled to periodical payments in respect of the right, and
  - (d) the payments are in respect of that entitlement.
- (4) But this section does not apply if the payment is made in respect of copies of works, or articles, which have been exported from the United Kingdom for distribution outside the United Kingdom.

*Status: Point in time view as at 19/07/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: Certain royalties etc where usual place of abode of owner is abroad. (See end of Document for details)*

- (5) The person by or through whom the payment is made must, on making it, deduct from it a sum representing income tax on it at the basic rate in force for the tax year.
- (6) See—
- (a) Chapter 8 which makes special provision in relation to royalties (double taxation arrangements: deduction at treaty rate and EU companies: discretion to pay gross), and
  - (b) Chapter 11 (payments between companies etc) for an exception from the duty to deduct sums representing income tax under this section.
- (7) For provision about the collection of income tax in respect of a payment from which a sum must be deducted under this section—
- (a) see Chapter 15 if the person making the payment is a UK resident company, and
  - (b) otherwise see Chapter 16.
- (8) If a payment to which this section applies is also one to which a provision of Chapter 6 applies, it is treated as not being a payment to which a provision of Chapter 6 applies.

#### **907 Meaning of “relevant intellectual property right”**

- (1) In section 906 “a relevant intellectual property right” means—
- (a) a copyright,
  - (b) a right in a design, or
  - (c) the public lending right in respect of a book.
- (2) In this section—
- “copyright” does not include copyright in—
- (a) a cinematographic film or video recording, or
  - (b) the sound-track of a cinematographic film or video recording, except so far as it is separately exploited,
- “a right in a design” means the design right in a design, or the right in a registered design.

#### **908 Royalty payments etc made through UK resident agents**

- (1) If—
- (a) a payment to which section 906 applies is made through an agent who is UK resident, and
  - (b) the agent is entitled as against the owner of the right to deduct a sum as commission for services provided,
- section 906(5) and Chapters 8 (deduction at special rates), 15 and 16 (collection) apply as if the amount of the payment were the amount net of the sum deductible as commission.
- (2) But if the person by or through whom the payment is made does not know the commission is payable, or does not know its amount—
- (a) the sum representing income tax required to be deducted under section 906 must be calculated in the first instance on the total amount of the payment, and
  - (b) the return to be made under Chapter 15 or the account of the payment under Chapter 16, must be based on that total amount.

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## **909 Royalty payments: further provision**

- (1) A payment to which section 906 applies is treated for all income and corporation tax purposes as made when it is made by the first person who makes it, not when it is made by or through any other person.
- (2) If, under section 906, a sum representing income tax must be deducted from a payment, any agreement to make the payment without deduction of that sum is void.
- (3) Section 906—
  - (a) applies to payments on account of royalties as it applies to payments of royalties, and
  - (b) applies to payments on account of sums payable periodically as it applies to payments of sums payable periodically.

**Status:**

Point in time view as at 19/07/2012.

**Changes to legislation:**

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