

Temporary measures in relation to close company surcharges

Section 440 of the Taxes Consolidation Act 1997 (TCA) provides for an additional charge to corporation tax on close companies. This surcharge is 20 per cent of the excess of the sum of the distributable investment income and the distributable estate income of an accounting period over the distributions made for that period. Separately, section 441 TCA provides for a 15 per cent surcharge on certain undistributed income of close service companies.

The Covid-19 circumstances may require many companies to retain cash in order to support their business: Companies may decide not to make distributions at this time.

The surcharges apply to income of close companies that is not distributed within 18 months from the end of the accounting period in which the income arose. In cases where a distribution is not made within that time *in response to Covid-19 circumstances affecting the company*, Revenue will, on application, extend the 18-month period for distributions by a further 9 months. This further time will enable the company to be better-informed, in relation to the impact of the current circumstances, before making a distribution.

This will apply for accounting periods ending from 30 September 2018 onwards, for which distributions to avoid the surcharge would be due by 31 March 2020 onwards.

For example, for an accounting period ended 31 December 2018, a company is required to make a distribution by 30 June 2020. However, on application by the company, Revenue will allow the distribution to be made by 31 March 2021. Where the application has been made and a distribution is not made by 30 June 2020, boxes 13.2 and 13.3 on the CT1 Return for the accounting period ended 31 December 2019 will not require completion.

If a distribution, which *can* be made at that time, is not made by the end of the 9-month extension – in the example above by 31 March 2021 – the resulting surcharge will be included in the corporation tax liability for the 12-month accounting period following the surcharged accounting period – in the example, the corporation tax for the year ended 31 December 2019. It should be noted that in such cases interest will apply to the late payment of the surcharge.

Revenue may, after the end of the relevant 9-month extension period, review the facts in relation to an applicant to establish the impact of Covid-19 circumstances on the company concerned. Accordingly, a contemporaneous record should be kept of the circumstances in which the application to delay making a distribution was made.

Applications should be made through MyEnquiries setting out the facts and circumstances that support the extension of the 18-month period.

To ensure timely processing of requests, they should be tagged appropriately within MyEnquiries:

enquiry relates to: 'Corporation Tax'

more specifically: 'Other Corporation Tax Query'.