



Finance Act 1972

1972 CHAPTER 41

PART V

TAXATION OF COMPANIES AND COMPANY DISTRIBUTIONS

Miscellaneous provisions

101 Change in ownership of company: calculation and treatment of advance corporation tax

- (1) This section applies if—
 - (a) within any period of three years there is both a change in the ownership of a company and (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade or business carried on by the company; or
 - (b) at any time after the scale of the activities in a trade or business carried on by a company has become small or negligible, and before any considerable revival of the trade or business, there is a change in the ownership of the company.
- (2) Sections 85 and 89 above and Schedule 14 below shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods; and for that purpose the income of the company charged to corporation tax for the accounting period (as defined in subsection (6) of the said section 85) shall be apportioned between those parts.
- (3) No advance corporation tax paid by the company in respect of distributions made in an accounting period beginning before the change of ownership shall be treated under subsection (4) of the said section 85 as paid by it in respect of distributions made in an accounting period ending after the change of ownership; and this subsection shall apply to an accounting period in which the change of ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.

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(4) In subsection (1) above "major change in the nature or conduct of a trade or business" includes—

- (a) a major change in the type of property dealt in, or services or facilities provided, in the trade or business; or
- (b) a major change in customers, outlets or markets of the trade or business; or
- (c) a change whereby the company ceases to be a trading company and becomes an investment company or vice versa;
- (d) where the company is an investment company, a major change in the nature of the investments held by the company;

and this section applies even if the change is the result of a gradual process which began outside the period of three years mentioned in subsection (1)(a) above.

(5) In this section—

" trading company " means a company whose business consists wholly or mainly of the carrying on of a trade or trades;

" investment company " means a company (other than a holding company) whose business consists wholly or mainly in the making of investments and the principal part of whose income is derived therefrom ;

" holding company " means a company whose business consists wholly or mainly in the holding of shares or securities of companies which are its 90 per cent. subsidiaries and which are trading companies.

(6) Subsection (3) above applies to advance corporation tax which a company is treated as having paid by virtue of section 92 above as it applies to advance corporation tax which it has actually paid.

(7) Subsections (6) and (7) of section 483 of the Taxes Act (which contain supplementary provisions relating to the restriction of the carry-forward of losses under that section in circumstances corresponding to those dealt with in this section) and section 484 of that Act (which contains rules for ascertaining changes of ownership for the purposes of that section) shall apply also for the purposes of this section and as if in subsection (3) of section 484 the reference to the benefit of the losses were a reference to the benefit of the advance corporation tax.

102 Rectification of excessive set-off etc. of advance corporation tax or tax credit

(1) If an inspector discovers that—

- (a) any set-off of advance corporation tax under section 85 above; or
- (b) any set-off or payment of tax credit,

ought not to have been made, or is or has become excessive, the inspector may make any such assessments as may in his judgment be required for recovering any tax that ought to have been paid or any payment of tax credit that ought not to have been made and generally for securing that the resulting liabilities to tax (including interest on unpaid tax) of the persons concerned are what they would have been if only such set-offs or payments had been made as ought to have been made.

(2) The Management Act shall apply to any assessment under this section for recovering a payment of tax credit as if it were an assessment to income tax for the year of assessment, or, in the case of a company, corporation tax for the accounting period, in respect of which the payment was claimed, and as if that payment represented a loss of tax to the Crown; and any sum charged by any such assessment shall, subject to

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any appeal against the assessment, be due within fourteen days after the issue of the notice of assessment.

