HMRC - CTM20330 - ACT: Set-Off Against CT On Profits: Capacity Buying: Effect Of Applying Rules

ICTA88/S245 (2) & (3)

The effect of applying Section 245 to any case was as follows.

For the accounting period in which the change of ownership took place, the part of the accounting period ending with the change of ownership and the part after the change were to be treated as separate accounting periods for the purposes of ICTA88/S239 ([## ICTA88/S245 (2) & (3)

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This meant that if the company had made returns under ICTA88/SCH13 on the basis of its accounting period, those returns would have to be examined. The company’s liability to account for ACT would have had to be recomputed on the basis of the two ‘notional’ accounting periods involved.

Franked investment income received after the date of change would not be available to cover franked payments made prior to the date of change.

Once the liability to pay ACT for the two ‘notional’ accounting periods had been worked out, ICTA88/S239 would have applied accordingly.

For the purposes of determining the maximum amount of ACT which could be set-off against the CT of the two notional accounting periods, the profits (or income) - see [## ICTA88/S245 (2) & (3)

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This meant that if the company had made returns under ICTA88/SCH13 on the basis of its accounting period, those returns would have to be examined. The company’s liability to account for ACT would have had to be recomputed on the basis of the two ‘notional’ accounting periods involved.

Franked investment income received after the date of change would not be available to cover franked payments made prior to the date of change.

Once the liability to pay ACT for the two ‘notional’ accounting periods had been worked out, ICTA88/S239 would have applied accordingly.

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This meant that if the company had made returns under ICTA88/SCH13 on the basis of its accounting period, those returns would have to be examined. The company’s liability to account for ACT would have had to be recomputed on the basis of the two ‘notional’ accounting periods involved.

Franked investment income received after the date of change would not be available to cover franked payments made prior to the date of change.

Once the liability to pay ACT for the two ‘notional’ accounting periods had been worked out, ICTA88/S239 would have applied accordingly.

For the purposes of determining the maximum amount of ACT which could be set-off against the CT of the two notional accounting periods, the profits (or income) - see](https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm20120) and](https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm20150) - charged to CT for the whole accounting period was to be determined in the normal way (CTM20140) and then apportioned between the two notional accounting periods.

In the absence of any direction to the contrary, any apportionment should normally have been on a time basis (see ICTA88/S72 (2) and ICTA88/S834 (4)) but time-apportionment is only ‘necessary’ where no better method of apportionment is available (Marshall Hus and Partners v Bolton, 55TC539 - see CTM01405).

The action taken as above would have determined the amount of surplus ACT (including anyACT brought forward from earlier accounting periods) at the end of the notional accounting period ending with the change of ownership. No relief in respect of this surplus ACT was to be given for the notional accounting period beginning after the change of ownership or for any future accounting period.

ICTA88/S245 did not affect the accounting period of the company for the purposes of ICTA88/S240 (surrender of ACT). So the company would not have been a subsidiary of the surrendering company for the whole of the accounting period in which the change of ownership occurs and therefore for that accounting period would not have been able to use any ACT surrendered to it. As a result it would not have been able to set-off ACT surrendered to it by its parent either during that or any previous accounting period against CT liability on any profits of that or any subsequent accounting period.

Where the ACT was surrendered to it by a company which was its parent prior to the changein ownership, no relief in respect of that ACT was due after the accounting period immediately before the accounting period in which the change of ownership occurred.

Where ACT was surrendered to it by a company which became its parent as a result of the change in ownership, relief may have been due in respect of that ACT for accounting periods subsequent to the accounting period in which the change took place ([## ICTA88/S245 (2) & (3)

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This meant that if the company had made returns under ICTA88/SCH13 on the basis of its accounting period, those returns would have to be examined. The company’s liability to account for ACT would have had to be recomputed on the basis of the two ‘notional’ accounting periods involved.

Franked investment income received after the date of change would not be available to cover franked payments made prior to the date of change.

Once the liability to pay ACT for the two ‘notional’ accounting periods had been worked out, ICTA88/S239 would have applied accordingly.

