

Status: Point in time view as at 26/06/2020.

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Corporation Tax Act 2010

2010 CHAPTER 4

[^{F1}PART 8C

RESTITUTION INTEREST

Textual Amendments

- F1** Pt. 8C inserted (18.11.2015) (with effect in accordance with s. 38(9)-(12) of the amending Act) by Finance (No. 2) Act 2015 (c. 33), s. **38(3)**

CHAPTER 1

AMOUNTS TAXED AS RESTITUTION INTEREST

357YA Charge to corporation tax on restitution interest

[^{F2}(1)] The charge to corporation tax on income applies to restitution interest arising to a company.

[^{F3}(2) In subsection (1) the reference to a company does not include a charitable company.]

Textual Amendments

- F2** S. 357YA renumbered as s. 357YA(1) (with effect in accordance with reg. 2 of the amending S.I.) by The Corporation Tax Act 2010 (Part 8C) (Amendment) Regulations 2017 (S.I. 2017/364), regs. 1, **5(a)**
- F3** S. 357YA(2) inserted (with effect in accordance with reg. 2 of the amending S.I.) by The Corporation Tax Act 2010 (Part 8C) (Amendment) Regulations 2017 (S.I. 2017/364), regs. 1, **5(b)**

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357YB Restitution interest chargeable as income

(1) Profits arising to a company which consist of restitution interest are chargeable to tax as income under this Part (regardless of whether the profits are of an income or capital nature).

[^{F4}(1A) In subsection (1) the reference to a company does not include a charitable company.]

(2) In this Part references to “profits” are to be interpreted in accordance with section 2(2) of CTA 2009.

Textual Amendments

F4 S. 357YB(1A) inserted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, 6

357YC Meaning of “restitution interest”

(1) In this Part “restitution interest” means profits in relation to which Conditions A to C are met.

(2) Condition A is that the profits are interest paid or payable by the Commissioners [^{F5}for Her Majesty’s Revenue and Customs] in respect of [^{F6}a company’s right (or possible right) to restitution] with regard to either of the following matters (or alleged matters)

- (a) the payment of an amount to the Commissioners under a mistake of law relating to a taxation matter, or
- (b) the unlawful collection by the Commissioners of an amount in respect of taxation.

(3) Condition B is that—

- (a) a court has made a final determination that the Commissioners are liable to pay the interest, or
- [^{F7}(b) the Commissioners have in final settlement of a claim in respect of the right (or possible right) mentioned in subsection (2) entered into an agreement under which a person is entitled to be paid, or is to retain, the interest.]

(4) Condition C is that the interest determined to be due, or agreed upon, as mentioned in subsection (3) is not limited to simple interest at a statutory rate (see section 357YU).

(5) Subsection (4) does not prevent so much of an amount of interest determined to be due, or agreed upon, as represents or is calculated by reference to simple interest at a statutory rate from falling within the definition of “restitution interest”.

(6) For the purposes of subsection (2) it does not matter whether the interest is paid or payable—

- (a) pursuant to a judgment or order of a court,
- (b) as an interim payment in court proceedings,
- (c) under an agreement to settle a claim, or
- (d) in any other circumstances.

(7) For the purposes of this section—

- (a) “interest” includes an amount equivalent to interest, and

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- (b) an amount paid or payable by the Commissioners as mentioned in subsection (2) is “equivalent to interest” so far as it is an amount determined by reference to the time value of money.
- (8) For the purposes of this section a determination made by a court is “final” if the determination cannot be varied on appeal (whether because of the absence of any right of appeal, the expiry of a time limit for making an appeal without an appeal having been brought, the refusal of permission to appeal, the abandonment of an appeal or otherwise).
- (9) Any power to grant permission to appeal out of time is to be disregarded for the purposes of subsection (8).

