

Contents

	Page Number	
1	Introduction	4
2	Legislation	5
3	Scope of the Charge	6
4	Distributing Company Status – Qualifying Criteria	6
4.1	DPC Interaction with Company Electing to Pay Tax at 10%	7
4.2	Timing of Distributions	8
4.2.1	Concessional Extension due to late Royal Assent	8
4.3	Previous Year Basis of Assessment and Tax Relief for Dividends Paid	8
4.4	Matching of Distributions	10
4.4.1	Distributions of up to 100% of distributable profit	11
4.4.2	Distributions exceeding distributable profit	11
5	Claiming Distributing Company Status	12
6	The Distributable Profits Charge	13
7	Manx Resident Interest	13
7.1	Companies Owned by Trusts	15
7.1.1	Life Interest or Interest in Possession Trusts	15
7.1.2	Discretionary Trusts	16
7.2	Different Classes of Shares	17
7.3	Nominee Shareholders	18
8	Calculation of Distributable Profits	19
8.1	Calculation of Taxable Profit and Distributable Profit	19
8.1.1	Relief for Dividends Paid to Non-Residents	20
8.2	Double Taxation Relief (DTR) in the DPC Regime	20
8.3	Income from Land and Property in the Isle of Man	21
8.4	Distributable Profits Computation	22
9	Calculation of the DPC – Trading Companies	23
9.1	Companies with Trading Profit Only	23
9.2	Trading Expenses Paid to Members	24
9.3	Investment Income in a Trading Company	24
9.4	Averaging of Profits and Distributions	25
9.4.1	Financial Supervision Commission Licence Holders	26

DISTRIBUTABLE PROFITS CHARGE

10	Calculation of the DPC – Non-Trading Companies	27
10.1	Companies with Non-Trading Income only	27
10.2	Distributing Company Status – Accounting Profit vs. Distributable Profit	29
11	Mixed Income Companies	29
11.1	Calculating Distributable Profit for Mixed Income Companies	30
11.1.1	De-minimis limit for investment Income in a company with income taxable at 10%	33
11.2	Calculating the distribution % for a Mixed Income Company	34
11.2.1	Concessional variation of Order of Set-Off	35
11.3	Calculating the DPC for a non-distributing Mixed Income Company	36
12	Determination of Resident Interest	37
12.1	Manx Resident Interest De-Minimis Limit	37
12.1.1	Fund Managers	37
13	Groups of Companies	38
13.1	Trading Group	38
13.2	Non-Trading Group	39
13.3	Group Holding Company Qualifies as a Distributing Company	39
13.4	Qualifying as a Distributing Company by amount of Distributions	40
13.5	Calculation of Group Distributable Profit	43
13.5.1	Interest incurred to finance purchase of subsidiary	43
13.6	Residual Shareholdings in Group Companies	44
13.7	Residual Shareholding de-minimis limit	45
14	Companies in Liquidation	46
15	Tax Returns: Additional Information	47
16	Tax Returns: Failure to Submit or Missing Information	49
17	Tax Returns: Submission of Accounts	49
17.1	Tax Exempt Companies and Other Fee Paying Companies	49
18	Basis of Assessment	50
19	Payment	50
19.1	Interim Distributions	50
20	Interest Charges	50
21	Appeals	51
22	Enquiries that may affect the DPC position of the company	51

23	Other Provisions within the DPC Legislation	52
23.1	Undistributed Profits Special Cases	52
23.2	Power to Call for Documents	52
23.2.1	Power to Call for Documents: Beneficial Ownership	52
24	Distribution of Reserves Accumulated Prior to 6 April 2006	52
24.1	Distributions from Reserves Taxed at 14% or More	53
24.2	Distributions from Reserves Taxed at Less Than 14% but Not Less Than 10%	53
24.3	Distributions from Reserves Taxed at 0% but Not Subject to DPC	53
25	Tracking DPC Payments and Transfer to Member on Distribution	55
25.1	DPC Credit and Dividends Paid during an Accounting Period	55
26	DPC Credit Vouchers	56
26.1	Calculating the Value of the DPC Credit for the Voucher	57
27	Relief for DPC Credit in Resident Member's Assessment	59
27.1	Credits for Distributions from Reserves	61
28	Definitions	62
	Contact Information	63
	Appendix B: Recognised Stock Exchanges	65
	Appendix C: Distributable Profit Charge Credit Voucher	66
	Appendix D – Summary of DPC Legislation	67
	Appendix E – Summary of DPC Regulations and Orders	71
	Appendix F – Distributable Profits Computation (R179)	73

1 Introduction

This guide contains information on all aspects of the Distributable Profits Charge (DPC).

The DPC legislation refers to "corporate taxpayers". For ease of reading this guide will refer to 'company' throughout in place of corporate taxpayer and 'trading company' instead of trading corporate taxpayer etc.

The DPC is not a corporate income tax; it is a measure designed to maintain income tax revenue flow from individuals now that the standard rate of corporate income tax is 0%. It is a charge on Manx resident members of companies: accounted for by the company on their behalf, and creditable against their personal income tax liability when distributions are eventually made.

No DPC will be due where the company qualifies as a distributing company. In general terms a company is a distributing company where –

- it distributes the required amount of its profits,
- it already pays Manx income tax at 10% on all of its profits,
- it elects to pay Manx income tax at 10%,
- it holds a banking licence,
- the members cannot benefit from distributions,
- it is exempt from income tax on its profits,
- it is listed on a recognised stock exchange.

This guide contains references to future taxation proposals, particularly with regard to dividend payments and company returns submission and will be updated to reflect any further changes as these are introduced.

2 Legislation

The Income Tax (Amendment) Act 2006 (the 2006 Act) received Royal Assent on 11 July 2006.

The provisions for the Distributable Profits Charge that are contained in part 3 of the 2006 Act are now included in sections 12 to 13K of the Income Tax Act 1970.

The primary legislation for DPC is also supported by the following Regulations and Orders:

Income Tax (Distributable Profits Charge) (Distributing Company) Regulations 2006	SD 218/06
Income Tax (Distributable Profits Charge) (Calculation of Charge) Order 2006	SD 219/06
Income Tax (Distributable Profits Charge) (Groups) Regulations 2006	SD 220/06
Income Tax (Distributable Profits Charge) (Mixed Income Companies) Regulations 2006	SD 221/06
Income Tax (Distributable Profits Charge) (Credit Voucher) Regulations 2006	SD 222/06
Income Tax (Rates of Income Tax) (Resident and Non Resident Corporate Taxpayers) Order 2006	SD224/06

SD 218/06 defines a "trading corporate taxpayer" as a company whose business consists wholly or mainly of the carrying on of a trade or trades.

For the purpose of this guidance note, the words "trading company" will be used instead of "trading corporate taxpayer".

This guide contains information on the mechanics of all aspects of the DPC regime, and includes detailed computational examples to illustrate some of the more complex areas.

The DPC was introduced on 6 April 2006, for the year of assessment 2006/2007 onwards, at the same time as the mainstream 0% rate of income tax for companies. DPC is required in order to encourage companies to continue to make distributions and to counter any tax planning opportunities that may exist in a 0% tax rate regime.

New sections 12 to 13K Income Tax Act 1970 are effective from 6 April 2006, and will apply to all accounts used as the basis for 2006/2007 assessments onwards.

Summaries of the provisions contained in sections 12 to 13K of Income Tax Act 1970, and also the provisions contained in the regulations and orders above can be found in appendices D and E.

3 Scope of the Charge

DPC applies to all “corporate taxpayers” and for the purposes of the DPC, a corporate taxpayer will be classified as either a “distributing company” or a “non-distributing company”.

“Corporate Taxpayer” is defined in section 120 of the Income Tax Act 1970.

The DPC is only applicable to **non-distributing companies**, which will be required to account for the charge only in respect of the amount of total distributable profits attributable to members resident in the Isle of Man.

The qualifying criteria for distributing company status are detailed in the next section of this guide.

When a company makes a distribution from profits that have been subject to DPC to an Isle of Man resident member it will be required to issue a DPC credit voucher.

- The voucher will include details of the amount of the distribution together with the DPC credited to that distribution. (SD222/06 prescribes the content of the credit voucher.)
- The DPC credit will be offset against the income tax due via the assessment in the member’s name.
- A specimen DPC credit voucher can be found in Appendix C

4 Distributing Company Status – Qualifying Criteria

Initially all companies will be classed as non-distributing companies but the primary legislation includes the following criteria that can be satisfied in order for a company to be classified as a ‘distributing company’:

- The company pays tax at a rate that is not less than 10% on every pound of the whole of its distributable profits (s12(11)(a)).
- The company distributes a prescribed proportion of its distributable profits (s12(11)(b)).

- The proportion to be distributed in order for a trading company to qualify for distributing company status is 55%. (SD 218/06 – regulation 3)
- The proportion to be distributed in order for a non-trading company to qualify for distributing company status is 100%. (SD 218/06 - regulation 5)
- The company is one specified in regulations made by Treasury (s12(11)(c)).
 - The Income Tax (Distributable Profits Charge) (Distributing Company) Regulations 2006 (SD 218/06) prescribe the classes of company that will automatically qualify for distributing company status.
 - The full list contained in SD 218/06 can be found in Appendix A of this guide.

A company satisfying any of these criteria for the accounting period used as the basis for assessment will be regarded as a distributing company and will not have to account for DPC for that year of assessment.

If the Assessor is not satisfied that any company claiming to be a distributing company is such a company, then the DPC shall be imposed by the Assessor (s13(6)).

4.1 DPC Interaction with Company Electing to Pay Tax at 10%

The ability for a company to elect to pay income tax at 10% is prescribed in articles 11 to 14 of the Income Tax (Rates of Income Tax) (Resident and Non-resident Corporate Taxpayers) Order 2006 – SD 224/06.

The ability to elect to pay tax at 10% only applies to trading companies, which are those companies whose business consists wholly or mainly of the carrying on of a trade or trades.

Treasury has introduced this particular proposal because it accepts that some trading companies may wish to retain a high proportion of their profits for commercial reasons and reinvest them in the business.

For example, a company operating a manufacturing business may choose to retain profits in order to fund the future purchase of necessary capital items in order to continue the business.

An election will apply for 5 years and is irrevocable. A further 5 year election can be made before the filing date of the last return of profits covered by the previous election. PN 134/06 provides further details on the operation of the election to pay tax at 10%.

For the purposes of DPC, a company that has made a successful election to pay tax at 10% will be paying tax at not less than 10% on the whole of its profits so will be classified as a distributing company for the duration of the election.

4.2 Timing of Distributions

There will be a 12 month period following the end of an accounting period during which a company can make a distribution and still 'refer' it back to that accounting period in order to qualify for distributing company status for DPC purposes.

Example 1

Time Distribution Limited is a trading company, and the accounts for the year to 30 June 2005 show distributable profits of £250,000.

Time Distribution Limited has until 30 June 2006 to distribute sufficient profits to qualify as a distributing company.

The new corporate income tax regime, which will commence for accounting periods ending on or after 6 April 2007, will include a requirement that in order for a dividend to be considered as paid within the period of account it must be paid by the statutory submission date of the company's annual income tax return. That date will be 12 months after the end of the accounting period within the new income tax regime for companies and this therefore mirrors the existing timing provision.

4.2.1 Concessional Extension due to late Royal Assent

Royal Assent bringing in the DPC legislation was received on 11 July 2006, which was after the expiry of the 12 month referring back period for accounting periods ending between 6 April 2005 and 10 July 2005, and also did not leave much time for accounting periods ending in the months shortly after.

In recognition of this, for accounts ending between 6 April 2005 and 5 April 2006 **only**, the Assessor is prepared to extend the period to pay dividends until 5 April 2007.

Companies that have already submitted returns and received a DPC charge because their paid dividends have been restricted to 12 months should make a written request for the concession to apply and for the DPC charge to be revised.

4.3 Previous Year Basis of Assessment and Tax Relief for Dividends Paid

The statutory basis for granting tax relief for dividends is to allow the amount of dividend voted from the profits of an accounting period as a deduction from those profits when computing the assessment.

Example 2

Accounts to 30 June 2004 form the basis of the 2005/2006 PY assessment

Profits to 30 June 2004	100,000
Less: Dividend voted from those profits	(45,000)
Taxable Profit	55,000
2005/2006 PY assessment profit	55,000

However, due to the basis of assessment applied in the opening years and the computation of taxable profits for years 2 and 3, it has been practice for the Assessor to allow the deduction of dividends paid in the actual year of assessment from the profits used in that assessment. This is often referred to as "actual dividend relief".

