



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### [<sup>F1</sup>PART 8A

PROFITS ARISING FROM THE EXPLOITATION OF PATENTS ETC

### [<sup>F2</sup>CHAPTER 2A

RELEVANT IP PROFITS: CASES MENTIONED IN SECTION 357A(6)

[<sup>F1</sup>][<sup>F2</sup>Small claims treatment

#### Textual Amendments

- F1** Pt. 8A inserted (with effect in accordance with [Sch. 2 paras. 7, 8](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 2 para. 1\(1\)](#)
- F2** Pt. 8A Chs. 2A, 2B inserted (with effect in accordance with s. 64(7) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 64\(3\)](#)

#### 357BN Small claims treatment

- (1) This section applies where—
- a company carries on only one trade during an accounting period,
  - section 357BF applies for the purposes of determining the relevant IP profits of the trade for the accounting period, and
  - the qualifying residual profit of the trade for the accounting period does not exceed whichever is the greater of—
    - £1,000,000, and
    - the relevant maximum for the accounting period.
- (2) The company may make any of the following elections for the accounting period—
- a notional royalty election (see section 357BNA),

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- (b) a small claims figure election (see section 357BNB), and
- (c) a global streaming election (see section 357BNC).

This is subject to subsections (3) and (4).

- (3) The company may not make a notional royalty election, a small claims figure election or a global streaming election for the accounting period if—
- (a) the qualifying residual profit of the trade for the accounting period exceeds £1,000,000,
  - (b) section 357BF applied for the purposes of determining the relevant IP profits of the trade for any previous accounting period beginning within the relevant 4-year period, and
  - (c) the company did not make a notional royalty election, a small claims figure election or (as the case may be) a global streaming election for that previous accounting period.
- (4) The company may not make a small claims figure election for the accounting period if—
- (a) the qualifying residual profit of the trade for the accounting period exceeds £1,000,000,
  - (b) section 357C or 357DA applied for the purposes of determining the relevant IP profits of the trade for any previous accounting period beginning within the relevant 4-year period, and
  - (c) the company did not make an election under section 357CL for small claims treatment for that previous accounting period.
- (5) In subsections (3) and (4) “the relevant 4-year period” means the period of 4 years ending with the beginning of the accounting period mentioned in subsection (1)(a).
- (6) For the purposes of this section, the “qualifying residual profit” of a trade of a company for an accounting period is the amount which (assuming the company did not make an election under this section) would be equal to the aggregate of the relevant IP income sub-streams established at Step 2 in section 357BF(2) in determining the relevant IP profits of the trade for the accounting period, following the deductions from those sub-streams required by Step 4 in section 357BF(2) (ignoring the amount of any sub-stream which is not greater than nil following those deductions).
- (7) For the purposes of this section, the “relevant maximum” for an accounting period of a company is—
- (a) in a case where [<sup>F3</sup>the company has no associated company] in the accounting period, £3,000,000;
  - (b) in a case where [<sup>F4</sup>one or more companies are related 51% group companies of the company] in the accounting period, the amount given by the formula—
 
$$£ 3,000,000 ( 1 + N )$$
 where N is the number of [<sup>F5</sup>those associated] companies in relation to which an election under section 357A(1) has effect for the accounting period.
- (8) For an accounting period of less than 12 months, the relevant maximum is proportionally reduced.

[ The rules in Part 3A (see sections 18E to 18J) which apply for determining whether <sup>F6</sup>(9) a company is another company's associated company in an accounting period for the purposes of section 18D apply for the purposes of this section.]