Textual Amendments

- F5** Words in s. 357YC(2) inserted (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **13**
- F6** Words in s. 357YC(2) substituted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **7(a)**
- F7** S. 357YC(3)(b) substituted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **7(b)**

357YD Further provision about amounts included, or not included, in “restitution interest”

- (1) Interest paid to a company is not restitution interest for the purposes of this Part if—
 - (a) Condition B was not met in relation to the interest until after the interest was paid, and
 - (b) the amount paid was limited to simple interest at a statutory rate
- (2) Subsection (1) does not prevent so much of a relevant amount of interest determined to be due, agreed upon or otherwise paid as represents or is calculated by reference to simple interest at a statutory rate from falling within the definition of “restitution interest”.
- (3) In subsection (2) “relevant amount of interest” means an amount of interest the whole of which was paid before Condition B was met in relation to it.
- (4) Section 357YC(7) applies in relation to this section as in relation to section 357YC.

[^{F8}357YDA] Life insurance companies: amounts representing policyholder income

- (1) This section applies if—
 - (a) an amount of interest paid or payable by the Commissioners for Her Majesty’s Revenue and Customs would (but for this section) be restitution interest arising to a company, and
 - (b) were this Part not to have effect, that amount would be taken into account under section 73 of FA 2012 (the I-E basis) as income chargeable for an accounting period of the company that is referable to its basic life assurance and general annuity business.
- (2) So much (if any) of the amount as represents policyholder income is to be treated for the purposes of this Part as if it were not restitution interest.

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- (3) To determine how much (if any) of the amount mentioned in subsection (1) (amount “A”) represents policyholder income, take the following steps—

Step 1

- (a) Take so much of amount A as consists of non-ACT interest (“the non-ACT amount”).
- (b) Determine how much (in total) of the non-ACT amount is to be assigned to with-profits funds (one or more) of the company.

Call this total amount “P”.

In this step “non-ACT interest” means interest which is not interest in respect of advance corporation tax.

Step 2

Determine how much of P is to be assigned to each of the with-profits funds concerned.

This is the “assignable amount” in the case of each fund.

Step 3

In the case of each fund mentioned in step 2, determine in what proportions profits of the fund concerned are to be divided between policyholders and shareholders under the distribution policy for the fund.

Step 4

Express the policyholders’ proportion (as determined under step 3) as a percentage of the whole.

This is the “policyholder percentage” for the fund.

Step 5

Multiply each assignable amount by the policyholder percentage for the fund in question.

The result is the “policyholder amount” in the case of each fund.

Step 6

Amount A “represents policyholder income” so far as it does not exceed the total policyholder amounts found under step 5.

- (4) For the purposes of subsection (3) “the distribution policy for the fund” means the basis on which the company has decided profits of the fund are to be divided between policyholders and shareholders.
- (5) The distribution policy for a with-profits fund is to be determined as at the time when the interest arises, and with particular reference to—
 - (a) any relevant information in the company’s articles of association, and
 - (b) any relevant information or document published by the company in connection with obligations under the FCA Handbook.

- (6) In this section—

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“the FCA Handbook” means the Handbook made by the Financial Conduct Authority under the Financial Services and Markets Act 2000, and

“interest” has the same meaning as in section 357YC.]

Textual Amendments

F8 S. 357YDA inserted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, 8

357YE Period in which amounts are to be brought into account

- (1) The amounts to be brought into account as restitution interest for any period for the purposes of this Part are those that are recognised in determining the company's profit or loss for the period in accordance with generally accepted accounting practice.
- (2) If Condition A in section 357YC is met, in relation to any amount, after the end of the period for which the amount is to be brought into account as restitution interest in accordance with subsection (1), any necessary adjustments are to be made; and any time limits for the making of adjustments are to be disregarded for this purpose.

357YF Companies without GAAP-compliant accounts

- (1) If a company—
 - (a) draws up accounts which are not GAAP-compliant accounts, or
 - (b) does not draw up accounts at all,this Part applies as if GAAP-compliant accounts had been drawn up.
- (2) Accordingly, references in this Part to amounts recognised for accounting purposes are references to amounts that would have been recognised if GAAP-compliant accounts had been drawn up for the period of account in question and any relevant earlier period.
- (3) For this purpose a period of account is relevant to a later period if the accounts for the later period rely to any extent on amounts derived from the earlier period.
- (4) In this section “GAAP-compliant accounts” means accounts drawn up in accordance with generally accepted accounting practice.

