

Distributions out of profits from export of certain goods. CTA76 s28(8), s64 and s66A(1) and (2); FA78 s28(4); FA80 s42(6); FA82 s60(1); FA92 s35(a); FA97 s37 and Sch2 par1 and par3(3) 145.—(1) This section shall apply to a distribution (in this section referred to as a “relevant distribution”) made or deemed to have been made by a company for an accounting period wholly or in part out of—

(a) the company's income for the accounting period the corporation tax in respect of which has been reduced under Part IV of the Corporation Tax Act, 1976 , or

(b) a distribution or distributions received by the company in the accounting period in respect of which the tax credit is determined in accordance with this section.

(2) (a) Where a relevant distribution is made or is deemed for the purposes of this section to have been made by a company for an accounting period, the tax credit to which the recipient of the relevant distribution is entitled in respect of it shall be an amount arrived at by applying a fraction determined by the formula—

$$A + B \frac{C}{100 - D}$$

to the amount of the relevant distribution,

where—

A is an amount arrived at by applying to the amount of the company's distributable income for the accounting period, excluding distributions received by the company in that period, the fraction—

$$D \frac{100 - D}{100}$$

where D is the standard credit rate per cent for the year of assessment in which the relevant distribution is made reduced in the same proportion as the company's liability to corporation tax on its income) for the accounting period is reduced under section 58 of the Corporation Tax Act, 1976 , subject to paragraph (c) of the proviso to section 182(3), and paragraph (iii) of the proviso to section 184(3), of that Act,

B is the aggregate of the tax credits in respect of the amount referred to in subsection (4)(a)(ii), and

C is the amount of the company's distributable income for the accounting period.

(b) The reference to certain tax credits in the definition of “B” in paragraph (a) shall, in relation to distributions received by a company which makes a distribution to which this section applies, be construed—

(i) as a reference to such tax credits multiplied by .4937 in so far as they are tax credits in respect of distributions made before the 6th day of April, 1978, or made after the 5th day of April, 1983, and before the 6th day of April, 1988,

(ii) as a reference to such tax credits multiplied by .6203 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1978, and before the 6th day of April, 1983,

(iii) as a reference to such tax credits multiplied by .5649 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1988, and before the 6th day of April, 1989,

(iv) as a reference to such tax credits multiplied by .6835 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1989, and before the 6th day of April, 1991,

(v) as a reference to such tax credits multiplied by .7975 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1991, and before the 6th day of April, 1995, and

(vi) as a reference to such tax credits multiplied by .8899 in so far as they are tax credits in respect of distributions made after the 5th day of April, 1995, and before the 6th day of April, 1997.

(3) For the purposes of this section—

(a) where the total amount of the distributions made by a company for an accounting period exceeds the distributable income of the company for that accounting period, the excess shall be deemed for the purposes of this section to be a distribution for the immediately preceding accounting period;

(b) where the total amount of the distributions made or deemed under paragraph (a) to have been made by a company for the immediately preceding accounting period referred to in paragraph (a) exceeds the distributable income of the company for that accounting period, the excess shall be deemed to be a distribution for the next immediately preceding accounting period and so on;

(c) where the total amount of the distributions made or deemed under this subsection to have been made for the first accounting period for which the company came within the charge to corporation tax exceeds the distributable income of the company for that accounting period—

(i) the excess shall be deemed to be a distribution for the company's period of account which ended on the accounting date last before the 6th day of April, 1975, or, if there was no such period of account, to be a distribution for the year which ended on the 5th day of April, 1976, and

(ii) the tax credit in respect of the excess which is so deemed shall be an amount equal to the amount of income tax which under section 410 of the Income Tax Act, 1967, the company would have been entitled to deduct from a dividend of such an amount as after deduction of that tax would equal the amount of the excess, and for this purpose it shall be assumed that the dividend was paid on the 5th day of April, 1976, and was in respect of such period of account or year which ended on the 5th day of April, 1976, as the case may be,

but the tax credit in respect of a distribution to which subparagraph (i) applies shall not exceed the amount which would be the amount of the tax credit in respect of the distribution if that tax credit were determined in accordance with section 136 (2).

(4) (a) For the purposes of this section, the distributable income of a company for an accounting period

shall be the aggregate of the following amounts—

(i) the income of the company charged to corporation tax for the accounting period less the amount of corporation tax payable by the company for the accounting period which is attributable to that income, and

(ii) an amount equal to the distributions received by the company in the accounting period which is comprised 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.

(b) For the purposes of paragraph (a), the income of a company for an accounting period shall be taken to be the amount of its profits for that period on which corporation tax falls finally to be borne exclusive of the part of the profits attributable to chargeable gains, 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.

(5) Where the distributable income of a company for an accounting period is to be determined for the purposes of this section in relation to a distribution made by the company for that accounting period (in this subsection referred to as “the first-mentioned distribution”), there shall be deducted from the aggregate mentioned in subsection (4)(a) the aggregate of the following amounts—

(a) the amount of the company's income which, in relation to the first-mentioned distribution, is to be taken into account in the definition of “A” in section 147 (1) (before any reduction under paragraph 5(2)(i) or 6(2)(i) of Schedule 32) as income of the company for the relevant accounting period) which coincides with or is included in that accounting period, less the amount of corporation tax to be taken into account in the definition of “B” in section 147 (1) in respect of that amount of the company's income, and

(b) an amount equal to the distributions received by the company in the accounting period which are relevant distributions within the meaning of section 147, and which are to be included within the definition of “E” in subsection (1) of that section in relation to the first-mentioned distribution.

(6) Where a period of account for or in respect of which a company makes a distribution is not an accounting period and part of the period of account falls within an accounting period, the proportion of the distribution to be treated for the purposes of this section as being for or in respect of the accounting period shall be the same proportion as that part of the period of account bears to the whole of that period.

(7) Where a company makes a distribution which is not expressed to be for or in respect of a specified period, the distribution shall be treated for the purposes of this section as having been made for the accounting period in which it is made.

(8) Where the income of a company for an accounting period includes a dividend from which income tax was deducted under section 456 of the Income Tax Act, 1967 , then, for the purposes of this section, the amount of tax so deducted shall be deemed to be a tax credit in respect of a distribution of an amount equal to the amount of the dividend reduced by the amount of tax so deducted.

(9) In relation to a relevant distribution), section 152 shall apply so that the statements provided for by that section shall show, in addition to the particulars to be given apart from this section, the amount of the tax credit which would apply in respect of the distribution if it were not a relevant distribution.

(10) 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 subsections (1) to (9), and, if the company does not comply with the requirements of the notice, it shall be liable to a penalty of £800.

(11) (a) In this subsection, "the relieved amount" means so much of a relevant distribution as is determined by the formula—

$$E - F \times (100 - G) \text{ ————— } G$$

where—

E is the amount of the distribution,

F is the amount of the tax credit in respect of the distribution, and

G is the standard credit rate per cent for the purposes of section 136 (2) in respect of the year of assessment in which the distribution is made.

(b) Notwithstanding any other provision of the Tax Acts, for the purposes of determining a person's liability, if any, to income tax in respect of distributions received by such person, so much of a relevant distribution as is the relieved amount shall be treated as a separate distribution received by the person in respect of which such person shall not be entitled to a tax credit, and the remainder, if any, of the relevant distribution shall be treated as a separate distribution received by such person in respect of which the tax credit shall be the tax credit in respect of the relevant distribution.