



# Taxation (International and Other Provisions) Act 2010

## 2010 CHAPTER 8

### [<sup>F1</sup>PART 9A

#### CONTROLLED FOREIGN COMPANIES

### [<sup>F1</sup>CHAPTER 9

#### EXEMPTIONS FOR PROFITS FROM QUALIFYING LOAN RELATIONSHIPS

##### Textual Amendments

**F1** Pt. 9A inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 para. 1](#) (with [ss. 56-58](#))

##### Modifications etc. (not altering text)

**C1** Pt. 9A Ch. 9 applied (with modifications) by 2009 c. 4, s. 18HE (as substituted (with effect in accordance with Sch. 20 para. 55(2) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 20 para. 6](#))

### 371IA The basic rule

- (1) This Chapter applies if—
- apart from this Chapter, Chapter 5 (non-trading finance profits) would apply for a CFC's accounting period,
  - the CFC's non-trading finance profits include qualifying loan relationship profits, and
  - the business premises condition set out in section 371DG is met.

---

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)*

---

- (2) A chargeable company (“company C”) in relation to the accounting period may make a claim to an officer of Revenue and Customs for step 2 in section 371BB(1) (the CFC charge gateway) to be taken, in the case of company C only, subject to this Chapter.
- (3) If company C makes a claim, in the case of company C only, the CFC's qualifying loan relationship profits pass through the CFC charge gateway so far as (and only so far as) they are not exempt under this Chapter.
- (4) The CFC's “qualifying loan relationship profits” are [<sup>F2</sup>so much of the profits of all its qualifying loan relationships taken together as are non-trading finance profits which—
  - (a) fall within section 371EC (capital investment from the UK), and
  - (b) do not fall within section 371EB (UK activities).]
- (5) The extent to which those profits are “exempt” is to be determined—
  - (a) firstly, by applying either section 371IB or section 371ID to each of the CFC's qualifying loan relationships, and
  - (b) secondly, by applying section 371IE (if relevant).
- (6) Section 371IF sets out how to determine the profits of a qualifying loan relationship.
- (7) Sections 371IG to 371II define “qualifying loan relationship” etc.
- (8) Section 371IJ contains provision about claims under this Chapter.
- (9) In this Chapter references to the CFC's non-trading finance profits are to those profits excluding any profits—
  - (a) falling within section 371CB(3) or (4) or Chapter 8 (solo consolidation), or
  - (b) arising from a relevant finance lease.
- (10) In this Chapter—
  - (a) “loan relationship” has the meaning given by section 302(1) of CTA 2009 (and does not include anything which, although not falling within section 302(1), is treated for any purpose as if it were a loan relationship), and
  - (b) other terms used which are defined in Part 5 of CTA 2009 are to be read accordingly.
- (11) See section 371CB(8) which deals with the interaction between this Chapter and section 371CB and Chapter 5 in the case of a chargeable company which makes a claim under this Chapter.

#### **Textual Amendments**

**F2** Words in s. 371A(4) substituted (with effect in accordance with s. 20(5)(6) of the amending Act) by Finance Act 2019 (c. 1), s. 20(2)

### **371IB Loans funded out of qualifying resources**

- (1) This section applies to a qualifying loan relationship if company C's claim under this Chapter states that this section is to apply to the qualifying loan relationship.
- (2) X% of the profits of the qualifying loan relationship are exempt if company C's claim establishes—