357YG Restitution interest: appeals made out of time

- (1) This section applies where—
 - (a) an amount of interest (“the interest”) arises to a company as restitution interest for the purposes of this Part,
 - (b) Condition B in section 357YC is met in relation to the interest as a result of the making by a court of a final determination as mentioned in subsection (3) (a) of that section,
 - (c) on a late appeal (or a further appeal subsequent to such an appeal) a court reverses that determination, or varies it so as to negative it, and
 - (d) the determination reversing or varying the determination by virtue of which Condition B was met is itself a final determination.
- (2) This Part has effect as if the interest had never been restitution interest.

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- (3) If—
- (a) the Commissioners for Her Majesty's Revenue and Customs have under section 357YO(2) deducted a sum representing corporation tax from the interest, or
 - (b) a sum has been paid as corporation tax in respect of the interest under section 357YQ,
- that sum is treated for all purposes as if it had never been paid to, or deducted or held by, the Commissioners as or in respect of corporation tax.
- (4) Any adjustments are to be made that are necessary in accordance with this section; and any time limits applying to the making of adjustments are to be ignored.
- (5) In this section—
- “final determination” has the same meaning as in section 357YC;
 - “late appeal” means an appeal which is made by reason of a court giving leave to appeal out of time.

357YH Countering effect of avoidance arrangements

- (1) Any ^{F9}... tax advantages that would (in the absence of this section) arise from relevant avoidance arrangements are to be counteracted by the making of such adjustments as are just and reasonable in relation to amounts to be brought into account for the purposes of this Part.
- (2) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or otherwise.
- (3) For the meaning of “relevant avoidance arrangements” and “[^{F10}tax advantage]” see section 357YI.

Textual Amendments

- F9** Word in s. 357YH(1) omitted (with effect in accordance with reg. 3 of the amending S.I.) by virtue of [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **14(a)**
- F10** Words in s. 357YH(3) substituted (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **14(b)**

357YI Interpretation of section 357YH

- (1) This section applies for the interpretation of section 357YH (and this section).
- (2) “Arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (3) Arrangements are “relevant avoidance arrangements” if their main purpose, or one of their main purposes, is to enable a company to obtain a tax advantage in relation to the application of the charge to tax at the restitution payments rate.

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- (4) But arrangements are not “relevant avoidance arrangements” if the obtaining of any tax advantages that would (in the absence of section 357YH) arise from them can reasonably be regarded as consistent with wholly commercial arrangements.
- (5) “Tax advantage” includes—
- (a) a repayment of tax or increased repayment of tax,
 - (b) the avoidance or reduction of a charge to tax or an assessment to tax,
 - (c) the avoidance of a possible assessment to tax,
 - (d) deferral of a payment of tax or advancement of a repayment of tax, or
 - (e) the avoidance of an obligation to deduct or account for tax.
- (6) In subsection (5)(b) and (c) the references to avoidance or reduction include an avoidance or reduction effected by receipts accruing in such a way that the recipient does not bear tax on them as restitution interest under this Part.

357YJ Examples of results that may indicate exclusion not applicable

[^{F11}(1)] Each of the following is an example of something which might indicate that arrangements whose main purpose, or one of whose main purposes, is to enable a company to obtain a ^{F12}... tax advantage are not excluded by section 357YI(4) from being “relevant avoidance arrangements” for the purposes of section 357YH—

- (a) existing the elimination or reduction for the purposes of this Part of amounts chargeable as restitution interest arising to the company in connection with a particular claim, if for economic purposes other or greater profits arise to the company in connection with the claim;
- (b) preventing or delaying the recognition as an item of profit or loss of an amount that would apart from the arrangements be recognised in the company's accounts as an item of profit or loss, or be so recognised earlier;
- (c) ensuring that a receipt is treated for accounting purposes in a way in which it would not have been treated in the absence of some other transaction forming part of the arrangements.

[^{F13}(2)] In this section “arrangements” and “tax advantage” have the meaning given by section 357YI.]

