

## CHAPTER 5 Distributions out of certain income of manufacturing companies

Distributions. FA80 s45(1) to (3) (apart from paragraph (a) of proviso to subsection (1A)) and (5) to (8); FA88 s32(1) and (3) and Sch2 PtlI par1(a); FA89 s24; FA92 s248; F(No.2)A92 s2; FA93 s46(5); FA97 s146(1) and Sch9 Ptl par11(2) 147.—(1) (a) There shall be treated as a specified distribution for the purposes of subsection (4) so much of a distribution (in this paragraph referred to as “the first-mentioned distribution”) treated under subsection (2) or section 154 as made by a company for an accounting period as does not exceed the amount, which may be nil, determined by the formula—

$$Y \times (A - B) + E - U \quad \text{_____} \quad (R - S) + T - W$$

where, subject to sections 148 and 149 and paragraphs 5 and 6 of Schedule 32—

A is the amount of the company's income, the corporation tax referable to which is reduced under section 448, for the relevant accounting period which coincides with or is included in the accounting period,

B is the amount of the corporation tax, as reduced under section 448, referable to the amount mentioned in the definition of “A”,

E is the amount of the relevant distributions, whether made before the 6th day of April, 1989, or on or after that day, received by the company in the accounting period, which is included in its franked investment income of the accounting period, other than franked investment income against which relief is given under section 83 (5), 157 or 158, and which relief was not subsequently withdrawn under those sections,

R is the amount of the income of the company charged to corporation tax for the accounting period within the meaning of section 145 (4)(b), with the addition of any amount of income of the company which would be charged to corporation tax for the accounting period but for section 231 , 232 , 233 or 234, or section 71 of the Corporation Tax Act, 1976 ,

S is the amount of the corporation tax which, before any set-off of or credit for tax, including foreign tax, and after any relief under section 448 or paragraph 16 or 18 of Schedule 32, or section 58 of the Corporation Tax Act, 1976 , is chargeable for the accounting period, exclusive of the corporation tax, before any credit for foreign tax, chargeable on the part of the company's profits attributable to chargeable gains for that period; and that part shall be taken to be the amount brought into the company's profits for that period for the purposes of corporation tax in respect of chargeable gains before any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description,

T is the amount of the distributions received by the company in the accounting period which is included in its franked investment income of the accounting period, other than franked investment income against which relief is given under section 83 (5), 157 or 158, and which relief was not subsequently withdrawn under those sections, with the addition of any amount received by the company in the accounting period to which section 140 (3), 141 (3), 142 (4) or 144 (3)(a) applies,

U is the amount of relevant distributions made by the company before the 6th day of April, 1989, which—

(i) were made for the accounting period, or

(ii) would be deemed to have been made for the accounting period by virtue of subsections (3) and (7) of section 145 if—

(I) subsections (3) and (7) of that section were treated as applying for the purposes of this definition as they apply for the purposes of that section, and

(II) “relevant distribution” and “distributable manufacturing income” were substituted for “distribution” and “distributable income” respectively wherever those terms occur in subsections (3) and (7) of that section,

W is the amount of the distributions made by the company before the 6th day of April, 1989, which—

(i) were made for the accounting period, or

(ii) would be deemed to have been made for the accounting period by virtue of subsections (3) and (7) of section 145 if—

(I) subsections (3) and (7) of that section were treated as applying for the purposes of this definition as they apply for the purposes of that section, and

(II) every reference to “distributable income of the company” in subsection (3) of that section were a reference to the amount determined by the formula—

$$(R - S) + T$$

where R, S and T have the same meanings as otherwise in this paragraph,

and

Y is the amount of the first-mentioned distribution,

(b) Any reference in this section to a relevant distribution—

(i) made by a company before the 6th day of April, 1989, shall be construed as a reference to a relevant distribution within the meaning of paragraph 4 of Schedule 32, and

(ii) made by a company on or after the 6th day of April, 1989, shall be construed as a reference to a relevant distribution within the meaning of subsection (4).

(c) For the purposes of this Chapter, “relevant accounting period” has the same meaning as it has for the purposes of Part 14.

(2) (a) For the purposes of this subsection and subsections (1) and (4) and irrespective of the period of account for which a distribution is made by a company, a distribution or distributions, as the case may be, made by the company on a day (in this subsection referred to as “the first-mentioned day”) falling on or after the 6th day of April, 1989, shall be treated as having been made for the most recent accounting period of the company ending before the first-mentioned day; but, where a distribution made by a company is—

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

(ii) 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),

the distribution shall be treated, subject to paragraphs (b) to (d), as having been made for the accounting period in which the first-mentioned day falls.

(b) (i) Where the first-mentioned day falls in an accounting period of the company which begins on the day on which the company commenced to be within the charge to corporation tax, the distribution or distributions, as the case may be, shall be treated as made for that accounting period and, where the total amount of distributions made by the company on or after the 6th day of April, 1989, which are treated as having been made for that accounting period would otherwise exceed the amount of the distributable income of the company for that accounting period, the excess shall be treated as a distribution or distributions, as the case may be, which has not or have not been made for any accounting period.

(ii) Where the first-mentioned day falls on or after the first day of an accounting period of the company which ends on a day on which the company ceases to be within the charge to corporation tax, the distribution or distributions, as the case may be, shall be treated as made for that accounting period.

