



Finance Act 2005

2005 CHAPTER 7

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 9

INTERNATIONAL MATTERS

Controlled foreign companies

89 ADP dividends and double taxation relief

- (1) Section 801 of ICTA (dividends paid between related companies: relief for UK and third country taxes) is amended as follows.
- (2) In subsection (2A) (restriction on cases where section 799(1)(b) applies for the purposes of section 801(2)) after paragraph (a) insert—
 - “(aa) if the overseas company is an ADP controlled foreign company as respects any of its accounting periods and the dividend mentioned in subsection (1) above is an ADP dividend of that company (in which case see also subsection (2B)); or”.
- (3) After subsection (2A) insert—
 - “(2B) In any case falling within subsection (2A)(aa) above, section 799(1)(b) applies for the purposes of subsection (2) above as if for section 799(1A) there were substituted—

“(1A) The formula is—

$$\frac{D}{1-X} \times X$$

Status: This is the original version (as it was originally enacted).

where—

D is the amount of the dividend; and

X is the maximum relievable rate, expressed as a decimal fraction;

and for the purposes of this subsection the maximum relievable rate is the rate of corporation tax in force when the dividend was paid.”.

(4) After subsection (5) insert—

“(6) For the purposes of this section—

(a) a controlled foreign company is an “ADP controlled foreign company” as respects any of its accounting periods if, by virtue only of section 748(1)(a), no apportionment under section 747(3) falls to be made as respects that accounting period;

(b) an “ADP dividend” of a controlled foreign company is a dividend by virtue of which the controlled foreign company is an ADP controlled foreign company as respects any of its accounting periods.

(7) In this section—

“accounting period”, in relation to a controlled foreign company, has the same meaning as in Chapter 4 of Part 17 (see section 751);

“controlled foreign company” has the same meaning as in Chapter 4 of Part 17 (see section 747(2)).”.

(5) The amendments made by this section have effect where the dividend mentioned in section 799(1) of ICTA is paid on or after 2nd December 2004 and is, or represents, in whole or in part an ADP dividend of an ADP controlled foreign company.

90 Foreign taxation of group as single entity: exclusion of ADP CFCs

(1) Section 803A of ICTA is amended as follows.

(2) After subsection (1) (company resident in territory outside the UK paying tax in respect of one or more other companies resident in that territory) insert—

“(1A) Where—

(a) a company is (within the meaning of section 801) an ADP controlled foreign company as respects any of its accounting periods, and

(b) the whole or any part of the profits or gains of that accounting period are included in the aggregate profits, or aggregate profits or gains, mentioned in subsection (1) above,

subsection (2) below shall have effect as if the companies mentioned in subsection (1) above did not include that company.”.

(3) The amendment made by this section has effect in relation to dividends paid on or after 16th March 2005.