Textual Amendments

F11 S. 357J renumbered as s. 257J(1) (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **15(a)**

F12 Words in s. 357YJ(1) omitted (with effect in accordance with reg. 3 of the amending S.I.) by virtue of [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **15(b)**

F13 S. 357YJ(2) inserted (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **15(c)**

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CHAPTER 2

APPLICATION OF RESTITUTION PAYMENTS RATE

357YK Corporation tax rate on restitution interest

- (1) Corporation tax is charged on restitution interest at the restitution payments rate.
- (2) The “restitution payments rate” is 45%.

357YL Exclusion of reliefs, set-offs etc

- (1) Under subsection (3) of section 4 (amounts to which rates of corporation tax applied) the amounts to be added together to find a company's “total profits” do not include amounts of restitution interest on which corporation tax is chargeable under this Part.
- (2) No reliefs or set-offs may be given against so much of the corporation tax to which a company is liable for an accounting period as is equal to the amount of corporation tax chargeable on the company for the period at the restitution payments rate.
- (3) In subsection (2) “reliefs and set-offs” includes, but is not restricted to, those listed in the second step of paragraph 8(1) of Schedule 18 to FA 1998.
- (4) Amounts of income tax or corporation tax, or any other amounts, which may be set off against a company's overall liability to income tax and corporation tax for an accounting period may not be set off against so much of the corporation tax to which the company is liable for the period as is equal to the amount of corporation tax chargeable at the restitution payments rate.

CHAPTER 3

MIGRATION, TRANSFERS OF RIGHTS ETC

357YM Assignment of rights to person not chargeable to corporation tax

- (1) Subsection (4) applies if—
 - [^{F14}(a) a chargeable company (“the transferor”) transfers to a person who either—
 - (i) is not a company, or
 - (ii) is a non-qualifying company,
 a right in respect of a claim, or possible claim, for restitution,]
 - (b) the transfer is made on or after 21 October 2015, and
 - (c) conditions A and B are met.
- (2) Condition A is that the main purpose, or one of the main purposes, of the transfer is to secure a tax advantage for any person in relation to the application of the charge to tax on restitution interest under this Part.
- (3) Condition B is that as a result of that transfer (or that transfer together with further transfers of the rights) restitution interest arises to a person who [^{F15}either—
 - (a) is not a company, or
 - (b) is a non-qualifying company.]

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- (4) Any restitution interest which arises as mentioned in Condition B is treated for corporation tax purposes as restitution interest arising to the transferor.
- [^{F16}(5) For the purposes of this section a company is a “chargeable company” if it meets the first and second conditions.
- The first condition is that the company is UK resident or carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom.
- The second condition is that the company is not a charitable company and would not be exempt from corporation tax on restitution interest (were such interest to arise to it).
- (5A) For the purposes of this section a company is a “non-qualifying company” if—
- (a) it is non-UK resident, or
 - (b) it is a charitable company, or would be exempt from corporation tax on restitution interest (were such interest to arise to it).]

(6) In this section “tax advantage” has the meaning given by section 357YI.

Textual Amendments

- F14** S. 357YM(1)(a) substituted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **10(a)**
- F15** Words in s. 357YM(3) substituted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **10(b)**
- F16** S. 357YM(5)(5A) substituted for s. 357YM(5) (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **10(c)**

357YN Migration of company with claim to restitution interest

- (1) This section applies where—
- (a) restitution interest arises to a non-UK resident company,
 - (b) the rights in respect of which the company is entitled to the restitution interest had (to any extent) accrued when the company ceased to be UK resident, and
 - (c) the company's main purpose, or one of its main purposes, in changing its residence was to secure a tax advantage for any person in relation to the application of the charge to tax on restitution interest under this Part.
- (2) The company is treated as a UK resident company for the purposes of the application of this Part in relation to so much of that restitution interest as is attributable to relevant accrued rights.
- (3) “Relevant accrued rights” means rights which had accrued to the company when it ceased to be UK resident.
- (4) The company is to be treated for the purposes of sections 185 and 187 of TCGA 1992 as not having disposed of its assets on ceasing to be resident in the United Kingdom, so far as its assets at that time consisted of rights to receive restitution interest.
- (5) Any adjustments that are necessary as a result of subsection (4) are to be made; and any time limits for the making of adjustments are to be ignored for this purpose.

