



Corporation Tax Act 2010

2010 CHAPTER 4

[^{F1}PART 8A

PROFITS ARISING FROM THE EXPLOITATION OF PATENTS ETC

CHAPTER 3

RELEVANT IP PROFITS

Relevant IP income

[^{F1}357CD] **Notional royalty**

- (1) This section applies where—
 - (a) a company, for the purposes of any trade of the company, holds any rights mentioned in paragraph (a), (b) or (c) of section 357BB(1) (rights to which this Part applies) or an exclusive licence in respect of any such rights, and
 - (b) the rights are relevant qualifying IP rights.
- (2) For the purposes of this section a qualifying IP right is a “relevant qualifying IP right” in relation to an accounting period if—
 - (a) the total gross income of the trade of the company for the accounting period includes any income arising from things done by the company that involve the exploitation by the company of that right, and
 - (b) that income is not relevant IP income or excluded income.Such income is referred to in this section as “IP-derived income”.
- (3) The company may elect that the notional royalty in respect of the trade for the accounting period is to be treated for the purposes of this Part as if it were relevant IP income.
- (4) The notional royalty in respect of a trade of a company for an accounting period is the appropriate percentage of the IP-derived income for that accounting period.

Status: Point in time view as at 17/07/2012. This version of this provision has been superseded.

Changes to legislation: Corporation Tax Act 2010, Section 357CD is up to date with all changes known to be in force on or before 06 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)

- (5) The “appropriate percentage” is the proportion of any IP-derived income for an accounting period which the company would pay another person (“P”) for the right to exploit the relevant qualifying IP rights in that accounting period if the company were not otherwise able to exploit them.
- (6) For the purposes of determining the appropriate percentage under this section, assume that—
- (a) the company and P are dealing at arm's length,
 - (b) the company, or the company and persons authorised by it, will have the right to exploit the relevant qualifying IP rights to the exclusion of any other person (including P),
 - (c) the company will have the same rights in relation to the relevant qualifying IP rights as it actually has,
 - (d) the relevant qualifying IP rights are conferred on the relevant day,
 - (e) the appropriate percentage for the accounting period is determined at the beginning of the accounting period,
 - (f) the appropriate percentage for the accounting period will apply for each succeeding accounting period for which the company will have the right to exploit the relevant qualifying IP rights, and
 - (g) no income other than IP-derived income will arise from anything done by the company that involves the exploitation by the company of the relevant qualifying IP rights.
- (7) In subsection (6)(d) “the relevant day”, in relation to a relevant qualifying IP right or a licence in respect of such a right, means—
- (a) the first day of the accounting period, or
 - (b) if later, the day on which the company first began to hold the right or licence.
- (8) In determining the appropriate percentage, the company must act in accordance with—
- (a) Article 9 of the OECD Model Tax Convention, and
 - (b) the OECD transfer pricing guidelines.
- (9) In this section “excluded income” means any income falling within any of the Heads in section 357CE.]

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\(1\)](#)

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