



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

[^{F1}PART 9A

CONTROLLED FOREIGN COMPANIES

[^{F1}CHAPTER 5

THE CFC CHARGE GATEWAY: NON-TRADING FINANCE PROFITS

Textual Amendments

F1 Pt. 9A inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 para. 1](#) (with [ss. 56-58](#))

Modifications etc. (not altering text)

C1 Pt. 9A Ch. 5 applied (with modifications) by 2009 c. 4, s. 18HC (as substituted (with effect in accordance with [Sch. 20 para. 55\(2\)](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 para. 6](#))

371EA The basic rule

- (1) The CFC's profits falling within this Chapter for the purposes of step 2 in section 371BB(1) (the CFC charge gateway) are its non-trading finance profits so far as they fall within any of sections 371EB to 371EE.
- (2) In this Chapter references to the CFC's non-trading finance profits are to be read in accordance with section 371CB(2) and, so far as applicable, section 371CB(8).

Status: Point in time view as at 17/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 5. (See end of Document for details)

371EB UK activities

- (1) To determine the extent to which the CFC's non-trading finance profits fall within this section, take steps 1 to 5 and 7 in section 371DB(1) as if references in section 371DB to the CFC's assumed total profits were references to its non-trading finance profits.
- (2) Non-trading finance profits fall within this section so far as they would be included in the provisional Chapter 4 profits as determined on the basis mentioned in subsection (1).

371EC Capital investment from the UK

- (1) Non-trading finance profits fall within this section so far as they arise from relevant UK funds or other assets.
- (2) Subsection (3) applies in relation to any profits which (apart from subsection (3)) would fall within this section if—
 - (a) an amount of expenditure incurred by the CFC in managing the relevant UK funds or other assets itself was brought into account in calculating the profits, and
 - (b) it is reasonable to suppose that the amount of expenditure is less than the fee which a company not connected with the CFC would charge the CFC for carrying out the same management activities.
- (3) There is to be deducted from the profits an amount representing what it is reasonable to suppose the difference between the amount of expenditure and the fee would be.
- (4) “Relevant UK funds or other assets” means—
 - (a) funds or other assets which represent, or derive (directly or indirectly) from, any capital contribution to the CFC made (directly or indirectly) by a UK connected company (whether in relation to an issue of shares in the CFC or otherwise),
 - (b) funds or other assets which represent, or derive (directly or indirectly) from, any amounts included in the CFC's chargeable profits for any earlier accounting period in relation to which the CFC charge is charged,
 - (c) funds or other assets which represent, or derive (directly or indirectly) from, any amounts which, by virtue of section 174 (transfer pricing: claims by disadvantaged person), are left out of account in determining the CFC's assumed total profits for the accounting period or any earlier accounting period, or
 - (d) funds or other assets—
 - (i) which represent, or derive (directly or indirectly) from, any funds or other assets received by the CFC (directly or indirectly) from a UK connected company, and
 - (ii) which are not covered by paragraphs (a) to (c).
- (5) In subsection (4)(d)(i) the reference to funds or other assets received by the CFC does not include funds or other assets received—
 - (a) in exchange for goods or services provided by the CFC, or
 - (b) by way of a loan.
- (6) “UK connected company” means—
 - (a) a UK resident company connected with the CFC, or

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- (b) a non-UK resident company connected with the CFC acting through a UK permanent establishment.

371ED Arrangements in lieu of dividends etc to UK resident companies etc

- (1) Non-trading finance profits fall within this section so far as they arise from an arrangement (other than a relevant finance lease) in relation to which the following condition is met.
- (2) The condition is that—
 - (a) the arrangement is made by the CFC (directly or indirectly)—
 - (i) with a UK resident company connected with the CFC, or
 - (ii) with a non-UK resident company connected with the CFC for the purposes of a UK permanent establishment of the non-UK resident company, and
 - (b) it is reasonable to suppose—
 - (i) that the arrangement is made as an alternative to the CFC paying dividends or making any other distribution to the other company (directly or indirectly), and
 - (ii) that the main reason, or one of the main reasons, for that is a reason relating to a liability, or potential liability, of any person to tax or duty imposed under the law of any territory.

371EE Leases to UK resident companies etc

- (1) Non-trading finance profits fall within this section so far as they arise from a relevant finance lease in relation to which the following condition is met.
- (2) The condition is that—
 - (a) the lease is made by the CFC (directly or indirectly)—
 - (i) with a UK resident company connected with the CFC, or
 - (ii) with a non-UK resident company connected with the CFC for the purposes of a UK permanent establishment of the non-UK resident company, and
 - (b) it is reasonable to suppose—
 - (i) that the lease is made as an alternative to the other company purchasing (directly or indirectly) the asset which is the subject of the lease, and
 - (ii) that the main reason, or one of the main reasons, for that is a reason relating to a liability, or potential liability, of any person to tax or duty imposed under the law of any territory.]

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