



Finance Act 2015

2015 CHAPTER 11

PART 3

DIVERTED PROFITS TAX

Process for imposing charge

93 Preliminary notice

- (1) If a designated HMRC officer has reason to believe that—
 - (a) one or more of sections 80, 81 and 86 applies or apply in relation to a company for an accounting period, and
 - (b) as a result, taxable diverted profits arise to the company in the accounting period,the officer must give the company a notice (a “preliminary notice”) in respect of that period.
- (2) See sections 96 and 97 for provision about the calculation of taxable diverted profits for the purposes of a preliminary notice.
- (3) A preliminary notice must—
 - (a) state the accounting period of the company to which the notice applies;
 - (b) set out the basis on which the officer has reason to believe that one or more of sections 80, 81 and 86 applies or apply in relation to the company for that accounting period;
 - (c) explain the basis on which the proposed charge is calculated, including—
 - (i) how the taxable diverted profits to which the proposed charge would relate have been determined,
 - (ii) where relevant, details of the relevant alternative provision (see section 82(5) or 88(7)) by reference to which those profits have been determined, and
 - (iii) how the amount of interest comprised in that charge in accordance with section 79(2)(b) would be calculated,

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, Section 93. (See end of Document for details)

- (d) state who would be liable to pay the diverted profits tax;
 - (e) explain how interest is applied in accordance with section 101 of FA 2009 (late payment interest on sums due to HMRC) if the diverted profits tax is not paid, the period for which interest is charged and the rate at which it is charged.
- (4) Where the designated HMRC officer has insufficient information to determine or identify any of the matters set out in subsection (3), it is sufficient if the preliminary notice sets out those matters determined to the best of the officer's information and belief.
- (5) Subject to subsection (6) ^{F1}—
- (a) a preliminary notice may not be issued in respect of an accounting period on the basis that section 80 or 81 applies more than six months after the last day on which an amendment of the company tax return for the accounting period could be made, and
 - (b) a preliminary notice may not be issued in respect of an accounting period on the basis that section 86 applies more than 24 months after the end of that accounting period.]
- ^{F2}(5A) For the purposes of subsection (5)(a) no account is to be taken of any exception to paragraph 15(4) of Schedule 18 to FA 1998 (period for amending a company tax return).]
- (6) Where—
- (a) notification under section 92 has not been received by an officer of Revenue and Customs in respect of an accounting period of a company within the period specified in subsection (2)(b) of that section, and
 - (b) a designated HMRC officer believes, in relation to that accounting period, that an amount of diverted profits tax that ought to have been charged under this Part has not been charged,
- a designated HMRC officer may issue to the company a preliminary notice in respect of that tax within the period of 4 years after the end of the accounting period.
- (7) Where a preliminary notice is issued to a company, the officer must give a copy of the notice—
- (a) if the notice is issued on the basis that section 81 applies, to UKPE, and
 - (b) if the notice is issued on the basis that section 86 applies, to the avoided PE.

Textual Amendments

- F1** Words in s. 93(5) substituted (with effect in accordance with Sch. 6 para. 9(4) of the amending Act) by Finance Act 2019 (c. 1), **Sch. 6 para. 9(2)**
- F2** S. 93(5A) inserted (with effect in accordance with Sch. 6 para. 9(4) of the amending Act) by Finance Act 2019 (c. 1), **Sch. 6 para. 9(3)**

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