(c) (i) Where the total amount of distributions made by the company on or after the 6th day of April, 1989, which are treated as having been made for an accounting period, would otherwise exceed the amount of the distributable income of the company for that accounting period, the excess shall be treated as a distribution or distributions, as the case may be, made for the immediately preceding accounting period of the company.

(ii) Where the total amount of distributions made by the company on or after the 6th day of April, 1989, which are treated as having been made for the immediately preceding accounting period referred to in subparagraph (i), would otherwise exceed the amount of the distributable income of the company for that accounting period, the excess shall be treated as a distribution or distributions, as the case may be, made for the immediately preceding accounting period of the company, and so on.

(d) Where by virtue of the application of this subsection to the distribution or distributions, as the case may be, made by the company on the first-mentioned day there is an excess mentioned in paragraphs (b) and (c), that excess—

(i) where there is only one distribution made by the company on the first-mentioned day, shall be wholly attributed to that distribution, or

(ii) where there is more than one distribution so made on the first-mentioned day, shall be partly attributed to each of those distributions in the same respective proportion as the amount of each such distribution bears to the total amount of the distributions made by the company on that day,

so that any distribution made by the company on the first-mentioned day shall be treated as consisting of 2 or, if there is more than one such excess, more distributions each of which is made by the company for a different accounting period (if any).

(3) For the purposes of this section—

(a) the amount of the distributable income of a company for an accounting period shall be the amount determined by the formula—

$$(R - S) + T - W$$

where R, S, T and W have the same meanings respectively as in subsection (1), and

(b) the amount of the distributable manufacturing income of a company for an accounting period shall be the amount determined by the formula—

$$(A - B) + E$$

where A, B and E have the same meanings respectively as in subsection (1).

(4) Where a distribution made by a company on or after the 6th day of April, 1989 (in this subsection referred to as “the first-mentioned distribution”), is treated for the purposes of this subsection as—

(a) consisting of or including a specified distribution, or

(b) consisting of 2 or more distributions, one or more of which is treated as consisting of or including a specified distribution,

the first-mentioned distribution shall, notwithstanding any other provision of the Corporation Tax Acts, be treated for the purposes of those Acts as if it consists of 2 distributions, either but not both of which may be nil, being respectively—

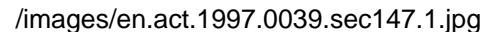
(i) a distribution, which shall be a relevant distribution for the purposes of this section, of an amount equal to the amount of the specified distribution mentioned in paragraph (a) or equal to the total amount of the specified distributions mentioned in paragraph (b), as the case may be, and

(ii) a distribution which is not a relevant distribution and which consists of the balance of the first-mentioned distribution.

(5) (a) The tax credit to which a recipient of a relevant distribution is entitled in respect of it shall, notwithstanding any provision of the Corporation Tax Acts other than this section, be an amount equal

to one-eighteenth of the amount of the relevant distribution.

(b) Where as respects an accounting period corporation tax payable by a company is by virtue of subsection (7) of section 448 reduced by the revised relief (within the meaning of that subsection), the tax credit in respect of a distribution treated for the purposes of this section as made for the accounting period shall be an amount determined by the formula—



where—

F is the amount or value of the distribution, and

G is an amount determined by the formula—

$H \div J \times 100$

where—

H is the corporation tax payable by the company for the accounting period, in so far as it is referable to income from the sale of those goods ), after deducting from that tax such amount as is to be deducted under section 448, and

J is the income from the sale of those goods.

(6) The tax credit (if any) to which the recipient of a distribution to which subsection (4)(ii) applies is entitled in respect of the distribution shall be calculated in accordance with the Corporation Tax Acts other than subsection (5).

(7) In relation to a relevant distribution, including part of a distribution treated under subsection (4) as a relevant distribution, made by a company, section 152 shall apply to the company so that the statements provided for by that section shall show as respects each such distribution, in addition to the particulars required to be given apart from this subsection, that the distribution is a relevant distribution for the purposes of this section.

(8) (a) Where it appears to the inspector that the amount of tax credit to which the recipient of a relevant distribution, including part of a distribution treated under subsection (4) as a relevant distribution, was shown to be entitled on the statement annexed to or accompanying any warrant or cheque or other order mentioned in section 152 (1), or in any statement mentioned in section 152 (3), exceeds the amount of the tax credit to which the recipient of the statement should have been shown to be entitled on that statement by reference to this section and section 150, the inspector may make an assessment to income tax on the company under Case IV of Schedule D for the year of assessment in which the statement is made on an amount the income tax on which, at the standard rate for that year of assessment, is equal to the amount by which the tax credit shown in the statement exceeds the tax credit to which the recipient of that statement should have been shown to be entitled on that statement.

(b) Any amount on which by virtue of this subsection income tax is charged on a company by an assessment under Case IV of Schedule D shall not be regarded as income of the company for any purpose of the Tax Acts.

(c) This subsection shall not apply if the inspector is, or on appeal the Appeal Commissioners are, satisfied that, either by reason of a correction by the company of the statement annexed to or accompanying the relevant warrant or cheque or other order mentioned in section 152 (1), or of the statement mentioned in section 152 (3), or for any other good and sufficient reason, it would be just and reasonable that this subsection should not apply.

(9) The inspector may by notice in writing require a company to furnish him or her with such information or particulars as may be necessary for the purposes of this section and, if the company does not comply with the requirements of the notice, it shall be liable to a penalty of £1,200.