HMRC - CTM81260 - Interaction Of ICTA88/S239 (1) & ICTA88/S240

Where a parent company has paid ACT in respect of a dividend paid by it in an accounting period prior to 6 April 1999, it may claim within six years after the end of that accounting period to surrender the whole or part of the ACT to one or more companies which were its 51% subsidiaries throughout that accounting period.

Because Section 239 (1) relief is not the subject of a claim (despite Section 239 (5)) there is no claim under Section 239 (1) which can be treated as final. So there is nothing to prevent a Section 240 surrender claim overriding the provisions of Section 239 (1) provided all the necessary statutory requirements are fulfilled.

FA89/S157 applies to accounting periods ending on or before 30 September 1993. Until FA89/S157 was introduced, companies could obtain the benefit of a mismatch in the interest/repayment supplement provisions, by surrendering ACT which had previously been used under ICTA88/S239 (1). Where the claim to surrender is made on or after 14 March 1989FA89/S157 CTM81235 applies. It charges interest under TMA70/S86 on the surrendering company’s increased CT liability. This ensures the reallocation of ACT does not produce an advantage through interest/repayment supplement mismatch.

When a Section 240 claim is made after the ACT has been previously used under Section 239(1), the Section 239 (1) set-off becomes excessive and an assessment is required to recover the tax under ICTA88/S252 (CTM20260).

Previous page

Next page