

Distributions to certain non-resident companies. FA83 s47(1) to (3); FA91 s69(b); FA96 s58(1)(b) 168.—(1)

(a) This section shall apply to any distribution which—

(i) is a distribution by virtue only of section 130 (2)(d)(iv), or

(ii) is a dividend paid by a company (in this subsection referred to as “the first-mentioned company”) to another company—

(I) (A) of which the first-mentioned company is a 75 per cent subsidiary, or

(B) which is a member of a consortium which owns the first-mentioned company,

and

(II) which is a resident of the United States of America or of a territory with the government of which arrangements having the force of law by virtue of section 826 have been made.

(b) For the purposes of paragraph (a)—

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 of which none beneficially owns less than 5 per cent of that capital, and those companies are referred to as “members of the consortium”;

“resident of the United States of America” has the meaning assigned to it by the Convention set out in Schedule 25;

a company shall be regarded as being a resident of a territory, other than the United States of America, if it is so regarded under arrangements made with the government of that territory and having the force of law by virtue of section 826;

the reference to a dividend paid by a company shall be construed as including a reference to a distribution made by the company on the redemption, repayment or purchase of its own shares or by another company which is a subsidiary of the Companies Act, 1963 ) of the company on the acquisition of those shares.

(2) Where a company proves that this section applies to a distribution made by it and claims to have the distribution treated as not being a distribution for the purposes of section 159, then—

(a) the distribution shall be so treated, and

(b) notwithstanding any provision of the Tax Acts, the company to which the distribution is made shall not be entitled to a tax credit in respect of the distribution.

(3) Any claim under this section shall be made in the return made under section 171 for the accounting period in which the distribution is made and shall require the consent, notified to the inspector in such form as the Revenue Commissioners may require, of the company to which the distribution is made.