Example 3

Accounts to 30 June 2004 form the basis of the 2005/2006 PY assessment

Profits to 30 June 2004	100,000
Less: Dividend paid 1 June 2005 (paid during 2005/2006)	(40,000)
Taxable Profit	60,000
2005/2006 PY assessment profit	60,000

For the purposes of DPC and 2006/2007 assessments, where a company has claimed "actual dividend relief" for a dividend paid during 2005/2006, and so reduced its taxable profit for 2005/2006, this same dividend cannot be included as a distribution when applying the distributing company test.

Example 4

Assessment Year	2004/2005	2005/2006	2006/2007
Accounts to	30/09/2003	30/09/2004	30/09/2005
Relief for Dividend Paid	01/09/2004	01/09/2005	31/08/2006

For 2006/2007 the only dividends paid that can be used as part of the distributing company test are those paid on 31/08/2006, and any further dividends paid up to 12 months following the accounts ending on 30/09/2005.

Actual dividend relief will continue to apply in 2006/2007, meaning that any dividend used to reduce the taxable profit for 2006/2007 cannot be used as a distribution when applying the distributing company test for the next year.

Where a dividend has been used as a factor in the distributing company test for a period of account, it cannot be used again in a later period of account – even if it was actually paid during that period.

4.4 Matching of Distributions

Where a company makes a distribution during a period of account, or within the referring back period detailed above, there are a number of options for how the distribution can be treated depending on the amount of the distribution.

The options are outlined in the table below. (Please see section 8 for details on how to calculate distributable profit)

	Up to 55% of distributable profit	Amount between 55% and 100% of distributable profit	Amount exceeding distributable profit
Trading Company	Use whole amount towards meeting distribution requirement in year for DPC	Use whole amount to meet distribution requirement in year for DPC.	Choose for amount up to 100% to be a distribution from distributable profit, and for the amount over 100% to be a distribution from taxed reserves
	Choose for whole amount to be treated as a distribution from taxed reserves.	Choose for amount over 55% to be a distribution from taxed reserves.	
		Choose for whole amount to be treated as a distribution from taxed reserves	Choose for whole amount to be treated as a distribution from taxed reserves
Non-Trading Company	Use whole amount towards meeting 100% distribution requirement in year for DPC	Use whole amount towards meeting 100% distribution requirement in year for DPC.	Choose for amount up to 100% to be a distribution from distributable profit, and for the amount over 100% to be a distribution from taxed reserves
	Choose for whole amount to be treated as a distribution from taxed reserves.	Choose for whole amount to be treated as a distribution from taxed reserves	Choose for whole amount to be treated as a distribution from taxed reserves
			Choose for whole amount to be treated as a distribution from taxed reserves

Example 5

Company IOM Limited is a trading company and has distributable profits of £200,000 for year ended 30 September 2006.

In January 2007 it makes a distribution of £150,000. The minimum distribution required for IOM Limited to be a distributing company is 55%, which is £110,000. IOM Limited can choose for:

1. The whole £150,000 to be a distribution from distributable profit, or
2. Up to £40,000 of the distribution to be treated as being from taxed reserves,
or
3. For the whole amount to be a distribution from taxed reserves.

If IOM Limited chooses option 3, the company will be required to account for DPC for the year.

4.4.1 Distributions of up to 100% of distributable profit

A company must specify if it wishes for any distribution of less than 100% of distributable profit to be treated as a distribution from reserves.

If the company does not specify the amount of distribution from reserves, the Division will automatically treat the distribution as being from distributable profit for the year.

4.4.2 Distributions exceeding distributable profit

A company does not need to specify that the amount of distribution exceeding distributable profit is a distribution from reserves, the Division will automatically treat that portion as such.

Example 6

Reserva Limited is a trading company and has distributable profits of £200,000 for year ended 30 September 2006.

In January 2007 it makes a distribution of £250,000 and does not specify that any amount is a distribution from reserves.

The Division will treat £200,000 as a distribution from distributable profit, and the remaining £50,000 as a distribution from reserves.

Further details on the treatment of distributions from reserves are covered in section 24.

5 Claiming Distributing Company Status

The method of claiming distributing company status will be via the annual income tax return form.

The resident and non-resident company income tax return forms for the year ended 5 April 2006 include a new section specific to DPC, which asks the following questions:

- | |
|--|
| <ol style="list-style-type: none">1. Is the company wholly owned by non-resident members?2. Is the whole of the company's profit subject to tax at 10%?3. Has the company elected to be taxed at 10%?4. Has the company distributed the required proportion of its distributable profits?5. Does the company qualify as a distributing company by other means? Please specify..... |
|--|

Question 5 relates to companies that are prescribed as distributing companies in SD 218/06.

If a company answers "yes" to any of the questions DPC will not apply.

If a company answers "no" to all of the questions it will be required to complete a separate DPC computation.

The Division has prepared a standard form R179, a copy of which can be found at appendix F.

A blank form R179 was also enclosed with every company income tax return form for the year ended 5 April 2006.

6 The Distributable Profits Charge

DPC is payable by non-distributing companies only, and only in respect of the total distributable profits that are attributable to members resident in the Isle of Man.

DPC will not be payable where all members of the company are resident outside the Island, or in respect of the proportion of any distributable profit that is attributed to non-resident members.

7 Manx Resident Interest

DPC is payable by a company only in respect of the total distributable profits that are attributable to members resident on the Island.

A person shall be treated as a member if there is any legal, equitable or contractual interest in the corporate taxpayer or in any share or stock of the corporate taxpayer.

For this purpose an interest will include one established where a structure involving other companies, trusts or partnerships is looked through to the ultimate ownership. (S12(10))

There is considerable potential for avoidance of tax within a mainstream zero-rate income tax regime for companies, which is increased where a person's interest in a company is held indirectly by using another vehicle, such as another company or a trust.

For DPC purposes, section 12(10) states that a person's interest may be traced through any number of vehicles.

The Assessor will, however, not seek to trace Isle of Man ownership through other entities unless it is suspected that they are being used for the company or member to reduce a liability to Isle of Man income tax.

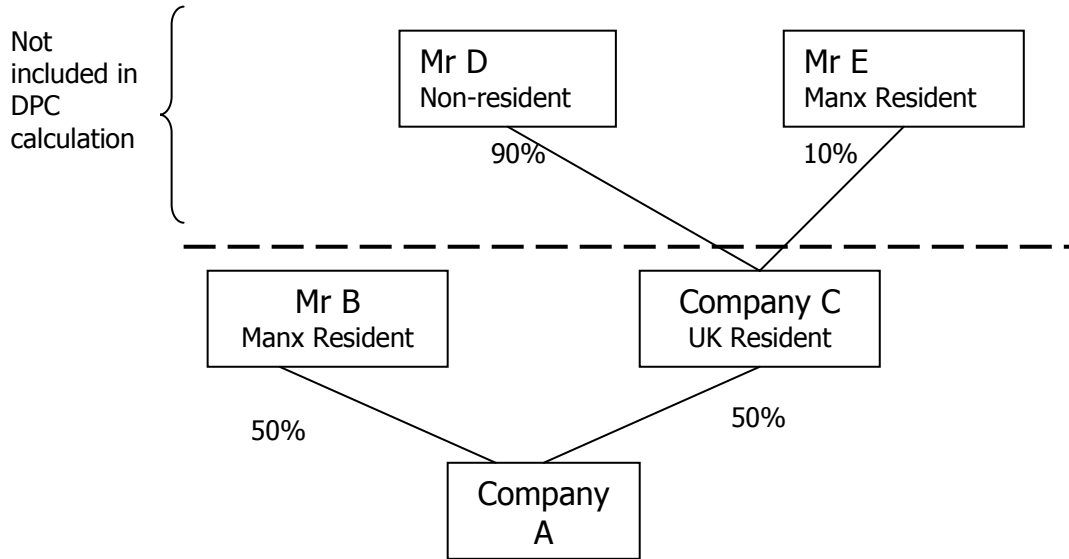
The DPC will normally be due only on the immediate resident members' interest in a company (Example 7).

Where a company or agent makes a declaration that the ultimate beneficial ownership is held by a non-resident individual, the Division will normally accept this for DPC purposes (Example 8).

Where it is suspected that a company or member is reducing a liability to Isle of Man income tax by using a structure the DPC will be raised in full.

Example 7

An Isle of Man trading company is owned 50% by an Isle of Man resident individual and 50% by a UK company. The UK company is owned 10% by an Isle of Man resident individual and 90% by a UK resident individual.

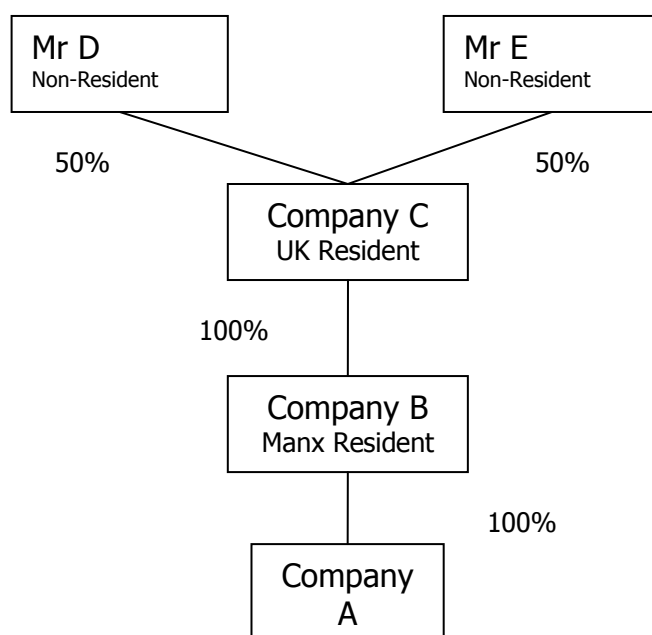


The DPC will be due only on the immediate ownership of the Isle of Man trading company A and, therefore, only the initial 50% Isle of Man ownership is chargeable.

The Assessor will not seek to trace Isle of Man ownership through other entities unless it is suspected that they are being used for the company or member to reduce a liability to Isle of Man income tax.

Example 8

An Isle of Man resident trading company is wholly owned by another Isle of Man company which is in turn wholly owned by a UK company with non-resident beneficial owners.



There will be no DPC due because the ultimate ownership of the Isle of Man trading company A is non-resident.

Nominee shareholding is a typical example of how immediate beneficial ownership would appear to be Manx resident, but ultimate beneficial ownership could be completely non-resident.

7.1 Companies Owned by Trusts

Where a non-distributing company is wholly owned, or partly owned by a trust, the ownership will be determined in relation to the type of trust and its beneficiaries.

7.1.1 Life Interest or Interest in Possession Trusts

The beneficiaries of a life interest or interest in possession trust are specified by name, as are their entitlements to benefit and also the powers that the trustees have to distribute the income of the trust to them, or accumulate it on their behalf.

DISTRIBUTABLE PROFITS CHARGE

Where a company does not distribute profits to the trust DPC will be calculated in relation to the percentage of distributable profit the trust is entitled to, and the percentage of resident beneficiaries that are entitled to that income.

The residency of the settlor and trustees is not relevant for the purposes of the DPC, except in cases where the settlor retains a reversionary interest.

Where there is no Manx resident beneficiary there will be no charge to DPC.

Example 9

B Trust is an interest in possession trust that owns 100% of the shares in B Limited.

B Limited is an investment company that owns a portfolio of investments. It is a non-distributing company for the 2006/2007 year of assessment.

The trust has 3 beneficiaries, Mrs A, Mr F and Miss H.

Mrs A and Miss H are resident, and Mr F is non-resident.

In the absence of the trust deed specifying specific entitlement to income, a DPC charge on 66.6% of the profits accumulating in B Limited will arise on the assumption that the beneficiaries have equal interests.

For the purposes of DPC, B Trust has **66.6%** resident ownership.

When B Limited makes future distributions to the trustees of B Trust, the credit for the DPC paid in respect of those profits will be carried with the distributions.

(See later sections of this guide for details in relation to distributions from profits subject to DPC).

Where a distributing company is owned by an interest in possession trust, the taxation issues in relation to the distribution will be dealt with by the trust.

Existing look-through principles in relation to distributions from companies owned by trusts with non-resident beneficiaries will continue.

7.1.2 Discretionary Trusts

Discretionary trusts do not specify entitlement to benefit, and beneficiaries are usually identified by a class (e.g. settlor's children) and it is at the discretion of the trustees to decide how income and capital of the trust assets is applied for the benefit of the beneficiaries.