For the purposes of determining the maximum amount of ACT which could be set-off against the CT of the two notional accounting periods, the profits (or income) - see](https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm20120) and [## ICTA88/S245 (2) & (3)

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ICTA88/S245 did not affect the accounting period of the company for the purposes of ICTA88/S240 (surrender of ACT). So the company would not have been a subsidiary of the surrendering company for the whole of the accounting period in which the change of ownership occurs and therefore for that accounting period would not have been able to use any ACT surrendered to it. As a result it would not have been able to set-off ACT surrendered to it by its parent either during that or any previous accounting period against CT liability on any profits of that or any subsequent accounting period.

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Franked investment income received after the date of change would not be available to cover franked payments made prior to the date of change.

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This meant that if the company had made returns under ICTA88/SCH13 on the basis of its accounting period, those returns would have to be examined. The company’s liability to account for ACT would have had to be recomputed on the basis of the two ‘notional’ accounting periods involved.

Franked investment income received after the date of change would not be available to cover franked payments made prior to the date of change.

Once the liability to pay ACT for the two ‘notional’ accounting periods had been worked out, ICTA88/S239 would have applied accordingly.

For the purposes of determining the maximum amount of ACT which could be set-off against the CT of the two notional accounting periods, the profits (or income) - see [## ICTA88/S245 (2) & (3)

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Franked investment income received after the date of change would not be available to cover franked payments made prior to the date of change.

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For the purposes of determining the maximum amount of ACT which could be set-off against the CT of the two notional accounting periods, the profits (or income) - see](https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm20120) and [## ICTA88/S245 (2) & (3)

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This meant that if the company had made returns under ICTA88/SCH13 on the basis of its accounting period, those returns would have to be examined. The company’s liability to account for ACT would have had to be recomputed on the basis of the two ‘notional’ accounting periods involved.

Franked investment income received after the date of change would not be available to cover franked payments made prior to the date of change.

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This meant that if the company had made returns under ICTA88/SCH13 on the basis of its accounting period, those returns would have to be examined. The company’s liability to account for ACT would have had to be recomputed on the basis of the two ‘notional’ accounting periods involved.

Franked investment income received after the date of change would not be available to cover franked payments made prior to the date of change.

Once the liability to pay ACT for the two ‘notional’ accounting periods had been worked out, ICTA88/S239 would have applied accordingly.

For the purposes of determining the maximum amount of ACT which could be set-off against the CT of the two notional accounting periods, the profits (or income) - see](https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm20120) and](https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm20150) - charged to CT for the whole accounting period was to be determined in the normal way (CTM20140) and then apportioned between the two notional accounting periods.

In the absence of any direction to the contrary, any apportionment should normally have been on a time basis (see ICTA88/S72 (2) and ICTA88/S834 (4)) but time-apportionment is only ‘necessary’ where no better method of apportionment is available (Marshall Hus and Partners v Bolton, 55TC539 - see CTM01405).

The action taken as above would have determined the amount of surplus ACT (including anyACT brought forward from earlier accounting periods) at the end of the notional accounting period ending with the change of ownership. No relief in respect of this surplus ACT was to be given for the notional accounting period beginning after the change of ownership or for any future accounting period.

ICTA88/S245 did not affect the accounting period of the company for the purposes of ICTA88/S240 (surrender of ACT). So the company would not have been a subsidiary of the surrendering company for the whole of the accounting period in which the change of ownership occurs and therefore for that accounting period would not have been able to use any ACT surrendered to it. As a result it would not have been able to set-off ACT surrendered to it by its parent either during that or any previous accounting period against CT liability on any profits of that or any subsequent accounting period.

Where the ACT was surrendered to it by a company which was its parent prior to the changein ownership, no relief in respect of that ACT was due after the accounting period immediately before the accounting period in which the change of ownership occurred.

Where ACT was surrendered to it by a company which became its parent as a result of the change in ownership, relief may have been due in respect of that ACT for accounting periods subsequent to the accounting period in which the change took place (](https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm81200) onwards).

ACT paid by the company and relating to distributions made in the notional accounting period commencing with the date of change could be set-off against the CT for that notional accounting period determined as above. Any surplus ACT could be used in the normal way in accordance with Sections 239 (4) (](https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm20170) onwards) or the ACT could be surrendered under ICTA88/S240 (CTM81200 onwards).

Where the change of ownership occurred before 16 March 1993 surplus ACT could also be used in accordance with Section 239 (3). Where the change of ownership occurs on or after 16 March 1993 this was no longer possible because of Section 245 (3A) (CTM20300).

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