

SCHEDULES

SCHEDULE 15

TAX TREATMENT OF FINANCING COSTS AND INCOME

PART 3

DISALLOWANCE OF DEDUCTIONS

Application of Part and meaning of “total disallowed amount”

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

Meaning of “company to which this Part applies”

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

Appointment of authorised company for relevant period of account

- 17 (1) The companies to which this Part applies may appoint one of their number to exercise functions conferred under this Part on the reporting body in relation to the relevant period of account.
- (2) An appointment under this paragraph is of no effect unless it is signed on behalf of each company to which this Part applies by the appropriate person.
- (3) The Commissioners may by regulations make further provision about an appointment under this paragraph including, in particular, provision—
- (a) about the form and manner in which an appointment may be made,
 - (b) about how an appointment may be revoked and the form and manner of such revocation,
 - (c) requiring a person to notify HMRC of the making or revocation of an appointment and about the form and manner of such notification,
 - (d) requiring a person to give information to HMRC in connection with the making or revocation of an appointment,
 - (e) imposing time limits in relation to making or revoking an appointment,

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- (f) providing 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
 - (g) about cases where a company is not a relevant group company at all times during the relevant period of account.
- (4) In this paragraph “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 Schedule.
- (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 paragraph as they apply for the purposes of that section.

Meaning of “the reporting body”

- 18 In this Part “the reporting body” means—
- (a) in a case in which an appointment under paragraph 17 has effect in relation to the relevant period of account, the company appointed under that paragraph, and
 - (b) in a case in which such an appointment does not have effect in relation to the relevant period of account, the companies to which this Part applies, acting jointly.

Statement of allocated disallowances: submission

- 19 (1) The reporting body must submit a statement (a “statement of allocated disallowances”) in relation to the relevant period of account to HMRC.
- (2) A statement submitted under this paragraph must be received by HMRC within 12 months of the end of the relevant period of account.
- (3) A statement submitted under this paragraph must comply with the requirements of paragraph 21.

Statement of allocated disallowances: submission of revised statement

- 20 (1) Where the reporting body has submitted a statement of allocated disallowances under paragraph 19 or this paragraph, it may submit a revised statement to HMRC.
- (2) A statement submitted under this paragraph must be received by HMRC within 36 months of the end of the relevant period of account.
- (3) A statement submitted under this paragraph must comply with the requirements of paragraph 21.
- (4) A statement submitted under this paragraph—
- (a) must indicate the respects in which it differs from the previous statement, and
 - (b) supersedes the previous statement.

Statement of allocated disallowances: requirements

- 21 (1) This paragraph applies in relation to a statement of allocated disallowances submitted under paragraph 19 or 20.
- (2) The statement must be signed—
- (a) in a case in which an appointment under paragraph 17 has effect in relation to the relevant period of account, by the appropriate person in relation to the company appointed under that paragraph, or
 - (b) in a case in which 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 Part 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 Part applies, and
 - (b) in relation to each listed company, specify one or more financing expense amounts for the relevant period of account that are to be disallowed, and give the relevant details in relation to each such amount.
- (5) For this purpose “the relevant details”, in relation to a financing expense amount, are—
- (a) which of conditions A, B or C in paragraph 54 is met in relation to the amount, and
 - (b) the relevant accounting period of the company in which the amount would, apart from this Schedule, be brought into account for the purposes of corporation tax.
- (6) The sum of the amounts specified under sub-paragraph (4)(b) must equal the total disallowed amount.
- (7) In this paragraph “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 Schedule.
- (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 paragraph as they apply for the purposes of that section.
- (9) For the meaning of “financing expense amount”, see Part 7.

Statement of allocated disallowances: effect

- 22 A financing expense amount of a company to which this Part applies that is specified in a statement of allocated disallowances under paragraph 21(4)(b) is not to be brought into account by the company for the purposes of corporation tax.

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Company tax returns

- 23 (1) This paragraph applies where—
- (a) a company to which this Part 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 disallowances under paragraph 20—
 - (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 sub-paragraph (1)(b)(i) or to correct the information mentioned in sub-paragraph (1)(b)(ii).

Power to make regulations about statement of allocated disallowances

- 24 The Commissioners may by regulations make further provision about a statement of allocated disallowances 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 paragraph 19(2) or 20(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 paragraph 21 is to be treated as if it did so comply.

Failure of reporting body to submit statement of allocated disallowances

- 25 (1) This paragraph applies if no statement of allocated disallowances is submitted under paragraph 19 that complies with the requirements of paragraph 21.
- (2) Each company to which this Part applies that has a net financing deduction for the relevant period of account that is greater than nil must reduce the amounts that it brings into account in relevant accounting periods in respect of financing expense amounts.
- (3) The total of the reductions required to be made by a company by virtue of sub-paragraph (2) is—

$$\frac{\text{NFD}}{\text{TEA}} \times \text{TDA}$$

where—

NFD is the net financing deduction of the company for the relevant period of account (see paragraph 70(2)),

TEA is the tested expense amount for the relevant period of account (see paragraph 70(1)), and

TDA is the total disallowed amount (see paragraph 15(2)).

- (4) The particular financing expense amounts that must be reduced, and the amounts by which they must be reduced, must be determined in accordance with regulations made by the Commissioners.

- (5) Regulations under this paragraph may, in particular, include provision—
- (a) conferring a discretion on a company required to make reductions under this paragraph as to the particular financing expense amounts that are to be reduced,
 - (b) requiring a company required to make reductions under this paragraph to notify another relevant group company of the particular reductions made, and
 - (c) as to the times by which such notices must be sent and as to information that must accompany such notices.

Powers to make regulations in relation to reductions required under paragraph 25

- 26 (1) The Commissioners may by regulations make provision for the purpose of securing that a company required under paragraph 25 to reduce the amounts that it brings into account in respect of financing expense 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 sub-paragraph (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 sub-paragraph (1) or otherwise) a company required to make default reductions does not possess specified information.
- (4) Provision that may be made in regulations under sub-paragraph (3) includes provision as to assumptions that may or must be made in determining the amount of a reduction under paragraph 25 of a financing expense 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 paragraph 25.
- (6) In this paragraph “specified” means specified in regulations under this paragraph.