



Corporation Tax Act 2010

2010 CHAPTER 4

PART 16

FACTORING OF INCOME ETC

CHAPTER 1

TRANSFERS OF INCOME STREAMS

752 Application of Chapter

- (1) This Chapter applies if—
 - (a) a company within the charge to corporation tax (“the transferor”) makes a transfer to another person (“the transferee”) of a right to relevant receipts (see subsection (2)), and
 - (b) (subject to subsection (3)) the transfer of the right is not a consequence of the transfer to the transferee of an asset from which the right to relevant receipts arises.
- (2) “Relevant receipts” means any income—
 - (a) which (but for the transfer) would be charged to corporation tax as income of the transferor, or
 - (b) which (but for the transfer) would be brought into account in calculating profits of the transferor for the purposes of corporation tax.
- (3) Despite subsection (1)(b), this Chapter applies if the transfer of the right is a consequence of the transfer to the transferee of all rights under an agreement for annual payments; and for the purposes of subsection (1)(b) the transfer of an asset under a sale and repurchase agreement is not to be regarded as a transfer of the asset.
- (4) Section 753 makes provision as to the consequences of this Chapter applying.
- (5) For exclusions from this Chapter, see—
 - (a) section 754 (amount otherwise taxed), and

Status: Point in time view as at 17/07/2012.

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- (b) section 755 (transfer by way of security).
- (6) Section 756 makes special provision about transfers of partnership shares.
- (7) Section 757 contains supplementary provisions.

753 Value of transferred income stream treated as income

- (1) The relevant amount (see subsection (2)) is to be treated as income of the transferor chargeable to corporation tax in the same way and to the same extent as that in which the relevant receipts—
 - (a) would have been chargeable to corporation tax, or
 - (b) would have been brought into account in calculating any profits for the purposes of corporation tax,
 but for the transfer of the right to relevant receipts.
- (2) The relevant amount is—
 - (a) (except where paragraph (b) applies) the amount of the consideration for the transfer of the right, or
 - (b) where the amount of any such consideration is substantially less than the market value of the right at the time when the transfer takes place (or where there is no consideration for the transfer of the right), the market value of the right at that time.
- (3) The income under subsection (1) is to be treated as arising—
 - (a) to the extent that it does not exceed the amount of the consideration for the transfer of the right, in the period or periods for which, in accordance with generally accepted accounting practice, the consideration for the transfer is recognised for accounting purposes in a profit and loss account or income statement of the transferor, and
 - (b) otherwise, in the period or periods for which, in accordance with generally accepted accounting practice, the consideration for the transfer would be so recognised if it were of an amount equal to the market value of the right at the time when the transfer takes place.
- (4) But if at any time it becomes reasonable to assume that the income (to any extent) is not, or would not be, treated by subsection (3) as arising in an accounting period of the transferor, the income is to that extent to be treated as arising immediately before that time.

754 Exception: amount otherwise taxed

This Chapter does not apply if and to the extent that the income under section 753(1) is (apart from this Chapter)—

- (a) charged to tax as income of the transferor,
- (b) brought into account as income in calculating the profits of the transferor, or
- (c) brought into account under CAA 2001.

755 Exception: transfer by way of security

- (1) This Chapter does not apply if—

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- (a) the consideration for the transfer is the advance under a type 1 finance arrangement, and
 - (b) the transferor is, or is a member of a partnership which is, the borrower in relation to the arrangement.
- (2) This Chapter does not apply if—
- (a) the consideration for the transfer is the advance under a type 2 finance arrangement or a type 3 finance arrangement, and
 - (b) the transferor is a member of the partnership which receives that advance under the arrangement.
- (3) In this section—
- “type 1 finance arrangement” has the meaning given for the purposes of Chapter 2 by section 758,
 - “type 2 finance arrangement” has the meaning given for the purposes of Chapter 2 by section 763, and
 - “type 3 finance arrangement” has the meaning given for the purposes of Chapter 2 by section 767.

756 Partnership shares

- (1) For the purposes of this Chapter a transfer of a right to relevant receipts consisting of the reduction in the transferor's share in the profits or losses of a partnership is to be regarded as a consequence of a transfer of an asset from which the right arose (that is, the partnership property) if condition A or B is met.
- (2) Condition A is that there is a reduction of the transferor's share in the partnership property and the reduction in the transferor's share in the profits or losses is proportionate to that reduction.
- (3) Condition B is that it is not the main purpose, or one of the main purposes, of the transfer to secure that the relevant receipts are not charged to corporation tax or income tax as income of any partner or brought into account as income of any partner for the purpose of either of those taxes.

757 Interpretation of Chapter

- (1) For the purposes of this Chapter—
 - (a) the grant or surrender of a lease of land is to be regarded as a transfer of the land,
 - (b) the disposal of an interest in an oil licence (within the meaning of section 809 of CTA 2009) is to be regarded as a transfer of the oil licence, and
 - (c) the grant or disposal of an interest in intellectual property (within the meaning of section 712(3) of CTA 2009) which constitutes a pre-FA 2002 asset (within the meaning of section 881 of that Act) is to be regarded as a transfer of that intellectual property.
- (2) The Treasury may by order make other provision for securing that other transactions are to be regarded as transfers of assets for those purposes.
- (3) In this Chapter—
 - (a) references to a transfer include sale, exchange, gift and assignment and any other arrangement which equates in substance to a transfer, and

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- (b) references to a transfer taking place are, in the case of an arrangement other than a sale, exchange, gift or assignment, to the making of the arrangement.
- (4) A transfer to or by any partnership of which the transferor or transferee is a member, and a transfer to the trustees of any trust of which the transferor is a beneficiary, counts as a transfer in relation to which this Chapter applies.

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