

Distributions out of certain exempt profits or gains or out of certain relieved income

Part 06-04-02

This document should be read in conjunction with sections 140, 141, 142, 144 Taxes
Consolidation Act 1997

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Note

Exemption of profits for stallion fees and stud greyhound fees as provided by section 231 Taxes Consolidation Act (TCA) 1997 and section 233 TCA 1997, respectively, no longer apply.

This is also the case for distributions out of income from patent royalties which were previously disregarded under the provisions of s234.

So much of any distribution as is out of certain exempted income in the hands of **another company**, is to be treated as being itself income from an exempt source by virtue of the following provisions of the TCA 1997:

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| Section 144(2) | - Distributions out of income from exempted trading operations at Shannon Airport. |
| Section 142(2) | - distributions out of certain exempted mining operations: |
| Section 140(3)(a) | distributions out of certain exempted profits from: |
| (i) | stallion fees |
| (ii) | the occupation of woodlands; or |
| (iii) | stud greyhound service fees |
| Section 141 | distributions out of certain disregarded income from patent royalties. |

Where a **distribution** for an accounting period is made in part out of **exempted income** [or disregarded income or exempted trading operations] and in part out of other profits, it is to be treated as two distributions, one out of the exempted income [or disregarded income or exempted trading operations] and the other out of other profits (sections 144(2), 142(3), 140(2) and 141(2) TCA 1997).

Where a company makes a distribution for an accounting period, then, subject to an **election** under section 154(1), the distribution is to be regarded for the purposes of sections 140, 141, 142 and 144, TCA 1997, as having been made out of the **distributable income** (para. 4 of Tax Instruction 06-4-06) of that period as far as possible, any excess being regarded as made out of the most recently accumulated income (sections 140(7), 141(9), 142(6), and 144(7) TCA 1997).

For the purposes of sections 140 and 144, TCA 1997, “other profits” includes a dividend or other distribution of a resident company other than a distribution which is treated as being itself income from exempted trading operations (under section 144(3)(a), TCA 1997) or from exempt profits of the company (under section 140(3)(a)(i), TCA 1997) (sections 144(1) and 140 (1), TCA 1997).

Other points

- In applying sections 140, 141, 142 and 144 TCA 1997, any claim that a distribution, which is to be treated as two distributions, should be regarded as paid primarily out of **exempt** income only, any excess of the total distributions over the exempt income (being regarded as a separate distribution out of liable income), should be accepted.
- Sections 140(3)(a) and 142(2) TCA 1997 are subject to the outbound payments defensive measures contained in Chapter 5 of Part 33 of the TCA 1997 (introduced by Finance (No.2) Act 2023)¹.

¹ For information on the outbound payments defensive measures, refer to Tax and Duty Manual [Part 33-05-01](#).