

1 Hybrid and other mismatches

- (1) Part 6A of TIOPA 2010 (hybrid and other mismatches) is amended as follows.
- (2) In section 259B(3) (local taxes), for “is not outside the scope of subsection (2) by reason only that” substitute “is outside the scope of subsection (2) if”.
- (3) In section 259CC(2) (hybrid and other mismatches from financial instruments: meaning of “permitted” taxable period of a payee), for paragraph (b) substitute –
 - “(b) the period begins at a later time and it is just and reasonable for the amount of ordinary income to arise for the period (rather than an earlier one).”
- (4) In section 259DD(2) (hybrid transfer deduction/non-inclusion mismatches: meaning of “permitted” taxable period of a payee), for paragraph (b) substitute –
 - “(b) the period begins at a later time and it is just and reasonable for the amount of ordinary income to arise for the period (rather than an earlier one).”
- (5) In section 259EB (hybrid payer deduction/non-inclusion mismatches and their extent), after subsection (1) insert –
 - “(1A) But there is no hybrid payer deduction/non-inclusion mismatch so far as the relevant deduction is –
 - (a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or
 - (b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections.”
- (6) In section 259FA (deduction/non-inclusion mismatches relating to transfers by permanent establishments), after subsection (4) insert –
 - “(4A) For the purposes of this section “the PE deduction” does not include –
 - (a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or
 - (b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections.”
- (7) In section 259GB (hybrid payee deduction/non-inclusion mismatches and their extent), after subsection (1) insert –
 - “(1A) But there is no hybrid payee deduction/non-inclusion mismatch so far as the relevant deduction is –

- (a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or
 - (b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections.”
- (8) In section 259HB (multinational payee deduction/non-inclusion mismatches and their extent), after subsection (1) insert—
 - “(1A) But there is no multinational payee deduction/non-inclusion mismatch so far as the relevant deduction is—
 - (a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or
 - (b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections.”
- (9) In section 259KB (imported mismatches: meaning of “excessive PE deduction” etc), after subsection (3) insert—
 - “(3A) For the purposes of this section a “PE deduction” does not include—
 - (a) a debit in respect of amortisation that is brought into account under section 729 or 731 of CTA 2009 (writing down the capitalised cost of an intangible fixed asset), or
 - (b) an amount that is deductible in respect of amortisation under a provision of the law of a territory outside the United Kingdom that is equivalent to either of those sections.”
- (10) The amendment made by subsection (2)—
 - (a) has effect, in the case of its application to Chapter 6 of Part 6A of TIOPA 2010, in relation to excessive PE deductions in relation to which the relevant PE period begins on or after 13 July 2017,
 - (b) has effect, in the case of its application to Chapter 9 or 10 of that Part, in relation to accounting periods beginning on or after that date, and
 - (c) has effect, in the case of its application to any other Chapter of that Part, in relation to—
 - (i) payments made on or after date, or
 - (ii) quasi-payments in relation to which the payment period begins on or after that date.
- (11) For the purposes of subsection (10)(a), (b) and (c)(ii), where there is a straddling period—
 - (a) so much of the straddling period as falls before 13 July 2017, and so much of it as falls on or after that date, are to be treated as separate accounting periods or separate taxable periods (as the case may be), and
 - (b) if it is necessary to apportion an amount for the straddling period to the two separate periods, it is to be apportioned—
 - (i) on a time basis according to the respective length of the separate periods, or
 - (ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.

- (12) A “straddling period” means an accounting period or payment period (as the case may be) beginning before 13 July 2017 and ending on or after that date.
- (13) Part 6A of TIOPA 2010 has effect, and is to be deemed always to have had effect, with the amendments set out in subsections (3) to (9).