Where a non-distributing company is owned by a discretionary trust, there are a number of factors to be taken into account, such as the residence of the settlor, specific exclusion of classes of beneficiary and the residence of potential beneficiaries.

For DPC purposes, the DPC requirements for a company owned by a discretionary trust will be based on the class of beneficiaries the trust has, as follows:

Closed class of beneficiaries – no Manx residents

No DPC because there is no Manx resident interest in the company owned by the trust.

Wide class of beneficiaries – Manx residents excluded

No DPC because there is no Manx resident interest in the company owned by the trust.

Wide class of beneficiaries – Manx residents not excluded

Trustees can declare annually that no current Manx resident can benefit from that year's distributable profit.

Where the trustees can declare this, no DPC for the year because there is no Manx resident interest.

Manx Resident Beneficiaries in any class

All beneficiaries will be deemed to be Manx resident, so the company owned by the trust must account for DPC based on 100% Manx resident ownership.

Where a company is only partly owned by a trust, the Manx resident ownership of the proportion of the company owned by the trust should be determined in accordance with the above guidelines.

Where a distributing company is owned by a discretionary trust the taxation issues in relation to the distribution will be dealt with by the trust.

Existing look-through principles in relation to distributions from companies owned by trusts with non-resident beneficiaries will continue.

7.2 Different Classes of Shares

Where all shares issued carry the same rights to income, determination of the resident ownership of the company is reasonably straightforward.

DPC is payable in respect of distributable profit attributable to Manx resident members, and so the determination of resident ownership for DPC purposes is complicated where a company has issued different classes of share, and those shares have different rights to income.

Example 11

Company A has the following classes of share in issue

Class	Rights Attached	Number Issued
"A" ordinary	full voting rights, rights to receive dividends, and rights to assets on winding up	1000
"B" Ordinary	full voting rights and rights to assets on winding up, but no rights to receive dividends	1000

Company A has 4 shareholders, 3 Manx residents and 1 non-resident so, on the face of it, has 75% Manx resident ownership.

The determination of percentage Manx resident ownership by shareholdings of different classes of share is as follows:

Shareholder	Share Class Held	Number	% distributable profit attributable
Resident 1	"A" Ordinary	50	5%
Resident 2	"B" Ordinary	500	0%
Resident 3	"B" Ordinary	500	0%
Non-Resident	"A" Ordinary	950	95%

Only 5% of Company A's distributable profit is attributable to Manx resident members.

In cases of difficulty in determining the relevant resident ownership percentage of a company which has different classes of share in issue, please contact the Division, setting out the details of the rights attached to each different share class, and the residency of the shareholders of each class.

Where it can be seen that different classes of share are used to reduce the tax liability of a Manx resident, DPC will be charged based on the resident membership irrespective of the income rights attaching to the shares.

7.3 Nominee Shareholders

A shareholder acting in a nominee capacity is named as the shareholder on the company register and owns the legal interest in the shares, but has no beneficial interest or entitlement to income from them.

When determining the resident ownership of a company the residence of a nominee shareholder can be disregarded.

The resident ownership percentage of a company with nominee shareholders should be determined by reference to the residency of the beneficial owners that the nominee is acting on behalf of.

8 Calculation of Distributable Profits

To determine the amount of distributable profit used in the calculation of the DPC, profits may be reduced by:

- Any relief or allowance permitted under Section 27A – relief and allowance for trading losses and capital expenditure;
- Any relief permitted under Section 29 – relief for capital expenditure;
- Group relief received; and
- A proportion of the profits as prescribed in an order made by Treasury.

The Income Tax (Distributable Profits Charge) (Calculation of Charge) Order 2006 – SD 219/06 prescribes that distributable profit may also be reduced by:

- Income liable to Isle of Man Income tax at 10%
- Income subject to foreign tax at a rate of 18% or higher
- The amount of foreign tax paid at a rate of less than 18%

8.1 Calculation of Taxable Profit and Distributable Profit

For the year of assessment commencing on 6 April 2006, the treatment of dividends paid will be different in the computation of taxable profit and of distributable profit for DPC purposes.

Dividends paid will be allowed as a deduction in computing the taxable profit, per Section 25 Income Tax Act 1970, but dividends paid will not be allowed as a deduction in computing the distributable profit of a company.

Example 12

Company A makes up accounts for the year ended 30 June 2005, and is assessed on a previous year basis for 2006/2007.

Company A's taxable and distributable profits for 2006/2007 are computed as follows:

Profit	20,000
Less: Capital Allowances	(200)
Less: Group Relief received	(500)
Less: Losses b/f	(3,000)
Distributable Profit	16,300
Less: Dividend Paid	(5,000)

Taxable Profit

11,300

It is envisaged that the deduction of dividends from taxable profit will cease when the corporate income tax regime commences in April 2007 by repeal of Section 25, meaning that 2006/2007 will be the only year of assessment where the taxable and distributable profits are computed differently.

8.1.1 Relief for Dividends Paid to Non-Residents

Where a paid dividend is claimed as a deduction from the profits used to calculate the tax assessment for 2006/2007, the Section 71 requirement to deduct withholding tax from dividends paid to non-residents will still apply.

- Where the company claiming the deduction is liable to tax at 0%, the rate of withholding tax to be applied to the dividend will also be 0%.
- Where the company claiming the deduction is liable to tax at 10%, the rate of withholding tax to be applied to the dividend will also be 10%.

When the deductibility of dividends from taxable profits ceases, the withholding tax requirement for dividends paid to non-residents will also cease.

8.2 Double Taxation Relief (DTR) in the DPC Regime

As detailed in section 7 above, the Income Tax (Distributable Profits Charge) (Calculation of Charge) Order 2006 – SD 219/06 prescribes that distributable profit may be reduced by:

- Income subject to foreign tax at a rate of 18% or higher
- Any amount of foreign tax paid at a rate of less than 18%

For the purposes of SD219/06, the amount of "income subject to foreign tax" will be the amount net of standard expenses and the relevant proportion of general expenses.

Income that has already suffered tax at a rate of 18% or more can be extracted from the company as a "capital distribution". This "capital distribution" will not require the approval of the Assessor prior to payment and the income can be disregarded when calculating the distributable profit.

Example 13

Company A

Untaxed Manx Trading Profit	10,000	
Taxed UK Income	1,000	@ 22%
	11,000	
Less:		
Taxed UK Income	(1000)	

Distributable profit	<u>10,000</u>
-----------------------------	----------------------

Note: The £1,000 taxed income is disregarded for the distributable profit calculation as it has suffered UK tax at a higher rate than 18%.

Where income received has suffered and paid tax at a rate less than the current higher rate of Manx income tax, a form of expense relief will reduce the distributable profit.

In these cases, the amount of tax paid will be deducted from the company profit to determine the distributable profit that will be subject to the DPC, for example:

Example 14

Company B

Untaxed Manx Trading Profit	10,000	
Taxed UK Income	<u>1,000</u>	@ 5% = 50 tax paid
	11,000	
Less:		
UK tax paid @ 5%	<u>(50)</u>	
Distributable profit	10,950	

Example 15

Company C

Untaxed Manx Trading Profit	10,000	
Taxed UK Income	1,000	@ 22%
Taxed UK Income	<u>1,000</u>	@ 5% = 50
	12,000	
Less:		
Taxed UK Income	(1,000)	
UK Tax paid @ 5%	<u>(50)</u>	
Distributable profit	10,950	

8.3 Income from Land and Property in the Isle of Man

In the February 2006 Budget the Treasury Minister announced a 10% rate of income tax applicable to income received by companies in respect of land and property in the Isle of Man.

This 10% rate of income tax will apply to income from property development, commercial property letting and rental income, and further guidance on the application of the 10% rate will be issued in a separate Practice Note.

The Income Tax (Distributable Profits Charge) (Calculation of Charge) Order 2006 – SD 219/06 prescribes that distributable profit may be reduced by:

DISTRIBUTABLE PROFITS CHARGE

- Income liable to Isle of Man Income tax at 10%

Income subject to Manx income tax at 10% will therefore be deducted when calculating the distributable profit of the company.

Example 16

Company G Limited has the following adjusted profits for the year ended 30 September 2006:

Trading Profit	150,000
Commercial Property Lets (from surplus business premises)	80,000
Dividends Paid	Nil
Taxable Profit	230,000
Less: Commercial Property Lets	(80,000)
Distributable Profit	150,000

8.4 Distributable Profits Computation

Here is a model distributable profits computation that can be used to compute the distributable profit for companies with a range of income types.

Income		X		} Repeat for each income source
Less:	Capital Allowances	(X)		
	Loss Relief	(X)		
	Group Relief	(X)		
		X		
Total Income			X	
Less:	Income subject to Manx tax at 10%	(X)		
	Income subject to foreign tax at 18% or more	(X)		
	Foreign tax paid at less than 18%	(X)		

DISTRIBUTABLE PROFITS CHARGE

As the dividends paid out do not meet the 55% requirement the company is a non-distributing company, and a distributable profits charge is due as follows:

$$\text{Distributable Profits Charge} \quad 19,500 \times 55\% \times 18\% = 1,930.50$$

Section 27 explains what will happen in respect of the dividend actually paid, and how the member can claim relief for the DPC paid by the company.

9.2 Trading Expenses Paid to Members

It is recognised that a member in a trading company may receive payments from the company in respect of services provided, such as consultancy fees, director's fees or salary, or payments such as rent in respect of personal assets used by the company.

These payments are trading expenses of the company and do not affect the members' entitlement to dividends, so can be deducted from the distributable profit in the same way as any other trading expense. They cannot, however, be taken to be part of the dividend paid.

Example 19

Gross Trading Profit	39,000
Less: Trading expenses	<u>(9,000)</u>
Distributable Profit	30,000

The expenses of £9,000 include rent that was paid at a commercial rate for a building owned by one of the resident members.

The rent is a trading expense of the company and will be allowed as a deduction in calculating the distributable profit for DPC purposes.

The company will have to distribute 55% of £30,000 to qualify for distributing company status.

9.3 Investment Income in a Trading Company

The minimum distribution requirement for trading companies is less than that applying to non-trading companies, but it is recognised that a trading company may hold investments incidental to its trade.

Within the current income tax regime, where it can be clearly demonstrated that the investment income is generated by the working capital of a company it is included within the trading profits, and is subject to the lower rate of tax. A de-minimis limit of £1,000 for other investment income also currently applies.

This practice will continue in the DPC regime and any investment income generated by the company's working capital will be included in the company's trading income for DPC purposes.

Example 20

A trading company receives £100,000 in the form of trading profits and holds an instant access investment account generating £6,000 interest per year.

Following discussion with the Division it is determined that the instant access account is used for day to day company business. The £6,000 interest will be included within the trading profit for the company.

Assuming that all members are resident and no distributions are made, the distributable profit would be £106,000 and the DPC would be:

$$£106,000 \times 55\% \times 18\% = \mathbf{£10,494}$$

Where a trading company has investment income that is clearly not generated by working capital requirements, and is in excess of the £1,000 de minimis limit, it will be mixed income company. See section 11 for details on the operation of the DPC for mixed income companies.

9.4 Averaging of Profits and Distributions

Averaging for DPC is prescribed in regulation 4 of the Income Tax (Distributable Profits Charge)(Distributing Company) Regulations 2006 – SD 218/06.

Averaging will allow a company that does not actually distribute 55% of distributable profit for a year to qualify as a distributing company if its average distributions over a rolling 3 year period exceed 55%.

There is no claim for averaging, the Division will apply it automatically in any year where the actual distributions made by a trading company are less than 55%.

Averaging only applies to trading companies, and applies to the distributable profit and distributions for the current year and the previous 2 years.

The averaging calculation for the 3 year period is as follows:

Total distributions **divided by** Total distributable profit **multiplied by** 100

Example 21

A trading company has the following results for a 3 year period:

Year	Distributable Profit £	Distribution £	% Distributed	Average distribution	DPC applicable to year
1	100,000	75,000	75	75%	No
2	500	500	100	75.1%	No
3	90,000	45,000	50	63.2%	No – after averaging
Total	190,500	120,500			

DISTRIBUTABLE PROFITS CHARGE

In year 3 the actual distribution is only 50% of that year's distributable profits so the annual 55% test has not been satisfied.

However the average distribution over the 3 year period is 63%, so the company will qualify as a distributing company for year 3 and no DPC is payable.

If the company's distributions in year 4 are less than 55%, the total profits and actual distributions for years 2, 3 and 4 would be used in the averaging calculation.

The averaging system cannot be used to change the status determined on an earlier year, it can only be used to determine status on the current year.

