

## **[06.07.01] Franked Investment Income [Section 156 TCA 1997]**

### **Background**

A distribution received from a company resident in the State is income for the purposes of income tax. Where a distribution goes to an individual beneficially entitled to it the normal consequences follow. If the individual is resident in the State, the amount treated as income of the individual is the amount or value of the distribution. Where the recipient is a company resident in the State, the company is not chargeable to income tax or corporation tax in respect of the distribution, but the distribution forms part of the **franked investment income** of the company.

Where the recipient is a company not resident in the State, the distribution is not within the charge to corporation tax. Distributions from companies resident in the State are specifically excluded from the charge to corporation tax on the trading income of non-resident companies by section 25(2)(a), TCA1997.

Franked investment income is not within the charge to corporation tax, and companies resident in the State are not within the charge to income tax in respect of any such income.

### **Summary Section 156**

This section defines franked investment income and franked payments. Franked investment income consists of the amount or value of a distribution which is received by an Irish resident company from another resident company. When an Irish resident company makes a distribution, the amount or value of the distribution is known as a franked payment.

[Note that in the case of franked investment income received prior to 6<sup>th</sup> April 1999 it was possible for a company to set off certain losses against such income for the purpose of claiming payment of the related tax credits.]

### **Franked Investment Income & the close company surcharge**

Whilst franked investment income is liable to the **close company surcharge** imposed by Section 440 TCA 1997, Section 434(3A) TCA allows a close company paying a dividend and its close company recipient to jointly elect that the dividend is not to be treated, for the purposes of Section 440, as a distribution. The effect of making the election is that for the purposes of the definition of 'estate and investment income' the dividend will not be regarded as franked investment income, thus removing the close company surcharge liability thereon.