

Surcharge on undistributed income of service companies. CTA76 s162(1) to (6); FA90 s48; FA95 s55(1); FA96 s52(1); FA97 s146(1) and Sch9 Ptl par10(9) 441.—(1) In this section, “service company” means, subject to subsection (2)—

(a) a close company whose business consists of or includes the carrying on of a profession or the provision of professional services,

(b) a close company having or exercising an office or employment, or

(c) a close company whose business consists of or includes the provision of services or facilities of whatever nature to or for—

(i) a company within either of the categories referred to in paragraphs (a) and (b),

(ii) an individual who carries on a profession,

(iii) a partnership which carries on a profession,

(iv) a person who has or exercises an office or employment, or

(v) a person or partnership connected with any person or partnership referred to in subparagraphs (i) to (iv);

but the provision by a close company of services or facilities to or for a person or partnership not connected with the company shall be disregarded for the purposes of this paragraph.

(2) Where the principal part of a company's income which is chargeable to corporation tax under Cases I and II of Schedule D and Schedule E is not derived from—

(a) carrying on a profession,

(b) providing professional services,

(c) having or exercising an office or employment,

(d) providing services or facilities (other than providing services or facilities to or for a person or partnership not connected with the company) to or for any person or partnership referred to in subparagraphs (i) to (v) of subsection (1)(c), or

(e) any 2 or more of the activities specified in paragraphs (a) to (d),

the company shall be deemed not to be a service company.

(3) For the purposes of this section—

(a) a partnership shall be treated as connected with a company or individual (and a company or individual shall be treated as connected with a partnership) if any one of the partners in the partnership is connected with the company or individual, and

(b) a partnership shall be treated as connected with another partnership if any one of the partners in the partnership is connected with any one of the partners in the other partnership.

(4) (a) Where for an accounting period of a service company the aggregate of—

(i) 50 per cent of the distributable income, and

(ii) 50 per cent of the aggregate of the distributable investment income and the distributable estate income,

exceeds the distributions of the company for the accounting period, there shall be charged on the company an additional duty of corporation tax (in this section referred to as a “surcharge”) amounting to 15 per cent of the excess.

(b) Notwithstanding paragraph (a)—

(i) a surcharge shall not be made on a company where the excess is equal to or less than the lesser of the following amounts—

(I) £500 or, if the accounting period is less than 12 months, £500 proportionately reduced, and

(II) where the company has one or more associated companies, £500 divided by one plus the number of those associated companies or, if the accounting period is less than 12 months, £500 proportionately reduced divided by one plus the number of those associated companies;

(ii) where the excess is greater than the lesser amount on which by virtue of subparagraph (i) a surcharge would not be made, the amount of the surcharge shall not be greater than a sum equal to 80 per cent of the amount by which the excess is greater than that lesser amount;

(iii) the surcharge shall apply to so much of the excess calculated under this subsection in respect of an accounting period of a company as is not greater than the excess of the aggregate of the distributable investment income and the distributable estate income of the accounting period over the distributions of the company for the accounting period as if the reference in this subsection apart from this subparagraph to 15 per cent were a reference to 20 per cent.

(5) Section 440 (1) shall not apply in relation to a service company, but subsections (2) to (7) of section 440 shall apply in relation to a surcharge made under this section as they apply in relation to a surcharge made under section 440 with the substitution in subsections (2) and (3) of section 440 of a reference to subsection (4) of this section for the reference to subsection (1) of that section.

(6) (a) Subsections (2), (3), (6) and (7) of section 434 shall apply for the purposes of this section as they apply for the purposes of section 434 or 440, as the case may be.

(b) For the purposes of this section—

(i) the income of a company for an accounting period shall be its income computed for that period in accordance with section 434 (4);

(ii) “distributable income”, “distributable investment income” and “distributable estate income” of a company for an accounting period have the same meanings respectively as in subsections (1) and (5) of section 434 with the substitution for the reference to a trading company in each place where it occurs in subsection (5) of that section of a reference to a service company.