Corporation Tax - General Scheme, Scope of Charge and Basis of Assessment

Part 02-02-05

This document should be read in conjunction with sections 21, 26 and 27 of the Taxes Consolidation Act 1997

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Executive Summary

This document outlines the relevant legislative references regarding the general charge to Corporation tax as well as the basis of, and periods for, assessment.

The document also includes useful links to other manuals which contain more detailed guidance on the application of Corporation tax.

1. Scope of charge

Section 26(1)

A company resident in the State is, subject to specific exceptions, chargeable to corporation tax on all its profits (that is, its income and chargeable gains) wherever arising (i.e. whether arising in the State or abroad).

The following are **not** chargeable to corporation tax –

- Profits of non-resident companies, other than:
  - those arising to an Irish branch or agency of such a company – section 25(1).
  - profits or gains which are chargeable to tax under Case V of Schedule D – section 25(2A).
  - chargeable gains (other than gains realised on development land) which are attributable to assets, the profits or gains from which were chargeable under Case V of Schedule D – section 25(2A).

- Income which is exempt from income tax and therefore also exempt from corporation tax – section 76(6).
- Distributions received from Irish resident companies – section 129.

Section 26(2)

The charge to corporation tax is extended to any profits accruing for the benefit of a company under a trust or arising to the company as a partner in a partnership. The charge also extends to profits arising in the winding up of a company. A company is not chargeable in respect of profits accruing to it as a trustee, except to the extent of its own beneficial interest in such profits.

Section 26(3)

Assessments to corporation tax are made by reference to accounting periods. The tax, however, is charged on the profits arising in a financial year. The rate of tax, therefore, is determined by the financial year or years in which the accounting period falls. Therefore, the amount of the profits arising in an accounting period are, where necessary, apportioned between the financial years in which the accounting period falls. This apportionment of profits is made on a time basis - section 4(6).

2. Basis of, and periods for, assessment

Section 27(1)

Except as otherwise provided by the Corporation Tax Acts, a company is assessed and charged to corporation tax for every accounting period on all profits arising in that period whether, or not they are received in or remitted to, the State.

Exceptions include –

- Exclusion of profits **not** attributable to an Irish branch or agency of a non-resident company - section 25(2).
- Exemptions contained in Chapters 2 and 3 of Part 7 of the Taxes Consolidation Act.
- Exemptions imported into corporation tax from income tax by virtue of section 76(6).
- Exemption for profits arising to a life assurance company from investments and deposits of so much of its life assurance fund and separate annuity fund as is attributable to its pension business – section 717(1).

Section 27(2)

An accounting period begins:

- when a company comes within the charge to corporation tax.
- when an accounting period ends without the company then ceasing to be within the charge to corporation tax.

Section 27(3)

An accounting period ends on the earliest of the following:

- the expiration of 12 months from the beginning of the accounting period,
- the ending of a period (not exceeding 12 months) for which a company makes up its accounts or, if there is a period for which it does not make up accounts, the ending of that period,
- the company beginning or ceasing to trade or to be within the charge to corporation tax in respect of its trade or (if more than one) of all its trades,
- the company beginning or ceasing to be resident in the State, and
- the company ceasing to be within the charge to corporation tax.

If a company changes the date of which it makes up accounts, it should notify the relevant tax office of the change as soon as possible. This will help to ensure that, where possible, the form CT1 and the Preliminary Tax Notice will issue for the correct accounting period and payments made will be correctly brought to account.

Section 27(4) – Starting Business

A resident company if not otherwise within the charge to corporation tax is treated as coming within that charge at the time it commences to carry on business.

Section 27(5)

The Revenue Commissioners are authorised to determine which accounting date is to apply where a company carrying on more than one trade makes up accounts for those trades to different dates and does not make up accounts for the whole of its activities.

Section 27(6) - Dormant companies

Where a dormant company makes a chargeable gain, or incurs an allowable loss, an accounting period is treated as beginning at the time of the gain or loss and the gain or loss is treated as accruing in that accounting period. This accounting period will end according to the rules set out above.

Section 27(7)(a) and (b) - Winding up

An accounting period ends and a new one begins when a company commences to be wound up. Thereafter an accounting period ends on the expiration of 12 months from the beginning of the winding up or at the completion of the winding up.

The date a winding up commences is:
- the date when the resolution for the winding up of the company is passed by the company,
- the date of the presentation of the winding up petition to the court if no winding up resolution has previously been passed by the company and provided a winding up order is made on the petition, or
- the date of the doing of any other act for a like purpose in the case of a winding up otherwise than under the Companies Acts.

Section 27(8)

Where, because a company has failed to make returns or supply accounts or other information, it is not possible to determine an accounting period in accordance with the above rules, the inspector is authorised to make an assessment for such period not exceeding 12 months as appears to him/her appropriate.

The period so chosen by the inspector is treated as an accounting period of the company unless —
- the inspector on obtaining further facts sees fit to revise it, or
- the company on appeal against the assessment in relation to some other matter discloses the true accounting periods.

Where on appeal the company shows the true accounting periods, the assessment for the accounting period chosen by the inspector still has effect for the period to which it relates as if it were an assessment or assessments for the true accounting periods - further assessments can then be made for such other period or periods constituting the true accounting periods which would have been allowed to have been made at the time the original assessment was made.

3. Other Useful Information

Charge to and rates of Corporation Tax – see Tax and Duty Manual Part 02-02-02
Corporation Tax: General Background – see Tax and Duty Manual Part 02-02-01
Certain non-resident companies – see Tax and Duty Manual Part 02-02-04