



Finance Act 2009

2009 CHAPTER 10

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Foreign profits etc

34 Corporation tax treatment of company distributions received

Schedule 14 contains provision about the treatment for the purposes of corporation tax of dividends and other distributions.

^{F1}35 Tax treatment of financing costs and income

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Textual Amendments

- F1** [S. 35](#) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 159, **10 Pt. 4** (with Sch. 9 paras. 1-9, 22)

36 Controlled foreign companies

Schedule 16 contains provision about controlled foreign companies.

37 International movement of capital

Schedule 17 contains provision—

- (a) removing the existing requirements in relation to the international movement of capital in sections 765 to 767 of ICTA, and

Status: Point in time view as at 01/01/2015.

Changes to legislation: Finance Act 2009, Cross Heading: Foreign profits etc is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) imposing new reporting requirements on certain bodies corporate in relation to the international movement of capital.

F238 Corporation tax: foreign currency accounting

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Textual Amendments

- F2** S. 38 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 709, **3 Pt. 1** (with Sch. 2)

39 Certain distributions of offshore funds taxed as interest

- (1) Chapter 2 of Part 4 of ITTOIA 2005 (interest) is amended as follows.
- (2) In section 369(2) (list of provisions extending what is treated as interest for certain purposes), after the entry relating to section 376 insert— “ section 378A (offshore fund distributions), ”.
- (3) After section 378 insert—

“378A Offshore fund distributions

- (1) This section applies where—
- a dividend is paid by an offshore fund, and
 - the offshore fund fails to meet the qualifying investments test at any time in the relevant period.
- (2) The dividend is treated as interest for income tax purposes.
- (3) For the purposes of this section, an offshore fund fails to meet the qualifying investments test if the market value of the fund's qualifying investments exceeds 60% of the market value of all of the assets of the fund (excluding cash awaiting investment).
- (4) “The relevant period” means—
- the relevant period of account of the offshore fund, or
 - if longer, the period of 12 months ending on the last day of that period.
- (5) “The relevant period of account” means—
- the last period of account ending before the dividend is paid, in a case in which the profits available for distribution at the end of that period (and not used since then by distribution or otherwise) equal or exceed the amount of the dividend (aggregated with any other distribution made by the offshore fund at the same time), and
 - the period of account in which the dividend is paid, in any other case.
- (6) This section applies to a manufactured overseas dividend if, and only if, it is representative of a distribution to which this section would apply.
- (7) In this section—

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“dividend” includes any distribution that (but for this section) would be treated as a dividend for income tax purposes;

“manufactured overseas dividend” has the same meaning as in Chapter 2 of Part 11 of ITA 2007 (manufactured payments);

“offshore fund” has the same meaning as in Chapter 5 of Part 17 of ICTA (see sections 756A to 756C of that Act);

“qualifying investments” has the meaning given in section 494 of CTA 2009.”

- (4) Accordingly, in section 367 of ITTOIA 2005 (priority between Chapters within Part 4), in subsection (3)—
- (a) in paragraph (a), after “dividends” insert “ , 378A (offshore fund distributions) ”, and
 - (b) in paragraph (b), insert at the end “or Chapter 4 (or both)”.
- (5) The amendments made by this section have effect in relation to—
- (a) distributions arising on or after 22 April 2009, and
 - (b) manufactured overseas dividends that are representative of a distribution arising on or after that date.

40 Income tax credits for foreign distributions

Schedule 19 contains provision about income tax credits for foreign distributions.

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