

1 ATAD: hybrid and other mismatches

(1) Part 6A of TIOPA 2010 (hybrid and other mismatches) is amended as follows.

(2) In section 259HA (circumstances in which Chapter 8 applies) –

(a) for subsection (5) substitute –

“(5) Condition C is that –

(a) the payer is within the charge to corporation tax for the payment period, or

(b) the multinational company –

(i) is UK resident for the payment period, and

(ii) under the law of the parent jurisdiction, is regarded as carrying on a business in the PE jurisdiction through a permanent establishment in that territory but, under the law of the PE jurisdiction, is not regarded as doing so.”, and

(b) in subsection (9)(a), for “company” substitute “payee”.

(3) For section 259HC (counteraction of the multinational payee deduction/non-inclusion mismatch) substitute –

“259HC Counteraction of the multinational payee deduction/non-inclusion mismatch

For corporation tax purposes –

(a) if paragraph (b) of Condition C in subsection (5) of section 259HA is met, an amount equal to the multinational payee deduction/non-inclusion mismatch mentioned in subsection (6) of that section is to be treated as income arising to the multinational company in the United Kingdom (and nowhere else) for the payment period, and

(b) in any other case, the relevant deduction that may be deducted from the payer’s income for that period is to be reduced by that amount.”

(4) In section 259N (meaning of “financial instrument”) –

(a) in subsection (3), for paragraph (b) substitute –

“(b) anything of a description specified in regulations made by the Treasury.”, and

(b) omit subsection (4).

(5) The amendments made by subsections (2)(a) and (3) have effect in relation to –

(a) payments made on or after 1 January 2020, and

(b) quasi-payments in relation to which the payment period begins on or after that date.

(6) For the purposes of subsection (5)(b), where a payment period begins before 1 January 2020 and ends on or after that date (“the straddling period”) –

(a) so much of the straddling period as falls before that date, and so much of it as falls on or after that date, are to be treated as separate taxable periods, and

(b) if it is necessary to apportion an amount for the straddling period to the two separate taxable periods, it is to be apportioned –

- (i) on a time basis according to the respective length of the separate taxable periods, or
 - (ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.
- (7) The amendment made by subsection (2)(b) is to be regarded as always having had effect.
- (8) Until the first regulations under subsection (3)(b) of section 259N come into force, that section continues to have effect (other than for the purposes of making those regulations) as if the amendments made by subsection (4) had not been made.