

Distributions to be taken into account and meaning of “distributable income”, “investment income”, “estate income”, etc. CTA76 s100; FA89 s27(1) 434.—(1) In this section—

“distributable income” of a company for an accounting period means—

(a) the income as computed in accordance with subsection (4), increased by the amount of the company's franked investment income for the accounting period reduced by the tax credit comprised in that income, but

(b) where the aggregate of the amounts specified in paragraphs (d) to (g) of subsection (4) exceeds the income as computed in accordance with that subsection apart from those paragraphs, the amount of the excess shall, in computing the amount of the distributable income, be deducted from the amount of the company's franked investment income for the accounting period as so reduced;

“estate income” means income (other than yearly or other interest) chargeable to tax under Case III, IV or V of Schedule D, and arising from the ownership of land (including any interest in or right over land) or from the letting furnished of any building or part of a building;

“investment income” of a company means income other than estate income which, if the company were an individual, would not be earned income within the meaning of section 3, but does not include any interest or dividends on investments which, having regard to the nature of the company's trade, would be taken into account as trading receipts in computing trading income but for the fact that they have been subjected to tax otherwise than as trading receipts, or but for the fact that by virtue of section 129 they are not to be taken into account in computing income for corporation tax;

“trading income” means income arising from a trade (including farming) or profession in respect of which a company is chargeable to corporation tax under Case I or II of Schedule D;

“trading company” means any company which exists wholly or mainly for the purpose of carrying on a trade and any other company whose income does not consist wholly or mainly of investment or estate income.

(2) For the purposes of section 440, the distributions of a company for an accounting period shall be taken to be the aggregate of—

(a) any dividends which are declared for or in respect of the accounting period and are paid or payable during the accounting period or within 18 months after the end of the accounting period, and

(b) all distributions, other than dividends, made in the accounting period.

(3) Where—

(a) a period of account for or in respect of which a company declares a dividend is not an accounting period,

(b) the dividend is paid or payable during the period of account or within 18 months after the end of the period of account, and

(c) part of the period of account falls within an accounting period,

then, the proportion of the amount of the dividend to be treated for the purposes of subsection (2) as being for or in respect of the accounting period shall be the same as the proportion which that part of the period of account bears to the whole of that period.

(4) For the purposes of subsection (1), the income of a company for an accounting period shall be the income for the accounting period, computed in accordance with the Corporation Tax Acts, exclusive of franked investment income, before deducting—

(a) any loss incurred in any trade or profession carried on by the company which is carried forward from an earlier, or carried back from a later, accounting period,

(b) any loss which if it were a profit would be chargeable to corporation tax on the company under Case III or IV of Schedule D and which is carried forward from an earlier accounting period or any expenses of management or any charges on income which are so carried forward, and

(c) any excess of deficiencies over surpluses which if such excess were an excess of surpluses over deficiencies would be chargeable to corporation tax on the company under Case V of Schedule D and which is carried forward from an earlier, or carried back from a later, accounting period,

and after deducting—

(d) any loss incurred in the accounting period in any trade or profession carried on by the company,

(e) any loss incurred in the accounting period which if it were a profit would be chargeable to corporation tax on the company under Case III or IV of Schedule D,

(f) any excess of deficiencies over surpluses which if such excess were an excess of surpluses over deficiencies would be chargeable to corporation tax on the company for the accounting period under Case V of Schedule D,

(g) any amount which is an allowable deduction—

(i) in computing the total profits for the accounting period in respect of expenses of management by virtue of section 83 (2), or

(ii) against the total profits for the accounting period in respect of charges by virtue of section 243 (2), and

(h) the amount of the corporation tax which apart from section 448 (2) would be payable by the company for the accounting period if the tax were computed on the basis of the income determined in accordance with

the preceding provisions of this subsection.

(5) For the purposes of section 440—

“distributable investment income” of a company for an accounting period means—

(a) in a case where paragraph (b) of the definition of “distributable income” applies, the amount determined in accordance with that paragraph, and

(b) in any other case, the sum of the following amounts—

(i) the amount determined by applying to the amount of the distributable income exclusive of franked investment income (as reduced by the tax credit comprised in that income) the fraction—

$A \over B$

where—

A is the amount of the investment income taken into account in computing the tax mentioned in subsection (4)(h), and

B is the total amount of income so taken into account,

and

(ii) the amount of the franked investment income (as reduced by the tax credit comprised in that income),

but, in the case of a trading company, the distributable investment income shall be the amount determined in accordance with the preceding provisions of this definition reduced by 5 per cent;

“distributable estate income” of a company for an accounting period means the amount determined by applying to the amount of the distributable income exclusive of franked investment income (as reduced by the tax credit comprised in that income) the fraction—

$C \over D$

where—

C is the amount of the estate income taken into account in computing the tax mentioned in subsection (4)(h), and

D is the total amount of income so taken into account,

but, in the case of a trading company, the distributable estate income shall be the amount determined in

accordance with the preceding provisions of this definition reduced by 7.5 per cent.

(6) The amount for part of an accounting period of any description of income referred to in this section shall be a proportionate part of the amount for the whole period.

(7) Where a company is subject to any restriction imposed by law as regards the making of distributions, regard shall be had to this restriction in determining the amount of income on which a surcharge shall be imposed under section 440.