

Certain dividends from a non-resident subsidiary. FA88 s41; FA91 s40 222.—(1) (a) In this section—

“approved investment plan” means an investment plan in respect of which the Minister has given a certificate in accordance with subsection (2) to the company concerned;

“investment plan” means a plan of a company resident in the State which is directed towards the creation or maintenance of employment in the State in trading operations carried on, or to be carried on, in the State and which has been submitted—

(i) before the commencement of its implementation, or

(ii) where the Minister is satisfied that there was reasonable cause for it to be submitted after the commencement of its implementation, within one year from that commencement,

to the Minister by the company for the purpose of enabling it to claim relief under this section;

“the Minister” means the Minister for Finance;

“relevant dividends” means dividends, received by a company resident in the State (being the company claiming relief under this section) from a foreign subsidiary of the company, which are—

(i) specified in a certificate given by the Minister under subsection (2), and

(ii) applied within a period—

(I) which begins one year before the first day on which the dividends so specified are received in the State, or at such earlier time as the Revenue Commissioners may by notice in writing allow, and

(II) which ends 2 years after the first day on which the dividends so specified are received in the State, or at such later time as the Revenue Commissioners may by notice in writing allow,

for the purposes of an approved investment plan;

“relief under this section”, in relation to a company for an accounting period, means the amount by which any corporation tax payable by the company is reduced by virtue of subsection (3).

(b) (i) The reference in the definition of “relevant dividends” to “a foreign subsidiary” means a 51 per cent subsidiary of a company where the company is resident in the State and the subsidiary 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.

(ii) For the purposes of subparagraph (i)—

“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.

(2) Where an investment plan has been duly submitted by a company, and the Minister—

(a) is satisfied that the plan is directed towards the creation or maintenance of employment in the State in trading operations carried on, or to be carried on, in the State, and

(b) has been informed in writing by the company of the amount of dividends concerned,

the Minister may give a certificate to the company certifying that an amount of dividends specified in the certificate shall be an amount of relevant dividends.

(3) Subject to subsection (4), where a company claims and proves that it has received in an accounting period any amount of relevant dividends, the amount of the company's income for the period represented by those dividends shall not be taken into account in computing the income of the company for that accounting period for the purposes of corporation tax.

(4) Where in relation to a certificate given to a company under subsection (2) the Minister considers that, as regards the approved investment plan concerned, all or part of the relevant dividends have not been applied within the period provided for in the definition of “relevant dividends”, the Minister may, by notice in writing to the company, reduce the amount of the relevant dividends specified in the certificate by so much as has not been so applied, and accordingly where the amount of the relevant dividends specified in a certificate is so reduced—

(a) in a case where relief under this section has been granted in respect of the amount of the relevant dividends specified in the certificate before such a reduction of that amount, the inspector shall make such assessments or additional assessments as are necessary to recover the relief given in respect of the amount of the reduction, and

(b) in a case where a claim for relief has not yet been made, relief shall not be due under this section in respect of the amount of the reduction.

(5) A claim for relief under this section shall be made in writing to the inspector and shall be submitted together with the company's return of profits for the period in which the relevant dividends are received in the State.