

Subsidiary Legislation made under s.60(2).

## **Income Tax (Dividend Tax Credit) Regulations 2018**

**LN.2018/119**

*Commencement*

**24.5.2018<sup>1</sup>**

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<sup>1</sup> For accounting periods ending on or after 1 January 2018

**2010-21**

**Income Tax**

**2018/119**

**Income Tax (Dividend Tax Credit) Regulations 2018**

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*In exercise of the powers conferred on him by section 60(2) of the Income Tax Act 2010, and all other enabling powers, the Minister has made the following Regulations-*

**Short title.**

1. These Regulations may be cited as the Income Tax (Dividend Tax Credit) Regulations 2018.

**Commencement.**

2. These Regulations come into operation on the day of publication for accounting periods ending on or after 1 January 2018.

**Interpretation.**

3. In these Regulations -

“non-taxed profit” means the distributable profits of an accounting period that have been derived from profits not chargeable to tax in accordance with the provisions of the Income Tax Act 2010 and are determined by identifying the aggregate income sources of a company in that accounting period that have not been chargeable to tax under Income Tax Act 2010 less any attributable costs.

“taxed profit” means the distributable profits of an accounting period that have been derived from profits chargeable to tax in accordance with the provisions of the Income Tax Act 2010 and are determined by taking the total accounting profit in any accounting period less the total non-taxed profits.

**Tax credit on dividends**

4. The tax credit attributable to a dividend payable shall be determined by reference to the actual amount of tax paid on that part of the dividend payable which is derived from taxed profits and shall be calculated in accordance with the provisions of these regulations and the Income Tax Act 2010.

5. Accounting periods shall be grouped by reference to the applicable tax rate. Profits and gains after taxation for each accounting period shall be analysed in the first instance between distributable and non-distributable profits and gains. The distributable profits and gains shall thereafter be analysed between taxed profits and non-taxed profits together with the corporation tax paid or payable.

6. The profits or gains for an accounting period, grouped in accordance with regulation 5, shall be the total profit or gains for that accounting period inclusive of any dividend income,

notwithstanding that the tax credit attributable to the dividend income has been calculated on the basis of a tax rate which is or are different to the tax rate applicable to the group to which the profits or gains have been allocated.

7. Any dividends received or receivable by a company included in the profits or gains for an accounting period shall, for the purposes of regulation 5 above, be allocated between taxed profits and non-taxed profits in accordance with the particulars provided under section 59A of the Income Tax Act 2010 in respect of such dividends and any tax credit attributable to the dividends received shall be classified as corporation tax paid or payable.

8. Dividends payable shall, in the first instance be deemed to have been paid out of the aggregate balances, net of any dividends previously paid or deemed to have been paid, of the earliest group in respect of which taxed profits and/or non-taxed profits are available. Any shortfall shall be deemed to have been paid out of the aggregate balance of the profits of the next group.

9. Where the aggregate available taxed profits for any group represents a loss that exceeds the available non-taxed profits for that group, the loss, balance of non-taxed profits and any balance of tax paid or payable shall be carried forward to the next group, if, as a consequence of a change in the corporate tax rate such a next group has to be created.

10. Where the aggregate available taxed profits for any group represents a loss that is less than the available non-taxed profits for that group, the loss together with an equivalent amount of the available balance of non-taxed profits and any balance of tax paid or payable shall be carried forward to the next group, if, as a consequence of a change in the corporate tax rate such a next group has to be created.

11. If more than one dividend is paid or becomes payable in any accounting period, the provisions of these regulations shall apply to each of the dividends in the order of the date on which each was paid or payable.

12. Any negative balance in respect of tax paid for any group shall be carried forward to the next group if as a consequence of a change in the corporate tax rate such a group has to be created.

13. Consequent to any change in the corporate tax rate a new group shall be created notwithstanding that the new tax rate is the same as that of a prior year.

14. For the purposes of the calculation of a tax credit under these regulations, any foreign currency amounts shall be converted to pounds sterling at the exchange rate prevailing at the end of the accounting period in which the dividend was declared.

15. For the purpose of these regulations, the profits or gains for an accounting period that has borne tax at the small company rate of 20% shall be grouped by reference to the tax that would have been applicable if the company had not been entitled to the small company rate.

16. The gross amount of any dividends received in prior years which have been subject to deduction of tax at source shall be allocated to taxable income.

**Transitional provisions**

17.

- (a) For the first dividend payable in an accounting period ending on or after 1 January 2018 a company shall compute its opening position by applying regulations 5 and 6 to the balance of accumulated profits that remain at the end of the last accounting period before 1 January 2018 after the deduction of any dividends paid or payable up to that date in accordance with the relevant legislation that applied at the time.
- (b) any resultant balance from paragraph (a) that represents a loss shall be dealt with in accordance with regulations 9 or 10 as the case may be;
- (c) the grouping of any positive balances of tax paid available as at the end of the latest accounting period ending prior to 1 January 2018 in accordance with paragraph (a) above shall be on the basis that any tax paid which has been utilised on the payment of any dividends prior to this date, whether by way of tax credit or otherwise, will have been so utilised on a first paid first utilised basis.
- (d) any negative balance in respect of tax paid shall be carried forward to the next group thereby reducing the aggregate tax paid balance for that next group.