103 Charge of advance corporation tax at previous rate until new rate is fixed and changes of rate

- (1) Notwithstanding that a rate of advance corporation tax has not been fixed for any financial year, advance corporation tax in respect of distributions made in that year shall be payable under Schedule 14 to this Act and may be assessed under that Schedule according to the rate last fixed but, if a rate of advance corporation tax for that year is not fixed by an Act passed on or before 5th August next after the end of the year, or advance corporation tax is charged for that year otherwise than as it has been paid or assessed, the necessary adjustment shall be made by discharge or repayment of tax or by a further assessment.
- (2) Where the House of Commons passes a Resolution for fixing the rate of advance corporation tax for any financial year or for altering the charge to advance corporation tax for any financial year, then any payment or assessment afterwards made by virtue of subsection (1) above may be made in accordance with the Resolution; but that subsection shall not require any payment to be made or authorise the making of any assessment later than 5th May next after the end of any financial year unless a Resolution for fixing a rate of advance corporation tax for that year has been so passed, nor shall any such payment be required or assessment made by virtue of any such Resolution later than the prescribed period from the date on which the Resolution is passed.
- (3) In subsection (2) above " the prescribed period " has the meaning given in section 243(7) of the Taxes Act.
- (4) Where different rates of advance corporation tax are in force in different parts of an accounting period, the maximum set-off permitted for that accounting period under subsection (2) of section 85 above shall be determined by apportioning the income of the company charged to corporation tax for that period (as defined in subsection (6) of that section) between the different parts of the period, calculating the maximum for each part as if it were a separate accounting period and aggregating the result.
- (5) Where a company makes a distribution before 6th April in any financial year and the rate of advance corporation tax for that year differs from the rate last fixed—
 - (a) any advance corporation tax payable in respect of the distribution shall be calculated according to the rate last fixed and sections 84(3) and 86(2) above and Schedule 14 below shall have effect in relation to the distribution as if the rate for that year were the same as the rate last fixed ;
 - (b) if the distribution is made in an accounting period which extends beyond 5th April in that year and another distribution is made, or franked investment income is received, in that period after that date, the company's liability for advance corporation tax, the amount of any such tax and the amount of any surplus of franked investment income for that accounting period shall be determined under section 89 above and Schedule 14 below as if the part of the accounting period ending with, and the part of it beginning after, that date were separate accounting periods.

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104 Payments in respect of which company is liable to account for income tax

Schedule 20 to this Act shall have effect for the purpose of regulating the time and manner in which companies resident in the United Kingdom—

- (a) are to account for and pay income tax in respect of payments made after 5th April 1973 from which tax is deductible under section 53 or 54 of the Taxes Act;
- (b) are to be repaid income tax in respect of payments received by them after that date.

105 Returns of distributions which are not qualifying distributions

Schedule 21 to this Act shall have effect for the purpose of requiring companies resident in the United Kingdom to make returns and give information to the inspector in respect of distributions made by them after 5th April 1973 which are not qualifying distributions.

106 Amendments as to meaning of " distribution "

Sections 233 to 237 of the Taxes Act (meaning of " distribution ") shall have effect subject to the provisions of Schedule 22 to this Act.

107 Amendments as to accounting periods

- (1) For paragraph (c) of section 247(3) of the Taxes Act (under which a company's accounting period ends on its beginning or ceasing to carry on any trade or to be, in respect of a trade, within the charge to corporation tax) there shall be substituted—

“(c) the company beginning or ceasing to trade or to be, in respect of the trade or (if more than one) of all the trades carried on by it, within the charge to corporation tax”.

- (2) For subsection (2) of section 155 of the said Act (corporation tax in respect of company's share in partnership profits etc.) there shall be substituted—

“(2) A company's share in the profits or loss of any accounting period of the partnership, or in any matter excluded from the computation by proviso (b) to subsection (1) above, shall be determined according to the interests of the partners during that period, and corporation tax shall be chargeable as if that share derived from a trade carried on by the company alone in its corresponding accounting period or periods; and the company shall be assessed and charged to tax for its corresponding accounting period or periods accordingly.

In this subsection "corresponding accounting period or periods " means the accounting period or periods of the company comprising or together comprising the accounting period of the partnership, and any necessary apportionment shall be made between corresponding accounting periods if more than one.”

- (3) In section 252(8) of the said Act (company reconstructions without change of ownership) for the words from " the accounting periods" onwards there shall be substituted the words " any necessary apportionment shall be made of receipts or expenses ".

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(4) This section has effect in relation to accounting periods ending after 5th April 1972.