



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

[^{F1}PART 6A

HYBRID AND OTHER MISMATCHES

CHAPTER 14

INTERPRETATION

[^{F1}Control groups and related persons

Textual Amendments

- F1** Pt. 6A inserted (with effect in accordance with Sch. 10 paras. 18-21 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 10 para. 1](#)

259NB Control groups

- (1) A person (“A”) is in the same control group as another person (“B”)—
 - (a) throughout any period for which they are consolidated for accounting purposes,
 - (b) on any day on which the participation condition is met in relation to them, or
 - (c) on any day on which the 50% investment condition is met in relation to them.
- (2) A and B are consolidated for accounting purposes for a period if—
 - (a) their financial results for the period are required to be comprised in group accounts,
 - (b) their financial results for the period would be required to be comprised in group accounts but for the application of an exemption, or

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- (c) their financial results for the period are in fact comprised in group accounts.
- (3) In subsection (2), “group accounts” means accounts prepared under—
 - (a) section 399 of the Companies Act 2006, or
 - (b) any corresponding provision of the law of a territory outside the United Kingdom.
- (4) The participation condition is met in relation to A and B (“the relevant parties”) on a day if, within the period of 6 months beginning with the day—
 - (a) one of the relevant parties directly or indirectly participates in the management, control or capital of the other, or
 - (b) the same person or persons directly or indirectly participate in the management, control or capital of each of the relevant parties.
- (5) For the interpretation of subsection (4), see sections 157(1), 158(4), 159(1) and 160(1) (which have the effect that references in subsection (4) to direct or indirect participation are to be read in accordance with provisions of Chapter 2 of Part 4).
- (6) The 50% investment condition is met in relation to A and B if—
 - (a) A has a 50% investment in B, or
 - (b) a third person has a 50% investment in each of A and B.
- (7) Section 259ND applies for the purposes of determining whether a person has a “50% investment” in another person.

259NC Related persons

- (1) Two persons are “related” on any day that—
 - (a) they are in the same control group (see section 259NB), or
 - (b) the 25% investment condition is met in relation to them.
- (2) The 25% investment condition is met in relation to a person (“A”) and another person (“B”) if—
 - (a) A has a 25% investment in B, or
 - (b) a third person has a 25% investment in each of A and B.
- (3) Section 259ND applies for the purposes of determining whether a person has a “25% investment” in another person.

Modifications etc. (not altering text)

- C1** S. 259NC applied by 2010 c. 4, s. 356OT(6) (as inserted (with effect in accordance with s. 81 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 77\(1\)](#) (and also with effect in accordance with [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 39(1)(2)))
- C2** S. 259NC applied by 2007 c. 3, s. 517U(6) (as inserted (with effect in accordance with s. 82 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 79\(1\)](#) (and also with effect in accordance with [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 39(1)(2)))

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259ND Meaning of “50% investment” and “25% investment”

