
DRAFT STATUTORY INSTRUMENTS

2016 No.

The Bank Levy (Double Taxation Relief) (Single Resolution Fund Levy) Regulations 2016

Double taxation relief by way of credit

Double taxation relief

4.—(1) Subject to the provisions of these Regulations, an amount of the SRF levy paid in relation to a chargeable period in respect of which the SRF levy is calculated is allowed as a credit to reduce the amount of the bank levy arising in that period.

(2) The credit under this regulation requires a claim in accordance with regulations 9 and 10.

(3) The amount of the credit allowed against the bank levy arising in a chargeable period must not exceed the lower of—

- (a) the amount of the bank levy for that period, and
- (b) the amount determined under—
 - (i) regulation 5 in cases where condition 1 in regulation 3 is met, and
 - (ii) regulation 6 in cases where condition 2 in regulation 3 is met.

Calculation of the maximum credit: UK banking group, UK sub-group or UK banking sub-group

5.—(1) The amount of the credit must not exceed the amount of bank levy that would be payable by the entity (“the specified entity”) subject to the SRF levy were the specified entity a UK resident bank in relation to which the bank levy would be charged as provided for by paragraph 5 of Schedule 19 to FA 2011 (bank levy to be charged in relation to certain entities which are not members of groups) in the period in relation to which the SRF levy is calculated.

(2) For the purposes of paragraph (1), in determining the amount of bank levy that would be payable, the amount of £20,000,000,000 in Step 5 of paragraph 6 of Schedule 19 to FA 2011 is reduced (in both places) to an amount equal to Y% of £20,000,000,000.

(3) For the purposes of paragraph (2), Y% is the proportion of the chargeable equity and liabilities of the UK banking group, UK sub-group or UK banking sub-group which is chargeable equity and liabilities of the specified entity.

(4) In a case where—

- (a) the specified entity is subject to the SRF levy and another equivalent foreign levy, and
- (b) relief is available under arrangements affording double taxation relief under the law of the territory imposing the other equivalent foreign levy,

the credit is limited to an amount equal to the amount of the credit calculated under paragraph (1) less the amount of relief available in relation to the equivalent foreign levy.

Calculation of the maximum credit: relevant foreign bank

6. The amount of the credit must not exceed the amount determined by steps 1 to 4.

Step 1

Determine the amount (“A”) of assets of the relevant entity as at the end of the chargeable period by reference to which the SRF levy is calculated.

Step 2

Determine the amount (“B”) of UK assets as at the end of the chargeable period by reference to which the SRF levy is calculated.

Step 3

Determine the amount (“C”) of the SRF levy paid in relation to the chargeable period.

If a proportion (Z%) of the period in relation to which the SRF levy is calculated falls in any other chargeable period, Z% of the SRF levy is attributable to that other period.

Step 4

The amount of the SRF levy available as a credit against the bank levy must not exceed—

$$\frac{B}{A} \times C$$

Determining assets and UK assets

7.—(1) This regulation applies for the purposes of regulation 6 to determine the assets and the UK assets of the relevant entity.

(2) In the case of a relevant entity which is part of a relevant group, the amount of the assets and the UK assets are determined by reference to—

- (a) the amounts recognised in the group’s consolidated financial statements for the chargeable period as prepared under international accounting standards or UK GAAP, or
- (b) if no such financial statements are prepared, the amounts which would have been so recognised had consolidated financial statements for the group been prepared for the chargeable period under international accounting standards.

(3) In the case of a relevant entity which is not part of a relevant group, the assets and UK assets are determined by reference to—

- (a) the amounts recognised in the entity’s financial statements for the chargeable period as prepared under international accounting standards or UK GAAP, or
- (b) if no such financial statements are prepared, the amounts which would have been so recognised had such financial statements been prepared for the chargeable period under international accounting standards or under UK GAAP.

(4) For the purposes of these Regulations, “UK assets” means the assets of any permanent establishment through which the relevant entity carries on a trade in the United Kingdom.

(5) Paragraph 26 (including sub-paragraph (4)) of Schedule 19 to FA 2011 applies for the purposes of determining the assets of a permanent establishment.

Exchange rates

8. Where the SRF levy is imposed in a currency other than sterling, for the purposes of regulations 5 and 6 the amount of equivalent foreign currency is to be translated into its sterling equivalent by reference to the spot rate of exchange for the last day of the chargeable period in relation to which the credit is claimed.