---

**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)

---

- (a) that, at all times during the relevant period, at least X% of the principal outstanding on the relevant loan (as that may vary from time to time during the relevant period) is funded by the CFC wholly out of qualifying resources, and
  - (b) that the ultimate debtor in relation to the qualifying loan relationship (see section 371IG(2) to (7)) is resident at all times during the relevant period in one territory only and that its territory of residence does not change at any time during the relevant period.
- (3) “X%” is the percentage specified in company C’s claim for the purposes of this section in relation to the qualifying loan relationship (which may be 100%).
- (4) “The relevant period” means—
  - (a) the accounting period, or
  - (b) if for any part of the accounting period no principal is outstanding on the relevant loan, the part of the accounting period during which there is principal outstanding.
- (5) “The relevant loan” means the loan which is the subject of the qualifying loan relationship.
- (6) “Qualifying resources” means—
  - (a) profits of the CFC’s business so far as it consists of the making of loans to relevant members of the CFC group which are used solely for the purposes of the business of the CFC group in the relevant territory, or
  - (b) funds or other assets received by the CFC in relation to shares held by the CFC in, or issued by the CFC to, members of the CFC group.
- (7) Funds or other assets received by the CFC fall within subsection (6)(b) only so far as they derive (directly or indirectly) from—
  - (a) profits of the business of the CFC group in the relevant territory,
  - (b) the qualifying value of relevant pre-acquisition funds or other assets (see section 371IC), or
  - (c) an issue of shares which meets the following requirements—
    - (i) the shares are shares in a member of the CFC group (“the parent member”) which is not the 75% subsidiary of any company,
    - (ii) the shares are ordinary shares which are not redeemable, and
    - (iii) the shares are issued to persons who are not members of the CFC group.
- (8) Subsection (9) applies if the qualifying loan relationship is made under, or is otherwise connected (directly or indirectly) with, an arrangement under which a member of the CFC group incurs a debt in the United Kingdom to—
  - (a) a non-UK resident person, or
  - (b) a UK resident person who is not a member of the CFC group.
- (9) It is to be assumed for the purposes of subsection (2) that, at all times during the relevant period, the amount of funds or other assets—
  - (a) out of which the principal outstanding on the relevant loan is funded by the CFC, and
  - (b) which are not qualifying resources,is no less than the amount of the debt mentioned in subsection (8).

---

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)*

---

- [ Subsection (9) does not apply if the debt incurred by the member of the CFC group<sup>F3</sup>(9A) as mentioned in subsection (8) represents the principal on a loan made to the member to which subsection (9B) or (9D) applies.
- (9B) This subsection applies to a loan if the member repays it within 48 hours of the loan being made.
- (9C) But subsection (9B) does not apply to a loan if the repayment of the loan within the 48 hours occurs under, or is connected (directly or indirectly) with, an arrangement the main purpose, or one of the main purposes, of which is to ensure that subsection (9) does not apply because of—
- (a) the loan, or
  - (b) any other debt which a member of the CFC group incurs (or is expected to incur) in the United Kingdom.
- (9D) This subsection applies to a loan if—
- (a) there is an issue of shares which meets the requirements of subsection (7)(c) (i) to (iii),
  - (b) the loan was made before the issue of shares but with the expectation that it would be repaid by the member out of funds deriving (directly or indirectly) from the issue of shares,
  - (c) the loan is repaid by the member out of such funds within the period of 6 months beginning with the day on which the loan was made, and
  - (d) the loan—
    - (i) was made by a person who was not a member of the CFC group, and
    - (ii) was not made (wholly or partly nor directly or indirectly) out of funds or other assets provided by a member of the CFC group.]
- (10) For the purposes of this section and section 371IC—
- (a) subject to subsections (11) and (12), “the CFC group”, as at any time, means the CFC taken together with the companies with which it is connected at that time,
  - (b) a member of the CFC group is “relevant” if it is resident in the relevant territory and no other territory,
  - (c) “the relevant territory” means the territory of residence of the ultimate debtor mentioned in subsection (2)(b),
  - (d) references to the business of the CFC group in the relevant territory do not include the making of loans to persons resident outside the relevant territory,
  - (e) references to the profits of the business of the CFC group in the relevant territory do not include—
    - (i) profits arising (directly or indirectly) from funds or other assets received by relevant members of the CFC group in relation to shares held by them in members of the CFC group which are not relevant members, or
    - (ii) so far as not covered by sub-paragraph (i), profits arising (directly or indirectly) from the business of the CFC group in any territory outside the relevant territory, and
  - (f) section 931U of CTA 2009 (definitions of “ordinary share” and “redeemable”) applies as it applies for the purposes of Part 9A of CTA 2009 (company distributions).

