

2017 No. 454

CORPORATION TAX

The Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) (Amendment) Regulations 2017

<i>Made</i>	- - - -	<i>21st March 2017</i>
<i>Laid before the House of Commons</i>		<i>22nd March 2017</i>
<i>Coming into force</i>	- -	<i>12th April 2017</i>

The Treasury, in exercise of the powers conferred by section 32 of the Finance Act 1998(a), make the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) (Amendment) Regulations 2017 and come into force on 12th April 2017.

(2) These Regulations apply to any distribution of a company made in an accounting period which commences on or after 6th April 2016.

(3) For the purposes of paragraph (2), an accounting period beginning before and ending on or after 6th April 2016 is to be treated for the purposes of these Regulations as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate accounting periods.

Amendment of the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999

2. These Regulations amend the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999(b).

Regulation 3 (interpretation)

3.—(1) Regulation 3 is amended as follows.

(2) In paragraph (1)—

(a) after the definition of “distribution” insert—

““exempt ABGH distribution” means a distribution which—

(a) is a distribution for the purposes of the Corporation Tax Acts only because it falls within paragraph A, B, G or H in section 1000(1) of CTA 2010; and

(a) 1998 c. 36. Section 32 is amended by section 91(4) of the Finance Act 1999 (c. 16) and paragraphs 15 and 16 of Part 3 of Schedule 20 to the Finance Act 2012 (c. 14).

(b) S.I. 1999/358 as amended by S.I.2003/1861, 2010/669 and 2013/157.

- (b) is exempt for the purposes of Part 9A(a) of CTA 2009 (company distributions);”;
- (b) omit the definition of “franked investment income”(b);
- (c) after the definition of “parent company” insert—
 - ““qualifying investment income” means an exempt ABGH distribution of a company grossed up by ten-ninths;”;
 - and
- (d) in the definition of “surplus franked investment income”, for “franked” substitute “qualifying”.

Regulations 7 to 10A

4. In regulations 7 to 10A(c) and in the titles to those regulations, for “franked” substitute “qualifying”, except in regulation 10(4).

Regulation 11 (computation of shadow ACT)

5.—(1) Regulation 11 is amended as follows.

(2) In paragraphs (3) and (10), for “franked investment income” substitute “qualifying investment income”.

(3) In paragraphs (12) and (14)(a), for “franked” substitute “qualifying”.

(4) For paragraph (13) substitute—

“(13) A company has a surplus of qualifying investment income in an accounting period for the purposes of paragraph (12) if an amount equal to—

- (a) the aggregate of nine-eighths of the qualifying investment income consisting of distributions made to the company in that period; and
- (b) the surplus of qualifying investment income carried forward from the previous accounting period in accordance with paragraph (12),

exceeds the amount of the franked distributions made by it in that period; and the amount of that excess is to be regarded as the amount of the surplus of qualifying investment income for the purposes of paragraph (12).”.

Regulation 22 (life assurance companies)

6.—(1) Regulation 22(d) is amended as follows.

(2) In paragraph (1)—

- (a) for “franked” substitute “qualifying”; and
- (b) for “long-term insurance fund” substitute “long-term business”.

(3) In paragraph (2), for “the relevant profits” substitute “the qualifying investment income”.

(4) For paragraph (3) substitute—

“(3) In this regulation—

“life assurance business” has the meaning given by section 56 of the Finance Act 2012(e);

“long-term business” has the meaning given by section 63(1) of the Finance Act 2012;

“policy holders’ share of the qualifying investment income” is the amount given by the formula—

(a) Part 9A of the Corporation Tax Act 2009 (c. 4) was inserted by paragraph 1 of Part 1 of Schedule 14 to the Finance Act 2009 (c. 10).
 (b) The definition of “franked investment income” was amended by S.I. 2010/669.
 (c) Regulation 10A was inserted by S.I. 2010/669.
 (d) Regulation 22 was amended by S.I. 2010/669.
 (e) 2012 c. 14.

$$(1 - RP) \times Q$$

where—

“RP” is the relevant proportion set out in section 105(4) of the Finance Act 2012; and

“Q” is the qualifying investment income,

but where the formula gives an amount of less than zero, the policy holders’ share of the qualifying investment income is to be treated as zero.”.

Andrew Griffiths

Guy Opperman

21st March 2017

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations amend the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999 (S.I. 1999/358) (“the principal Regulations”). The amendments are made in consequence of the abolition of dividend tax credit and the repeal of the term “franked investment income” contained in section 1126 of the Corporation Tax Act 2010 (c. 4). The amendments apply to distributions of companies made in an accounting period which commences on or after 6th April 2016.

Authority for the retrospective effect of the Regulations is provided by section 32(11) of the Finance Act 1998 (c. 36).

By regulation 3, in regulation 3 (interpretation) of the principal Regulations “franked investment income” is omitted, “qualifying investment income” is inserted and for “surplus franked investment income” is substituted “surplus qualifying investment income”.

By regulation 4, “qualifying investment income” is substituted for “franked investment income” in the specified provisions of the principal Regulations.

By regulation 5, regulation 11 of the principal Regulations is amended such that “qualifying investment income” is substituted for “franked investment income”. Further, a new paragraph (13) (dealing with a surplus of qualifying investment income in the computation of shadow ACT) is substituted and paragraph (14)(a) (dealing with straddling accounting periods) is amended.

By regulation 6, regulation 22 of the principal Regulations (dealing with life assurance companies) is amended such that “qualifying investment income” is substituted for “franked investment income” and further amendments are made for consistency with terms used in Part 2 of the Finance Act 2012 (c. 14) which deals with insurance companies carrying on long-term business. The relevant proportion set out in section 105(4) of the Finance Act 2012 gives the shareholders’ share of non-taxable distributions. That proportion is applied in respect of regulation 22 of the principal Regulations in order to give the policyholders’ share of qualifying investment income.

A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

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