HMRC - CTM81250 - Entitlement To Profits And Assets

ICTA88/SCH18 (see CTM81000 onwards) has effect for the purposes of (c) and (d) of CTM81240. However, when you apply this guidance for the purposes of ICTA88/S240, you should bear in mind the contents below.

Interpret any reference to ‘relevant accounting period’ as meaning either:

the parent company’s accounting period in which the relevant dividends were paid (‘relevant dividends’ means for this purpose the dividends in respect of which the ACT that the parent company wishes to surrender was paid),

or

the subsidiary company’s accounting period in respect of which it is treated as making a claim under ICTA88/S239 (1) or ICTA88/S239 (4) in respect of ACT surrendered to it.

The parent company has to establish that it is entitled to more than 50%:

of any profits available for distribution to equity holders of the subsidiary company,

and

of any assets of the subsidiary company available for distribution to equity holders on a winding-up.

Note that the principal/subsidiary relationship may exist between two companies for the purposes of surrendering ACT but not for the purposes of group relief. This is because the test for the surrender of ACT is by reference to a 51% relationship, rather than the 75%relationship, which is the test for the purposes of group relief.

Where in CTM81000 onwards it is stated that a payment to an equity holder (for example, an interest payment) is to be treated as a distribution to the equity holder, such treatment applies only for the purposes of ICTA88/S240. The question whether the payment is a distribution for the purposes of ICTA88/S209 must be determined in accordance with the provisions applying to Section 209.

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