---

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)*

---

- (11) If the CFC is controlled by one UK resident company only (“the controller”), in relation to any time before the CFC came to be controlled by the controller, except in subsection (6), references to the CFC group include references to the controller taken together with any companies with which it is connected at that time.
- (12) If the CFC is controlled by two or more UK resident companies which are all connected with each other (“the controllers”), in relation to any time—
- (a) before which the CFC came to be controlled by the controllers, and
  - (b) at which the controllers (or those of the controllers which exist at that time) are all connected with each other,
- except in subsection (6), references to the CFC group include references to the controllers (or those of the controllers which exist) taken together with any other companies with which they are all connected at that time.

**Textual Amendments**

**F3** Ss. 371IB(9A)-(9D) inserted (retrospective to 1.1.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 47 paras. 19, 21](#)

**371IC What is the “qualifying value” of “relevant pre-acquisition funds or other assets”?**

- (1) This section applies for the purposes of section 371IB(7)(b).
- (2) It applies if—
- (a) a member of the CFC group acquires shares in a company (“the target company”) from persons who are not members of that group (“the unconnected persons”),
  - (b) in consideration for the acquisition of the shares, a member of the CFC group (“the parent member”) which is not the 51% subsidiary of any company issues shares to the unconnected persons, and
  - (c) the value of the consideration given for the acquisition of the shares by the parent member and any other members of the CFC group represents wholly or partly the value or a part of the value of any funds or other assets held by the target company.
- (3) Those funds or other assets are “relevant pre-acquisition funds or other assets” and, subject to what follows, their value or the part of their value represented by the value of the consideration is their “qualifying value”.
- (4) The qualifying value is to be reduced by Y% if one or both of the following paragraphs applies—
- (a) the issue of shares by the parent member to the unconnected persons represents only part of the consideration given for the acquisition of the shares in the target company;
  - (b) in connection with the acquisition of the shares in the target company, an extraordinary distribution is made to persons holding shares in the parent member.
- (5) “Y%” is given by the following formula—

---

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)*

---

$$\frac{100\% \times B}{A + B}$$

where—

A is the value of the consideration which is in the form of the issue of shares by the parent member to the unconnected persons, and

B is, as the case may be—

- (a) the value of the consideration which is not in the form of the issue of shares by the parent member to the unconnected persons,
- (b) the value of the extraordinary distribution, or
- (c) the total of the values given by paragraphs (a) and (b).

### **371ID The 75% exemption**

- (1) This section applies to a qualifying loan relationship if section 371IB does not apply to the qualifying loan relationship.
- (2) 75% of the profits of the qualifying loan relationship are exempt.

### **[<sup>F4</sup>371IE] The “matched interest profits” exemption**

- (1) This section applies if—
  - (a) there are profits of qualifying loan relationships which are not exempt after sections 371IB and 371ID have been applied to each qualifying loan relationship,
  - (b) the relevant corporation tax accounting period (as defined in section 371BC(3)) of company C is a relevant accounting period of it in relation to a period of account of a worldwide group,
  - (c) the CFC's accounting period ends in that period of account, and
  - (d) apart from this section, the profits mentioned in paragraph (a) would be included in the chargeable profits of the CFC.
- (2) In this section “the matched interest profits” means so much of the profits mentioned in subsection (1)(a) as remain after excluded credits and excluded debits are left out of account.
- (3) If the aggregate net tax-interest expense of the group for the period is nil, all of the matched interest profits are exempt.
- (4) Otherwise, there is a more limited exemption if the relevant proportion of the matched interest profits apportioned to C or other relevant chargeable companies exceeds the aggregate net tax-interest expense of the group for the period.
- (5) For the purposes of this section “the relevant proportion of the matched interest profits apportioned to C or other relevant chargeable companies” is determined as follows.
 

*Step 1* For each relevant chargeable company (including C) determine the percentage (P%) of the CFC's chargeable profits that are apportioned to the company under step 5 of section 371BC(1).

