

CHAPTER 2 Charges on income for corporation tax purposes

Allowance of charges on income. CTA76 s10; FA82 s23(3); FA83 s25(2); FA90 s43; FA97 s29(2), (5) and (6) 243.—(1) Subject to this section and to any other express exceptions, “charges on income” means, for the purposes of corporation tax, payments of any description mentioned in subsection (4), not being dividends or other distributions of the company; but no payment deductible in computing profits or any description of profits for the purposes of corporation tax shall be treated as a charge on income.

(2) In computing the corporation tax chargeable for any accounting period of a company, any charges on income paid by the company in the accounting period, in so far as paid out of the company's profits brought into charge to corporation tax, shall be allowed as deductions against the total profits for the period reduced by any other relief from corporation tax other than group relief.

(3) (a) This subsection shall apply to expenditure incurred for the purposes of a trade or profession set up and commenced on or after the 22nd day of January, 1997.

(b) Where—

(i) a company pays any charges on income before the time it sets up and commences a trade, and

(ii) the payment is made wholly and exclusively for the purposes of that trade,

that payment, to the extent that it is not otherwise deducted from total profits of the company, shall be treated for the purposes of corporation tax as paid at that time.

(c) An allowance or deduction shall not be made under any provision of the Tax Acts, other than this subsection, in respect of any expenditure or payment treated under this section as incurred on the day on which a trade or profession is set up and commenced.

(4) Subject to subsections (5) to (8), the payments referred to in subsection (1) are—

(a) any yearly interest, annuity or other annual payment and any other payments mentioned in section 104 or 237 (2), and

(b) any other interest payable in the State on an advance from—

(i) a bank carrying on a bona fide banking business in the State, or

(ii) a person who in the opinion of the Revenue Commissioners is bona fide carrying on business as a member of a stock exchange in the State or bona fide carrying on the business of a discount house in the State,

and for the purposes of this section any interest payable by a company as is mentioned in paragraph (b)

shall be treated as paid on such interest being debited to the company's account in the books of the person to whom it is payable.

(5) No payment mentioned in subsection (4)(a) made by a company to a person not resident in the State shall be treated as a charge on income unless it is a payment—

(a) from which, in accordance with—

(i) section 238, or

(ii) that section as applied by section 246,

except where the company has been authorised by the Revenue Commissioners to do otherwise, the company deducts income tax which it accounts for under sections 238 and 239, or under sections 238 and 241, as the case may be, or

(b) which is payable out of income brought into charge to tax under Case III of Schedule D and which arises from securities and possessions outside the State.

(6) No such payment made by a company as is mentioned in subsection (4) shall be treated as a charge on income if—

(a) the payment is charged to capital or the payment is not ultimately borne by the company, or

(b) the payment is not made under a liability incurred for a valuable and sufficient consideration and, in the case of a company not resident in the State, incurred wholly and exclusively for the purposes of a trade carried on by the company in the State through a branch or agency, and for the purposes of this paragraph a payment within subparagraph (ii) or (iii) of section 792 (1)(b) shall be treated as incurred for valuable and sufficient consideration.

(7) Subject to subsection (8), interest shall not be treated as a charge on income.

(8) Subject to subsection (9), subsection (7) shall not apply to any payment of interest on a loan to a company to defray money applied for a purpose mentioned in subsection (2) of section 247, if the conditions specified in subsections (3) and (4) of that section are fulfilled.

(9) Section 249 shall apply for corporation tax as for income tax, and accordingly references in that section to section 247, to the investing company and to the borrower, to interest eligible for relief, and to affording relief for interest shall apply as if they were or included respectively references to subsection (8), to such a company as is mentioned in that subsection, to interest to be treated as a charge on income, and to treating part only of a payment of interest as a charge on income.