

## **Chapter 1: Accounting periods**

### **Overview**

1. This Chapter gives the definition of accounting period. It is based on section 12 of ICTA. The accounting period is a basic building block of corporation tax. Corporation tax is charged by reference to accounting periods. For nearly all established UK resident companies the accounting period coincides with the 12 month period for which it makes up its accounts. Most of the Chapter is taken up with rules explaining what happens outside the usual case.

2. The Chapter does not rewrite section 12(8) of ICTA. It is an administrative provision that deals with the validity of assessments. We are considering where to rewrite this subsection.

3. Neither does the Chapter rewrite section 12(9) of ICTA. That subsection merely draws attention to Schedule 10 of FA 2006. That Schedule deals with the sale of lessor companies. Paragraph 3 of the Schedule provides that an accounting period shall end and a new one begin in certain circumstances. There are a number of other special regimes that include similar rules. See, for example, paragraph 52 of Schedule 22 to FA 2000 (tonnage tax). These provisions are covered by clause 1(4).

### **Clause 1: Beginning of accounting period**

4. This clause identifies when an accounting period begins. It is based on section 12(2) and (6) of ICTA.

5. *Subsection (1)(a)* deals with the case in which a company first comes within the charge to corporation tax. The meaning of the phrase “within the charge to corporation tax” was considered in Walker v Centaur Clothes Group Ltd (2000) 72 TC 379 (HL)<sup>1</sup>. At page 417 Lord Hoffman says:

Likewise, a company is within the charge to corporation tax if it is or would be liable to pay corporation tax on a source of income within the charge or it has income which is chargeable irrespective of source or it has realised chargeable gains or allowable losses or because some other event has occurred which creates a liability to pay that tax.

6. The “other event” may be the company becoming resident in the United Kingdom. The particular case of chargeable gains and losses is dealt with in subsection (3).

7. *Subsection (1)(b)* deals with the usual case of a company that is already within the charge to corporation tax. A new accounting period begins when the previous accounting period ends.

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<sup>1</sup> STC [2002] 324

8. *Subsection (2)* treats the company as coming within the charge to corporation tax, for example, if it starts to carry on investment business in respect of which it would not otherwise be within the charge to corporation tax.

9. *Subsection (3)* applies to a company, probably a dormant company, that has no business or source of income within the charge to corporation tax. The subsection deems an accounting period to start if the company accrues a chargeable gain or loss on the disposal of an asset. The subsection makes clear that the gain or loss falls within the accounting period that is deemed to start when the gain or loss accrues.

## **Clause 2: End of accounting period**

10. This clause identifies the end of an accounting period. It is based on section 12(3) of ICTA.

11. The starting point for the clause to apply is that the company has an existing accounting period. The occurrence of any one of the listed examples brings that accounting period to an end. In many cases clause 1(1)(b) then applies to start a new accounting period.

12. *Subsection (1)(a)* sets the overriding limit that an accounting period can last no longer than 12 months. The other paragraphs of subsection (1) identify cases under which an accounting period ends at an earlier date.

13. *Subsection (1)(b)* ends the accounting period at the company's accounting date. In most cases this coincides with the 12 month limit in subsection (1)(a). "Accounting date" is defined in section 834(1) of ICTA as "the date to which a company makes up its accounts".

14. *Subsection (1)(c)* applies if the company has an accounting period for which it does not prepare accounts. That accounting period ends immediately before the period for which it starts to prepare accounts.

15. *Subsections (1)(d)* and *(e)* are complementary. They end an accounting period when a company starts or stops trading. This provision is needed to deal with the trade loss rules in sections 393 and 393A of ICTA. Those sections operate by reference to the loss arising in an accounting period. It is uncommon for a company to carry on more than one trade but if it does the rules operate by reference to all the trades the company carries on.

16. For example, if a company carries on one trade and starts to carry on another the commencement of the new trade does not signal the end of the existing accounting period. Similarly if it stops to carry on one of a number of trades the existing accounting period does not end.

17. *Subsection (1)(f)* applies if a company with an existing accounting period comes within the charge to corporation tax in respect of a trade it is carrying on. It

would apply, for example, if a company trading on a mutual basis started to trade on a non-mutual basis.

