Finance Act 2015

2015 CHAPTER 11

PART 3

DIVERTED PROFITS TAX

Payment and recovery of tax

98 Payment of tax

(1) This section applies where a charging notice is issued to a company.

(2) Diverted profits tax charged by the notice must be paid within 30 days after the day the notice is issued.

(3) The company is liable to pay the tax.

(4) The payment of the tax may not be postponed on any grounds, and so the diverted profits tax charged by the charging notice remains due and payable despite any review being conducted under section 101 or any appeal in respect of the notice.

(5) In Schedule 16—

(a) Part 1 contains provision treating a liability of a non-UK resident company to pay diverted profits tax as if it were also a liability of its UK representative;

(b) Part 2 contains provision enabling unpaid diverted profits tax due from a non-UK resident company to be recovered from a related company.

99 Diverted profits tax ignored for tax purposes

(1) In calculating income, profits or losses for any tax purpose—

(a) no deduction, or other relief, is allowed in respect of diverted profits tax, and

(b) no account is to be taken of any amount which is paid (directly or indirectly) by a person for the purposes of meeting or reimbursing the cost of diverted profits tax.

(2) An amount paid as mentioned in subsection (1)(b) is not to be regarded for the purposes of the Corporation Tax Acts as a distribution (within the meaning of CTA 2010).

100 Credit for UK or foreign tax on same profits

(1) Subsection (2) applies where a company has paid—

(a) corporation tax, or

(b) a tax under the law of a territory outside the United Kingdom which corresponds to corporation tax,

which is calculated by reference to profits of the company ("the taxed profits").

(2) Such credit as is just and reasonable is allowed in respect of that tax against any liability which either—

(a) that company has to diverted profits tax in respect of the taxed profits, or

(b) another company has to diverted profits tax in respect of taxable diverted profits arising to that other company which are calculated by reference to amounts which also constitute all or part of the taxed profits.

(3) Subsection (4) applies where a company has paid—

(a) the CFC charge within the meaning of Part 9A of TIOPA 2010 (controlled foreign companies) (see section 371VA), or

(b) a tax under the law of a territory outside the United Kingdom (by whatever name known) which is similar to the CFC charge,

which is calculated by reference to profits of another company ("the CFC profits").

(4) Such credit as is just and reasonable is allowed in respect of that charge or tax against any liability which a company has to diverted profits tax in respect of taxable diverted profits arising to that other company which are calculated by reference to amounts which also constitute all or part of the CFC profits.

(5) But nothing in this section allows a credit, against a liability to diverted profits tax, for an amount of tax or charge which was paid after the end of—

(a) the review period in respect of the charging notice which imposed the charge to diverted profits tax, or

(b) where the charge to diverted profits tax was imposed by a supplementary charging notice, the review period within which that notice was issued.

(6) For the purposes of subsection (1), any withholding tax paid on payments made to a person is (unless it is refunded) to be treated—

(a) as tax within paragraph (a) or (b) of that subsection, and

(b) as paid by that person (and not the person making the payment).

(7) For the purposes of subsection (6), an amount of withholding tax paid on payments made to a person is refunded if and to the extent that—

(a) any repayment of tax, or any payment in respect of a credit for tax, is made to any person, and

(b) that repayment or payment is directly or indirectly in respect of the whole or part of the amount of that withholding tax.