



INCOME TAX ACT 1970

**INCOME TAX (DISTRIBUTABLE PROFITS CHARGE)
(GROUPS) REGULATIONS 2006**

Approved by Tynwald 12th July 2006

Coming into operation on in accordance with article 1(2)

In exercise of the powers conferred on the Treasury by section 12(14) and (15) of the Income Tax Act 1970^(a), and of all other enabling powers, the following Regulations are hereby made:-

Citation, commencement and application

1. (1) These Regulations may be cited as the Income Tax (Distributable Profits Charge) (Groups) Regulations 2006.
- (2) These Regulations shall come into operation on the date they are approved by Tynwald and shall have effect in respect of the income tax year commencing 6th April 2006 and subsequent years.
- (3) Section 13 to 13K of the Act shall apply and operate in respect of companies that are members of a group of companies in accordance with these regulations and those sections are modified accordingly.

Interpretation

2. In this Order-

“the Act” means the Income Tax Act 1970;

“distributing company” is defined in accordance with section 12(11) of the Act;

“distributable profits charge” is defined in accordance with section 13(1) of the Act;

“distributable profit” is determined in accordance with section 13A(8) of the Act;

“corporate taxpayer” is defined in accordance with section 120 of the Act;

(a) Vol XXI p.260, section 12 substituted by section 5 Income Tax (Amendment) Act 2006

“group” means a group of companies that would qualify for “group relief” in accordance with Schedule 2 to the Income Tax Act 1980^(b);

“trading corporate taxpayer” means a corporate taxpayer whose business consists wholly or mainly of the carrying on of a trade or trades;

“trading group” is a group consisting wholly of trading corporate taxpayers.

Groups – Company Accounting for the Charge

4. Where a group of companies are required to account for the Distributable Profits Charge the group shall designate one company within the group, which may or may not be the holding company, to account for the charge in respect of the whole group.
5. (1) Where a company has been designated in accordance with regulation 4, that company shall be required to compute the Distributable Profits Charge for the whole group as if the group were a single corporate taxpayer.

(2) The distributable profits of each group member shall be aggregated, as will all of the distributions by group member to persons who are outside the group.
6. If the aggregate distributions out of a trading group exceed 55% of the aggregate distributable profits of that group, or, in the case of a non-trading group, equals 100% of the aggregate distributable profit then the designated company shall be treated as a distributing company and shall not have to account for the charge.
7. If the aggregate distributions out of a trading group are less than 55% of the aggregate distributable profits of that group, or, in the case of a non-trading group, less than 100% of the aggregate distributable profit then the designated company shall be treated as a non distributing company and shall have to account for the charge.

Trading, non-trading and mixed income companies within a group

8. Where all members of the group are trading corporate taxpayers and the designated company is a non-distributing company that company shall, on behalf of the group, account for the Distributable Profits Charge in accordance with section 13A(1) of the Act as if the group were a single corporate taxpayer.
9. Where all members of the group are non-trading corporate taxpayers and the designated company is a non-distributing company that company shall, on behalf of the group, account for the Distributable Profits Charge in accordance with section 13A(2) of the Act as if the group were a single corporate taxpayer.
10. Where at least one member of the group is in receipt of income from both trading and non-trading sources or where at least one member of a group is in receipt of trading income and another is in receipt of non-trading income, the designated company will be treated as a “mixed income company” and shall account for the charge in accordance with the Income Tax (Distributable Profits Charge) (Mixed Income Companies) Regulations 2006^(c).

^(b) 1980 C.16

^(c) SD 221/06

11. When deciding whether a group is a trading group the Assessor may determine that a holding company that does not actually carry on a trade shall be treated as being a trading corporate taxpayer.

Additional Information

12. (1) A company designated for the purpose of these Regulations shall provide the additional information required by section 13B of the Act in respect of the whole group as if the group were a single corporate taxpayer.
- (2) Notwithstanding the forgoing regulations, when making an assessment under section 13B(3)(a) the Assessor may assess the group members individually if it appears necessary for the protection of the Revenue.

Made this 12th day of July 2006


Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations provide clarification of the distributable profits charge for groups of companies. A group of companies will be treated as though it is a single company for the computation of the distributable profits charge