**INTM489825 - CHART 5: Calculation of Taxable Diverted Profits in Section 80 or 81 case (Sections 82, 83, 84 & 85)**

NO

Does the ‘material provision’ result in expenses of the relevant company for which (ignoring Part 4 TIOPA10) a deduction would be allowable in computing the liability for corporation tax (section 80 case) or its chargeable profits attributable to UKPE (section 81 case)?

‘**Relevant alternative provision**’ = the alternative provision that it is just & reasonable to assume would have been made between the relevant company and one or more companies connected with that company, instead of the material provision, had tax (including any non-UK tax) on income not been a relevant consideration for any person at any time. Section 82(5)

‘**Diverted profits**’ = an amount in respect of which company is chargeable to corporation tax by reason of Part 4 TIOPA10 and which, where section 81 applies, is attributable to UKPE (sections 20 to 32 CTA09)

‘**Relevant taxable income’**= income of the company for the period which would have resulted from the relevant alternative provision and regarding which the company would have been chargeable to corporation tax *LESS* the total amount of expenses which is just & reasonable to assume would have been incurred and allowable for the company for the period.

Would the ‘relevant alternative provision’ have resulted in allowable expenses of the relevant company of the same type and for the same purposes (whether or not payable to the same person) as so much of the expenses per the ‘material provision’ as results in the effective tax mismatch per section 80(1)(d) ***[Chart*** ***3]***

No taxable diverted profits arise to the company for that period

The taxable diverted profits for the accounting period in relation to the material provision are the amount (if any)-

1. In respect of which company is chargeable to corporation tax under Part 4 TIOPA10;
2. Which, in a section 81 case, is attributable to UKPE;
3. Which is not taken into account in an assessment to corporation tax included in company’s tax return before end of review period for the accounting period.

**Section 84(2)**

The ‘actual provision condition’ is NOT met

**Section 85**

See ***Chart 5A***

Would the ‘relevant alternative provision’ have resulted in relevant taxable income of a connected company for that company’s corresponding accounting period?

The ‘actual provision condition’ is met.

**Section 83**: are there either:

1. No diverted profits of the company for the accounting period, or
2. Has the full transfer pricing adjustment been made?

NO

YES

YES

YES

YES

NO

NO