*Step 2* For each relevant chargeable company (including C) multiply P% by the matched interest profits.

---

**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)

---

*Step 3* The sum of the amounts for each company found under step 2 is “the relevant proportion of the matched interest profits apportioned to C or other relevant chargeable companies”.

- (6) For the purposes of this section a company is a relevant chargeable company if the relevant corporation tax accounting period of the company is a relevant accounting period in relation to the period of account of the group.
- (7) The limited exemption is given effect by treating the matched interest profits as equal to the amount found by multiplying the amount that they would otherwise be by—

$$\frac{E}{\text{RPMIP}}$$

where—

E is the amount of the excess mentioned in subsection (4), and

RPMIP is the relevant proportion of the matched interest profits apportioned to C or other relevant chargeable companies.

- (8) For the purposes of this section the aggregate net tax-interest expense of a worldwide group for a period of account is determined in accordance with Part 10 (corporate interest restriction) but without regard to debits, credits or other amounts arising from—
- (a) banking business carried on by a company within the charge to corporation tax, or
  - (b) insurance business carried on by a company within the charge to corporation tax.
- (9) For the purposes of this section—
- “excluded credit” has the meaning given by section 386(3),
  - “excluded debit” has the meaning given by section 383(3), and
  - “period of account”, “relevant accounting period” and “worldwide group” have the same meanings as in Part 10.]

#### Textual Amendments

- F4** S. 371IE substituted (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 22(2)

### 371IF Determining the profits of a qualifying loan relationship

Take the following steps to determine the profits of a qualifying loan relationship for the purposes of this Chapter.

*Step 1* Determine the credits from the qualifying loan relationship which are brought into account in determining the CFC's non-trading finance profits. The result is “the step 1 credits”.

*Step 2* Determine the credits and debits which are brought into account in determining the CFC's non-trading finance profits so far as they—

---

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)*

---

- (a) are from any derivative contract or other arrangement (other than a qualifying loan relationship) entered into by the CFC as a hedge of risk in connection with the qualifying loan relationship, and
- (b) are attributable to the hedge of risk.

If the credits exceed the debits add the excess to the step 1 credits and if the debits exceed the credits subtract the deficit from the step 1 credits. The result is “the step 2 credits”.

*Step 3* Allocate to the qualifying loan relationship a just and reasonable proportion of the credits from the CFC's relevant debtor relationships which are brought into account in determining the CFC's non-trading finance profits (so far as not reflected in the step 2 credits). Add the credits to the step 2 credits. The result is “the step 3 credits”. A debtor relationship of the CFC is “relevant” if the loan which is the subject of it is used by the CFC to fund the loan which is the subject of the qualifying loan relationship

*Step 4* Allocate to the qualifying loan relationship a just and reasonable proportion of the credits and debits which are brought into account in determining the CFC's non-trading finance profits so far as they—

- (a) are from any derivative contract or other arrangement (other than a qualifying loan relationship or a relevant debtor relationship) entered into by the CFC as a hedge of risk in connection with a relevant debtor relationship, and
- (b) are attributable to the hedge of risk.

If the credits exceed the debits add the excess to the step 3 credits and if the debits exceed the credits subtract the deficit from the step 3 credits. The result is “the step 4 credits”.

*Step 5* Allocate to the qualifying loan relationship a just and reasonable proportion of—

- (a) the debits from the CFC's loan relationships which are brought into account in determining the CFC's non-trading finance profits (so far as not reflected in the step 4 credits), and
- (b) any amounts set off under Chapter 16 [F5 or Chapter 16A] of Part 5 of CTA 2009 (non-trading deficits) against amounts which, apart from the set off, would be included in the CFC's non-trading finance profits.

Reduce the step 4 credits accordingly to give the profits of the qualifying loan relationship.

#### **Textual Amendments**

**F5** Words in s. 371IF Step 5 inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 179](#)

### **371IG What is a “qualifying loan relationship”?**

- (1) In this Chapter “qualifying loan relationship” means a creditor relationship of the CFC—
- (a) the ultimate debtor in relation to which is a qualifying company, and
  - (b) which is not prevented from being a qualifying loan relationship by section 371IH.