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### Textual Amendments

- F3** Words in s. 357BN(7)(a) substituted (with effect in accordance with Sch. 1 para. 33 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 1 para. 20(2)(a)**
- F4** Words in s. 357BN(7)(b) substituted (with effect in accordance with Sch. 1 para. 33 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 1 para. 20(2)(b)**
- F5** Words in s. 357BN(7) substituted (with effect in accordance with Sch. 1 para. 33 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 1 para. 20(2)(c)**
- F6** [S. 357BN\(9\)](#) inserted (with effect in accordance with Sch. 1 para. 33 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 1 para. 20(3)**

### 357BNANotional royalty election

- (1) Subsection (2) applies where a company has made a notional royalty election for an accounting period under section 357BN(2)(a).
- (2) In its application for the purposes of determining the relevant IP profits of the trade of the company for the accounting period, section 357BHA (notional royalty) has effect as if—
  - (a) in subsection (2) for “the appropriate percentage” there were substituted “75%”, and
  - (b) subsections (3) to (6) were omitted.

### 357BNBSmall claims figure election

- (1) Subsection (2) applies where a company has made a small claims figure election for an accounting period under section 357BN(2)(b).
- (2) In its application for the purposes of determining the relevant IP profits of the trade of the company for the accounting period, section 357BF(2) (steps for calculating relevant IP profits) has effect as if in Step 5—
  - (a) for “marketing assets return figure” there was substituted “small claims figure”, and
  - (b) for “(see section 357BK)” there was substituted “(see section 357BNB(3))”.
- (3) Subsections (4) to (9) apply for the purpose of calculating the small claims figure for a relevant IP income sub-stream established at Step 2 in section 357BF(2) in determining the relevant IP profits of a trade of a company for an accounting period.
- (4) If 75% of the qualifying residual profit of the trade for the accounting period is lower than the small claims threshold, the small claims figure for the sub-stream is 25% of the amount of the sub-stream following Step 4 in section 357BF(2).
- (5) If 75% of the qualifying residual profit of the trade for the accounting period is higher than the small claims threshold, the small claims figure for the sub-stream is the amount given by—

$$A - (A \text{ QRP} \times \text{SCT})$$

where—

A is the amount of the sub-stream following the deductions required by Step 4 in section 357BF(2),

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QRP is the qualifying residual profit of the trade of the company for the accounting period, and

SCT is the small claims threshold.

- (6) If [<sup>F7</sup>the company has no associated company] in the accounting period, the small claims threshold is £1,000,000.
- (7) If [<sup>F8</sup>the company has one or more associated companies] in the accounting period, the small claims threshold is—
- $$£ 1,000,000 ( 1 + N )$$
- where N is the number of [<sup>F9</sup>those associated] companies in relation to which an election under section 357A(1) has effect for the accounting period.
- (8) For an accounting period of less than 12 months, the small claims threshold is proportionately reduced.
- (9) Subsection (6) of section 357BN (meaning of “qualifying residual profit”) applies for the purposes of subsection (4) and (5) of this section.
- [ The rules in Part 3A (see sections 18E to 18J) which apply for determining whether <sup>F10</sup>(10) a company is another company's associated company in an accounting period for the purposes of section 18D apply for the purposes of this section.]

#### Textual Amendments

- F7** Words in s. 357BNB(6) substituted (with effect in accordance with Sch. 1 para. 33 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 1 para. 21\(2\)](#)
- F8** Words in s. 357BNB(7) substituted (with effect in accordance with Sch. 1 para. 33 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 1 para. 21\(3\)\(a\)](#)
- F9** Words in s. 357BNB(7) substituted (with effect in accordance with Sch. 1 para. 33 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 1 para. 21\(3\)\(b\)](#)
- F10** [S. 357BNB\(10\)](#) inserted (with effect in accordance with Sch. 1 para. 33 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 1 para. 21\(4\)](#)

