

# **Computation of income: application of income tax principles**

## **Part 04-05-03**

This document should be read in conjunction with sections 71 and 76 of the Taxes Consolidation Act 1997

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## Introduction

Tax law provides that different types of income are taxed differently and that income from different sources is categorised under schedules and cases. The taxable income of a company is calculated in accordance with income tax principles and therefore the general rule for corporation tax purposes is that income of a company is to be computed under the same schedules and cases as for income tax and in accordance with the same rules applicable to those schedules and cases.

This purpose of this manual is to outline the legislative provisions for the computation of income for corporation tax purposes.

## Outline of provisions in section 76 TCA 1997

Section 76(1) provides that ordinary income tax principles are to apply to the computation of income, except as otherwise provided by the Tax Acts. The legislation also provides that amounts to be included or otherwise:

- as income, or
- when computing income, or
- charged to tax as a person's income, or
- the time such amounts are to be treated as arising

will be determined in accordance with income tax law and practice as if accounting periods were years of assessment.

Section 76(2) provides that income tax law in relation to a company's accounting period means the law applying to the charge of income tax on individuals for the year of assessment in which the company's accounting period ends – other than any special provisions relating to individuals only.

Any provision of the income tax acts or any other statute which -

- (a) exempts certain income from income tax has the like effect for corporation tax, for example companies which are charities are exempt from corporation tax on their income to the same extent as that income would be exempt for income tax purposes.

The words "or of any other statute" in section 76(6) carry the exemption accorded to the Central Bank under the Central Bank Act, 1942 into a corporation tax exemption.

- (b) charges a person to income tax on any amount whether expressed as income or not and whether an actual amount or not has the like effect for corporation tax, for example section 100, which charges the vendor of land with a right to re-conveyance to tax under case IV of schedule D but does not express the amount assessable to be income.

Certain provisions of section 71 do not apply for corporation tax, for example, the remittance basis of assessment is not carried over to corporation tax - section 76(7) refers.

Notwithstanding the general rule, computation for corporation tax is by reference to the income arising in the accounting period and is not to be measured by income arising in some other period - except in apportioning the income of a whole period to its parts. Income tax law relating to basis periods has therefore no relevance to corporation tax.

A separate computation should be made of the income arising from each source in the accounting period. Although income from each source is aggregated together with chargeable gains to arrive at a total profits figure for corporation tax purposes, the income remains as case I, case II or case III, for example.

Section 76(8) ensures that where provisions of the income tax acts apply to both taxes, the two taxes are, as far as possible, treated as if they were one. Therefore, any matter regulating the income tax effect of a transaction between two individuals equally governs a transaction between an individual and a company for the income tax purposes of the individual and the corporation tax purposes of the company.

### **Example**

A premium required to be paid on the granting of a lease is to be treated as rent receivable by the lessor - section 98 TCA and as rent payable by the lessee - section 102 TCA. Where one of these is an individual and the other is a company, this treatment will apply for income tax in the case of the individual and for corporation tax in the case of the company.

### **Dividends and distributions**

Where a company is paying a dividend or making a distribution, the dividend or distribution -

- is inadmissible as a deduction in computing income from any source Section 76(5)(a) TCA and
- cannot be a charge on income and is accordingly not deductible against total corporation tax profits.

Generally, corporation tax is not charged on dividends and other distributions made by a company resident in the state and such dividends and distributions are not included when computing income for corporation tax purposes – section 129 refers. There are exceptions to this general rule which enable dividends and other distributions to be taken into account in computing the income of life insurance companies – sections 714, 717 & 726 TCA refer.