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STATUTORY INSTRUMENTS

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**2016 No. 1212**

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

*Limits on credit*

**Limits on credit in cases where regulation 6 applies**

**11.** Regulations 12 to 15 apply where the maximum credit against the bank levy is calculated under regulation 6 (cases where the bank levy is charged in relation to a relevant entity which is a relevant foreign bank).

**Restriction of credit**

**12.—**(1) Where the bank levy is charged in relation to the relevant group, if the parent entity is not resident in the foreign territory (“territory A”) the law of which imposes the SRF levy, the credit under regulation 4(1) is only available to reduce the amount of the bank levy charged in relation to relevant chargeable equity and liabilities of the relevant group.

(2) In paragraph (1), “relevant chargeable equity and liabilities” means chargeable equity and liabilities that would be recognised in relevant accounts for the chargeable period had such accounts been prepared for the member or members of the group (“the relevant member or members”) resident in territory A.

(3) In paragraph (2), “relevant accounts” mean a consolidated financial statement or financial statement—

- (a) prepared under international accounting standards or under UKGAAP if that is what the relevant member or members prepare financial statements under, and
- (b) in which the UK assets subject to the SRF levy in respect of which the credit is given would be recognised.

**13.—**(1) Where—

- (a) there is double taxation in relation to the bank levy and the SRF levy only in relation to a permanent establishment through which a trade is carried on in the United Kingdom by a relevant foreign bank, and
- (b) that relevant foreign bank is a relevant entity,

the credit under regulation 4(1) is only available to reduce the amount of the bank levy so far as it is attributable to the chargeable equity and liabilities of the permanent establishment.

(2) Subject to paragraph (3), the amount of the bank levy attributable to the chargeable equity and liabilities of the permanent establishment is calculated as follows.

*Step 1*

Determine the amount (“A”) of the chargeable equity and liabilities of the permanent establishment which is long term equity and liabilities and the amount (“B”) which is short term liabilities.

*Step 2*

Determine the amount (“C”) of the chargeable equity and liabilities of the relevant group which is long term equity and liabilities and the amount (“D”) which is short term liabilities.

*Step 3*

Determine the weighted average amount (“E”) of chargeable equity and liabilities of the permanent establishment as follows—

$$A + 2B$$

*Step 4*

Determine the proportion (“F%”) of the weighted average of chargeable equity and liabilities of the relevant group that relates to the weighted average of chargeable equity and liabilities of the permanent establishment (determined at step 3 as E) as follows—

$$\frac{E}{C + 2D}$$

*Step 5*

F% of the amount of the bank levy is the amount of the bank levy attributable to the chargeable equity and liabilities of the permanent establishment.

(3) If the basis of attribution in paragraph (2) would work unjustly or unreasonably, the attribution is to be made on another basis that is just and reasonable.

**Reduction in credit: payment by reference to SRF levy**

14.—(1) Paragraph (2) applies if—

- (a) credit against the bank levy is allowed to an entity under these Regulations, and
- (b) a payment is made by a tax authority to that entity, or to any other person, by reference to the SRF levy.

(2) The amount of the credit must be recalculated by repeating steps 3 and 4 in regulation 6, reducing the amount of the SRF levy by reference to the payment referred to in paragraph (1)(b).

**Priority of credits**

15.—(1) Where credits are allowed in relation to the SRF levy imposed by the law of two or more foreign territories under these Regulations or under these Regulations and any Regulations made under paragraph 66 (arrangements affording double taxation relief) or 67 (power to provide for double taxation relief) of Schedule 19 to FA 2011, the credits apply to reduce the bank levy in the order specified in paragraph (2), subject to paragraphs (3) and (4).

(2) The order is—

*First*, any credit allowed in relation to the equivalent foreign levy imposed by the law of the foreign territory in which the parent entity is resident.

*Second*, any credit allowed in relation to the equivalent foreign levy imposed by the law of the foreign territory in which a direct subsidiary (“the first subsidiary”) is resident or a permanent establishment of the parent entity is located.

*Third*, any credit allowed in relation to an equivalent foreign levy imposed by the law of the foreign territory in which a direct subsidiary (“the second subsidiary”) is resident or a permanent establishment of the first subsidiary is located.

*Fourth*, any credit allowed in relation to an equivalent foreign levy imposed by the law of the foreign territory in which a direct subsidiary of the second subsidiary is resident or a permanent establishment of the second subsidiary is located, and so on in relation to any fourth and further subsidiaries.

(3) If an entity has direct subsidiaries (“the elected subsidiaries”) in more than one foreign territory which imposes an equivalent foreign levy, the responsible member must elect as to the order (“the elected order”) in which the credits allowed in relation to the equivalent foreign levies are to be applied.

(4) If any of the elected subsidiaries themselves have direct subsidiaries in more than one foreign territory which imposes an equivalent foreign levy, paragraphs (2) and (3) apply to those direct subsidiaries in the elected order and paragraph (2) applies as if each elected subsidiary were a parent entity.

(5) For the purposes of this regulation, where an equivalent foreign levy is not imposed by the law of the foreign territory in which an entity (“E”) is resident, any direct subsidiary of E is treated as the direct subsidiary of the entity which is the parent entity of E.