

Attribution of distributions to accounting periods. FA89 s25; FA92 s37; FA97 s38 154.—(1) (a) Notwithstanding sections 140, 141, 144, 145 and 147 (2) but subject to subsections (2) and (3), where a company which makes a distribution specifies, by notice in writing given to the inspector within 6 months of the end of the accounting period in which the distribution is made, the extent to which the distribution is to be treated for the purposes of sections 140, 141, 144, 145 and 147 as made for any accounting period or periods, the distribution shall be so treated for those purposes irrespective of the period of account for which it was made.

(b) A part of a distribution treated under paragraph (a) as made for an accounting period shall be treated for the purposes of sections 140, 141, 144 and 145, and subsections (1), (2) and (4) of section 147, as a separate distribution.

(2) A company may specify in accordance with subsection (1) that only so much of a distribution, or more than one distribution, made on any day is made—

(a) for any accounting period, as does not exceed the undistributed income of the company for that accounting period on that day, and

(b) for an accounting period or accounting periods ending more than 9 years before that day, as does not exceed the amount by which the amount of the distribution or the aggregate amount of the distributions, as the case may be, exceeds the aggregate of the undistributed income of the company on that day for accounting periods ending before, but not more than 9 years before, that day.

(3) Except where a distribution made by a company is—

(a) an interim dividend paid before the 6th day of April, 2002, by the directors of the company, pursuant to powers conferred on them by the articles of association of the company, in respect of the profits of the accounting period in which it is paid,

(b) a distribution by virtue only of subparagraph (ii), (iii)(I) or (v) of section 130 (2)(d),

(c) a distribution made in respect of shares of a type referred to in paragraph (c) of the definition of “preference shares” in section 138 (1), or

(d) made in an accounting period in which the company ceases or commences to be within the charge to corporation tax,

the company shall not be entitled to specify in accordance with subsection (1) that the distribution is to be treated as made for the accounting period in which it is made.

(4) Notwithstanding subsection (3) but subject to subsection (5), a company shall not be entitled to specify in accordance with subsection (1) that a distribution, being an interim dividend or part of it, is to be treated as made for the accounting period in which it is made where—

(a) the circumstances of the company are such that, if the distribution or the part of it, as the case may be, were treated as made for the accounting period in which it is made, the company would be unable at the time when the interim dividend is paid to determine without recourse to estimation how much of the distribution or the part of it, as the case may be, would in accordance with section 147 (1) be treated as a specified distribution for the purposes of section 147 (4), or

(b) that treatment of the distribution or the part of it, as the case may be, as made for the accounting period in which it is made, would facilitate any arrangement whereby the tax credit in respect of a dividend received by a shareholder could exceed the tax credit, if any, in respect of a dividend received by another shareholder, notwithstanding that the shareholdings of those shareholders carry the same or substantially similar rights in respect of dividends and capital.

(5) Subsection (4) shall apply to a company—

(a) the profits brought into charge to corporation tax of which are wholly or mainly referable to relevant trading operations within the meaning of section 445 (1) or 446 (1), and

(b) which—

(i) (I) is a trading or holding company owned by a consortium for the purposes of section 165 (1)(b) or a 51 per cent subsidiary of a company resident in the State, and

(II) has not made an election under section 165 (2)(b),

or

(ii) is referred to in section 168 (1)(a)(ii) as “the first-mentioned company”,

as if subsection (4)(b) were deleted.

(6) For the purposes of this section, the amount of the undistributed income of a company for an accounting period on any day shall be the amount of the distributable income of the company for the accounting period as determined by section 147 (3), reduced by the amount of each distribution, or part of each distribution, made before that day and on or after the 6th day of April, 1989, which is to be treated, whether under section 147 or this section, as made for that accounting period.