



# Finance Act 2015

## 2015 CHAPTER 11

### PART 3

#### DIVERTED PROFITS TAX

*Calculation of taxable diverted profits: section 80 or 81 cases*

#### **85 Section 80 or 81: calculation of profits by reference to the relevant alternative provision**

- (1) This section applies where—
  - (a) section 80 or 81 applies in relation to a company (“the relevant company”) for an accounting period, and
  - (b) the actual provision condition is not met.
- (2) The taxable diverted profits that arise to the relevant company in the accounting period in relation to the material provision in question are determined in accordance with subsections (3) to (5).
- (3) Subsection (4) applies if 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 for that company's corresponding accounting period.
- (4) The taxable diverted profits that arise to the relevant company in the accounting period are an amount equal to the sum of—
  - [<sup>F1</sup>(a) so much of the diverted profits (if any) of the company for the accounting period as are not taken into account in an assessment to corporation tax included before the end of the review period in the company's company tax return for that accounting period,] and
  - (b) the total amount of any relevant taxable income of a connected company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision.

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- (5) If subsection (4) does not apply, the taxable diverted profits that arise to the relevant company in the accounting period are the sum of—
- (a) the notional additional amount (if any) arising from the relevant alternative provision, and
  - (b) the total amount (if any) of any relevant taxable income of a connected company, for that company's corresponding accounting period, which would have resulted from the relevant alternative provision,
- (6) In subsection (5) “the notional additional amount” means <sup>F2</sup>...—
- (a) the [<sup>F3</sup>additional] amount in respect of which the company would have been chargeable to corporation tax for that period had the relevant alternative provision been made or imposed instead of the material provision, [<sup>F4</sup>less]
  - (b) the amount—
    - (i) in respect of which the company is chargeable to corporation tax for that period by reason of [<sup>F5</sup>any adjustment required to be made to the results of the material provision (whether under Part 4 of TIOPA 2010 (transfer pricing) or otherwise),]
    - (ii) which, in a case where section 81 applies, is attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE, and
    - (iii) which is taken into account in an assessment to corporation tax which is included before the end of the review period in the company's company tax return for that accounting period.
- [<sup>F6</sup>(7) In calculating the additional amount mentioned in paragraph (a) of subsection (6) no account is to be taken of any adjustment required to be made to the results of the material provision under Part 4 of TIOPA 2010 or otherwise.]

#### Textual Amendments

- F1** S. 85(4)(a) substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(2\)](#)
- F2** Words in s. 85(6) omitted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(3\)\(a\)](#)
- F3** Word in s. 85(6)(a) inserted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(3\)\(b\)](#)
- F4** Word in s. 85(6)(a) substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(3\)\(c\)](#)
- F5** Words in s. 85(6)(b)(i) substituted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(3\)\(d\)](#)
- F6** S. 85(7) inserted (with effect in accordance with Sch. 6 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 6 para. 5\(4\)](#)

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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\(4\)\(b\)](#)