



Corporation Tax Act 2010

2010 CHAPTER 4

[^{F1}PART 8A

PROFITS ARISING FROM THE EXPLOITATION OF PATENTS ETC

CHAPTER 3

RELEVANT IP PROFITS

[^{F1}Calculating profits of trade

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\(1\)](#)

357CG Adjustments in calculating profits of trade

- (1) This section applies for the purposes of determining the relevant IP profits of a trade of a company for an accounting period.
- (2) In calculating the profits of the trade for the accounting period—
 - (a) there are to be added the amounts in subsection (3), and
 - (b) there are to be deducted the amounts in subsection (4).
- (3) The amounts to be added are—
 - (a) the amount of any debits which are treated as expenses of the trade by virtue of—
 - (i) section 297 of CTA 2009 (debts in respect of loan relationships), or
 - (ii) section 573 of CTA 2009 (debts in respect of derivative contracts),and

Status: Point in time view as at 17/07/2012.

Changes to legislation: Corporation Tax Act 2010, Cross Heading: Calculating profits of trade is up to date with all changes known to be in force on or before 30 July 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) the amount of any additional deduction for the accounting period obtained by the company under Part 13 of CTA 2009 for expenditure on research and development in relation to the trade.
- (4) The amounts to be deducted are any amounts of finance income brought into account in calculating the profits of the trade for the accounting period.
(For the meaning of “finance income”, see section 357CB.)
- (5) In a case where there is a shortfall in R&D expenditure in relation to the trade for a relevant accounting period (see section 357CH), the amount of R&D expenditure brought into account in calculating the profits of the trade for that accounting period is to be increased by the amount mentioned in section 357CH(2).
- (6) For the purposes of subsection (5)—
 - “R&D expenditure” means expenditure on research and development in relation to the trade,
 - “relevant accounting period”, in relation to a company, means—
 - (a) the first accounting period for which—
 - (i) the company is a qualifying company, and
 - (ii) an election under section 357A has effect in relation to it, and
 - (b) each accounting period that begins before the end of the period of 4 years beginning with that accounting period, and
 - “research and development” means activities, other than oil and gas exploration and appraisal, that fall to be treated as research and development in accordance with generally accepted accounting practice.

357CH Shortfall in R&D expenditure

- (1) There is a shortfall in R&D expenditure in relation to a trade of a company for a relevant accounting period if the actual R&D expenditure of the trade for the accounting period (as adjusted under subsections (8) to (11)) is less than 75% of the average amount of R&D expenditure.
- (2) The amount that is to be added to the actual R&D expenditure for the purposes of section 357CG(5) is an amount equal to the difference between—
 - (a) 75% of the average amount of R&D expenditure, and
 - (b) the actual R&D expenditure, as adjusted under subsections (8) to (11).
- (3) In this section—
 - (a) the “actual R&D expenditure” of a trade of a company for an accounting period is the amount of R&D expenditure that (ignoring section 357CG(5)) is brought into account in calculating the profits of the trade for the accounting period, and
 - (b) “R&D expenditure” and “relevant accounting period” have the meaning given by section 357CG(6).
- (4) The average amount of R&D expenditure is—

$$E \div N \times 365$$

where—

E is the amount of R&D expenditure that—

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- (a) has been incurred by the company during the relevant period, and
- (b) has been brought into account in calculating the profits of the trade for any accounting period ending before the first relevant accounting period, and

N is the number of days in the relevant period.

- (5) The relevant period is the shorter of—
 - (a) the period of 4 years ending immediately before the first relevant accounting period, and
 - (b) the period beginning with the day on which the company begins to carry on the trade and ending immediately before the first relevant accounting period.
- (6) For a relevant accounting period of less than 12 months, the average amount of R&D expenditure is proportionately reduced.
- (7) Subsections (8) to (11) apply for the purposes of determining—
 - (a) whether there is a shortfall in R&D expenditure for a relevant accounting period, and
 - (b) if there is such a shortfall, the amount to be added by virtue of subsection (2).
- (8) If the amount of the actual R&D expenditure for a relevant accounting period is greater than the average amount of R&D expenditure, the difference between the two amounts is to be added to the actual R&D expenditure for the next relevant accounting period.
- (9) If—
 - (a) there is not a shortfall in R&D expenditure for a relevant accounting period, but
 - (b) in the absence of any additional amount, there would be a shortfall in R&D expenditure for that accounting period,the remaining portion of the additional amount is to be added to the actual R&D expenditure for the next relevant accounting period.
- (10) For the purposes of this section—
 - “additional amount”, in relation to a relevant accounting period, means any amount added to the actual R&D expenditure for that accounting period by virtue of subsection (8), (9) or (11), and
 - “the remaining portion” of an additional amount is so much of that amount as exceeds the difference between—
 - (a) the actual R&D expenditure for the relevant accounting period in the absence of the additional amount, and
 - (b) 75% of the average amount of R&D expenditure.
- (11) If—
 - (a) there is not a shortfall in R&D expenditure for a relevant accounting period, and
 - (b) there would not be a shortfall in R&D expenditure for that accounting period in the absence of any additional amount,the additional amount is to be added to the actual R&D expenditure for the next relevant accounting period (in addition to any additional amount so added by virtue of subsection (8)).]

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