

Diminished share of profits or assets. CTA76 s113 417.—(1) This section shall apply if at any time in the relevant accounting period any of the equity holders—

(a) to whom the profit distribution is made, or

(b) who is entitled to participate in the notional winding up,

holds as such an equity holder any shares or securities which carry rights in respect of dividend or interest or assets on a winding up which are of such a nature (as, for example, if any shares will cease to carry a right to a dividend at a future time) that, if the profit distribution or the notional winding up were to take place in a different accounting period, the percentage to which, in accordance with the preceding provisions of this Chapter, that equity holder would be entitled of profits on the profit distribution or of assets on the notional winding up would be different from the percentage determined in the relevant accounting period.

(2) Where this section applies, there shall be determined—

(a) the percentage of profits to which on the profit distribution the first company referred to in section 414 (1) would be entitled, and

(b) the percentage of assets to which on the notional winding up the first company referred to in section 415 (1) would be entitled,

if the rights of the equity holders in the relevant accounting period were the same as they would be in the different accounting period referred to in subsection (1).

(3) Where in the relevant accounting period an equity holder holds as such any shares or securities in respect of which arrangements exist by virtue of which, in that or any subsequent accounting period, the equity holder's entitlement to profits on the profit distribution or to assets on the notional winding up could be different as compared with the equity holder's entitlement if effect were not given to the arrangements, then, for the purposes of this section—

(a) it shall be assumed that effect would be given to those arrangements in a later accounting period, and

(b) those shares or securities shall be treated as though any variation in the equity holder's entitlement to profits or assets resulting from giving effect to the arrangements were the result of the operation of such rights attaching to the shares or securities as are referred to in subsection (1).

(4) Subsections (3) and (4) of section 416 shall apply for the purposes of this section as they apply for the purposes of that section, and accordingly references in those subsections to subsection (2)(a) and subsection (2)(b) of that section shall be construed respectively as references to subsection (2)(a) and subsection (2)(b) of this section.

(5) In any case where section 416 applies as well as this section, section 416 shall be applied separately (in relation to the profit distribution and the notional winding up)—

(a) on the basis specified in subsection (2), and

(b) without regard to that subsection,

and subsections (3) and (4) of section 416 shall apply accordingly in relation to the percentages so determined as if for “lesser” there were substituted “lowest”.