



Finance Act 2015

2015 CHAPTER 11

PART 3

DIVERTED PROFITS TAX

Review and appeals

101 HMRC review of charging notice

- (1) Where a charging notice is issued to a company for an accounting period, a designated HMRC officer, within the review period—
 - (a) must carry out a review of the amount of diverted profits tax charged on the company for the accounting period, and
 - (b) may carry out more than one such review.
- (2) Subject to subsection (13), “the review period” means the period of 12 months beginning immediately after the period of 30 days mentioned in section 98(2).
- (3) Subsection (4) applies if—
 - (a) the company has paid (in full) the amount of diverted profits tax charged by the charging notice, and
 - (b) the officer is satisfied that the total amount of diverted profits tax charged on the company for that period is excessive having regard to sections 83, 84, 85, 89, 90 and 91 (calculation of taxable diverted profits).
- (4) The officer may, during the review period, issue to the company an amending notice which amends the charging notice so as to—
 - (a) reduce the amount of taxable diverted profits to which the notice relates, and
 - (b) accordingly, reduce the charge to diverted profits tax imposed on the company in respect of the accounting period.
- (5) More than one amending notice may be issued to the company in respect of the charging notice.

Status: This is the original version (as it was originally enacted).

- (6) Where an amending notice is issued, any tax overpaid must be repaid.
- (7) Subsection (8) applies if a designated HMRC officer is satisfied that the total amount of diverted profits tax charged on the company for the accounting period is insufficient having regard to sections 83, 84, 85, 89, 90 and 91 (calculation of taxable diverted profits).
- (8) The officer may, during the review period, issue a notice (a “supplementary charging notice”) to the company imposing an additional charge to diverted profits tax on the company in respect of the accounting period on taxable diverted profits which—
 - (a) arise to the company for that period, and
 - (b) are not already the subject of a charge to diverted profits tax.
- (9) Only one supplementary charging notice may be issued to the company in respect of a charging notice.
- (10) No supplementary charging notice may be issued during the last 30 days of the review period.
- (11) Subsections (3) to (6) (amending notices) apply in relation to a supplementary charging notice as they apply to the charging notice.
- (12) Section 95(5) (content of charging notice) and section 98 (payment of tax) apply in relation to a supplementary charging notice as they apply in relation to a charging notice.
- (13) If either of the following events occurs before the end of the period of 12 months referred to in subsection (2), the review period ends at the time of that event.

The events are—

 - (a) that following the issuing of a supplementary charging notice, the company notifies HMRC that it is terminating the review period;
 - (b) that a designated HMRC officer and the company agree (in writing) that the review period is to terminate.
- (14) When determining on a review whether the total amount of taxable diverted profits charged on the company for an accounting period is excessive or insufficient—
 - (a) the designated HMRC officer must not take any account of section 96 or (as the case may be) section 97 (which apply only for the purposes of the officer estimating the taxable diverted profits for the purposes of issuing a preliminary notice or charging notice), and
 - (b) nothing in section 94 applies to restrict the representations which the officer may consider.
- (15) Where a supplementary charging notice or an amending notice is issued to a company, the officer must give a copy of the notice—
 - (a) if the charging notice was issued by reason of section 81 applying, to UKPE, and
 - (b) if the charging notice was issued by reason of section 86 applying, to the avoided PE.

102 Appeal against charging notice or supplementary charging notice

- (1) A company to which a charging notice or a supplementary charging notice is issued may appeal against the notice.
- (2) Notice of an appeal must be given to HMRC, in writing, within 30 days after the end of the review period (see section 101(2) and (13)).
- (3) The notice of appeal must specify the grounds of appeal.
- (4) For the purposes of an appeal, sections 96 and 97 (which apply only for the purposes of the officer estimating the taxable diverted profits for the purposes of issuing a preliminary notice or charging notice) are to be ignored when determining whether the taxable diverted profits in respect of which a charge is imposed have been correctly calculated.
- (5) On an appeal under this section the Tribunal may—
 - (a) confirm the charging notice or supplementary charging notice to which the appeal relates,
 - (b) amend that charging notice or supplementary charging notice, or
 - (c) cancel that charging notice or supplementary charging notice.
- (6) For the purposes of Part 5 of TMA 1970 (appeals etc), an appeal under this section is to be treated as if it were an appeal under the Taxes Acts (within the meaning of that Act), and for that purpose references in that Part to an assessment include a charging notice or supplementary charging notice under this Part.
- (7) Subsection (6) is subject to section 98(4) (no postponement of payment of tax pending appeal etc).