Example 22

The same trading company has the following results for year 4:

Year	Distributable Profit £	Distribution £	% Distributed	Average Distribution	DPC applicable to year
2	500	500	100	75.1%	No
3	90,000	45,000	50	63.2%	No – already averaged
4	20,000	10,000	50	50.2%	Yes – after averaging
Total	110,500	55,500			

The average distribution over the 3 year period is 50%, so the company will not qualify as a distributing company for year 4 and a DPC will be payable for year 4 only.

The determined status for year 3 is not affected by the averaging calculation for year 4.

The averaging system commences from 6 April 2006, with 2006/07 being the first year. The rolling year period will build to 3 years as time progresses.

9.4.1 Financial Supervision Commission Licence Holders

The Assessor does not wish for the application of the provisions of DPC to conflict with regulatory requirements imposed by the Financial Supervision Commission on its licence holders.

Where a company can provide evidence that by distributing the required 55% of distributable profits it would breach the regulatory requirements of its licence, subject to the conditions below the Assessor is prepared to treat the company as a distributing

company for the duration of the regulatory requirement restricting the distribution of profits.

If the regulatory requirement does not permit any distribution the Assessor will not expect any distribution to be made.

If the regulatory requirement permits some distribution but less than the required 55%, the Assessor will treat the company as a distributing company on the condition that the maximum amount permitted to be distributed is actually distributed.

The expected form of evidence would be a copy of correspondence from the Financial Supervision Commission directing the company not to distribute, or restricting the percentage to be distributed.

In the absence of a letter from the Financial Supervision Commission the company will be required to state which regulation would be breached by distributing 55% or more, then demonstrate how this applies to the company and what percentage, if any, can be and has been distributed.

10 Calculation of the DPC – Non-Trading Companies

Any company whose income does not include any profits from a trade will be required to distribute 100% of its distributable profit in order to qualify for distributing company status.

For the purposes of the remainder of this section, a company whose only income is from non-trading sources will be referred to as a non-trading company.

A non-trading company that has not been able to establish distributing company status will have to account for DPC using the following formula (s13A(2)):

$$\text{Distributable Profit} \times 100\% \times 18\%$$

Distributable profit for non-trading companies will be calculated in a similar manner to that for trading companies, however deductions will be restricted to only those incurred specifically in generating the investment income and the method for computing taxable profits for investment holding companies set out in PN 68/97 and PN 74/99 issued by the Division will continue to apply.

10.1 Companies with Non-Trading Income only

The following examples illustrate how the DPC and qualification for distributing company status will operate for companies whose only income is from non-trading sources.

Example 23

Untaxed investment income	20,000
---------------------------	--------

DISTRIBUTABLE PROFITS CHARGE

Allowable expenses	(2,000)
Distributable Profit	18,000
Dividends paid	10,000

As the dividends paid out do not meet the 100% distribution requirement, the company is a non-distributing company and a DPC would be payable as follows:

Distributable Profits charge $18,000 \times 100\% \times 18\% = \mathbf{3,240}$

Example 24

Untaxed investment income	20,000
Allowable expenses	(2,000)
Distributable Profit	18,000
Dividends paid	18,000

As the dividends paid out meet the 100% distribution requirement a Distributable Profits Charge would not be due for this company.

Example 25

This example uses the distributable profits computation suggested in section X to compute the distributable profit.

Manx rents		12,000	
Less:	Capital Allowances	(4,000)	
		8,000	8,000
Untaxed dividends		25,000	33,000
UK taxed rents (30%)		75,000	108,000
Taxed foreign dividends (8%)		20,000	
Total Income			128,000
Less:	Income subject to Manx tax at 10% (Manx rents)	(8,000)	
	Income subject to foreign tax at 18% or more (UK rents)	(75,000)	
	Foreign tax paid at less than 18% (8% on foreign dividends)	(1,600)	
			(84,600)
Distributable Profit			43,400

10.2 Distributing Company Status – Accounting Profit vs. Distributable Profit

For the purpose of determining distributing company status of a non-trading company, the Assessor will accept that distributing company status has been achieved where a non-trading company distributes 100% of the distributable profit, or 100% of the accounting profit, whichever is the lower.

However, if the accounting profit figure is lower and the company does not distribute 100% of it, the DPC calculation will be based upon the statutory requirement, which is 100% of the distributable profit (s13A(2)).

Example 26

Company A has the following:

Untaxed Investment Income	100,000
Less: Allowable Expenses	(1,000)
Distributable Profit	99,000
Less: Non-Allowable Expenses	(2,000)
Accounting Profit	97,000

To qualify for distributing company status the company would have to distribute £97,000, but if it fails to do so the DPC would be calculated as follows:

Distributable Profit Charge $99,000 \times 100\% \times 18\% = \mathbf{17,820}$

NB The non-allowable expenditure must be incurred in connection with the investment income of the company.

Capital receipts and capital expenditure (including gains and losses) will not be included in the "accounting profit" for the purposes of this DPC treatment.

11 Mixed Income Companies

A company with income from both trade and non-trade sources is, in strictness, a non-trading company and would be required to distribute 100% of distributable profit in order to qualify as a distributing company.

However the Income Tax (Distributable Profits Charge) (Mixed Income Companies) Regulations 2006 – SD 221/06 prescribes a specific DPC treatment for mixed income companies.

DISTRIBUTABLE PROFITS CHARGE

Here is a summary of the provisions included in SD 221/06:

- A non-trading company in receipt of trading income will calculate DPC in accordance with these regulations.
- Minimum distribution of 55% required from trading distributable profit, and minimum distribution of 100% required from non-trading distributable profit.
- Where insufficient distributions are made, the resulting DPC will be calculated separately for trading and non-trading distributable profit.
- When calculating whether sufficient distributions have been made, distributions should be set off against income in a specified order:
 1. Income subject to Manx income tax at 10% (if any) then,
 2. Non-trading distributable profit, then
 3. Trading distributable profit.

A company with income subject to Manx income tax at both 0% and 10% is a mixed income company even if the income types are both from trades, or both non-trade (e.g. rental income and investment income).

The operation of the mixed income company regulations are covered in more detail later in this section.

11.1 Calculating Distributable Profit for Mixed Income Companies

The income of a mixed income company should be separated into trade and non-trade, and the distributable profits should be calculated separately for each category.

DISTRIBUTABLE PROFITS CHARGE

Example 27

Mixed Up Limited makes up accounts to 31 December 2005 which show the following:

- Adjusted trading profit of £135,000 and capital allowances of £28,000
- Untaxed dividends of £12,000
- Foreign dividends of £19,000 taxed at 12%

Trading Profit			135,000	
Less:	CA's	(28,000)		
	Loss Relief	-		
			107,000	107,000
Less:	Income subject to Manx tax at 10%	-		
	Income subject to foreign tax at 18% or more	-		
	Foreign tax paid at less than 18%	-		
Trading distributable profit			107,000	
Untaxed dividends			12,000	
				12,000
Foreign taxed dividends			19,000	
				31,000
Less:	Income subject to Manx tax at 10%	-		
	Income subject to foreign tax at 18% or more	-		
	Foreign tax paid at less than 18% (12% Foreign taxed dividends)	(2,280)		
			(2,280)	
Non-Trading Distributable Profit			28,720	

DISTRIBUTABLE PROFITS CHARGE

Example 28

Mixed Up Again Limited makes up accounts to 31 December 2005 which show the following:

- Adjusted trading profit of £135,000 and capital allowances of £28,000
- Manx rents of £23,000 with capital allowances of £1,380
- Untaxed dividends of £12,000
- UK rents of £45,000 taxed at 22%
- Foreign dividends of £19,000 taxed at 12%

Trading Profit			135,000	
Less:	CA's	(28,000)		
	Loss Relief	-		
			107,000	107,000
Less	Income subject to Manx tax at 10%	-		
	Income subject to foreign tax at 18% or more	-		
	Foreign tax paid at less than 18%	-		
Trade distributable profit				107,000
Manx rents			23,000	
Less:	CA's	(1,380)		
	Loss Relief	-		
			21,620	21,620
Untaxed dividends			12,000	
				33,620
UK Rents			45,000	
Less:	CA's	-		
	Loss Relief	-		
			45,000	78,620
Foreign taxed dividends			19,000	
				97,620
Less:	Income subject to Manx tax at 10% (Manx rents)	(21,620)		
	Income subject to foreign tax at 18% or more (UK rents)	(45,000)		
	Foreign tax paid at less than 18% (12% foreign taxed dividends)	(2,280)		
			(68,900)	
Non-Trade Distributable Profit				28,720

11.1.1 De-minimis limit for investment Income in a company with income taxable at 10%

A company that receives income taxable at 10% (e.g. rental) will be permitted to receive up to £1,000 of investment income before being treated as a mixed income company.

In these cases, the investment income will be treated as part of the income taxable at 10% and the company will not be subject to DPC.

Example 29

A company receives £25,000 rental income and £500 bank interest.

If the company makes no distributions, £25,500 will be taxable at 10%.

For 2006/2007 only, any distributions made will reduce the income taxable at 10%.

If the amount of investment income received is more than £1000 de-minimis limit the company is a mixed income company, and will be subject to DPC on its distributable profit if insufficient distributions are made.

Example 30

A company receives £25,000 rental income and £5000 bank interest.

The investment income received exceeds the de-minimis limit, so the company is a mixed income company for the purposes of DPC.

The distributable profit for the company is as follows:

Manx rents		25,000	
Less:	CA's	-	
	Loss Relief	-	
		-	25,000
Bank Interest		5,000	
			30,000
Less:	Income subject to		
	Manx tax at 10%	(25,000)	
	(Manx rents)		
		(25,000)	
Non-Trade Distributable Profit			5,000

The next section explains how to calculate whether sufficient distributions have been made by a mixed income company.

11.2 Calculating the distribution % for a Mixed Income Company

The mixed income company regulations in SD 221/06 prescribe a specific order of set-off for any distributions made by a mixed income company when calculating the percentage that has been distributed for DPC purposes.

Any distribution made must be set-off against the income in the following order:

1. Income subject to Manx income tax at 10% (if any) then,
2. Non-trading distributable profit, then
3. Trading distributable profit.

Example 31

Mixed Up Limited has trade distributable profit of £107,000 and non-trade distributable profit of £28,720 for the year to 31 December 2005. It has no income subject to Manx income tax at 10%.

Mixed Up Limited makes a distribution of £100,000 on 30 September 2006.

The distribution must be offset against the non-trade distributable profit first, then the trade distributable profit.

The distribution test is applied as follows:

	Distributable Profit	Distribution	Percent Distributed	Distribution Test Passed
Non-Trade	28,720	28,720	100	Yes
Trade	107,000	71,280	66.6	Yes
Total	135,720	100,000		

Distribution from trade distributable profit exceeds 55%, so Mixed Up Limited can also specify that some of the distribution is from taxed reserves.

If Mixed Up does not specify, the Division will treat the 66% distribution as being from trading distributable profit.

Where the mixed income company has income that is subject to Manx income tax at 10% as well as trading and/or non-trading distributable profit, any distribution made must first be offset against the income subject to tax at 10%.

Example 32

Mixed Up Again Limited has trade distributable profit of £107,000, and non-trade distributable profit of £28,720 for the year to 31 December 2005. It also has £21,620 rental income subject to Manx income tax at 10%.

Mixed Up Again Limited makes a distribution of £100,000 on 30 September 2006.

The distribution must be offset against income taxable at 10% first, then non-trade distributable profit first, then the trade distributable profit.

The distribution test is applied as follows:

	Distributable Profit	Distribution	Percent Distributed	Distribution Test Passed
Taxable at 10%	21,620	21,620	100	N/A
Non-Trade	28,720	28,720	100	Yes
Trade	107,000	49,660	46.4	No
Total	157,340	100,000		

Distribution from non-trade distributable profit is 100%, but the distribution remaining from trade distributable profit does not exceed the required 55% minimum.

In the 2006/2007 assessment the distribution set-off against the income taxable at 10% will be used to reduce the income taxable at 10% to 0, so Mixed Up Again will not have any tax to pay at 10%.

11.2.1 Concessional variation of Order of Set-Off

The purpose of the order of set-off prescribed in SD221/06 is to prevent a company claiming relief from income tax at 10% for a dividend and using the payment of the same dividend to satisfy the distribution requirement for DPC.

Providing it is clear that this is not the intention, the Assessor is prepared to vary the prescribed order of set-off by concession to allow a dividend to be treated as being from non-trade distributable profit then trade distributable profit, and then any balance from income taxable at 10%.

It is important to note that a company taking advantage of this concession will have a liability to income tax at 10% instead of a DPC charge.