18. *Subsections (1)(g)* applies if a company within the charge to corporation tax in respect of a trade it carries on ceases to be within the charge in respect of that trade. It would apply, for example, if a non-resident company carries on a trade in the United Kingdom. The company is within the charge to corporation tax only if the trade is carried through a permanent establishment. The accounting period that exists in relation to that trade ends if the trade ceases to be carried on through a permanent establishment.

19. *Subsection (1)(h)* applies if a non-resident company carrying on a trade in the United Kingdom through a permanent establishment becomes resident in the United Kingdom. The accounting period that exists in relation to the trade ends. Clause 1(1)(a) applies to start a new accounting period.

20. *Subsection (1)(i)* ends an accounting period if a company becomes non-resident. Such a company remains within the charge to corporation tax only if it carries on a trade in the United Kingdom through a permanent establishment.

21. *Subsection (1)(j)* ends an accounting period if the company ceases to be within the charge to corporation tax. This means there is some measure of overlap with subsection (1)(i) and both rules may apply. But subsection (1)(j) is wider. A United Kingdom resident will cease to be within the charge to corporation tax when it no longer has any sources liable to corporation tax.

### **Clause 3: Companies with more than one accounting date**

22. This clause allows a company carrying on more than one trade to nominate the accounting date which marks the end of the accounting period. It is based on section 12(5) of ICTA.

23. The clause is most likely to apply to a non-resident company carrying on more than one trade in the United Kingdom through a branch or agency. If a UK resident company carries on more than one trade it prepares a single set of accounts to cover all the company's activities. A non-resident company may not be subject to these regulatory requirements. Without this clause an accounting period would end at each separate accounting date.

24. The company is allowed to choose which accounting date is used for the purposes of the test in clause 2(2)(b). This choice is subject to review by HMRC. In the source legislation this power is exercised by the Commissioners of HMRC. In practice it is exercised by an officer and the rewrite reflects that. See *Change 1* in Annex 1.

**Q1. We welcome comments on the proposal to change the reference to Commissioners of HMRC in section 12(5A) of ICTA to an officer of Revenue and Customs.**

**Clause 4: Companies being wound up**

25. This clause identifies the beginning and end of an accounting period if a company is wound up. It is based on section 12(7) of ICTA.

**Clause 5: Companies in administration**

26. This clause identifies the beginning and end of an accounting period if a company goes into administration. It is based on section 12(7ZA) of ICTA.

27. There is no equivalent to clause 4(4) in this clause. If a company is being wound up its accounting periods end either 12 months after they begin or when the winding up is completed. In the case of a company in administration clause 5(3) ends an accounting period if the company ceases to be in administration. Otherwise there are no special rules about the end of an accounting period. So the accounting period ends whenever any of the events listed in clause 2 occurs.

**Clause 6: Trade includes office**

28. This clause provides that references to a trade in this Chapter are to be read as applying also to an office. It is based on section 6(4) of ICTA.

## **Annex 1**

### **Change 1: References to “officer of Revenue and Customs”: clause 3**

This change replaces references to the “Board of Inland Revenue” in the source legislation with references to “an officer of Revenue and Customs”.

It brings the income and corporation tax codes back into line.

References in the source legislation to the “Board of Inland Revenue” are treated by section 50(1) of the Commissioners for Revenue and Customs Act 2005 (CRCA) as references to “the Commissioners for Her Majesty’s Revenue and Customs”. The rest of this note accordingly refers to the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) rather than to the Board of Inland Revenue.

The provisions affected by this change will in future authorise or require things to be done by or in relation to an officer of Revenue and Customs rather than by or in relation to the Commissioners. This reflects the way in which HMRC are organised and operate in practice. Section 13 of CRCA allows nearly all functions conferred on the Commissioners to be exercised by any officer. All of the functions affected by this change, which are in the main concerned with administrative processes, are in fact exercised by officers of the Commissioners, and the Commissioners themselves are not personally involved in their exercise.

Each provision affected by the conversion of references to the Commissioners will be identified in the Table of Origins by a cross-reference to this change. (This change is of general application and will apply to a number of other clauses [not in this print].)

***This change has no implications for the amount of tax due, who pays it or when. It affects (in principle and in practice) only administrative matters.***