
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2019, Cross Heading: Calculation of taxable diverted profits. (See end of Document for details)

SCHEDULES

SCHEDULE 6

DIVERTED PROFITS TAX

Calculation of taxable diverted profits

- 2 (1) Section 82 (calculation of taxable diverted profits in section 80 or 81 case: introduction) is amended as follows.
- (2) In subsection (3) for “(9)” substitute “ (10) ”.
- (3) In subsection (7) (when the “actual provision condition” is met) in paragraph (a) omit “(ignoring Part 4 of TIOPA 2010 (transfer pricing))”.
- (4) After subsection (7) insert—
- “(7A) For the purposes of subsection (7)(a) ignore any adjustment that is required to be made to the results of the material provision under Part 4 of TIOPA 2010 (transfer pricing).”
- (5) After subsection (9) insert—
- “(10) “Diverted profits” of the relevant company for the accounting period means an amount—
- (a) in respect of which the company is chargeable to corporation tax for that period by reason of any adjustment required to be made to the results of the material provision under Part 4 of TIOPA 2010 (transfer pricing), and
- (b) which, in a case where section 81 applies, is attributable (in accordance with sections 20 to 32 of CTA 2009) to UKPE”.
- 3 In section 83 (section 80 or 81 cases where no taxable diverted profits arise) omit subsection (2).
- 4 In section 84 (section 80 or 81: calculation of profits by reference to the actual provision) in subsection (2) for the words from “the amount (if any)” to the end substitute “ an amount equal to so much of the diverted profits 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. ”
- 5 (1) Section 85 (section 80 or 81: calculation of profits by reference to the relevant alternative provision) is amended as follows.
- (2) In subsection (4) for paragraph (a) (but not the “and” immediately after it) substitute—
- “(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

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corporation tax included before the end of the review period in the company's company tax return for that accounting period.”.

- (3) In subsection (6) (meaning of “the notional additional amount”)—
- (a) in the words before paragraph (a) omit “the amount by which”,
 - (b) in paragraph (a) before “amount” insert “ additional ”,
 - (c) at the end of paragraph (a) for “exceeds” substitute “ less ”, and
 - (d) in paragraph (b)(i) for the words from “the application” to the end substitute “ any adjustment required to be made to the results of the material provision (whether under Part 4 of TIOPA 2010 (transfer pricing) or otherwise), ”.

- (4) After subsection (6) insert—

“(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.”

- 6 (1) Section 88 (calculation of taxable diverted profits in section 86 case: introduction) is amended as follows.

- (2) After subsection (5A) insert—

“(5B) In calculating the notional PE profits no account is to be taken of any adjustment within subsection (5C).

- (5C) An adjustment is within this subsection if—

- (a) it is an adjustment required to be made under Part 4 of TIOPA 2010 to the results of any provision made or imposed between the foreign company and the avoided PE,
- (b) it is taken into account in an assessment to corporation tax included in a company tax return of the avoided PE, and
- (c) the time when it is first taken into account as mentioned in paragraph (b) is after the end of the review period.”

- (3) In subsection (9)(a) omit “(ignoring Part 4 of TIOPA 2010 (transfer pricing))”.

- (4) After subsection (9) insert—

“(9A) For the purposes of subsection (9)(a) ignore any adjustment that would be required to be made to the results of the material provision under Part 4 of TIOPA 2010 in calculating what would have been the notional PE profits for the accounting period.”

- 7 After section 111 insert—

“111A Adjustment required to be made to the material provision

A reference in section 82 or 88 to an adjustment required to be made under Part 4 of TIOPA 2010 (transfer pricing) to the results of any provision includes a reference to an adjustment required to be made under any other enactment to the results of the provision if and to the extent that, but for that other enactment, the adjustment would have been required to be made under that Part.”

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- 8 The amendments made by paragraphs 2 to 7 have effect in relation to accounting periods beginning on or after 29 October 2018.

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