

Tax E-News

Welcome to our latest monthly tax newswire. We hope you enjoy reading this newsletter and find it useful. Contact us if you wish to discuss any issues further.

January 2019



Close Company Surcharge on Certain Undistributed Income

Section 440 of the Taxes Consolidation Act 1997 provides for an additional charge of corporation tax on close companies at the rate of 20 per cent of the excess of the aggregate of the distributable investment income and the distributable estate income over the distributions made for an accounting period.

A close company is defined as a company under the control of 5 or fewer participators or under the control of participators who are directors. Some companies are excluded from this definition such as:

1. a non-resident company,
2. a registered industrial and provident society,
3. a building society within the meaning of the Building Societies Acts, 1874 to 1989,
4. a company controlled by or on behalf of the State,
5. a company controlled by or on behalf of a Member State of the European Communities or the government of a territory with which Ireland has a tax treaty, and

6. certain companies with quoted shares.

Exemptions to the surcharge

There is no surcharge where the excess is €2,000 or less and marginal relief is provided where the excess is slightly more. Where a company has associated companies, the €2,000 limit is divided by the number of associated companies, including the company itself. An associated company must be included for the purposes of the surcharge even if it was an associated company for part only of the accounting period concerned.

The amount on which the surcharge is made cannot exceed the accumulated undistributed income at the end of the accounting period after taking account of any transfer to capital reserves or bonus issues or any other transaction occurring on or after 27 November 1975 which would have the effect of artificially reducing such accumulated income. Where a company is subject to any restriction imposed by law as regards the making of distributions, regard shall be had to this restriction in determining the amount of income on which a surcharge shall be imposed under section 440.

The Loss of Reliefs for the Late Submission and Incomplete Return of Corporation Tax Returns

Under Section 1085 of the Taxes Consolidation Act 1997 claims to a number of reliefs are restricted where tax returns are submitted late. The amount of the restriction is calculated by reference to the whether the return is late by more than 2 months or less. The restriction is computed as a percentage of the relief that would otherwise be available subject to a maximum restriction depending on the length of the delay in filing. If the return is filed less than 2 months late the restriction for the chargeable period is €31,740. If the return is filed more than 2 months late the restriction is €158,715 for the chargeable period. The reliefs which are subject to these restrictions are as follows:

1. Excess capital allowances
2. Loss relief: sections 396(2); 396A(3); 396B(2) and 399(2) of the TCA 1997
3. Group relief claims
4. Group relief: surrender of "losses": sections 420; 420A(3) and 420B of the TCA 1997

If a company has a liability to a close company surcharge or income tax due on loans to participators/annual payments these must be included on the Form CT1. If the Form CT1 return does not include these the Form CT1 will be deemed incomplete. An incomplete Form CT1 may be subject to interest and a surcharge under section 1084 on the basis that the company failed to submit a correct return.

KEY FILING DATES - JANUARY 2019

TAX HEAD	RETURN	PERIOD	PAYMENT & FILING DATE
Dividend Withholding Tax	DWT	December 2018	14 th January 2019
Professional Services Withholding Tax (PSWT)	F30	December 2018	14 th January 2019
PAYE/PRSI/USC/LPT	P30 Monthly Return	December 2018	23 rd January 2019
VAT	Monthly VAT 3 & Return of Trading Details	December 2018	23 rd January 2019
VAT	Bi-Monthly VAT 3 & Return of Trading Details	November - December 2018	23 rd January 2019
VAT	Bi-Annual VAT 3 & Return of Trading Details	July - December 2018	23 rd January 2019
VAT	Annual VAT 3 & Return of Trading Details	January 2018 - December 2018	23 rd January 2019
Corporation Tax	Preliminary tax	Accounting periods ending between 1 st - 28 th February 2019	23 rd January 2019
Corporation Tax	Corporation Tax Return (Form CT1)	Accounting periods ending between 1 st - 30 th April 2018	23 rd January 2019
Relevant Contracts Tax (RCT)	RCT Monthly Return	December 2018	23 rd January 2019
Corporation Tax	Returns of Third Party Information (Form 46G)	Accounting periods ending between 1 st - 30 th April 2018	31 st January 2019

Please contact a member of our team if you would like to discuss any of the issues raised.

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