



# Taxation (International and Other Provisions) Act 2010

## 2010 CHAPTER 8

### PART 4

#### TRANSFER PRICING

### CHAPTER 5

#### POSITION OF GUARANTOR OF AFFECTED PERSON'S LIABILITIES UNDER A SECURITY ISSUED BY THE PERSON

#### **191 When sections 192 to 194 apply**

- (1) Sections 192 to 194 apply if—
  - (a) one of the affected persons (“the issuing company”) is a company that has liabilities under a security issued by it,
  - (b) those liabilities are to any extent the subject of a guarantee provided by a company (“the guarantor company”),
  - (c) in calculating the profits and losses of the issuing company for tax purposes, the amounts to be deducted in respect of interest or other amounts payable under the security are required to be reduced (whether or not to nil) under section 147(3) or (5), and
  - (d) that reduction is required because of section 153.
- (2) In subsections (1)(a) and (3)(a) “security” includes securities not creating or evidencing a charge on assets.
- (3) For the purposes of subsection (1)(a), any—
  - (a) interest payable by a company on money advanced without the issue of a security for the advance, or
  - (b) other consideration given by a company for the use of money so advanced,

is to be treated as if payable or given in respect of a security issued for the advance by the company, and the reference in subsection (1)(a) to a security is to be read accordingly.

- (4) In subsection (1)(b) the reference to a guarantee includes—
- (a) a reference to a surety, and
  - (b) a reference to any other relationship, arrangements, connection or understanding (whether formal or informal) such that the person making the loan to the issuing company has a reasonable expectation that in the event of a default by the issuing company the person will be paid by, or out of the assets of, one or more companies.
- (5) In this Chapter—
- “the guarantor company” has the meaning given by subsection (1)(b),
  - “the issuing company” has the meaning given by subsection (1)(a), and
  - “the security” means the security mentioned in subsection (1)(a).