In order to take advantage of this concession a company must show the order of set-off required in a computation. In the absence of a computation, the statutory order of set-off will be applied.

The application of the statutory order of set off for the year of assessment from 6 April 2007 onwards will be reviewed following the cessation of deduction of dividends paid from taxable income.

11.3 Calculating the DPC for a non-distributing Mixed Income Company

A mixed income company will qualify as a distributing company only where it has made sufficient distributions from both its non-trading distributable profit (100%) and its trading distributable profit (55%).

Where insufficient distributions are made, the resulting DPC will be calculated separately in respect of the trading and non-trading distributable profit.

Example 33

A mixed income company has a trading distributable profit of £100,000 and non-trading distributable profit of £200,000. It makes no distributions.

The company is a non-distributing company and the DPC would be calculated as follows:

Trading distributable profit	100,000	x 55% x 18%	9,900
Non-trading distributable profit	200,000	x 100% x 18%	36,000
Total DPC Due			45,900

Example 34

Mixed Up Again Limited has the following results:

	Distributable Profit	Distribution	Percent Distributed
Taxable at 10%	21,620	21,620	100
Non-Trade	28,720	28,720	100
Trade	107,000	49,660	46.4
Total	157,340	100,000	

Mixed Up Again Limited has made sufficient distribution from its non-trading distributable profit, but has only distributed 46.4% of its trading distributable profit.

DPC for Mixed Up Again Limited is calculated as follows:

Trading distributable profit	107,000	x 55% x 18%	10,593
Total DPC Due			10,593

12 Determination of Resident Interest

The DPC will be calculated and will be payable by the company in respect of resident members on the basis of the resident and non-resident shareholdings throughout the accounting period, and complexity increases where there are changes in the shareholdings.

If there is a change in the ratio of resident to non-resident ownership of the company during the year it will affect the DPC calculation.

In order to prevent avoidance of the charge by manipulation of the shareholdings, and to introduce a fair system for all companies, the profits of the company will be apportioned between resident and non-resident members on the basis of the number of days that the shares were owned within the year.

Example 35

Trading Company A

Profit for year	10,000	
Distribution	<u>nil</u>	
DPC based on 100% resident ownership	990	(10,000 x 55% x 18%)

Shareholdings are 60% resident and 40% non-resident for 100 days of the year and 70% resident and 30% non-resident for the remaining 265 days, so company A's DPC will be calculated as follows:

990 x 60% x 100/365 =	162	
990 x 70% x 265/365 =	<u>503</u>	
Total DPC due	665	

The method of declaring resident ownership information each year will be via the annual tax return form.

Failure to provide this information will result in an estimated DPC being raised as if the company is wholly owned within the Isle of Man.

12.1 Manx Resident Interest De-Minimis Limit

Where Manx resident interest in a company is 3% or less the Assessor will accept that this is a minority holding and will not require a DPC calculation.

12.1.1 Fund Managers

Where funds held by a company are offered to Manx residents a DPC calculation will not be required in cases where the Manx resident holding does not exceed 3%.

13 Groups of Companies

The provision for different treatment in the DPC regime for groups of companies is included in section 12(15) of the Income Tax Act 1970, and the detailed operation is prescribed in the Income Tax (Distributable Profits Charge) (Groups) Regulations 2006 – SD 220/06.

For the purposes of DPC, only companies that qualify as group members under the group relief provisions in Part 1 of Schedule 2 ITA 1980 will qualify for group treatment for DPC.

The regulations prescribe that the group shall designate one member company (the “designated company”) to account for the DPC in respect of the whole group.

Any member of the group can be nominated as the designated company; it does not have to be the group holding company.

There is no prescribed method for designating the company, so a letter with the tax return of the designated company will be acceptable. The letter must specify the designated group member and all other group members and be signed by a director or the company secretary. A letter from the taxation agent will not be accepted for this purpose.

Only the designated company will be required to complete the distributable profits charge section of the income tax return form in full and, if necessary, send in a DPC computation.

The other group members will be required to fully complete the rest of their income tax return and, in the distributable profits charge section, state that they qualify as a distributing company as a group member and specify the designated group company for DPC purposes.

The group DPC treatment does not affect all other individual group members’ income tax obligations, for example each group member will still be required to complete and submit an income tax return, and will receive its own income tax assessment.

13.1 Trading Group

For the purposes of group treatment for DPC, a “trading group” is a group consisting wholly of trading corporate taxpayers.

Where all group companies are trading companies, but the holding company does not carry on a trade, the Assessor will also treat the holding company as a trading company and the group will be a trading group.

The minimum distribution percentage for a trading group is 55%.

13.2 Non-Trading Group

A non-trading group is a group that is not wholly made up of trading companies.

This could be a group where there is no trade activity at all (i.e. all income from investments), or a group with some trading companies and some non-trading companies.

Where the distributable profit of a non-trading group is made up of trading and non-trading income, mixed income company treatment will apply to the group and any resulting DPC. (i.e. 55% for trade income and 100% for non-trade income). The group will still be required to designate a group member as the 'designated company' for DPC purposes and follow the procedures set out above.

Ascertaining Distributing Company Status for the Group

The group may qualify as a distributing company for any of a number of reasons:

1. The group holding company is wholly owned by non-residents
2. The group holding company qualifies as a distributing company under any of the criteria detailed in appendix A.
3. All members of the group pay tax at 10% on the whole of their profit/ have elected to pay income tax at 10% on the whole of their profits.
4. The group has made distributions at the required levels such that DPC is not applicable.

13.3 Group Holding Company Qualifies as a Distributing Company

The distributing company status for the group can be determined by considering the status of the ultimate Isle of Man holding company, in the same way as for a company that is not part of a group.

If the holding company is wholly owned by non-residents, or qualifies as a distributing company under any of the criteria detailed in appendix A, then the group will qualify for distributing company status and no DPC will apply.

Example 36

The "F group" consists of companies A, B, C, D and E which are wholly owned by Company F Limited. Company F is the designated company for the F group for DPC purposes.

Company F is listed on the Australian Stock Exchange, so qualifies as a distributing company in its own right and, because it is the group holding company, it also qualifies the F group as a distributing company.

13.4 Qualifying as a Distributing Company by amount of Distributions

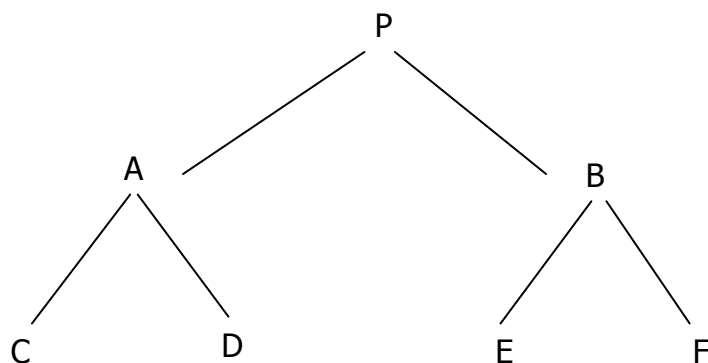
If the holding company does not qualify for distributing company status, the designated group company will be expected to complete an aggregated DPC computation for all group members.

The distributing company status of the group will be determined by the percentage of total distributable profits of **all** group members for the same period, and the distribution test will be applied to the amount that is distributed by the ultimate Isle of Man holding company during that period.

Intra-group dividends will be ignored for the purpose of the distribution test, and will therefore be excluded from the distributable profits computation of the recipient company when determining of the group total distributable profit.

Example 37

Company P is the Isle of Man holding company of a group of seven Isle of Man companies having the following structure:



Companies A, B, C, D, E, F are all 100% owned trading companies. Company P is wholly owned by Isle of Man residents and acts solely as group holding company.

The group is a trading group and Company P is the designated company.

Distributable profits and dividends paid are:

Company	Distributable Profit	Dividend Rec'd	Dividend Paid
C	10,000		10,000 (to A)
D	15,000		12,000 (to A)
E	20,000		18,000 (to B)
F	5,000		0
A	25,000	22,000	47,000 (to P)
B	40,000	18,000	45,000 (to P)
P	0	92,000	90,000
Total	115,000		

Total group trading distributable profit 115,000

Dividend paid by holding company P 90,000

Percentage Distributed:

115,000/90,000 X 100 78%

Company P has no distributable profit because its income consists solely of distributions from other group members.

The group is classed as distributing and no DPC is payable.

A DPC will be charged on the designated company if less than 100% of group total non-trading distributable profit, and/or less than 55% of group total trading distributable profit is distributed by way of dividend paid by the ultimate Isle of Man holding company.

The DPC charged on the designated company will be calculated in the same way as for any single company.

Example 38

Holding Limited owns 100% of the share capital of Subsidiary 1 Limited and Subsidiary 2 Limited.

Holding Limited does not carry on any activity and both Subsidiary 1 Limited and Subsidiary 2 Limited are trading companies.

	Distributable Profit	Distribution to holding company	Distribution outside group
Holding Limited	0	-	150,000
Subsidiary 1 Limited	100,000	95,000	0
Subsidiary 2 Limited	250,000	200,000	0
Group Distributable Profit	350,000	Distributions made	150,000

DISTRIBUTABLE PROFITS CHARGE

Holding Limited is the designated group company for the group in the example above. Holding Limited is 100% owned by Manx residents, and the group is a trading group.

The distribution test and resulting DPC for the group is calculated as follows:

Group Distributable Profit	350,000	Distributions	150,000	% Distributed	42.8
Distributable Profit		X 55%	X 18%	X 100%	= DPC Payable
350,000		X 55%	X 18%	X 100%	= 34,650

Here is another example, this time showing a group with mixed income.

Example 39

The structure is as for the example above, but not all companies in the group are trading, and the profit and dividend details for each company are:

Company	Trading Distributable Profit	Non-Trading Distributable Profit	Group Dividend Rec'd	Dividend Paid
C		13,000		10,000 (to A)
D	12,000			12,000 (to A)
E		15,000		15,000 (to B)
F	20,000			8,000 (to B)
A	34,000		22,000	56,000 (to P)
B	45,000		23,000	50,000 (to P)
P		10,000	106,000	90,000
Total	111,000	38,000		90,000

Total group trading distributable profit	111,000
Total group non-trading distributable profit	38,000

Percentage non-trading distributable profit distributed	$38,000/38,000 \times 100$	100%	38,000
---	----------------------------	------	--------

Percentage trading distributable profit distributed	$52,000/111,000 \times 100$	47%	52,000
---	-----------------------------	-----	--------

Total			90,000
--------------	--	--	---------------

The group qualifies for distributing company status in respect of its non-trading distributable profit, but not for its trading distributable profit.

DPC payable by company P as designated company would be:

$$111,000 \times 55\% \times 18\% = \mathbf{\pounds 10,989}$$

Payments made by group companies to reimburse the designated company for its share of the DPC will not form part of the distributable profit of the designated company, and will not be allowed as an expense for the group member making the payment.

13.5 Calculation of Group Distributable Profit

Distributable profit for each group member is calculated in the same way as for any other company, so income subject to foreign tax at 18% or more and income subject to Manx income tax at 10% is excluded, and the amount of foreign tax paid at less than 18% is deducted from the distributable profit.

Where a qualifying group member has a trading loss, group relief may be claimed and losses surrendered to nominated claimant companies under the group relief provisions.

Example 40

Company	Distributable Profit	Group Distributable Profit
Company G Loss surrendered by H	30,000	
	(30,000)	
	0	0
Company H Surrendered to G & I	(40,000)	
	40,000	
	0	0
Company I Loss surrendered by H	100,000	
	(10,000)	
	90,000	90,000

Company I is the holding company of this trading group and distributes 90,000 outside the group, so making the group a distributing group.

13.5.1 Interest incurred to finance purchase of subsidiary

Where a group parent company whose only income is intra-group dividends from subsidiaries incurs debt to fund the purchase of a subsidiary company, there is no income to offset any interest payment against, and the resulting negative figure is not strictly a "loss" for the parent company under the loss regulations.

In previous years the interest payment was relieved against the dividends received and reduced the amount of income tax payable by the group parent.

To maintain the position now, the interest paid can be relieved against the group distributable profit when calculating the consolidated group distributable profit.

This will reduce the amount required to be distributed for the group to qualify as a distributing group.

This treatment will also apply where the interest is paid by an existing subsidiary member that uses its assets as security for an external loan which is made available to the parent to fund the purchase of another subsidiary.

13.6 Residual Shareholdings in Group Companies

The common ownership requirement in order to be treated as a group member for DPC is the same as is required for group relief purposes, namely 75% (Schedule 2 Part 1 Income Tax Act 1980 refers).

