

Restriction of certain reliefs in respect of distributions out of certain exempt or relieved profits. FA90 s34(1)(a) and (b)(ii), (2), (3), (5) and (6) 155.—(1) In this section, “distribution” has the same meaning as in the Corporation Tax Acts.

(2) (a) This section shall apply to shares in a company where any agreement, arrangement or understanding exists which could reasonably be considered to eliminate the risk that the person beneficially owning those shares—

(i) might, at or after a time specified in or implied by that agreement, arrangement or understanding, be unable to realise directly or indirectly in money or money's worth an amount so specified or implied, other than a distribution, in respect of those shares, or

(ii) might not receive an amount so specified or implied of distributions in respect of those shares.

(b) The reference in this subsection to the person beneficially owning shares shall be deemed to be a reference to both that person and any person connected with that person.

(c) For the purposes of this subsection, an amount specified or implied shall include an amount specified or implied in a foreign currency.

(3) Where any person receives a distribution in respect of shares to which this section applies and, apart from the application of this subsection to the distribution, section 140 (3)(a), 141 (3)(a), 144 (3)(a) or 145 would apply to the distribution, then, notwithstanding any provision of the Tax Acts other than subsection (4) and for the purposes of those Acts—

(a) none of those sections shall apply to the distribution,

(b) that person shall not be entitled to a tax credit in respect of the distribution, and

(c) the distribution shall be treated as income chargeable to income tax or corporation tax, as the case may be, under Case IV of Schedule D.

(4) Subsection (3) shall not apply to a distribution received—

(a) by a company—

(i) none of the shares of which is beneficially owned by a person resident in the State, and

(ii) which, if this subsection had not been enacted, would not be chargeable to corporation tax in respect of any profits other than distributions which would be so chargeable by virtue of this section, or

(b) by a person not resident in the State.

(5) Notwithstanding subsection (4), the liability to income tax or corporation tax of any person resident in the State, other than a company to which paragraph (a) of that subsection relates, shall be determined as if that subsection had not been enacted.