HMRC - CTM21510 - Conditions

ICTA88/S246S (1)

A company was an IHC if certain conditions were met. These conditions are outlined below.

A company was an IHC in an accounting period if:

the first and fourth conditions were met,

or

the third and fourth conditions were met,

or

the second condition was met.

First condition

The first condition was set by ICTA88/S246S (2). It was that:

the company was wholly owned by another company throughout the accounting period, and

that other company was a foreign held company in the accounting period.

A company was a foreign held company in an accounting period if throughout the accounting period:

at least 80% of the company’s share capital was owned by persons who were not UK resident at any time in the accounting period,

or

the company was wholly owned by another company, and at least 80% of that other company’s share capital was owned by persons who were not UK resident at any time in the accounting period.

A company was an IHC if this first and the fourth conditions were met.

Second condition

A company was an IHC if this condition was met. It did not require consideration of the residence position of non-corporate shareholders, so most IHCs would have sought to qualify under this condition.

To meet the second condition the company had to satisfy five tests. The first of these was widened for accounting periods ending after 28 November 1995. The tests then became as below.

The company was a 100% subsidiary of another company throughout the accounting period (but see below).

That other company was not UK resident at any time in the accounting period.

The shares in that other company were quoted in the official list of a recognised stock exchange other than a UK exchange throughout the accounting period and the twelve months preceding the accounting period.

Shares in that other company had been dealt in on a recognised stock exchange other than a UK exchange at any time within the accounting period or twelve months preceding the accounting period.

The shares in that other company were not quoted in the official list of a UK stock exchange at any time in the accounting period and the twelve months preceding the accounting period. If they were so quoted, the issuer must not have been subject to the full listing rules in respect of the shares. (Because of this a company could obtain a secondary listing in the UK and still fulfil this condition.)

A company was a 100% subsidiary of another company (the first test above) if both were bodies corporate, and the latter would be treated for ICTA88/S838 purposes as directly or indirectly owning all the share capital of the former. For this test reference to ownership of share capital in ICTA88/S838 was construed by applying the voting test in ICTA88/S246S (12) (see CTM21535).

For accounting periods ending on or before 28 November 1995, the first test was that the company was wholly owned by another company throughout the accounting period. But the test also allowed the existence of another tier of companies above the company concerned. For such accounting periods the second condition was treated as fulfilled if throughout the accounting period all the share capital of the company concerned was:

wholly owned by another company, and that other company was wholly owned by a company which met the requirement set out above for ‘that other company’,

beneficially owned by two or more companies, all of which were wholly owned by another company which met those requirements,

beneficially owned by two or more companies, one of which wholly owned all the others and met those requirements.

Where a company paid an FID, it could only treat itself as an IHC if it was an IHC inthe immediately preceding accounting period (ICTA88/S246S (a), see CTM21520). Where the widened second condition applied to an accounting period in which a dividend was paid, and the immediately preceding period ended on or before 28 November 1995, the widened second condition was treated as applying to that preceding accounting period also for the purposes of the requirement in ICTA88/S246S (9).

This second condition was set by ICTA88/S246S (3), ICTA88/S246S (4), ICTA88/S246S (8) and ICTA88/S246S (10A).

Third condition

The third condition was that at all times in the accounting period:

each shareholder of the company owned at least 5% of the company’s share capital, and

at least 80% of the company’s share capital was owned by:

(a) persons who were not companies and who were not UK resident at any time in the accounting period or

(b) companies which were foreign held companies (CTM21530) in the accounting period, or

(c) persons falling within (a) above and companies falling within (b) above.

A company was an IHC if this third and the following fourth conditions were met.

The third condition was set by ICTA88/S246S (5) and ICTA88/S246S (6).

Fourth condition

The fourth condition was that:

at all times in the accounting period not more than 20% of the company’s ordinary share capital was ultimately owned by persons who were not companies and were UK resident.

Where any shares were directly owned by a company their ultimate ownership was found by tracing ownership through corporate holders to persons who were not companies on such basis as was reasonable.

A company was an IHC if this and either the first or third conditions were met.

The fourth condition was set by ICTA88/S246S (7).

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