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[^{F17} 357YNA] Transfer of rights: restitution interest arising after a winding up or dissolution

- (1) Subsection (2) applies if an amount of restitution interest which is paid or payable to a person would be treated under section 357YM(4) as arising to a company (“the transferor”) but for the fact that the company no longer exists at the time when the restitution interest arises.
- (2) If an officer of Revenue and Customs gives a related company a notice under this subsection in respect of the restitution interest, the restitution interest is treated for corporation tax purposes as restitution interest arising to that company.
- (3) Subsection (4) applies if an amount of restitution interest which is paid or payable to a person would apart from this section be treated by virtue of section 357YM(4) as arising to a company which has been wound up (“the transferor”).
- (4) If an officer of Revenue and Customs gives a related company a notice under this subsection in respect of the restitution interest, the restitution interest is treated for corporation tax purposes as restitution interest arising not to the transferor but to that company.
- (5) A notice under subsection (2) or (4) must specify—
 - (a) the amount of the restitution interest, and
 - (b) the date on which it is paid or payable.
- (6) A notice under subsection (2) or (4) in respect of an amount of restitution interest must be given by the later of—
 - (a) the date on which the amount is paid or payable, or
 - (b) the time when any notice under section 357YQ(2) in respect of the amount is given to the related company.

Textual Amendments

F17 Ss. 357YNA, 357YNB inserted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **11**

357YNB Meaning of “related company”

- (1) A company is a “related company” for the purposes of section 357YNA(2) if at any time in the relevant period (see subsection (5)) that company was a member of the same group as the transferor (see section 357YNA(1)).
- (2) A company is a “related company” for the purposes of section 357YNA(4) if at any time in the relevant period (see subsection (6)) that company was a member of the same group as the transferor (see section 357YNA(3)).
- (3) For the purposes of this section two companies are members of the same group if—
 - (a) one is a 51% subsidiary of the other, or
 - (b) both are 51% subsidiaries of a third company.
- (4) In subsection (1) “the relevant period” means the period which—
 - (a) begins—

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- (i) if the transferor was not wound up before it was dissolved, at the beginning of the 12 months ending with the date on which the company is dissolved,
 - (ii) if the transferor was wound up before it was dissolved, at the beginning of the 12 months before the commencement of the winding up, and
 - (b) ends when the amount mentioned in section 357YNA(1) is paid or becomes payable (whichever is later).
- (5) In subsection (2) the “relevant period” means the period which—
- (a) begins at the beginning of the 12 months before the commencement of the winding up of the transferor, and
 - (b) ends when the amount mentioned in section 357YNA(3) is paid or becomes payable (whichever is later).]

Textual Amendments

F17 Ss. 357YNA, 357YNB inserted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **11**

CHAPTER 4

PAYMENT AND COLLECTION OF TAX ON RESTITUTION INTEREST

357YO Duty to deduct tax from payments of restitution interest

- (1) Subsection (2) applies if the Commissioners for Her Majesty's Revenue and Customs pay an amount of interest in relation to which Conditions 1 and 2 are met and—
 - (a) the amount is (when the payment is made) restitution interest on which a company is chargeable to corporation tax under this Part, or
 - (b) a company would be chargeable to corporation tax under this Part on the interest paid if it were (at that time) restitution interest.
- (2) The Commissioners must, on making the payment—
 - (a) deduct from it a sum representing corporation tax on the amount at the restitution payments rate, and
 - (b) give the company a written notice stating the amount of the gross payment and the amount deducted from it.
- (3) Condition 1 is that the Commissioners are liable to pay, or have agreed or determined to pay, the interest in respect of a company's claim for restitution with regard to—
 - (a) the payment of an amount to the Commissioners under a mistake of law relating to a taxation matter, or
 - (b) the unlawful collection by the Commissioners of an amount in respect of taxation.
- (4) Condition 2 is that the interest is not limited to simple interest at a statutory rate.

