

FINANCE ACT 2015

EXPLANATORY NOTES

INTRODUCTION

Section 91: Section 86: Mismatch Condition is Met: Calculation of Profits by Reference to the Relevant Alternative Provision

Summary

1. This section explains how to calculate the taxable diverted profits for an accounting period where the mismatch condition is met, but the actual provision condition is not met.

Details of the Section

2. Subsection (1) states that the section applies where section 86 applies for an accounting period, the mismatch condition is met and the actual provision condition is not met. The mismatch condition is defined in subsection (2) of section 86. The circumstances where the actual provision is met are set out in subsection (8) of section 88.
3. Subsection (2) explains that the taxable diverted profits arising in the accounting period in relation to the material provision are determined in accordance with subsections (3) to (5).
4. Subsection (3) explains when subsection (4) applies to determine the taxable diverted profits. This is when the actual provision condition would have been met but for the fact that the relevant alternative provision would have resulted in relevant taxable income of a company in its corresponding accounting period. The relevant alternative provision is detailed in subsection (8) of section 88.
5. Subsection (4) determines the taxable diverted profits that arise in the foreign company if subsection (3) applies. These are the notional PE profits for the accounting period, together with the total amount of any relevant taxable income of a company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision.
6. Subsection (5) determines the taxable diverted profits if subsection (4) does not apply, as being the sum of what would have been the notional PE profits of the foreign company and the relevant taxable income of a connected company.

Background Note

7. The diverted profits tax is a new charge on diverted profits. The main objective is to counteract contrived arrangements used by large groups (typically multinational enterprises) that result in the erosion of the UK tax base.