

Surcharge on undistributed investment and estate income. CTA76 s101; FA90 s47; FA97 s146(1) and Sch9 Ptl par10(4) 440.—(1) (a) Where for an accounting period of a close company the aggregate of the distributable investment income and the distributable estate income exceeds the distributions of the company for the accounting period, there shall be charged on the company an additional duty of corporation tax (in this section referred to as a “surcharge”) amounting to 20 per cent of the excess.

(b) Notwithstanding paragraph (a)—

(i) a surcharge shall not be made on a company where the excess is equal to or less than the lesser of the following amounts—

(I) £500 or, if the accounting period is less than 12 months, £500 proportionately reduced, and

(II) where the company has one or more associated companies, £500 divided by one plus the number of those associated companies or, if the accounting period is less than 12 months, £500 proportionately reduced divided by one plus the number of those associated companies;

(ii) where the excess is greater than the lesser amount on which by virtue of subparagraph (i) a surcharge would not be made, the amount of the surcharge shall not be greater than a sum equal to 80 per cent of the amount by which the excess is greater than that lesser amount.

(2) Where the aggregate of—

(a) the accumulated undistributed income of the company at the end of the accounting period, and

(b) any amount which, on or after the 27th day of November, 1975, was transferred to capital reserves or was used to issue shares, stock or securities as paid up otherwise than for new consideration ) or was otherwise used so as to reduce the amount referred to in paragraph (a),

is less than the excess referred to in subsection (1), that subsection shall apply as if the amount of that aggregate were substituted for the excess.

(3) In applying subsection (1) to any accounting period of a company, an associated company which has not carried on any trade or business at any time in that accounting period (or, if an associated company during part only of that accounting period, at any time in that part of that accounting period) shall be disregarded.

(4) In determining how many associated companies a company has in an accounting period or whether a company has an associated company in an accounting period, an associated company shall be counted even if it was an associated company for part only of the accounting period, and 2 or more associated companies shall be counted even if they were associated companies for different parts of the accounting period.

(5) Where any amount on which a surcharge is made on a company under this section is distributed, the

tax credit in respect of the distribution shall, except where otherwise provided, be that provided for by section 136.

(6) A surcharge made under this section on a company in respect of an accounting period (in this subsection referred to as “the first-mentioned accounting period”)—

(a) shall be charged on the company for the earliest accounting period which ends on or after a day which is 12 months after the end of the first-mentioned accounting period, and

(b) shall be treated as corporation tax chargeable for that accounting period;

but where there is no such accounting period so ending, the surcharge shall be charged for, and treated as corporation tax of, the accounting period in respect of which it is made.

(7) The provisions of the Corporation Tax Acts relating to—

(a) assessments to corporation tax,

(b) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court), and

(c) the collection and recovery of corporation tax,

shall apply in relation to a surcharge made under this section as they apply to corporation tax charged otherwise than under this section.