In determining whether or not this condition is met, all amounts which the Commissioners are liable to pay, or have agreed or determined to pay in respect of the claim are to be considered together.

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- (5) For the purposes of Condition 1 it does not matter whether the Commissioners are liable to pay, or (as the case may be) have agreed or determined to pay, the interest—
- (a) pursuant to a judgment or order of a court,
 - (b) as an interim payment in court proceedings,
 - (c) under an agreement to settle a claim, or
 - (d) in any other circumstances.
- (6) For the purposes of subsection (2) the restitution payments rate is to be applied to the gross payment, that is to the payment before deduction of a sum representing corporation tax in accordance with this section.
- (7) For the purposes of this section—
- (a) “interest” includes an amount equivalent to interest, and
 - (b) an amount which the Commissioners pay as mentioned in subsection (1) is “equivalent to interest” so far as it is an amount determined by reference to the time value of money.

357YP Treatment of amounts deducted under section 357YO

- (1) An amount deducted from an interest payment in accordance with section 357YO(2)
- ^{F18}(a) is treated for all purposes as paid by the company mentioned in section 357YO(1) on account of the company's liability, or potential liability, to corporation tax charged on the interest payment, as restitution interest, under this Part^{F19}, and
 - (b) is accordingly to be treated for corporation tax purposes as going towards the discharging of the company's liability to pay, for the accounting period concerned, tax charged under this Part (as calculated under paragraph 2 of the fifth step of paragraph 8(1) of Schedule 18 to FA 1998).]
- (2) Subsections (3) and (4) apply if—
- (a) the Commissioners [^{F20}for Her Majesty's Revenue and Customs] have, on paying an amount which is not (when the payment is made) restitution interest, made a deduction under section 357YO(2) from the gross payment (see section 357YO(6)), and
 - (b) a company becomes liable to repay the net amount to the Commissioners, or it otherwise becomes clear that the gross amount cannot, or will not, become restitution interest.
- (3) If the condition in subsection (2)(b) is met in circumstances where the company is not liable to repay the net amount to the Commissioners, the Commissioners must—
- (a) repay to the company the amount treated under subsection (1) as paid by the company, and
 - (b) make any other necessary adjustments;
- and any time limits applying to the making of adjustments are to be ignored.
- (4) If the condition in subsection (2)(b) is met by virtue of a company becoming liable to repay to the Commissioners the amount paid as mentioned in subsection (2)(a)—
- (a) this Part has effect as if the company were liable to repay the gross payment to the Commissioners, and

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- (b) the amount deducted by the Commissioners as mentioned in subsection (2)(a) is to be treated for the purposes of this Part as money repaid by the company in partial satisfaction of its liability to repay the gross amount.
- (5) Subsections (3) and (4) have effect with the appropriate modifications if the condition in subsection (2)(b) is met in relation to part but not the whole of the gross amount mentioned in subsection (2)(a).
- (6) In this section “the net amount”, in relation to a payment made under deduction of tax in accordance with section 357YO(2), means the amount paid after deduction of tax.

Textual Amendments

- F18** Words in s. 357YP(1) renumbered as s. 357YP(1)(a) (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **12(a)**
- F19** S. 357YP(1)(b) inserted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **12(b)**
- F20** Words in s. 357YP(2)(a) inserted (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **16**

357YQ Assessment of tax chargeable on restitution interest

- (1) An officer of Revenue and Customs may make an assessment of the amounts in which, in the officer's opinion, a company is chargeable to corporation tax under this Part for a period specified in the assessment.
- (2) Notice of an assessment under this section must be served on the company, stating the date on which the assessment is issued.
- (3) An assessment may include an assessment of the amount of restitution income arising to the company in the period and any other matters relevant to the calculation of the amounts in which the company is chargeable to corporation tax under this Part for the period.
- (4) Notice of an assessment under this section may be accompanied by notice of any determination by an officer of Revenue and Customs relating to the dates on which amounts of tax become due and payable under this section or to amounts treated under section 357YP as paid on account of corporation tax.
- (5) The company must pay the amount assessed as payable for the accounting period by the end of the period of 30 days beginning with the date on which the company is given notice of the assessment.

