[6.6.1] Section 154 TCA 1997 [Attribution of Distributions to Accounting Periods]

Summary

Subject to certain exceptions, a company making a **distribution** may elect to have a distribution treated as being made out of the profits of any accounting period in the 9-year period before the **accounting period** in which the distribution is made. This **election** must be made in writing to the inspector within 6 months of the end of the accounting period in which the distribution is made. Such an election is effective for the purposes of determining the way certain *sections* providing for the special tax treatment of certain distributions are to apply (namely**,** *sections 140***,** *141* and *144*).

Details

Attribution of distributions to accounting periods

The general rule is that a distribution is deemed to have been made for the accounting period immediately preceding the accounting period in which the distribution is made (see *sections 140(7)***,** *141(9)***,** *144(7)***)**. As an alternative to this general rule, this section allows a company making a distribution to specify in writing, within 6 months of the end of the accounting period in which the distribution is made, the accounting period or periods for which the distribution is to be treated as having been made.

In specifying that a distribution was made for a particular accounting period or periods in accordance with *subsection (1)* —

- a company may only specify that so much of a distribution as does not exceed the undistributed income of an accounting period is made for that accounting period;
- a company may specify that a distribution is made for an accounting period or periods ending more than 9 years before the date of the distribution so long as the distribution does not exceed the undistributed income of the company for those periods. If there is no undistributed income left in any such periods, the company may treat the distribution or part of it as being made for an older accounting period or periods.

Subject to certain exceptions, a company is prohibited from treating a distribution as being made for the accounting period in which the distribution is actually paid. The exceptions are —

- interim dividends paid before 1 January 2003,

- interest treated as a distribution by virtue of *subparagraph (ii)*, *(iii)(I)* or *(v)* of *section 130(2)(d)*,
- distributions in respect of certain preference shares (within the meaning of *section 138(1)*),
- distributions made by a company for the accounting period when it first came within the charge to corporation tax or when it ceased to be within the charge to corporation tax.

Distributable income

A company's undistributed income for an accounting period on any day is the amount of the distributable income of the company for the accounting period represented by the formula —

$$(R - S) + T - W$$

as reduced by distributions treated as made for accounting periods on or after 6 April 1989, but before the day in question.

Where:

R is the company's total income chargeable to corporation tax for the accounting period (excluding corporation tax on chargeable gains) but including exempt income from stallion fees (*section 231*), income from commercial woodlands (*section 232*), income from greyhound fees (*section 233*), income from certain patent royalties (*section 234*) and Shannon exempt income (section 71 of the Corporation Tax Act, 1976).

S is the company's total corporation tax chargeable for the accounting period (excluding corporation tax on chargeable gains) after granting manufacturing relief (*section 448*), certain loss relief (*paragraph 16* or *18* of *Schedule 32*) and export sales relief (section 58 of the Corporation Tax Act, 1976), but before any set off or credit for tax, including foreign tax.

T is the total distributions received by the company in the accounting period, including distributions made out of —

- exempt income from stallion fees, greyhound fees or commercial woodlands (*section 140(3)*),
- disregarded income from certain patent royalties (*section 141(3)*),
- exempted income of certain mines (*section 142(4)*), or
- income from exempted trading operations within Shannon Airport (section 144(3)(a)).

W is the total distributions made by the company before 6 April 1989 which were made for the accounting period, including distributions which are treated as having been made for the accounting period under *subsection (7)*, and distributions which would have been treated as having been made for the accounting period had the rule in *subsection (9)* of *section 140* applied to such distributions.

The distributions which are to be treated under *subsection (7)* as having been made for the accounting period are the amount by which the total amount of distributions made by the company for the accounting period exceed the amount for that accounting period which is given by the formula—

$$(R - S) + T$$

Where R, S and T have the meanings set out above.