### 357BNC Global streaming election

- (1) Subsection (2) applies where a company has made a global streaming election for an accounting period under section 357BN(2)(c).
- (2) In its application for the purpose of determining the relevant IP profits of the trade of the company for the accounting period, this Chapter has effect with the following modifications.
- (3) In subsection (2) of section 357BF (relevant IP profits)—
- (a) omit Step 2,
  - (b) in Step 3 for “each of the relevant IP income sub-streams” substitute “ the relevant IP income stream ”,
  - (c) in Step 4—
    - (i) in the words before paragraph (a), for “each” substitute “ the ”,
    - (ii) for “sub-stream”, in each place it occurs, substitute “ stream ”,
  - (d) in Step 5—

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- (i) at the beginning insert “ If the relevant IP income stream is greater than nil following Step 4, ”,
    - (ii) for the words from “each” to “Step 4” substitute “ the stream ”,
    - (iii) for “sub-stream”, in the second place it occurs, substitute “ stream ”,
  - (e) in Step 6—
    - (i) for “each relevant IP income sub-stream” substitute “ the relevant IP income stream ”,
    - (ii) for “sub-stream”, in the second place it occurs, substitute “ stream ”,
  - (f) omit Step 7, and
  - (g) in Step 8 for “given by Step 7” substitute “ of the relevant IP income stream following Step 6 ”.
- (4) In subsection (3) of that section for “given by” substitute “ of the relevant IP income stream following the Steps in ”.
- (5) In subsection (4) of that section for “given by” substitute “ of the relevant IP income stream following the Steps in ”.
- (6) Omit subsections (5) to (7) of that section.
- (7) In section 357BIA(3) (certain amounts not to be deducted from sub-streams at Step 4 of section 357BF)—
  - (a) for “a relevant IP income sub-stream” substitute “ the relevant IP income stream ”;
  - (b) for “sub-stream”, in the second and third places it occurs, substitute “ stream ”.
- (8) In section 357BJ (routine return figure)—
  - (a) for “sub-stream”, in each place it occurs, substitute “ stream ”, and
  - (b) in subsection (1) for “Step 2” substitute “ Step 1 ”.
- (9) In section 357BK (marketing asset return figure) for “sub-stream”, in each place it occurs, substitute “ stream ”.
- (10) In section 357BKA (notional marketing royalty)—
  - (a) for “sub-stream”, in each place it occurs, substitute “ stream ”, and
  - (b) in subsection (1) for “Step 2” substitute “ Step 1 ”.
- (11) In section 357BKB (actual marketing royalty) for “sub-stream”, in each place it occurs, substitute “ stream ”.
- (12) In section 357BL (R&D fraction: introduction)—
  - (a) for “sub-stream” (in each place it occurs) substitute “ stream ”, and
  - (b) in subsection (1) for “Step 2” substitute “ Step 1 ”.
- (13) In section 357BLA(1) (R&D fraction) for “sub-stream” substitute “ stream ”.
- (14) In section 357BLB(5) (qualifying expenditure on relevant R&D undertaken in-house) for the words after “1138” substitute “ which relates to a qualifying IP right to which income in the stream is attributable ”.
- (15) In section 357BLE(6) (qualifying expenditure on acquisition of relevant qualifying IP rights) for the words from “means” to the end substitute “ means a qualifying IP right to which income in the stream is attributable ”.

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- (16) In section 357BLG (cases where the company is a new entrant with insufficient information about pre-enactment expenditure) for “sub-stream”, in each place it occurs, substitute “ stream ”.
- (17) In section 357BLH (R&D fraction: increase for exceptional circumstances) for “sub-stream”, in each place it occurs, substitute “ stream ”.
- (18) In section 357BNB (small claims figure election)—
  - (a) for “sub-stream”, in each place it occurs, substitute “ stream ”, and
  - (b) in subsection (3) for “Step 2” substitute “ Step 1 ”.]

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 357CHA omitted by [2024 c. 3 Sch. 2 para. 14\(7\)](#)
- s. 658(1)(d)(e) inserted by [2010 c. 13 Sch. 6 para. 31](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 6 para. 31 omitted (retrospective to 6.4.2010) by virtue of Finance Act 2012 (c. 14), s. 52(2) (3))