357YR Interest on excessive amounts withheld

- (1) If an amount deducted under section 357YO(2) in respect of an amount of interest exceeds the amount which should have been deducted, the Commissioners [^{F21}for Her Majesty's Revenue and Customs] are liable to pay interest on the excess from the material date until the date on which the excess is repaid.
- (2) The “material date” is the date on which tax was deducted from the interest.

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- (3) Interest under subsection (1) is to be paid at the rate applicable under section 178 of FA 1989.

Textual Amendments

F21 Words in s. 357YR(1) inserted (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **17**

357YS Appeal against deduction

- (1) An appeal may be brought against the deduction by the Commissioners for Her Majesty's Revenue and Customs from a payment of a sum representing corporation tax in compliance, or purported compliance, with section 357YO(2).
- (2) Notice of appeal must be given [^{F22}to Her Majesty's Revenue and Customs] —
- (a) in writing,
 - (b) within 30 days after the giving of the notice under section 357YO(2).

Textual Amendments

F22 Words in s. 357YS(2) inserted (with effect in accordance with reg. 3 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **18**

357YT Amounts taxed at restitution payments rate to be outside instalment payments regime

For the purposes of regulations under section 59E of TMA 1970 (further provision as to when corporation tax due and payable), tax charged at the restitution payments rate is to be disregarded in determining the amount of corporation tax payable by a company for an accounting period.

CHAPTER 5

SUPPLEMENTARY PROVISIONS

357YU Interpretation

- (1) In this Part “court” includes a tribunal.
- (2) In this Part “statutory rate” (in relation to interest) means a rate which is equal to a rate specified—
 - (a) for purposes relating to taxation, and
 - (b) in, or in a provision made under, an Act.

357YV Relationship of Part with other corporation tax provisions

- (1) So far as restitution interest is charged to corporation tax under this Part it is not chargeable to corporation tax under any other provision [^{F23}(including Part 2 of FA 2012: but see also section 357YDA)].

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- (2) This Part has effect regardless of section 464(1) of CTA 2009 (priority of loan relationship provisions).

Textual Amendments

F23 Words in s. 357YV inserted (with effect in accordance with reg. 2 of the amending S.I.) by [The Corporation Tax Act 2010 \(Part 8C\) \(Amendment\) Regulations 2017 \(S.I. 2017/364\)](#), regs. 1, **9**

357YW Power to amend

- (1) The Treasury may by regulations amend this Part (apart from this section).
- (2) Regulations under this section—
- (a) may not widen the description of the type of payments that are chargeable to corporation tax under this Part;
 - (b) may not remove or prejudice any right of appeal;
 - (c) may not increase the rate at which tax is charged on restitution interest under this Part;
 - (d) may not enable any provision of this Part to have effect in relation to the subject matter of any claim which has been finally determined before 21 October 2015.
- (3) Subject to subsection (2), regulations under this section may have retrospective effect.
- (4) For the purposes of this section a claim is “finally determined” if a court has disposed of the claim by a final determination or the claimant and the Commissioners for Her Majesty's Revenue and Customs have entered into an agreement in final settlement of the claim.
- (5) Section 357YC(8) (which defines when a determination made by a court is final) has effect for the purposes of this section as for the purposes of section 357YC.
- (6) Regulations under this section may include incidental, supplementary or transitional provision.
- (7) A statutory instrument containing regulations under this section must be laid before the House of Commons.
- (8) The regulations cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by a resolution of the House of Commons.
- (9) In reckoning the 28-day period, no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued, or
 - (b) the House of Commons is adjourned for more than 4 days.
- (10) Regulations ceasing to have effect by virtue of subsection (8) does not affect—
- (a) anything previously done under the regulations, or
 - (b) the making of new regulations.]

Status:

Point in time view as at 26/06/2020.

Changes to legislation:

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