



Corporation Tax Act 2010

2010 CHAPTER 4

[^{F1}PART 21C

TAINED CHARITY DONATIONS

Tainted donations

[^{F1}939C Tainted donations

- (1) For the purposes of this Part, a relievable charity donation is a tainted donation if (and only if) Conditions A, B and C are met.
- (2) Condition A is that—
 - (a) a linked person enters into arrangements (whether before or after the donation is made), and
 - (b) it is reasonable to assume from either or both of—
 - (i) the likely effects of the donation and the arrangements, and
 - (ii) the circumstances in which the donation is made and the circumstances in which the arrangements are entered into,that the donation would not have been made and the arrangements would not have been entered into independently of one another.
- (3) “Linked person ” means—
 - (a) the person who made the donation (“ the donor ”), or
 - (b) a person who is connected with the donor at a relevant time.
- (4) In subsection (3) “ relevant time ” means a time during the period which begins with the earliest, and ends with the latest, of the following times—
 - (a) the time when the arrangements are entered into as mentioned in subsection (2);
 - (b) the time when the relievable charity donation is made;
 - (c) the time when the arrangements are first materially implemented.

Status: Point in time view as at 17/07/2012.

Changes to legislation: Corporation Tax Act 2010, Section 939C is up to date with all changes known to be in force on or before 31 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) Condition B is that the main purpose, or one of the main purposes, of the linked person in entering into the arrangements is to obtain a financial advantage—
- (a) directly or indirectly from the charity to which the donation is made or a connected charity,
 - (b) for one or more linked persons who are not charities (each of whom is referred to in this Part as “ a potentially advantaged person ”).
- (6) Condition C is that the donor is not—
- (a) a qualifying charity-owned company, or
 - (b) a relevant housing provider linked with the charity to which the donation is made.
- (7) For the purposes of subsection (6)(b) a relevant housing provider is linked with the charity if (and only if)—
- (a) one is wholly owned, or subject to control, by the other, or
 - (b) both are wholly owned, or subject to control, by the same person.
- (8) In this section—
- “ qualifying charity-owned company ”, in relation to a relievable charity donation, means a company which—
- (a) is wholly owned by one or more charities, at least one of which is the charity to which the donation is made or a connected charity, and
 - (b) has not previously been under the control of, and does not carry on a trade or business previously carried on by, one or more of the following—
 - (i) a potentially advantaged person;
 - (ii) a person (other than a charity) who, at any time within the period of 4 years ending with the day on which paragraph (a) was first satisfied, was connected with a person who is a potentially advantaged person;
- “ relevant housing provider ” means a body which is—
- (a) a non-profit registered provider of social housing, or
 - (b) entered on a register maintained under section 1 of the Housing Act 1996, section 20 of the Housing (Scotland) Act 2010 (asp 17) or Article 14 of the Housing (Northern Ireland) Order 1992 (S.I. 1992/1725 (N.I. 15)).
- (9) Section 200 (company wholly owned by a charity) applies for the purposes of subsection (8), and for those purposes references in that section to “charity” include a registered club within the meaning of section 658(6).
- (10) This section is subject to section 939E (certain financial advantages to be ignored).]

Textual Amendments

- F1** Pt. 21C inserted (with effect in accordance with Sch. 3 para. 27 28 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 2](#)

Modifications etc. (not altering text)

- C1** S. 939C(8) modified (temp.) (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 3 para. 31\(b\)](#)

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