Corporation Tax Act 2010

2010 CHAPTER 4

PART 11

CHARITABLE COMPANIES ETC

CHAPTER 4

RESTRICTIONS ON EXEMPTIONS

Restrictions on exemptions

492 Restrictions on exemptions

(1) This section applies if a charitable company has a non-exempt amount for an accounting period (see section 493).

(2) The exemptions mentioned in subsection (3) do not apply, and are treated as never having applied, to so much of any income of the charitable company for the accounting period as is attributed under section 494 to the non-exempt amount.

(3) Those exemptions are—

(a) the exemptions under this Part, and

(b) the exemption under regulation 31(1) of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) (exemption from corporation tax in respect of certain offshore income gains).

(4) Section 256(4) of TCGA 1992 contains corresponding restrictions which apply in relation to section 256(1) of that Act (gains accruing to charities not to be chargeable gains).

493 The non-exempt amount

(1) A charitable company has a non-exempt amount for an accounting period if it has—

(a) non-charitable expenditure for the period (amount A), and
(b) attributable income and gains for the period (amount B).

(2) The non-exempt amount for the accounting period is—
(a) amount A, or
(b) if less, amount B.

(3) For the purposes of this Part—
(a) a charitable company's "attributable income" for an accounting period is the charitable company's income for the period that is exempt from corporation tax as a result of any of the exemptions mentioned in section 492(3),
(b) a charitable company's "attributable gains" for an accounting period are any gains accruing to the charitable company in the period that as a result of section 256(1) of TCGA 1992 are not chargeable gains, and
(c) a charitable company's "attributable income and gains" for an accounting period is the sum of its attributable income for the period and its attributable gains for the period.

(4) In applying subsection (3)(a) ignore any restrictions on the exemptions under this Part which result from section 492(2).

(5) In applying subsection (3)(b) ignore any restriction on the exemption under section 256(1) of TCGA 1992 which results from section 256(4) of that Act.

494 Attributing income to the non-exempt amount

(1) This section applies if a charitable company has a non-exempt amount for an accounting period.

(2) Attributable income of the charitable company for the accounting period may be attributed to the non-exempt amount but only so far as the non-exempt amount has not been used up.

(3) The non-exempt amount can be used up (in whole or in part) by—
(a) attributable income being attributed to it under this section, or
(b) attributable gains being attributed to it under section 256C of TCGA 1992.

(4) The whole of the non-exempt amount must be used up by—
(a) attributable income being attributed to the whole of it under this section,
(b) attributable gains being attributed to the whole of it under section 256C of TCGA 1992, or
(c) a combination of attributable income being attributed to some of it under this section and attributable gains being attributed to the rest of it under section 256C of TCGA 1992.

495 How income is attributed to the non-exempt amount

(1) This section is about the ways in which attributable income can be attributed to a non-exempt amount under section 494.

(2) The charitable company may specify the attributable income that is to be attributed to the non-exempt amount.

(3) A specification under subsection (2) is made by notice to an officer of Revenue and Customs.

(4) Subsection (6) applies if—

(a) an officer of Revenue and Customs requires a charitable company to make a specification under this section, and

(b) the charitable company has not given notice under subsection (3) of the specification before the end of the required period.

(5) The required period is 30 days beginning with the day on which the officer made the requirement.

(6) An officer of Revenue and Customs may determine the attributable income that is to be attributed to the non-exempt amount.