



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

PART 7

TAX TREATMENT OF FINANCING COSTS AND INCOME

CHAPTER 4

EXEMPTION OF FINANCING INCOME

286 Application of Chapter and meaning of “total disallowed amount”

- (1) This Chapter applies if, for a period of account of the worldwide group to which this Part applies (“the relevant period of account”)—
 - (a) the tested expense amount (see Chapter 8), exceeds
 - (b) the available amount (see Chapter 9).
- (2) In this Chapter the “total disallowed amount” means the difference between the amounts mentioned in paragraphs (a) and (b) of subsection (1).

287 Meaning of “company to which this Chapter applies”

References in this Chapter to a company to which this Chapter applies are to a company that is a UK group company at any time during the relevant period of account.

288 Appointment of authorised company for relevant period of account

- (1) The companies to which this Chapter applies may appoint one of their number to exercise functions conferred under this Chapter on the reporting body in relation to the relevant period of account.

Status: This is the original version (as it was originally enacted).

- (2) An appointment under this section is of no effect unless it is signed on behalf of each company to which this Chapter applies by the appropriate person.
- (3) The Commissioners may by regulations make further provision about an appointment under this section including, in particular, provision—
- (a) about the form and manner in which an appointment may be made or revoked,
 - (b) requiring a person to notify HMRC of the making or revocation of an appointment and about the form and manner of such notification,
 - (c) requiring a person to give information to HMRC in connection with the making or revocation of an appointment,
 - (d) imposing time limits in relation to making or revoking an appointment,
 - (e) that an appointment or its revocation is of no effect, or ceases to have effect, if time limits or other requirements under the regulations are not met, and
 - (f) about cases where a company does not meet condition A in section 345, or is not a member of the worldwide group, at all times during the relevant period of account.
- (4) In this section “the appropriate person”, in relation to a company, means—
- (a) the proper officer of the company, or
 - (b) such other person as may for the time being have the express, implied or apparent authority of the company to act on its behalf for the purposes of this Part.
- (5) Subsections (3) and (4) of section 108 of TMA 1970 (responsibility of company officers: meaning of “proper officer”) apply for the purposes of this section as they apply for the purposes of that section.

289 Meaning of “the reporting body”

In this Chapter “the reporting body” means—

- (a) if an appointment under section 288 has effect in relation to the relevant period of account, the company appointed under that section, and
- (b) if such an appointment does not have effect in relation to the relevant period of account, the companies to which this Chapter applies, acting jointly.

290 Statement of allocated exemptions: submission

- (1) The reporting body must submit a statement (a “statement of allocated exemptions”) in relation to the relevant period of account to HMRC.
- (2) A statement submitted under this section must be received by HMRC within 12 months of the end of the relevant period of account.
- (3) A statement submitted under this section must comply with the requirements of section 292.

291 Statement of allocated exemptions: submission of revised statement

- (1) If the reporting body has submitted a statement of allocated exemptions under section 290 or this section, it may submit a revised statement to HMRC.

- (2) A statement submitted under this section must be received by HMRC within 36 months of the end of the relevant period of account.
- (3) A statement submitted under this section must comply with the requirements of section 292.
- (4) A statement submitted under this section—
 - (a) must indicate the respects in which it differs from the previous statement, and
 - (b) supersedes the previous statement.

292 Statement of allocated exemptions: requirements

- (1) This section applies in relation to a statement of allocated exemptions submitted under section 290 or 291.
- (2) The statement must be signed—
 - (a) if an appointment under section 288 has effect in relation to the relevant period of account, by the appropriate person in relation to the company appointed under that section, or
 - (b) if such an appointment does not have effect in relation to the relevant period of account, by the appropriate person in relation to each company to which this Chapter applies.
- (3) The statement must show—
 - (a) the tested expense amount,
 - (b) the available amount, and
 - (c) the total disallowed amount.
- (4) The statement must—
 - (a) list one or more companies to which this Chapter applies, and
 - (b) in relation to each listed company, specify one or more financing income amounts for the relevant period of account that are to be exempted, and give the relevant details in relation to each such amount.
- (5) For this purpose “the relevant details” in relation to a financing income amount are—
 - (a) which of conditions A, B and C in section 314 is met in relation to the amount, and
 - (b) the relevant accounting period of the company in which the amount would, apart from this Part, be brought into account for the purposes of corporation tax.
- (6) The sum of the amounts specified under subsection (4)(b) must not exceed the lower of—
 - (a) the total disallowed amount, and
 - (b) the tested income amount (see Chapter 8).
- (7) In this section “the appropriate person”, in relation to a company, means—
 - (a) the proper officer of the company, or
 - (b) such other person as may for the time being have the express, implied or apparent authority of the company to act on its behalf for the purposes of this Part.

