



Finance Act 1965

1965 CHAPTER 25

PART IV

TAXATION OF COMPANIES AND OF COMPANY DISTRIBUTIONS.

Close companies.

77 Shortfall in distributions of close company (income tax at standard rate).

- (1) If in any accounting period of a close company there is a shortfall in the company's distributions, there shall be assessed on and recoverable from the company, as if it were an amount of income tax chargeable on the company, an amount equal to the income tax for which the company would be liable to account under section 47(3) of this Act on a distribution equal in amount (before deduction of income tax) to the shortfall and made twelve months after the end of the accounting period (income tax having been deducted).
- (2) For the purposes of this section the shortfall in a company's distributions for any accounting period is, save as otherwise provided by this section, the amount (if any) by which the distributions for the period fall short of the required standard; and the required standard is the distributable income for the period, less so much of that income (not exceeding, in the case of a company which is neither a trading company nor a member of a trading group, the amount of the estate or trading income) as the company shows could not be distributed without prejudice to the requirements of the company's business :

Provided that the required standard shall in no case exceed the company's distributable investment income for the period plus sixty per cent. of the estate or trading income of the period, and for the purpose of this proviso in its application to a trading company not having any associated company the estate or trading income for the period, if it is less than £9,000, shall be treated as reduced by one-fifth of the amount required to make it up to £9,000 or, if it is less than £1,500, shall be disregarded.

- (3) In arriving at the required standard for any accounting period—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (a) regard shall be had not only to the current requirements of the company's business but also to such other requirements as may be necessary or advisable for the maintenance and development of that business, but for this purpose sections 246(2) and (3) and 258(1) and (4) of the Income Tax Act 1952, except section 246(2) proviso, shall apply as they applied for the corresponding purpose of section 245 ;
 - (b) the amount of the estate or trading income shall be taken at the amount included in respect of it in the distributable income;
 - (c) for an accounting period of less than twelve months the sums of £9,000 and £1,500 specified in the proviso to subsection (2) above shall be proportionately reduced ;
 - (d) if the company is a trading company and for part of the period has, and for part of the period has not, got an associated company, the required standard shall be arrived at by aggregating the amounts for those parts separately computed as if they were distinct accounting periods.
- (4) Where a company is subject to any restriction imposed by law as regards the making of distributions, any shortfall in its distributions for an accounting period shall be disregarded to the extent to which the company could not make distributions up to the required standard without contravening that restriction.
- (5) Where a company is in respect of any year of assessment assessed under this section in respect of a shortfall in distributions, and there is in that year a surplus of franked investment income (including any amount carried forward from an earlier year), the company may claim that the shortfall shall be set off as far as may be against that surplus, and each of them shall then (as regards the company) be treated as reduced by the amount of the set-off.

Effect shall be given to a claim under this subsection in priority to any claim for the same year under section 62 of this Act, but the set-off shall be made as far as may be against any part of the surplus which has been carried forward from an earlier year of assessment.

- (6) Where a company is assessed under this section in respect of a shortfall in distributions for any accounting period, then (so long as the company remains a close company) it may for any later accounting period for which there is no such shortfall claim that the shortfall of the earlier period, or so much of it as has not been dealt with under this subsection, shall, in determining the income tax payable by the company in respect of distributions for the later period or, as the case may be, in arriving at any surplus of franked investment income, be deducted rateably from the distributions made by the company for the later period :

Provided that no deduction shall be made under this subsection from the distributions for any accounting period so as to reduce those distributions below the required standard or below the amount of the directors' remuneration included in the distributions in computing them for purposes of this section.