

Double Taxation Relief

Underlying Tax

Inland Revenue Draft Guidance

Consolidated Basis

1. Section 803A applies where a foreign jurisdiction operates a consolidated basis for taxation of companies. The section treats the foreign companies whose profits are included in the foreign jurisdiction's consolidated tax calculation as a single entity for the purpose of calculating underlying tax on a dividend paid by one of them. This is inconsistent with the basis for CFC taxation by apportionment, which applies solely by reference to the CFC itself.
2. To ensure consistency between apportionments and the taxation of dividends that are included in an acceptable distribution policy (ADP), the section 803A single entity approach will not apply in respect of a dividend paid by a company if that company is a CFC claiming ADP exemption (referred to as an ADP CFC).

Tax Deductions for Dividends

3. In some situations a foreign jurisdiction may give a tax deduction in respect of the payment of a dividend. Where this applies and the dividend receipt is taxed in the UK, the deduction means that there is no double taxation of the profits included in the dividend. So underlying tax relief should not be given.
4. Therefore, underlying tax relief will be denied in any case where a dividend is paid by a person in a foreign jurisdiction and a tax deduction is given to any person in that jurisdiction calculated by reference to the amount of the dividend.

Commencement

5. Both of these changes apply to dividends paid on or after 16 March 2005