Example 41

A Group consists of 3 companies:

Company A owns 80% of the shares in Company B and Company C.

The remaining 20% of the shares in Company B are owned by a Manx resident, and the remaining 20% of the shares in company C are owned by a non-resident.

Companies B and C are trading companies, and company A's only income is dividends from B and C.

	Total Distributable Profit	Group Distributable Profit	Residual Share of Distributable Profit
Company A	0	-	-
Company B	100,000	80,000	20,000
Company C	100,000	80,000	20,000
Total	200,000	160,000	40,000

The group distributable profit is £160,000, which will be used in the group DPC calculation made by the designated company.

If there is resident interest in the residual shareholding, the group company with the residual shareholding will be required to submit its own DPC computation in respect of the distributable profits attributable to residual shareholders.

To assist in calculating the percentage of distributions made from group distributable profit, the company must specify the amount of distribution made to residual shareholders and the amount paid up to the group holding company.

Example 42

Company B is owned 80% by Company A as part of a group, and 20% by residual shareholders.

Company B makes distributions of £50,000 - £40,000 to group holding company A and £10,000 to residual shareholders.

		Group Share (80%)	Minority Share (20%)
Total Distributable Profit	100,000	80,000	20,000
Total Distribution	50,000	40,000	10,000
Percentage Distributed	50%	50%	50%

The distribution of the residual share of distributable profit is only 50%, so Company B will be required to account for its own DPC as follows:

$$20,000 \quad \times \quad 55\% \quad \times \quad 18\% \quad = \quad \mathbf{1,980}$$

13.7 Residual Shareholding de-minimis limit

Where the residual shareholding in a group company is 3% or less the Assessor will accept this as being a minority holding and as such will not require a separate DPC calculation from the company concerned.

Example 43

A Group consists of 3 companies:

Company A is wholly owned by non-residents and owns 97% of the shares in Company B and Company C.

The remaining 3% of the shares in Company B are owned by a Manx resident, and the remaining 3% of the shares in company C are owned by a non-resident.

Companies B and C are trading companies, and company A's only income is dividends from B and C.

Total Distributable Profit		Group Distributable Profit	Minority Share

DISTRIBUTABLE PROFITS CHARGE

Company A	0	-	-
Company B	100,000	97,000	3,000
Company C	100,000	97,000	3,000
Total	200,000	194,000	6,000

The group distributable profit is £194,000, which will be used in the group DPC calculation. The distributable profit attributable to the residual shareholdings in B and C is £6000.

As the group holding company is wholly owned by non-residents the group will qualify as a distributing group, and under the de-minimis rule company B will not be required to submit a separate DPC computation in respect of its minority shareholding.

Again, to assist in calculating the percentage of distributions made from group distributable profit, companies B and C must specify the amount of distribution made to minority shareholders and the amount paid up to the group holding company.

Any distributions made by Company B to the resident minority shareholder must be declared in full by the shareholder on their own income tax return form.

14 Companies in Liquidation

DPC is payable by a company on behalf of resident members in respect of the share of distributable profit they are entitled to, and the Assessor recognises that the amount of distributable profit that members are entitled to may be reduced by the company being in liquidation.

In most liquidations, particularly those instigated by creditors, there may be no distributable profit for the members to be entitled to after creditors have been paid, and in these cases the charging of a DPC would also reduce the payments received by creditors.

In cases where the liquidator can confirm that the distributable profit generated during the liquidation cannot be distributed to the members because of commitments to creditors, the Assessor will not seek to charge a DPC in respect of the distributable profits.

However, the Assessor reserves the right to charge a DPC in the normal way where it appears that the transactions have been structured to reduce liability to Manx income tax.

15 Tax Returns: Additional Information

The company income tax return has been amended to include some additional information needed to establish whether or not the company qualifies for distributing company status.

Below is an extract of the new DPC section from the company income tax return form:

DISTRIBUTABLE PROFITS CHARGE (DPC)	
Companies taxable in the Isle of Man are classed as either being distributing or non-distributing. By answering the following questions you will be able to establish the appropriate status.	
• Is the company wholly owned by non-resident members?	YES / NO
• Is the whole of the company's profit subject to tax at 10%?	YES / NO
• Has the company elected to be taxed at 10%?	YES / NO
• Has the company distributed the required proportion of its distributable profits?	YES / NO
• Does the company qualify as a distributing company by other means? Please specify.....	YES / NO
If the answer to any of the above questions is YES, the company is a distributing company and not subject to the DPC.	
If the company is a distributing company please go to the next section.	
If the answer to all of the questions is NO, the company is a non-distributing company. Each non-distributing company is required to pay a DPC on behalf of its resident members. Please see Guidance Note GN36.	
A DPC pro forma computation is available on the Income Tax Division website (www.gov.im/treasury/incometax) if required, or from General Enquiries, Income Tax Division, 2 nd Floor, Government Office, Bucks Road, Douglas.	
What percentage of the company's shares are owned by Manx residents?	<input type="text"/> %

Where the company cannot answer "yes" to any of the questions on its income tax return it will be required to provide a separate DPC computation detailing:

- Distributable Profit – which is:
 - Total Taxable Profit from all sources
 - Less: Profits subject to 10% Manx Tax
 - Less: UK / Foreign **income** taxed at 18% or greater
 - Less: **Tax** on UK / Foreign income at a rate of less than 18%
 - Percentage of Resident shareholders
 - Total DPC payable by the company

A blank DPC computation was issued with all company income tax return forms issued in April 2006, and a copy of this computation can be found at appendix F.

DISTRIBUTABLE PROFITS CHARGE

The computation is available to download from the Division's website at www.gov.im/treasury/incometax.

Substitute DPC computations may also be accepted with the approval of the Assessor.

16 Tax Returns: Failure to Submit or Missing Information

Section 13B of the Income Tax Act 1970 contains the provision for the Assessor to raise a DPC default assessment where there has either been no return submitted, or the return submitted is incomplete.

A default DPC assessment provisions are the same as for default assessment, so there is:

- No right of appeal
- 6 months from issue of the default to deliver the return before the default becomes final and conclusive
- Any revised DPC based on a return filed is due and payable from original default due and payable date.

17 Tax Returns: Submission of Accounts

To qualify as a distributing company a company must satisfy the Assessor that it is eligible for the status.

In all instances the claim will need to be made annually via the company income tax return form.

For companies that have no Manx resident beneficial interests, i.e. are wholly owned by non-residents, it is intended that self- certification will be sufficient to demonstrate this fact. Whilst the form of self certification has yet to be finalised, this will include certification that accounts will be available if required.

Companies that are not wholly owned by non-residents may have to submit accounts together with the tax return form claiming distributing company status, although this area will be subject to further consultation.

17.1 Tax Exempt Companies and Other Fee Paying Companies

With effect from 6 April 2006 all corporate taxpayers, including tax exempt and other fee paying and international entities, are subject to the new DPC regime.

However, because the applications for tax exempt, international or other fee paying status include confirmation that the company has no Manx resident beneficial interest, the applications will be treated as self-certification of non-resident ownership for DPC purposes and no separate resident company return will be required.

Following the normal processing procedure, the issue of confirmation of tax exempt or other fee paying status will also act as confirmation of distributing company status and, therefore, that the DPC regime will not apply.

DISTRIBUTABLE PROFITS CHARGE

Further details will be provided on the transition to the corporate income tax system for tax exempt/ fee paying /international companies.

18 Basis of Assessment

The DPC will be assessed on the company on the same basis as income tax.

Developments regarding company taxation in the future will also consider the impact on the relevant DPC calculation in order that the income tax and DPC regime will remain in parallel.

19 Payment

The DPC carries the same due and payable date as income tax due by the company, the current due and payable date being 1 January during the year of assessment. For example, for the year of assessment 2006/2007 the due and payable date is 1 January 2007.

Where an assessment is issued after that date, the due and payable date is thirty days after the date the assessment is issued.

19.1 Interim Distributions

At the time that it pays an interim dividend, a company will not be in a position to determine whether it will meet the distribution requirement for DPC.

No payment of a DPC will be required on the payment of an interim distribution. Instead, the gross interim distribution will be paid to the member with no credit attached.

If the company ultimately fails to qualify for distributing company status for that year and is subject to a DPC, only when the DPC is paid by the company will a credit voucher be issued to the member who received the interim distribution.

The member can then submit the credit voucher and claim a credit against the distribution. See section 27 for details of how relief for the DPC credit is given in the individual's assessment.

20 Interest Charges

Section 13C (6) of the Income Tax Act 1970 (as amended) applies interest under section S111A to late payment of DPC.

Interest on late payment will be charged on the same basis as it is currently charged for income tax purposes.

21 Appeals

An appeal can be made to the Income Tax Commissioners in respect of any liability to DPC, or a decision of the Assessor relating to special cases considered in accordance with s13D (s13K(1)).

Any appeal made in accordance with Section 13K(1) shall proceed in the same manner as an appeal against an income tax assessment (subject to the necessary modifications). An appeal against a DPC assessment is considered in accordance with Sections 87 to 91.

22 Enquiries that may affect the DPC position of the company

The Assessor continues to have the powers to raise enquiries into figures provided by a company on its income tax return and, where applicable, to amend the figures.

The amendment of figures following an enquiry may result in an increased distributable profit, and the company failing to qualify as a distributing company based on the level of distributions it has made.

Example 44

A company makes a return showing trading distributable profit of £150,000, and has made distributions of £90,000 (60%).

A subsequent enquiry results in £19,000 of capital allowance being added back, resulting in the distributable profit being increased to £169,000.

The distribution of £90,000 is now only 53% of distributable profit, so the company is a non-distributing company.

If the enquiry is resolved before the expiry of 12 months from the end of the accounting period, the company can make a further "top up" distribution to achieve distributing company status for the year.

The company cannot make a "top up" distribution to achieve distributing company status for the year if the enquiry is not resolved within 12 months after the end of the accounting period. In this case the company will be a non-distributing company for the year, and will be subject to DPC for the year.

In order to avoid this situation, the Assessor encourages any company that may be unsure whether an item of expenditure is allowable to either:

- seek confirmation from the Division before filing the income tax return, or

- to indicate on filing that there is an extraordinary increase in an expense item or heading, provide an explanation and request an early review

It must be appreciated that, particularly after the move to an accounting period basis of assessment, the Division will have 12 months from the date of filing to take up technical enquiries into any accounts.

Whilst the Division will seek to open enquiries as soon as is practicable, failure to flag up extraordinary items may impact on the timescale for enquiries to be resolved, profits adjusted and a review of the DPC position made.

23 Other Provisions within the DPC Legislation

23.1 Undistributed Profits Special Cases

The draft legislation contains provisions allowing the Assessor to adjust assessments on either the company or its members if it appears that arrangements to reduce a tax liability exist.

Any adjusted assessments will be subject to the normal appeals process.

Full details of these provisions can be found in clause 13D of the Income Tax (Amendment) (No. 2) Bill 2005.

23.2 Power to Call for Documents

Clause 13E of the Income Tax (Amendment) (No. 2) Bill 2005 contains powers to allow the Assessor to call for documents.

The legislation provides for the circumstances in which the Assessor may exercise these powers, and also the manner in which they must be exercised.

23.2.1 Power to Call for Documents: Beneficial Ownership

A new provision is being introduced to allow the Assessor to make enquiries into the identity of members of a company, and allowing for the proper determination and the collection of the distributable profits charge (s13G(1)).

24 Distribution of Reserves Accumulated Prior to 6 April 2006

Since April 1999 tax rates for companies have fallen from 20% to 10% and, in April 2006, fell again to 0% for all but certain defined companies within the 10% band.

The treatment of distributions from taxed reserves has been considered and the following sub-sections detail the possible scenarios.

24.1 Distributions from Reserves Taxed at 14% or More

Distributions from profits that have suffered Manx income tax at a rate of 14% or more may be distributed as a Capital Distribution.

There will be no requirement to seek the Assessor's clearance with regard to this treatment; officers of the company and their advisors need only be satisfied that the distribution is in respect of profits subject to tax at the appropriate rate.

24.2 Distributions from Reserves Taxed at Less Than 14% but Not Less Than 10%

Distributions from profits that have suffered Manx income tax at a rate lower than 14% (i.e. the 12% and 10% rates applying since 2001/2002) will be treated as income distributions in all cases.

No adjustment will be made to the company assessment; however, by concession, in recognition of the tax already paid by the company in respect of the profits, the distribution will carry a non-refundable tax credit equal to the tax rate applying at the time the profits arose.

The tax credit will be allowed in the assessment of the recipient of the distribution.

When making distributions from taxed reserves, a first in, first out (FIFO) basis will be applied, to ensure that back year profits are considered at the earliest opportunity.

