



# Finance Act 2016

## 2016 CHAPTER 24

### PART 6

#### APPRENTICESHIP LEVY

##### *Connected companies and charities*

#### **101 Connected companies**

- (1) Two or more companies which are not charities form a “company unit” for a tax year (and are the “members” of that unit) if—
  - (a) they are connected with one another at the beginning of the tax year, and
  - (b) each of them is entitled to a levy allowance for the tax year.
- (2) The members of a company unit must determine what amount of levy allowance each of them is to be entitled to for the tax year (and the determination must comply with subsections (3) and (4)).

But see subsections (6) and (11).
- (3) A member's levy allowance for a tax year may be zero (but not a negative amount).
- (4) The total amount of the levy allowances to which the members of a company unit are entitled for a tax year must equal £15,000.
- (5) A determination made under subsection (2) (with respect to a tax year) cannot afterwards be altered by the members concerned (but this does not prevent the correction of a failure to comply with subsection (4)).
- (6) If subsection (8) applies—
  - (a) HMRC must determine in accordance with subsection (7) what amount of levy allowance each of the relevant members (see subsection (8)(a)) of the unit concerned is to be entitled to for the tax year, and
  - (b) accordingly subsection (2) is treated as never having applied in relation to that company unit and that tax year.

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- (7) The determination is to be made by multiplying the amount of levy allowance set out in each relevant return (see subsection (8)(a)) by—

$$\frac{15,000}{T}$$

where T is the total of the amounts of levy allowance set out in the relevant returns.

The result is, in each case, the amount of the levy allowance to which the relevant member in question is entitled for the tax year (but amounts may be rounded up or down where appropriate provided that subsection (4) is complied with).

- (8) This subsection applies if—
- (a) HMRC is aware—
    - (i) that two or more members of a company unit (“the relevant members”) have made apprenticeship levy returns (“the relevant returns”) on the basis mentioned in subsection (9), and
    - (ii) that those returns, together, imply that the total mentioned in subsection (4) is greater than £15,000,
  - (b) HMRC has notified the relevant members in writing that HMRC is considering taking action under subsection (6), and
  - (c) the remedial action specified in the notice has not been taken within the period specified in the notice.
- (9) The basis in question is that the member making the return is entitled to a levy allowance (whether or not of zero) for the tax year concerned.
- (10) If any member of the company unit mentioned in subsection (8)(a) is not a relevant member, that member is entitled to a levy allowance of zero for the tax year.
- (11) If subsection (13) applies—
- (a) HMRC must determine in accordance with subsection (12) what amount of levy allowance each of the members of the unit concerned is to be entitled to for the tax year, and
  - (b) accordingly subsection (2) is treated as never having applied in relation to that company unit and that tax year.
- (12) Each member of the unit is to be entitled to a levy allowance for the tax year equal to—

$$\frac{15,000}{N}$$

where N is the number of the members of the company unit for the tax year.

Amounts determined in accordance with the formula in this subsection may be rounded up or down where appropriate provided that subsection (4) is complied with.

- (13) This subsection applies if—
- (a) the total amount paid by the members of a company unit in respect of apprenticeship levy for a tax year or any period in a tax year is less than the

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- total of the amounts due and payable by them for the tax year or other period concerned,
- (b) either the members of the unit have made no apprenticeship levy returns for any period in the tax year concerned or the returns that have been made do not contain sufficient information to enable HMRC to determine how the whole of the £15,000 mentioned in subsection (4) is to be used by the members of the unit for the tax year,
  - (c) HMRC has notified all the members of the unit in writing that HMRC is considering taking action under subsection (11), and
  - (d) the remedial action specified in the notice has not been taken within the period specified in the notice.
- (14) Subsection (4) is to be taken into account in calculating the total of the amounts due and payable as mentioned in subsection (13)(a).
- (15) The Commissioners may by regulations provide that in circumstances specified in the regulations the members of a company unit may alter a determination made under subsection (2) (despite subsection (5)).
- (16) In this section “apprenticeship levy return” means a return under regulations under section 105(4).
- (17) Part 1 of Schedule 1 to the National Insurance Contributions Act 2014 (rules for determining whether companies are “connected” with one another) applies for the purposes of subsection (1) as it applies for the purposes of section 3(1) of that Act.
- (18) In this Part “company” has the meaning given by section 1121(1) of CTA 2010 and includes a limited liability partnership.
- (19) See section 102 for the meaning of “charity”.

