

## CHAPTER 5 Group relief

Group payments. CTA76 s105; FA92 s50(1) 410.—(1) (a) In this section—

“trading or holding company” means a trading company or a company whose business consists wholly or mainly in the holding of shares or securities of trading companies which are its 90 per cent subsidiaries;

“trading company” means a company whose business consists wholly or mainly of the carrying on of a trade or trades.

(b) For the purposes of this section, a company shall be owned by a consortium if 75 per cent or more of the ordinary share capital of the company is beneficially owned between them by 5 or fewer companies resident in the State of which none beneficially owns less than 5 per cent of that capital, and those companies shall be called the members of the consortium.

(2) References in this section to payments received by a company shall apply to any payments received by another person on behalf of or in trust for the company, but shall not apply to any payments received by the company on behalf of or in trust for another person.

(3) In determining for the purposes of this section whether one company is a 51 per cent subsidiary of another company, that other company shall be treated as not being the owner of—

(a) any share capital which it owns directly or indirectly in a company not resident in the State, or

(b) any share capital which it owns indirectly and which is owned directly by a company for which a profit on the sale of the shares would be a trading receipt.

(4) Where a company receives from another company (both being companies resident in the State) any payments to which this section applies, and either—

(a) the company making the payment is—

(i) a 51 per cent subsidiary of the other company or of a company so resident of which the other company is a 51 per cent subsidiary, or

(ii) a trading or holding company owned by a consortium the members of which include the company receiving the payment, or

(b) the company receiving the payment is a 51 per cent subsidiary of the company making the payment,

then, subject to subsections (5) to (7), the payment shall be made without deduction of income tax and neither section 238 nor section 246 shall apply to the payment.

(5) This section shall apply to any payments which for the purposes of corporation tax are charges on income of the company making them or would be so if they were not deductible in computing profits or any description of profits or if section 243 (7) did not apply to them, but shall not apply to payments received by a company on any investments if a profit on the sale of those investments would be treated as a trading receipt of that company.

(6) Where a company purports by virtue of subsection (4) to make any payment without deduction of income tax and income tax ought to have been deducted, the inspector may make such assessments, adjustments or set-offs as may be required for securing that the resulting liabilities to tax (including interest on unpaid tax) of the company making and the company receiving the payment are, in so far as possible, the same as they would have been if the income tax had been duly deducted.

(7) Where tax assessed under subsection (6) on the company which made the payment is not paid by that company before the expiry of 3 months from the date on which that tax is payable, that tax shall, without prejudice to the right to recover it from that company, be recoverable from the company which received the payment.