---

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)*

---

- (2) In this Chapter “the ultimate debtor”, in relation to a creditor relationship of the CFC, means the debtor in relation to the creditor relationship.

This is subject to what follows.

- (3) Subsection (4) or (5) (as the case may be) applies if—
- (a) there is a loan (“loan A”) which is the subject of a creditor relationship of the CFC,
  - (b) loan A, or a part of loan A, is made and used to fund (directly or indirectly) another loan (“loan B”) to a person (“P”), and
  - (c) loan B, or a part of loan B, is not made and used to fund (directly or indirectly) a further loan to any person.
- (4) If all of loan A is made and used to fund (directly or indirectly) loan B, the ultimate debtor in relation to the CFC's creditor relationship mentioned in subsection (3)(a) is P.
- (5) If only part of loan A is made and used to fund (directly or indirectly) loan B—
- (a) that part of loan A is to be treated for the purposes of this Chapter as a separate loan giving rise to a separate creditor relationship of the CFC, and
  - (b) the ultimate debtor in relation to that separate creditor relationship is P.
- (6) If the requirement of subsection (3)(c) is met in relation to a part of loan B only, in subsections (4) and (5) references to loan B are to be read as references to that part of loan B only.
- (7) But neither subsection (4) nor subsection (5) applies if—
- (a) the debtor (“D”) in relation to the CFC's creditor relationship is a qualifying company the main business of which is banking business or insurance business,
  - (b) the use of loan A, or the part of loan A, as mentioned in subsection (3)(b) occurs in the ordinary course of D's banking business or insurance business (as the case may be), and
  - (c) P is not a UK resident qualifying company.
- (8) In this section “qualifying company” means a company which—
- (a) is connected with the CFC, and
  - (b) is controlled by the UK resident person or persons who control the CFC.

### **371IH Exclusions from definition of “qualifying loan relationship”**

- (1) If the ultimate debtor in relation to a creditor relationship of the CFC is a non-UK resident company, the creditor relationship cannot be a qualifying loan relationship so long as some or all of the company's debits—
- (a) are being brought into account for the purposes of Chapter 4 of Part 2 of CTA 2009 (UK permanent establishments of non-UK resident companies) in determining the company's profits which are attributable to a UK permanent establishment, or
  - (b) are being brought into account for the purposes of Part 3 of ITTOIA 2005 (property income) in determining the company's profits of a UK property business.

---

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)*

---

- (2) If the ultimate debtor in relation to a creditor relationship of the CFC is a UK resident company, the creditor relationship can be a qualifying loan relationship only so long as—
- (a) an election under section 18A of CTA 2009 (exemption for profits or losses of foreign permanent establishments) is in effect in relation to the company, and
  - (b) all the company's debits are being brought into account for the purpose of determining exemption adjustments in relation to the company under that section.
- (3) If the ultimate debtor in relation to a creditor relationship of the CFC is another CFC, the creditor relationship cannot be a qualifying loan relationship so long as—
- (a) some or all of the other CFC's debits are relevant to the application of Chapters 3 to 8 or Chapter 12 in the case of the other CFC, and
  - (b) as a result of that, the CFC charge is not being charged in relation to the other CFC's accounting periods or any sums charged are less than what they would otherwise have been.
- (4) In subsections (1) to (3) references to the debits of the company which is the ultimate debtor in relation to a creditor relationship of the CFC are references to—
- (a) the ultimate debtor's debits in relation to the loan which is the subject of the CFC's creditor relationship, or
  - (b) if the ultimate debtor is determined in accordance with section 371IG(4) or (5), the ultimate debtor's debits in relation to loan B.
- (5) A creditor relationship of the CFC cannot be a qualifying loan relationship if it is, or is connected (directly or indirectly) to, an arrangement the main purpose, or one of the main purposes, of which is for the ultimate debtor in relation to the creditor relationship to provide (directly or indirectly) funding for—
- (a) a loan to another person, or
  - (b) so far as not covered by paragraph (a), an arrangement intended to produce for any person a return in relation to any amount which it is reasonable to suppose would be a return by reference to the time value of that amount of money.
- (6) Subsection (5) does not apply if—
- (a) the main business of the ultimate debtor is banking business or insurance business, and
  - (b) the funding for the loan or arrangement would be provided in the ordinary course of the ultimate debtor's banking business or insurance business (as the case may be).
- (7) A creditor relationship of the CFC cannot be a qualifying loan relationship if—
- (a) the main business of the ultimate debtor in relation to the creditor relationship is banking business or insurance business, and
  - (b) the creditor relationship is, or is connected (directly or indirectly) to, an arrangement the main purpose, or one of the main purposes, of which is for the ultimate debtor to provide (directly or indirectly) funding for a loan or arrangement as mentioned in subsection (5)(a) or (b) in order to obtain a tax advantage for the ultimate debtor.
- (8) A creditor relationship of the CFC cannot be a qualifying loan relationship if the loan which is the subject of the creditor relationship is made to any extent (other than a negligible one) out of funds received by the CFC (directly or indirectly)—