## **102 Connected charities**

- (1) Two or more charities form a “charities unit” for a tax year (and are the “members” of that unit) if—
- (a) they are connected with one another at the beginning of the tax year, and
  - (b) each of them is entitled to a levy allowance for the tax year.
- (2) The members of a charities unit must determine what amount of levy allowance each of them is to be entitled to for the tax year (and the determination must comply with subsections (3) and (4)).
- But see subsections (6) and (11).
- (3) A member's levy allowance for a tax year may be zero (but not a negative amount).
- (4) The total amount of the levy allowances to which the members of a charities unit are entitled for a tax year must equal £15,000.
- (5) A determination made under subsection (2) (with respect to a tax year) cannot afterwards be altered by the members concerned (but this does not prevent the correction of a failure to comply with subsection (4)).
- (6) If subsection (8) applies—

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- (a) HMRC must determine in accordance with subsection (7) what amount of levy allowance each of the relevant members (see subsection (8)(a)) of the unit concerned is to be entitled to for the tax year, and
  - (b) accordingly subsection (2) is treated as never having applied in relation to that charities unit and that tax year.
- (7) The determination is to be made by multiplying the amount of levy allowance set out in each relevant return (see subsection (8)(a)) by—

$$\frac{15,000}{T}$$

where T is the total of the amounts of levy allowance set out in the relevant returns.

The result is, in each case, the amount of the levy allowance to which the relevant member in question is entitled for the tax year (but amounts may be rounded up or down where appropriate provided that subsection (4) is complied with).

- (8) This subsection applies if—
- (a) HMRC is aware—
    - (i) that two or more members of a charities unit (“the relevant members”) have made apprenticeship levy returns (“the relevant returns”) on the basis mentioned in subsection (9), and
    - (ii) that those returns, together, imply that the total mentioned in subsection (4) is greater than £15,000,
  - (b) HMRC has notified the relevant members in writing that HMRC is considering taking action under subsection (6), and
  - (c) the remedial action specified in the notice has not been taken within the period specified in the notice.
- (9) The basis in question is that the member making the return is entitled to a levy allowance (whether or not of zero) for the tax year concerned.
- (10) If any member of the charities unit mentioned in subsection (8)(a) is not a relevant member, that member is entitled to a levy allowance of zero for the tax year.
- (11) If subsection (13) applies—
- (a) HMRC must determine in accordance with subsection (12) what amount of levy allowance each of the members of the unit concerned is to be entitled to for the tax year, and
  - (b) accordingly subsection (2) is treated as never having applied in relation to that charities unit and that tax year.
- (12) Each member of the unit is to be entitled to a levy allowance for the tax year equal to—

$$\frac{15,000}{N}$$

where N is the number of the members of the charities unit for the tax year.

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Amounts determined in accordance with the formula in this subsection may be rounded up or down where appropriate provided that subsection (4) is complied with.

(13) This subsection applies if—

- (a) the total amount paid by the members of a charities unit in respect of apprenticeship levy for a tax year or any period in a tax year is less than the total of the amounts due and payable by them for the tax year or other period concerned,
- (b) either the members of the unit have made no apprenticeship levy returns for any period in the tax year concerned or the returns that have been made do not contain sufficient information to enable HMRC to determine how the whole of the £15,000 mentioned in subsection (4) is to be used by the members of the unit for the tax year,
- (c) HMRC has notified all the members of the unit in writing that HMRC is considering taking action under subsection (11), and
- (d) the remedial action specified in the notice has not been taken within the period specified in the notice.

(14) Subsection (4) is to be taken into account in calculating the total of the amounts due and payable as mentioned in subsection (13)(a).

(15) The Commissioners may by regulations provide that in circumstances specified in the regulations the members of a charities unit may alter a determination made under subsection (2) (despite subsection (5)).

(16) In this section “apprenticeship levy return” means a return under regulations under section 105(4).

(17) In this Part “charity” means—

- (a) a charity within the meaning of Part 1 of Schedule 6 to FA 2010;
- (b) the Trustees of the National Heritage Memorial Fund;
- (c) the Historic Buildings and Monuments Commission for England;
- (d) a registered club within the meaning of Chapter 9 of Part 13 of CTA 2010 (community amateur sports clubs).

(18) Subsection (17) is subject to section 118(5).

(19) See sections 118 and 119 for provision about the meaning of “connected” in subsection (1).

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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. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)