- (1) Where this section applies for the purposes of determining whether a person has a “50% investment” in another person for the purposes of section 259NB(6), references in this section to X% are to be read as references to 50%.
- (2) Where this section applies for the purposes of determining whether a person has a “25% investment” in another person for the purposes of section 259NC(2), references in this section to X% are to be read as references to 25%.
- (3) A person (“P”) has an X% investment in a company (“C”) if it is reasonable to suppose that—
 - (a) P possesses or is entitled to acquire X% or more of the share capital or issued share capital of C,
 - (b) P possesses or is entitled to acquire X% or more of the voting power in C, or
 - (c) if the whole of C's share capital were disposed of, P would receive (directly or indirectly and whether at the time of disposal or later) X% or more of the proceeds of the disposal.
- (4) A person (“P”) has an X% investment in another person (“Q”) if it is reasonable to suppose that—
 - (a) if the whole of Q's income were distributed, P would receive (directly or indirectly and whether at the time of the distribution or later) X% or more of the distributed amount, or
 - (b) in the event of a winding-up of Q or in any other circumstances, P would receive (directly or indirectly and whether or not at the time of the winding-up or other circumstances or later) X% or more of Q's assets which would then be available for distribution.
- (5) In this section, references to a person receiving any proceeds, amount or assets include references to the proceeds, amount or assets being applied (directly or indirectly) for that person's benefit.
- (6) For the purposes of subsections (3) and (4), in determining what percentage investment a person (“P”) has in another person (“U”), where P acts together with a third person (“T”) in relation to U, P is to be taken to have all of T's rights and interests in relation to U.
- [^{F2}(7) P is to be taken to “act together” with T in relation to U if (and only if) subsection (7A) or (7B) applies.
- (7A) This subsection applies if—
 - (a) P and T are party to a partnership agreement that—
 - (i) it is reasonable to suppose is designed to affect the value of any of T's rights or interest in relation to U, or
 - (ii) relates to the exercise of any of T's rights in relation to U, or
 - (b) the same person manages—
 - (i) some or all of P's rights or interests in relation to U, and
 - (ii) some or all of T's rights or interests in relation to U.
- (7B) This subsection applies if P has a relevant investment in U and—
 - (a) P and T are connected (within the meaning given by section 163),
 - (b) for the purposes of influencing the conduct of U's affairs—

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- (i) P is able to secure that T acts in accordance with P's wishes,
 - (ii) T can reasonably be expected to act, or typically acts, in accordance with P's wishes,
 - (iii) T is able to secure that P acts in accordance with T's wishes, or
 - (iv) P can reasonably be expected to act, or typically acts, in accordance with T's wishes, or
 - (c) P and T are party to any arrangement that—
 - (i) it is reasonable to suppose is designed to affect the value of any of T's rights or interests in relation to U, or
 - (ii) relates to the exercise of any of T's rights in relation to U.
- (7C) To determine whether P has a “relevant investment” in U at a particular time, subsections (3) and (4) apply but as if—
- (a) for “an X%”, in both places, there were substituted “ a relevant ”, and
 - (b) for “X% or more”, in each place, there were substituted “ greater than 5% ”.
- (7D) For that purpose—
- (a) subsection (6) is to be ignored, and
 - (b) P's rights and interests are to be aggregated with the rights and interests of persons connected to P (within the meaning given by section 1122 of CTA 2010, ignoring subsection (4) of that section).]
- (8) ^{F3}... P does not “act together” with T in relation to U under [^{F4}paragraph (b) of subsection (7A)] where—
- (a) the person who manages the rights or interests of P mentioned in subparagraph (i) of that paragraph, does so as the operator of a collective investment scheme,
 - (b) that person manages the rights or interests of T mentioned in subparagraph (ii) of that paragraph as the operator of a different collective investment scheme, and
 - (c) the Commissioners are satisfied that the management of the schemes is not coordinated for the purpose of influencing the conduct of U 's affairs.
- (9) In subsection (8) “collective investment scheme” and “operator” have the same meaning as in Part 17 of the Financial Services and Markets Act 2000 (see sections 235 and 237 of that Act).]

Textual Amendments

- F2** S. 259ND(7)-(7D) substituted for s. 259ND(7) (retrospectively) by [Finance Act 2021 \(c. 26\), Sch. 7 paras. 24\(2\), 36](#)
- F3** Word in s. 259ND(8) omitted (retrospectively) by virtue of [Finance Act 2021 \(c. 26\), Sch. 7 paras. 24\(3\)\(a\), 36](#)
- F4** Words in s. 259ND(8) substituted (retrospectively) by [Finance Act 2021 \(c. 26\), Sch. 7 paras. 24\(3\)\(b\), 36](#)
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Modifications etc. (not altering text)

- C3** [S. 259ND\(3\)-\(9\)](#) applied (with modifications) (with effect in accordance with s. 121(6) of the amending Act) by 2014 c. 26, Sch. 33A para. 2(4) (as inserted by [Finance Act 2021 \(c. 26\), Sch. 30 para. 10](#))

Changes to legislation:

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