24.3 Distributions from Reserves Taxed at 0% but Not Subject to DPC

Due to the introduction of a 0% rate of tax, companies will accumulate reserves of profits subject to tax at 0% but not subject to the DPC.

Where distributions are made from reserves that have been subject to tax at 0%, the distribution will be chargeable in the assessment of the recipient in the normal way, and will have no credit attached.

For the year commencing 6 April 2006 this will affect those companies whose profits have been taxed at 0% under Extra Statutory Concession (e.g. zero rate concessions in respect of insurance, space, fund, shipping and aircraft activities).

In future years, distributions made from reserves accumulated by any company that qualified as a distributing company, and which were taxed at 0% with no associated DPC, will also be assessed on the recipient in the same way.

DISTRIBUTABLE PROFITS CHARGE

Example 45

A company has the following reserves accumulated prior to 2006/2007.

Tax Year	98/99	99/00	00/01	01/02	02/03	03/04	04/05	05/06
Profit for Year	9,600	10,300	6,500	10,800	8,500	9,600	2,500	10,400
Tax 20%	1,920							
18%								
15%		1,545						
14%			910					
12%				1,296				
10%					850	960	250	1,040
Retained Profit	7,680	8,755	5,590	9,504	7,650	8,640	2,250	9,360
Cumulative Reserves	7,680	16,435	22,025	31,529	39,179	47,819	50,069	59,429

On 1 January 2009 a distribution of £20,000 is made and would be attributed to reserves as follows:

Amount	Year	Status
7,680	98/99	Capital Distribution
8,755	99/00	Capital Distribution
3,565	00/01	Capital Distribution

20,000

On 1 January 2010 a distribution of £25,000 is made and would be attributed to reserves as follows:

Amount	Year	Status
2,025	00/01	Capital distribution
9,504	01/02	10,800 assessed on the member with a non-refundable tax credit of 1,296
7,650	02/03	8,500 assessed on the member with a non-refundable tax credit of 850
5,821	03/04	6,468 assessed on the member with a non-refundable tax credit of 647
25,000		

On 1 January 2010 the remaining £15,764 is distributed from reserves, and would be attributed as follows:

Amount	Year	Status
2,819	03/04	3,132 assessed on the member with a non-refundable tax credit of 313
2,250	04/05	2,500 assessed on the member with a non-refundable tax credit of 250
9,360	05/06	10,400 assessed on the member with a non-refundable tax credit of 1,040
15,764		

25 Tracking DPC Payments and Transfer to Member on Distribution

When a company pays a DPC on behalf of a resident member, the amount paid will be retained as a credit within the Division, ready to be transferred to the member(s) if a distribution is made at a later date.

In order to simplify tracking, the amount of credit paid will be "pooled", and credits transferred to member(s) will be offset from the pool rather than from payments made for specific accounting periods.

DPC credit vouchers will be required to be provided by the company (see section 26) and must not exceed the total amount of DPC credits paid by the company. It will be the responsibility of the company to ensure that DPC credit vouchers issued do not exceed DPC credits paid.

The DPC notice will also include a DPC statement which will show the total amount of DPC paid, total amount of credit offset to members, and the net amount of DPC credit available for offset.

25.1 DPC Credit and Dividends Paid during an Accounting Period

If a company has paid some dividends, but not enough to qualify for distributing company status, the DPC will be calculated using the full distributable profit.

If the member in receipt of the dividends is required to file an income tax return before the company has to account for the DPC, their assessment will not take into account the DPC credit still to be paid by the company.

At the point that the company pays the DPC it should furnish the member with the credit voucher and the member can then claim relief for the credit paid by the company.

If the company is due to account for and pay the DPC before the member is required to file their income tax return, a DPC credit voucher should be given to each member who should submit the voucher with their tax return in order to claim the DPC credit. (See section 27 for details of how relief for the DPC credit is given in the member's assessment.)

26 DPC Credit Vouchers

Where a company has paid a DPC and a distribution is subsequently made, the legislation states that a distribution credit voucher should be sent to every member resident in the Island (s13J(1)).

The contents of the credit voucher are prescribed in the Income Tax (Distributable Profits Charge)(Credit Voucher) Regulations 2006 – SD 222/06, as:

- (1) The name, registered office and tax reference number of the company making the distribution.
- (2) The full name and address of the recipient of distribution.
- (3) The tax reference number of the recipient if it is known.
- (4) The date on which the distribution was made.
- (5) The gross amount of the distribution
- (6) The amount of the distribution credit determined by section 13J of the Act.
- (7) The name and office of company representative completing the voucher.

An example of the DPC credit voucher is attached in **Appendix C**.

In addition to the voucher information prescribed in SD 222/06, the voucher also includes the following information:

- The accounting period from which the distribution is paid
- The rates used in the DPC credit calculation

These items are required to simplify the process of calculating and reconciling the value of the DPC credit on the voucher.

Section 26.1 below covers the calculation of the DPC credit in more detail.

Companies and their agents are advised to complete 3 copies for each distribution requiring a voucher:

- One to send to the member receiving the distribution,
- One to send to the Division to assist with verifying the allocation of DPC credits, and
- One to keep on the company's records.

Credit vouchers issued to shareholders should be consecutively numbered; this will assist all parties concerned in the event of any problems when reconciling the credits in the shareholder's assessment.

Companies and tax agents will be permitted to prepare their own vouchers providing they include all of the information required in the regulations and closely resemble the voucher at appendix C.

26.1 Calculating the Value of the DPC Credit for the Voucher

Where a distribution is made out of profits that have been subject to the DPC, the voucher will have to carry the value of the DPC directly attributable to the amount of distribution being made.

The amount of the credit is calculated using the formula:

$$P \times R \times A$$

Where:

- "P" equals the proportion of the profits that are subject to the DPC. In the case of a trading company this has been set at 55%, and for non-trading companies it has been set at 100% of the distributable profits.
- "R" equals the rate of the DPC to be charged. The rate applicable in all cases has been set at 18%.
- "A" equals the "gross" amount of the distribution (being the amount that will be assessed on the recipient and the amount that will be subject to the available credit).

Example 46

2006/2007

Distributable profits £10,000
 DPC accounted for £10,000 x 55% x 18% **£990**

2008/2009

Distribution made out of 2006/2007 reserves = £4,505

DPC credit to be included on the voucher:

P x R x A
 55% x 18% x £5,000 **£495**

"Gross" distribution "A" is calculated as follows:

Net Distribution	x	<u>100</u> (100 - 9.9)	9.9 is the effective rate of DPC paid in 06/07
£4,505	x	<u>100</u> 90.1	£5,000

Section 13I(2) states that the rates to be used when calculating the value of a DPC credit are the rates in force when the DPC was paid. This means that the resident ownership percentage for the year when the DPC was paid should be used in addition to P x Rx A.

Example 47

2006/2007

Company has 50% resident ownership in the year.

Distributable profits £10,000
 DPC accounted for £10,000 x 55% x 18% x 50% **£495**

2008/2009

Company has 100% resident ownership in the year

Gross Distribution made out of 2006/2007 reserves = £10,000

DPC credit to be included on the voucher:

$$\begin{array}{rclclclcl}
 \mathbf{P} & & \mathbf{x} & \mathbf{R} & & \mathbf{x} & \mathbf{A} & & \mathbf{x} & \mathbf{Resident} & & \\
 & & & & & & & & & \mathbf{ownership \%} & & \\
 & & & & & & & & & \mathbf{in 06/07} & & \\
 55\% & & \mathbf{x} & 18\% & & \mathbf{x} & \pounds 10,000 & = & \mathbf{\pounds 990} & & \mathbf{x} & 50\% & = & \mathbf{\pounds 495}
 \end{array}$$

27 Relief for DPC Credit in Resident Member's Assessment

A resident member who has received a distribution from profits subject to DPC will be entitled to claim relief for the DPC paid by the company when they declare the distribution on their own income tax return. In order for relief to be given, the claim must be supported by a DPC credit voucher and the credit must have been paid by the company.

If the value of the credit exceeds the amount of the liability then a refund of the balance may be available (s13J).

Example 48

A trading company makes a profit of £10,000 on which it pays a distributable profit charge of £990 (£10,000 x 55% x 18%).

Several years later it pays a net dividend of £9,010, which equates to a gross dividend of £10,000 and a refundable tax credit of £990, to its only member, Mr E.

Using the tax rates and allowances for 2005/2006 for illustration purposes, Mr E's assessment is as follows:

Salary	20,000		
Distribution	10,000		
Total Income		30,000	
Less:			
Personal Allowance	(8,500)		
Taxable Income		21,500	
	10,300 @ 10%		1,030
	11,200 @ 18%		2,016
Total Liability			3,046
Less:			
	ITIP		(2,000)
	DPC Credit		(990)
Tax Payable			56

If Mr E's total liability was less than the £2,000 ITIP and £990 DPC credit, the balance overpaid would be refunded.

DISTRIBUTABLE PROFITS CHARGE

All resident members are entitled to claim relief for a DPC credit. This includes companies in receipt of distributions with a DPC credit.

Example 49

A trading company makes a profit of £10,000 on which it pays a distributable profit charge of £990 (£10,000 x 55% x 18%).

Several years later it pays a net dividend of £9,010, which equates to a gross dividend of £10,000 and a refundable tax credit of £990 to one of its members, E Limited.

E Limited's assessment would be as follows:

Income		
	Dividends	10,000
	Bank Interest	5,000
Total Income		15,000
Less: Deductions	-	
Taxable Income		15,000
	15,000 @ 0%	0
Total Liability		0
Less:	DPC Credit	(990)
Tax Payable		(990)

E Limited would receive a refund of the £990 DPC credit.

The £10,000 dividend will become part of E Limited's distributable profit for the year and, if insufficient distributions are made, E Limited will be required to pay a DPC on behalf of its resident members.

In this case, E Limited can request that the refund of £990 be offset against the DPC payable.

27.1 Credits for Distributions from Reserves

There is no legislative requirement to issue a voucher in respect of reserves that accrued before 6 April 2006 and which have been subject to tax at a rate of 14% or less (Sections 24.1 to 24.3 above refer).

In order for the shareholder to be able to claim the non refundable credit in their income tax assessment, the company must provide the shareholder with sufficient evidence that the distribution they are receiving is from reserves that have already been subject to income tax.

The evidence provided must include the following information:

- The gross amount of the distribution
- The tax year/s in which the profits were assessed
- The rate/s of tax applicable in the assessment
- The date the distribution was made

There is no specific form to evidence the tax credit, so a letter on company headed paper addressed to the shareholder, including all of the information above and signed by an officer of the company will be accepted.

Where distributions are made from reserves that have been taxed at different rates, the distribution should be split into its relevant parts for the purpose of evidencing the tax credit.

Example 50

Looking back at the company in the example above, when evidencing the tax credit applicable to the distribution of £25,000 made on 1 January 2010 the distribution should be separated as follows:

Gross Distribution	Tax Year Assessed	Rate of Tax	Date of Distribution
2025	00/01	14%	01/01/2010
10800	01/02	12%	01/01/2010
8500	02/03	10%	01/01/2010
6468	03/04	10%	01/01/2010

The company will also be required to provide a reconciliation of distributions made from taxed reserves so that the Assessor holds a record of distributions against the reserves.

These details can be provided with the annual income tax return form when the company provides details of distributions it has made from current year profit for DPC purposes.

28 Definitions

"Members" include shareholders, stockholders, members or associates. A person shall be treated as a member if there is any legal, equitable or contractual interest in the corporate taxpayer or in any share or stock of the corporate taxpayer (s12(7)).

"Interest" includes an interest that arises under a trust, or may in future arise under a trust as a result of the exercise of discretion by the trustees or other persons in accordance with the terms of the trust. Interest may also result from the effluxion of time or a change of residence (s12(8)).

"Contractual Interest" that is included in Section 12(7) should be interpreted in general terms. Notwithstanding, a contractual interest will exist where a member is entitled or permitted to vote in respect of any share or stock; or the exercise of rights of other person's interested in the corporate taxpayer or its shares or stock requires the first member's consent; or where other persons interested in the corporate taxpayer can be required or are accustomed to exercise their rights in accordance with the first member's instructions (s12(9)).