---

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)*

---

- (a) from a relevant UK connected company other than by way of a loan, or
  - (b) as a result of an arrangement which gives rise to a deduction in the calculation of the profits of a trade of a relevant UK connected company (apart from the ultimate debtor) for the purposes of Part 3 of CTA 2009 (trading income).
- (9) For the purposes of subsection (8) a company is “relevant UK connected” if—
- (a) the company is a UK resident company connected with the CFC,
  - (b) the company's main business is banking business or insurance business, and
  - (c) the company's banking business or insurance business (as the case may be) is a trade.
- [ Subsection (9B) applies to a creditor relationship of a CFC if—
- <sup>F6</sup>(9A) (a) a creditor relationship (“the UK creditor relationship”) of a UK connected company is made where the debtor is a non-UK resident company connected with the UK connected company,
- (b) subsequently, an arrangement (“the relevant arrangement”) is made directly or indirectly in connection with the UK creditor relationship, and
  - (c) the main purpose, or one of the main purposes, of the relevant arrangement is to secure that—
    - (i) the relevant UK credits of a UK connected company for a corporation tax accounting period of the company are lower than they would be if the relevant arrangement had not been made, or
    - (ii) the relevant UK debits of a UK connected company for a corporation tax accounting period of the company are greater than they would be if the relevant arrangement had not been made.
- (9B) The CFC's creditor relationship cannot be a qualifying loan relationship if it is, or is connected (directly or indirectly) to, the relevant arrangement.
- (9C) Subsection (9D) applies for the purposes of subsection (9A)(c)(i) and (ii) in determining what the relevant UK credits or debits of a UK connected company for a corporation tax accounting period would be if the relevant arrangement had not been made.
- (9D) Assume that, at all times after the relevant time, the UK creditor relationship remains in place on the same terms as it had at the relevant time.
- (9E) In subsections (9A) to (9D)—
- “corporation tax accounting period” means an accounting period for corporation tax purposes,
  - “the relevant time” means the time immediately before—
    - (a) the time when the relevant arrangement is made, or
    - (b) if earlier, the time when the UK creditor relationship ends,
  - “relevant UK credits”, in relation to a UK connected company, means credits which the company has under Part 5 or 7 of CTA 2009,
  - “relevant UK debits”, in relation to a UK connected company, means debits which the company has under Part 5 or 7 of CTA 2009, and
  - “UK connected company” means a UK resident company which—
    - (a) is connected with the CFC, or
    - (b) was connected with a company with which the CFC is connected.]
- (10) A creditor relationship of the CFC cannot be a qualifying loan relationship if—

