



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART VI

#### COMPANY DISTRIBUTIONS, TAX CREDITS ETC

#### CHAPTER VA

#### FOREIGN INCOME DIVIDENDS

*[<sup>F1</sup> International headquarters companies]*

VALID FROM 03/05/1994

#### **246S International headquarters companies.**

- (1) For the purposes of this Chapter a company is an international headquarters company in an accounting period if—
  - (a) at least one of the first three conditions (set out in subsections (2) to (5) below) is fulfilled, and
  - (b) the fourth condition (set out in subsection (7) below) is fulfilled; but the fourth condition need not be fulfilled if the second condition is fulfilled.
- (2) The first condition is that—
  - (a) the company is wholly owned by another company throughout the accounting period, and
  - (b) that other company is a foreign held company in the accounting period.
- (3) The second condition is that—
  - (a) the company is wholly owned by another company throughout the accounting period,

**Status:** Point in time view as at 01/01/1994. This version of this provision is not valid for this point in time.

**Changes to legislation:** Income and Corporation Taxes Act 1988, Section 246S is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) that other company is not resident in the United Kingdom at any time in the accounting period,
  - (c) throughout the accounting period, and the period of 12 months immediately preceding it, the shares in that other company are quoted in the official list of a recognised stock exchange other than a stock exchange in the United Kingdom,
  - (d) at a time falling within the accounting period or the period of 12 months immediately preceding it, shares in that other company have been the subject of dealings on a recognised stock exchange other than a stock exchange in the United Kingdom, and
  - (e) throughout the accounting period, and the period of 12 months immediately preceding it, the shares in that other company are not quoted in the official list of a recognised stock exchange in the United Kingdom;
- but this is subject to subsection (8) below.
- (4) For the purposes of subsection (3)(e) above, shares that (apart from this subsection) would be regarded as quoted in the official list of a recognised stock exchange shall be regarded as not being so quoted if the issuer of the shares is not subject, in relation to them, to the full requirements applicable by virtue of listing rules to the listing of shares on that exchange; and in this subsection “listing rules” shall be construed in accordance with section 142(6) of the Financial Services Act 1986.
- (5) The third condition is that—
- (a) at each given time in the accounting period each shareholder of the company owns at least 5 per cent. of the company’s share capital, and
  - (b) the test mentioned in subsection (6) below is satisfied.
- (6) The test is that at each given time in the accounting period at least 80 per cent. of the company’s share capital is owned by—
- (a) persons who are not companies and who are not resident in the United Kingdom at any time in the accounting period,
  - (b) companies which are foreign held companies in the accounting period, or
  - (c) persons falling within paragraph (a) above and companies falling within paragraph (b) above.
- (7) The fourth condition is that at each given time in the accounting period not more than 20 per cent. of the company’s ordinary share capital is ultimately owned by persons who are not companies and are resident in the United Kingdom; and where any shares are not directly owned by a person who is not a company their ultimate ownership shall be found by tracing ownership through any corporate holders to persons who are not companies on such basis as is reasonable.
- (8) Notwithstanding subsection (3) above, the second condition shall also be treated as fulfilled in relation to a company (the company concerned) and an accounting period if—
- (a) the company concerned is throughout the accounting period wholly owned by another company, and that other company is throughout the period wholly owned by a company which satisfies the conditions set out in subsection (3) (b) to (e) above,
  - (b) there are two or more companies (intermediary companies) which throughout the accounting period beneficially own between them all the share capital of the company concerned, and there is another company which

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- throughout the period wholly owns all the intermediary companies and which satisfies the conditions set out in subsection (3)(b) to (e) above, or
- (c) there are two or more companies (relevant companies) which throughout the accounting period beneficially own between them all the share capital of the company concerned, and one of the relevant companies is a company which throughout the period wholly owns all the other relevant companies and which satisfies the conditions set out in subsection (3)(b) to (e) above;
- and in determining for the purposes of this subsection whether a particular company satisfies the conditions set out in subsection (3)(b) to (e) above, references in subsection (3)(b) to (e) to “that other company” shall be construed as references to that particular company.
- (9) Where a company pays a foreign income dividend, for the purposes of this Chapter it may treat itself as an international headquarters company if—
- (a) in the company’s opinion it is likely to be an international headquarters company in the accounting period in which the dividend is paid, and
- (b) in a case where the dividend is paid in the company’s second accounting period or a subsequent accounting period, it is an international headquarters company in the immediately preceding accounting period;
- and for the purposes of paragraph (a) above the company’s opinion held at the time the dividend is paid is to be taken.
- (10) For the purposes of this section a company is a foreign held company in an accounting period if—
- (a) at each given time in the accounting period at least 80 per cent. of the company’s share capital is owned by persons who are not resident in the United Kingdom at any time in the accounting period, or
- (b) throughout the accounting period the company is wholly owned by another company and at each given time in the accounting period at least 80 per cent. of that other company’s share capital is owned by persons who are not resident in the United Kingdom at any time in the accounting period.
- (11) For the purposes of this section a company wholly owns another company if the first company is the beneficial owner of all the share capital of the second company.
- (12) For the purposes of this section the question whether a person owns a particular percentage of a company’s share capital at a particular time shall be determined by—
- (a) assuming that a general meeting of the company is held at that time;
- (b) taking the number of votes carried by the company’s share capital and capable of being cast at such a meeting;
- (c) taking the number of those votes capable of being so cast by the person concerned by virtue of the company’s share capital beneficially owned by him;
- (d) expressing the number found under paragraph (c) above as a percentage of the number found under paragraph (b) above;
- (e) taking the percentage found under paragraph (d) above as the percentage of the company’s share capital owned by that person at that time.
- (13) Subsection (12) above shall not apply for the purposes of subsection (7) above; and in subsection (7) references to ownership shall be construed as references to beneficial ownership.

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