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## SCHEDULES

### SCHEDULE 15

#### TAX TREATMENT OF FINANCING COSTS AND INCOME

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

**C1** Sch. 15 modified (21.7.2009 retrospective) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 5 para. 36\(2\)](#)

#### **PART 4**

##### EXEMPTION OF FINANCING INCOME

###### *Application of Part and meaning of “total disallowed amount”*

- 27 (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”*

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

###### *Appointment of authorised company for relevant period of account*

- 29 (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 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,

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- (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 paragraph 86, or is not a member of the worldwide group, 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”*

- 30 In this Part “the reporting body” means—
- (a) in a case in which an appointment under paragraph 29 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 exemptions: submission*

- 31 (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 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 33.

*Statement of allocated exemptions: submission of revised statement*

- 32 (1) Where the reporting body has submitted a statement of allocated exemptions under paragraph 31 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 33.
- (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.

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*Statement of allocated exemptions: requirements*

- 33 (1) This paragraph applies in relation to a statement of allocated exemptions submitted under paragraph 31 or 32.
- (2) The statement must be signed—
- (a) in a case in which an appointment under paragraph 29 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 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 or C in paragraph 55 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 not exceed the lower of—
- (a) total disallowed amount, and
  - (b) the tested income amount (see Part 8).
- (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 income amount”, see Part 7.

*Statement of allocated exemptions: effect*

- 34 A financing income amount of a company to which this Part applies that is specified in a statement of allocated exemptions under paragraph 33(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*

- 35 (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 exemptions under paragraph 32—
    - (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 exemptions*

- 36 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 paragraph 31(2) or 32(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 33 is to be treated as if it did so comply.

### *Failure of reporting body to submit statement of allocated exemptions*

- 37 (1) This paragraph applies if no statement of allocated exemptions is submitted under paragraph 31 that complies with the requirements of paragraph 33.
- (2) Subject to the following provisions of this paragraph, each financing income amount for the relevant period of account of each company to which this Part applies is to be reduced to nil.
- (3) In this paragraph “unrestricted reduction” means a reduction of a financing income amount for the relevant period of account of a company to which this Part applies, determined in accordance with sub-paragraph (2).
- (4) Sub-paragraph (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—

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

where—

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

*Power to make regulations in relation to reductions required under paragraph 37*

- 38 (1) The Commissioners may by regulations make provision for the purpose of securing that a company required under paragraph 37 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 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 37 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 paragraph 37.
- (6) In this paragraph “specified” means specified in regulations under this paragraph.

*Balancing payments between group companies: no charge to, or relief from, tax*

- 39 (1) This paragraph applies where—
- (a) one or more financing income amounts of a company (“company A”) for the relevant period of account are—
    - (i) by virtue of paragraph 34, not brought into account, or
    - (ii) by virtue of paragraph 37, reduced,
  - (b) one or more financing expense amounts of another company (“company B”) for the relevant period of account are—
    - (i) by virtue of paragraph 22, not brought into account, or
    - (ii) by virtue of paragraph 25, 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 sub-paragraph (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

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- (b) are not to be regarded as distributions for any of the purposes of the Corporation Tax Acts.
- (3) The amount referred to in sub-paragraph (2) is the lower of—
  - (a) the sum of the financing income amounts mentioned in sub-paragraph (1) (a), and
  - (b) the sum of the financing expense amounts mentioned in sub-paragraph (1) (b).

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