HMRC - CTM80070 - Election To Pay Dividends Without Accounting For ACT

FA94/SCH14/PARA13

When ACT was abolished from 6 April 1999, ICTA88/S247 (1) was repealed from the same date in relation to dividends made on or after 6 April 1999.

Previously, under ICTA88/S247 (1), where there was to be a payment of dividends by a subsidiary to its parent or fellow subsidiary, the receiving company and the paying company could make a joint election for payment of dividends, but not other qualifying distributions, without the paying company having to account for ACT in respect of those dividends. Such dividends were ‘group income’ in the hands of the recipient and no tax credit attached to them. They could not be used to cover franked payments made by the recipient for the purpose of arriving at the recipient’s liability to ACT.

There is guidance on the conditions for elections at CTM80085,and, for consortia at CTM80905.

Even though a valid election under ICTA88/S247 (1) existed, under ICTA88/S247 (3) a company could account for ACT on a dividend, or part of a dividend, paid to a company which was party to the Section 247 (1) election. The first company did this by showing such a dividend, or part dividend, separately on form CT61(Z). It was not necessary for the company to make any other notification to the Collector at the Accounts Office.

Example

This example illustrates the consequences where ICTA88/S247 (3) applied.

Company T owns 60% of the ordinary share capital of Company U. The companies have made an election under ICTA88/S247 (1). U receives franked investment income of £80,000. Even though the Section 247 (1) election is in force, U decides to make a franked payment to T up to the amount of the franked investment income of £80,000.

U does not have an excess of franked payments over franked investment income and so does not pay ACT. T receives franked investment income (not group income) of £80,000 from U. T can use that franked investment income to cover franked payments it makes.

An election under Section 247 (1) cannot apply to FID. When a company elects for a dividend to be treated as an FID, and a Section 247 (1) election is in place, the FID election is treated as a notice under Section 247 (3) (see CTM21120).

For guidance on elections involving companies that are not trading or investment companies see CTM15550.

For guidance on the recovery of ACT that ought to have been paid but wasn’t see CTM80090.

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