Contact Information

Address	The Treasury Income Tax Division Second Floor Government Office Buck's Road Douglas Isle of Man IM1 3TX	
Telephone	(01624) 685400	
Fax	(01624) 685351	
E-mail	incometax@itd.treasury.gov.im	
Website	www.gov.im/treasury/incometax	
Opening Hours	Monday to Thursday	9.15 am – 5.00 pm
	Friday	9.15 am – 4.30 pm

APPENDIX A : List of Distributing Companies

The following list shows the entities which will automatically be granted distributing company status per SD 218/06 and therefore will fall outside the DPC regime:

- Charitable, Religious and Crown companies
- Agricultural Societies
- Any Isle of Man Agricultural Marketing Society per S120(e) Income Tax Act 1970 (S120(e) is the "definitions" part of Income Tax Act 1970)
- Friendly Societies
- Boards and Local Authorities
- Approved Pension Funds
- Companies wholly owned by an individual who falls within the tax cap
- Licensed financial institutions.
- Companies limited by guarantee
 - Distributing company status will be granted in those cases where all company members are unable to benefit from distributions.
- Members Clubs and Associations
 - Distributing company status will be granted in those cases where all company members are unable to benefit from distributions.
- Companies listed on a recognised stock exchange
 - Distributing company status will be granted providing it is included on the list of recognised stock exchanges in Appendix B.
- Companies in "Start-Up"
 - Distributing company status will be met for the first 3 years of "new business".

"New business" is defined as any business where Treasury is satisfied that the business activity:

- is in the interests of the economy of the Island; and
- is likely to provide significant employment or other economic benefits to the Island.

Although not prescribed in regulation as distributing companies, the following companies will be outside the scope of DPC.

- A Manx resident company owned by a trust is outside the DPC regime if all the beneficiaries of the trust are not resident in the Isle of Man.
- A company wholly owned by non-residents is outside the scope of DPC due to the fact it has no Manx resident interest (s13(A)).

Appendix B: Recognised Stock Exchanges

The Athens Stock Exchange
The Australian Stock Exchange and any of its stock exchange subsidiaries
The Cayman Islands Stock Exchange
The Colombo Stock Exchange
The Copenhagen Stock Exchange
The Helsinki Stock Exchange
The Johannesburg Stock Exchange
The Korea Stock Exchange
The Kuala Lumpur Stock Exchange
The Mexico Stock Exchange
The New Zealand Stock Exchange
The Rio De Janeiro Stock Exchange
The Sao Paulo Stock Exchange
The Singapore Stock Exchange
The Stockholm Stock Exchange
The Stock Exchange of Thailand
The Swiss Stock Exchange
Austria
Belgium
Canada – Any stock exchange prescribed for the purpose of the Canadian Income Tax Act.
France
Germany
Guernsey
Hong Kong – Any stock exchange which is recognised under Section 2A (1) of the Hong Kong Companies Ordinance
Italy
Ireland (Republic of)
Japan
Luxembourg
Netherlands
Norway
Portugal
Spain
United Kingdom (Including the Alternative Investment Market (AIM))
USA - Any exchange registered with the Securities and Exchange Commission of the United States as a national securities exchange
USA - The NASDAQ Stock Market as maintained through the facilities of the National Association of Securities Dealers, Inc and its subsidiaries
The Iceland Stock Exchange

Appendix C: Distributable Profit Charge Credit Voucher

ISLE OF MAN DISTRIBUTABLE PROFITS CHARGE CREDIT VOUCHER				
Voucher Number:		Copy for Shareholder / Income Tax Division / Company (delete as appropriate)		
Company Name	<input type="text"/>	Tax reference number	<input type="text"/>	
Registered Office	<input type="text"/>			
Date Distribution Paid	<input type="text"/>	Accounting period from which distribution paid	<input type="text"/>	
Shareholder's Full Name	<input type="text"/> <small>Surname Forenames</small>		Manx Tax Reference Number (if known)	<input type="text"/>
Shareholder's Address	<input type="text"/>			
Gross Amount of Distribution	<input type="text"/>	Amount of DPC Credit	<input type="text"/>	Rates used in DPC credit calculation (P x R x A) <input type="text"/>
Signature of Company Representative	<input type="text"/>	Representative's Full Name (Block Capitals)	<input type="text"/>	
Office Held	<input type="text"/>	Date	<input type="text"/>	
PLEASE COMPLETE 3 COPIES OF THIS VOUCHER - SEND ONE COPY TO THE RECIPIENT, ONE COPY TO THE INCOME TAX DIVISION, AND RETAIN A COPY FOR COMPANY RECORDS.				

Appendix D – Summary of DPC Legislation

Current sections 12 to 13A of Income Tax Act 1970, which relate to undistributed profits of investment companies, are replaced by new sections 12 to 13 K.

Section 12 (1) to (17) – Purpose and application of 13 to 13K

The following is a summary of the main points within the subsections.

- (1) Makes general provision for DPC, the issue of credit vouchers and offset of DPC credit in member's assessment.
- (2) Applies legislation to ALL corporate taxpayers, and (3) specifically includes F companies.
- (5) Links DPC to the year of assessment of the company.
- (6) Defines what is meant by profits attributable to members.
(7), (8) provide for what is meant by "members" and "interest"
and (9)
- (10) Allows for "interest" to be traced through any number of entities.
- (11) Defines what a "distributing company" is, and is supported by subsections (12) and (13) as well as SD 218/06 - Income Tax (Distributable Profits Charge) (Distributing Company) Regulations 2006.
- (14) and (15) Cover the treatment of groups for DPC, and are supported by SD 220/06 – Income Tax (Distributable Profits Charge) (Groups) Regulations 2006.

Section 13 (1) to (7) – Distributable Profits Charge

The following is a summary of the main points within the subsections.

- (1) and (2) are the charging provisions for DPC, and specify profits attributable to resident members for a year of assessment.
- (3) Prescribes any member resident during the accounting period
- (4) Prescribes DPC is calculated and charged on the same accounts as the income tax assessment of the company.
- (5) States no DPC on a "distributing company"
- (6) and (7) Allow DPC to be charged if Assessor not satisfied company is a distributing company, and for DPC not affect liability to income tax.

Section 13A (1) to (9) – Calculation of Distributable Profits Charge

The following is a summary of the main points within the subsections.

- (1) Specifies minimum distribution of 55% for trading corporate taxpayer.
- (2) Specifies minimum distribution of 100% for non-trading corporate taxpayer.
- (3), (4) and (5) Allow treasury to make special provision for mixed income companies, and is supported by SD 221/06 – Income Tax (Distributable Profits Charge) (Mixed Income Companies) Regulations 2006
- (6) and (7) Prescribe for the apportionment of the charge when resident ownership changes during the year.
- (8) Prescribes the computation rules for “distributable profit”.
- (9) Gives Treasury the power to amend rates and percentages under S119 Income Tax Act 1970.

Section 13B (1) to (9) – Returns: Additional information

The following is a summary of the main points within the subsections.

- (1) Prescribes the information for DPC required on the return
- (2) to (9) Make provision for default DPC assessments where there is no return, or the return is incomplete.

Section 13C (1) to (6) – Distributable Profits Charge: Payment

The following is a summary of the main points within the subsections.

- (1) to (6) Covers the payment of DPC, prescribes the due and payable date for DPC as being the same as for income tax, prescribes that a statement of DOC should be issued, and applies sections 98A, 98B and 111A Income Tax Act 1970 to DPC.

Section 13D (1) to (4) – Companies: Undistributed Profit, special cases

The following is a summary of the main points within the subsections.

- (1) to (4) Give the Assessor powers to raise DPC where it appears that arrangements exist to make the company look like a distributing company, or for a member to look non-resident, when in fact they are not.

Section 13E (1) to (6) – Power to call for documents

The following is a summary of the main points within the subsections.

- (1) Gives the assessor power to call for documents from a CSP, or the company secretary, relating to interest of another person in the company and their residency status.
- (2) States that the person must be given reasonable opportunity to deliver the information before a request under (1) is made.
- (3) – (6) Prescribe what should be given with a notice, what form documents should take, and arrangements for when the person does not comply.

Section 13F (1) to (4) – power to call for information relating to beneficial ownership

The following is a summary of the main points within the subsections.

- (1) to (4) Contain powers to call for documents relating to beneficial ownership in order to determine can collect DPC.

Section 13G (1) to (3) – Falsification etc. of documents

The following is a summary of the main points within the subsections.

- (1) to (3) Prescribes offences for the falsification of documents requested under S13E.

Section 13H (1) to (6) – Distribution credit voucher

The following is a summary of the main points within the subsections.

- (1) and (2) Prescribe that a distribution credit voucher should be issued when a distribution is made, and that the contents of the voucher will be prescribed. (SD 222/06 – Income Tax (Distributable Profits Charge)(Credit Voucher) Regulations 2006)

Section 13I (1) to (2) – Value of a distribution credit voucher

The following is a summary of the main points within the subsections.

- (1) and Prescribes the formula for calculating the value of the credit to be
- (2) stated on the credit voucher.

Section 13J (1) to (2) – Voucher a credit against income tax

The following is a summary of the main points within the subsections.

- (1) and Prescribe the offset of the distribution credit in the member's
- (2) assessment, and that any excess is refundable.

Section 13K (1) to (3) - Appeals

The following is a summary of the main points within the subsections.

- (1) and Give the company the right of appeal to the commissioners against a
- (2) DPC in the same manner as an income tax assessment.

Appendix E – Summary of DPC Regulations and Orders

SD 218/06 – Income Tax (Distributable Profits Charge)(Distributing Company) Regulations 2006

55% distribution test for trading companies.

Averaging for trading companies

100% distribution test for non-trading companies.

Distributing Company Qualifying criteria for:

- Start-up
- Charitable, Religious and Crown companies
- Agricultural Societies
- Any Isle of Man Agricultural Marketing Society per S120(e) Income Tax Act 1970
- Friendly Societies
- Boards and Local Authorities
- Approved Pension Funds
- Licensed bank
- Company wholly owned by some subject to the tax cap
- Company limited by guarantee
- Member's club or association
- Company listed on recognised stock exchange

(Power to regulate in S12(12) and (13) Income Tax Act 1970)

219/06 - Income Tax (Distributable Profits Charge)(Calculation of Charge) Order 2006

DPC treatment of:

- Income subject to Manx tax at 10%
- Income subject to foreign tax at the higher rate (18%) or more

Income subject to foreign tax at less than the higher rate

(Power to order in S13A(8)(d) Income Tax Act 1970)

220/06 - Income Tax (Distributable Profits Charge)(Groups) Regulations 2006

Ability for group to nominate one company to account for the DPC for the whole group.

Confers mixed income company treatment onto nominated company where the group income is mixed.

(Power to regulate in S12(14) and (15) Income Tax Act 1970)

221/06 - Income Tax (Distributable Profits Charge)(Mixed Income Companies) Regulations 2006

Separate application of distribution test to trading and non trading income of a mixed income company.

Order of set off for distributions made from mixed income companies as being from:

- Income subject to 10% (if any) then,
- Non-trading income, then
- Trading income.

(Power to regulate in S13A(3) and (4) Income Tax Act 1970)

222/06 - Income Tax (Distributable Profits Charge)(Credit Voucher) Regulations 2006

Credit voucher to include:

- Name, registered office and tax reference of company
- Full name and address of recipient
- Tax reference (if known)
- Date of distribution
- Gross amount of distribution
- Value of attached DPC credit

(Power to regulate in S13H(5) Income Tax Act 1970)

Appendix F – Distributable Profits Computation (R179)

Period of Account to Tax Ref

Total Taxable Profit from all sources (Note 1) £

Add Back: Distributions (Note 2) £

Less: Profits subject to 10% Manx Tax £

Less: UK / Foreign **income** taxed at 18% or greater (Note 3) £

Less: **Tax** on UK / Foreign income at a rate of less than 18% (Note 4) £

Distributable Profit £ (box A)

Percentage of Resident shareholders % (box B)

Total Number of Shares

CALCULATION OF DISTRIBUTABLE PROFITS CHARGE:

Total DPC Payable (box A x "relevant rate" x 18% x box B) (Note 5) £

Notes:

1. Taxable profit is the profit after all adjustments required for tax purposes including capital allowances, loss relief, group relief and dividends paid.
2. Where a distribution has been paid in the current year and has been deducted from the taxable profit it should be added back as it is not allowable within the calculation of the distributable profits charge.
3. Income subject to foreign tax at a rate that is equal to or greater than 18% does not form part of the "distributable profits" of a company.
4. Income subject to foreign tax at a rate that is less than 18% does form part of the company's "distributable profits", however the amount of foreign tax that has been suffered on the income can be deducted when computing the "distributable profit".
5. The relevant rate for a trading profit is 55% and for a non-trading profit 100%. If the company has investment income that is not arising from the working capital of the business the calculation should be split between the trading and investment amounts. This situation is dealt with in more detail in the DPC Guide.