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- (8) Subsections (3) and (4) of section 108 of TMA 1970 (responsibility of company officers: meaning of “proper officer”) apply for the purposes of this section as they apply for the purposes of that section.
- (9) For the meaning of “financing income amount”, see Chapter 7.

293 Statement of allocated exemptions: effect

A financing income amount of a company to which this Chapter applies that is specified in a statement of allocated exemptions under section 292(4)(b) is not to be brought into account by the company for the purposes of corporation tax.

294 Company tax returns

- (1) This section applies if—
- (a) a company to which this Chapter applies has delivered a company tax return for a relevant accounting period, and
 - (b) as a result of the submission of a revised statement of allocated exemptions under section 291—
 - (i) there is a change in the amount of profits on which corporation tax is chargeable for the period, or
 - (ii) any other information contained in the return is incorrect.
- (2) The company is treated as having amended its company tax return for the accounting period so as to reflect the change mentioned in subsection (1)(b)(i) or to correct the information mentioned in subsection (1)(b)(ii).

295 Power to make regulations about statement of allocated exemptions

The Commissioners may by regulations make further provision about a statement of allocated exemptions including, in particular, provision—

- (a) about the form of a statement and the manner in which it is to be submitted,
- (b) requiring a person to give information to HMRC in connection with a statement,
- (c) as to circumstances in which a statement that is not received by the time specified in section 290(2) or 291(2) is to be treated as if it were so received, and
- (d) as to circumstances in which a statement that does not comply with the requirements of section 292 is to be treated as if it did so comply.

296 Failure of reporting body to submit statement of allocated exemptions

- (1) This section applies if no statement of allocated exemptions is submitted under section 290 that complies with the requirements of section 292.
- (2) Subject to the following provisions of this section, each financing income amount for the relevant period of account of each company to which this Chapter applies is to be reduced to nil.

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- (3) In this section “unrestricted reduction” means a reduction of a financing income amount for the relevant period of account of a company to which this Chapter applies, determined in accordance with subsection (2).
- (4) Subsection (5) applies if—
- (a) the total of the unrestricted reductions, exceeds
 - (b) the lower of—
 - (i) the total disallowed amount, and
 - (ii) the tested income amount.
- (5) Each unrestricted reduction is to be reduced by—

$$\frac{\text{UR}}{\text{TUR}} \times X$$

where—

UR is the unrestricted reduction in question,
TUR is the total of the unrestricted reductions, and
X is the excess mentioned in subsection (4).

297 Power to make regulations in relation to reductions under section 296

- (1) The Commissioners may by regulations make provision for the purpose of securing that a company required under section 296 to reduce the amounts that it brings into account in respect of financing income amounts for the relevant period of account (“a company required to make default reductions”) has sufficient information to determine their amount.
- (2) Provision that may be made in regulations under subsection (1) includes provision requiring one or more members of the worldwide group to send specified information to a company required to make default reductions.
- (3) The Commissioners may by regulations make provision about cases in which (whether as a result of non-compliance with regulations made under subsection (1) or otherwise) a company required to make default reductions does not possess specified information.
- (4) Provision that may be made in regulations under subsection (3) includes provision as to assumptions that may or must be made in determining the amount of a reduction under section 296 of a financing income amount.
- (5) The Commissioners may by regulations make provision for determining a time later than that determined under paragraph 15(4) of Schedule 18 to FA 1998 (amendment of return by company) before which a company required to make default reductions may amend its company tax return so as to reflect a reduction under section 296.
- (6) In this section “specified” means specified in regulations under this section.

298 Balancing payments between group companies: no tax charge or relief

- (1) This section applies if—
- (a) one or more financing income amounts of a company (“company A”) for the relevant period of account are—
 - (i) because of section 293, not brought into account, or

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- (ii) because of section 296, reduced,
 - (b) one or more financing expense amounts of another company (“company B”) for the relevant period of account are—
 - (i) because of section 281, not brought into account, or
 - (ii) because of section 284, reduced,
 - (c) company A makes one or more payments (“the balancing payments”) to company B, and
 - (d) the sole or main reason for making the balancing payments is that the conditions in paragraphs (a) and (b) are met.
- (2) To the extent that the sum of the balancing payments does not exceed the amount specified in subsection (3), those payments—
- (a) are not to be taken into account in computing profits or losses of either company A or company B for the purposes of corporation tax, and
 - (b) are not to be regarded as distributions for any of the purposes of the Corporation Tax Acts.
- (3) The amount mentioned in subsection (2) is the lower of—
- (a) the sum of the financing income amounts mentioned in subsection (1)(a), and
 - (b) the sum of the financing expense amounts mentioned in subsection (1)(b).