---

*Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)*

---

- (a) the CFC receives relevant UK funds or other assets for the purpose of funding the loan which is the subject of the CFC's creditor relationship,
  - (b) the provision of the relevant UK funds or other assets is itself funded (wholly or partly and directly or indirectly) by a loan made to a UK connected company by—
    - (i) a non-UK resident person, or
    - (ii) a UK resident person who is not connected with the CFC,
  - (c) the relevant loan is [<sup>F7</sup>used to any extent (other than a negligible one)] to repay wholly or partly another loan made to the ultimate debtor by a person not connected with the ultimate debtor, and
  - (d) the events mentioned in paragraphs (a) to (c) take place under, or are otherwise connected (directly or indirectly) with, an arrangement the main purpose, or one of the main purposes, of which is to obtain a tax advantage for any person.
- (11) In subsection (10)—
- (a) “relevant UK funds or other assets” and “UK connected company” have the same meaning as in section 371EC, and
  - (b) in paragraph (c) “the relevant loan” means—
    - (i) the loan which is the subject of the CFC's creditor relationship, or
    - (ii) if the ultimate debtor is determined in accordance with section 371IG(4) or (5), loan B.
- (12) In subsections (4)(b) and (11)(b)(ii) references to loan B do not include any part of loan B—
- (a) which loan A is not made and used to fund, or
  - (b) in relation to which the requirement of section 371IG(3)(c) is not met.

#### Textual Amendments

- F6** Ss. 371IH(9A)-(9E) inserted (with effect in accordance with s. 293(2) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 293\(1\)](#)
- F7** Words in s. 371IH(10)(c) substituted (with effect in accordance with s. 294(2) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 294\(1\)](#)

### 371II Power to amend definitions

The HMRC Commissioners may by regulations amend this Chapter—

- (a) so as to amend the definition of “qualifying resources” for the purposes of section 371IB, or
- (b) so as to amend the definition of “qualifying loan relationship” or “ultimate debtor” for the purposes of this Chapter.

### 371IJ Claims

- (1) A claim under this Chapter must be made by being included in company C's company tax return for the relevant corporation tax accounting period (as defined in section 371BC(3)).
- (2) The claim may be included in the return originally made or by amendment.
- (3) The claim may be amended or withdrawn by company C only by amending the return.

---

**Changes to legislation:** There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9. (See end of Document for details)

---

- (4) A claim under this Chapter may be made, amended or withdrawn at any time up to whichever is the last of the following dates—
- (a) the first anniversary of the filing date for company C's company tax return for the relevant corporation tax accounting period under paragraph 14 of Schedule 18 to FA 1998;
  - (b) if notice of enquiry is given into that return under paragraph 24 of that Schedule, 30 days after the enquiry is completed [<sup>F8</sup>so far as relating to the matters to which the claim relates];
  - (c) if after such an enquiry an officer of Revenue and Customs amends the return under paragraph 34(2) of that Schedule, 30 days after notice of the amendment is issued;
  - (d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.
- (5) A claim under this Chapter may be made, amended or withdrawn at a later time if an officer of Revenue and Customs allows it.
- (6) In any event, if after a claim under this Chapter is made there is a change of circumstances affecting the tested income amount or [<sup>F9</sup>the aggregate net tax-interest expense that is mentioned in section 371IE], the claim may be amended at any time within the period of 12 months after the change of circumstances for the purpose of taking account of the change of circumstances.
- (7) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes, amends or withdraws a claim under this Chapter within the time allowed by or under this section.
- (8) In subsection (4) references to an enquiry into a company tax return do not include an enquiry restricted to a previous amendment making, amending or withdrawing a claim under this Chapter.
- (9) An enquiry is so restricted if—
- (a) the scope of the enquiry is limited as mentioned in paragraph 25(2) of Schedule 18 to FA 1998, and
  - (b) the amendment giving rise to the enquiry consisted of the making, amending or withdrawing of a claim under this Chapter.]

#### Textual Amendments

- F8** Words in s. 371IJ(4)(b) inserted (with effect in accordance with Sch. 15 para. 44 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 15 para. 43**
- F9** Words in s. 371IJ(6) substituted (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 5 para. 22(3)**

**Changes to legislation:**

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Chapter 9.