



Finance Act 2015

2015 CHAPTER 11

PART 3

DIVERTED PROFITS TAX

Involvement of entities or transactions lacking economic substance

80 UK company: involvement of entities or transactions lacking economic substance

- (1) This section applies in relation to a company (“C”) for an accounting period if—
- (a) C is UK resident in that period,
 - (b) provision has been made or imposed as between C and another person (“P”) (whether or not P is UK resident) by means of a transaction or series of transactions (“the material provision”),
 - (c) the participation condition is met in relation to C and P (see section 106),
 - (d) the material provision results in an effective tax mismatch outcome, for the accounting period, as between C and P (see sections 107 and 108),
 - (e) the effective tax mismatch outcome is not an excepted loan relationship outcome (see section 109),
 - (f) the insufficient economic substance condition is met (see section 110), and
 - (g) C and P are not both small or medium-sized enterprises for that period.
- (2) For the purposes of subsection (1)(b) provision made or imposed as between a partnership of which C is a member and another person is to be regarded as provision made or imposed as between C and that person.

81 Non-UK company: involvement of entities or transactions lacking economic substance

- (1) This section applies in relation to a company (“the foreign company”) for an accounting period if—

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- (a) it is non-UK resident in that period,
 - (b) by reason of the foreign company carrying on a trade in the United Kingdom through a permanent establishment in the United Kingdom (“UKPE”), Chapter 4 of Part 2 of CTA 2009 (non-UK resident companies: chargeable profits) applies to determine the chargeable profits of the foreign company for that period, and
 - (c) section 80 would apply to UKPE for that period were it treated for the purposes of section 80 and sections 106 to 110—
 - (i) as a distinct and separate person from the foreign company (whether or not it would otherwise be so treated),
 - (ii) as a UK resident company under the same control as the foreign company, and
 - (iii) as having entered into any transaction or series of transactions entered into by the foreign company to the extent that the transaction or series is relevant to UKPE.
- (2) For the purposes of subsection (1)(c)(iii) a transaction or series of transactions is “relevant” to UKPE only if, and to the extent that, it is relevant, for corporation tax purposes, when determining the chargeable profits of the foreign company attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE.
- (3) Where section 1313(2) of CTA 2009 (UK sector of the continental shelf: profits of foreign company deemed to be profits of trade carried on by the company in the UK through a permanent establishment in the UK) applies to treat profits arising to a company as profits of a trade carried on by the company in the United Kingdom through a permanent establishment in the United Kingdom, this Part applies as if the company actually carried on that trade in the United Kingdom through that permanent establishment.
- (4) In this section “control” is to be construed in accordance with section 1124 of CTA 2010.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 21 para. 2(e) and word inserted by [2021 c. 26 Sch. 27 para. 44\(3\)\(b\)](#)
- Sch. 21 para. 5(6) inserted by [2021 c. 26 Sch. 27 para. 44\(4\)\(b\)](#)