

Status: Point in time view as at 12/02/2019.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2019, SCHEDULE 11. (See end of Document for details)

SCHEDULES

SCHEDULE 11 **U.K.**

Section 28

CORPORATE INTEREST RESTRICTION

Introductory

1 Part 10 of TIOPA 2010 (corporate interest restriction) is amended as follows.

Tax-interest amounts: amounts capitalised in intangible fixed assets

2 In Chapter 3 (tax-interest amounts), after section 391 insert—

“391A Amounts capitalised in carrying value of intangible fixed assets

In determining for the purposes of this Part whether an amount is a tax-interest expense amount or tax-interest income amount, section 906(1) of CTA 2009 (priority of intangible fixed asset rules) does not apply in respect of any matter which may be brought into account in accordance with Part 5 or 7 of that Act.”

Carry forward of interest allowance: new holding company

3 After section 395 insert—

“395A Carry forward of interest allowance: new holding company

- (1) This section applies if—
 - (a) a company (“C”) ceases to be the ultimate parent of a worldwide group (“the old group”) because of a qualifying takeover, and
 - (b) another company (“N”) becomes the ultimate parent of a worldwide group (“the new group”) as a result of the takeover.
- (2) For this purpose there is a qualifying takeover if there is a change in the ownership of C which is disregarded for the purposes of Chapters 2 to 6 of Part 14 of CTA 2010 as a result of section 724A of that Act where—
 - (a) C is the other company referred to as C in that section, and
 - (b) N is the new company referred to as N in that section.
- (3) For the purposes of this Chapter, the interest allowance of the new group is determined as if periods of account of the old group which ended before the beginning of the first period of account of the new group were periods of account of the new group.”

Carry forward of excess debt cap: new holding company

4 After section 400 insert—

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“400A Carry forward of excess debt cap: new holding company

- (1) This section applies if—
- (a) a company (“C”) ceases to be the ultimate parent of a worldwide group (“the old group”) because of a qualifying takeover, and
 - (b) another company (“N”) becomes the ultimate parent of a worldwide group (“the new group”) as a result of the takeover.
- (2) For this purpose there is a qualifying takeover if there is a change in the ownership of C which is disregarded for the purposes of Chapters 2 to 6 of Part 14 of CTA 2010 as a result of section 724A of that Act where—
- (a) C is the other company referred to as C in that section, and
 - (b) N is the new company referred to as N in that section.
- (3) In determining in accordance with section 400 the group's fixed ratio debt cap or group ratio debt cap for its first period of account, its excess debt cap generated in the immediately preceding period of account is taken to be that of the old group for the period of account of the old group ending immediately before the qualifying takeover.”

Adjusted net group-interest expense: capitalised interest

- 5 Section 410 (net group-interest expense), after subsection (5) insert—
- “(5A) If, on the assumption that subsections (3) and (5) applied to relevant assets, an amount would, in accordance with subsection (3) or (5), have been treated as included in A or B in subsection (1)—
- (a) as an amount attributable to the capitalised expense, or
 - (b) as an amount attributable to the capitalised income,
- none of that amount is to be included in A or B in that subsection.”
- 6 (1) Section 413 (adjusted net group-interest expense) is amended as follows.
- (2) In subsection (3)—
- (a) in paragraph (a), for “an asset or liability” substitute “ a non-financial asset or non-financial liability ”, and
 - (b) in paragraph (b), after “an amount that” insert “ , in the case of a non-financial asset, ”.
- (3) In subsection (4)—
- (a) in paragraph (a), for “an asset or liability” substitute “ a non-financial asset or non-financial liability ”, and
 - (b) in paragraph (b), after “an amount that” insert “ , in the case of a non-financial asset, ”.
- (4) For subsection (5) substitute—
- “(5) For the purposes of subsections (3)(a) and (b) and (4)(a) and (b)—
- (a) an asset is a “non-financial asset” if it is not a financial asset for accounting purposes or it is a share in a company,

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- (b) a liability is a “non-financial liability” if it is not a financial liability for accounting purposes or it is in respect of a share issued by a company, and
 - (c) references to amounts brought into account in determining the carrying value of a non-financial asset or non-financial liability do not include amounts so brought into account as a result of writing off any part of an amount which was itself so brought into account; and in paragraphs (a) and (b) “share” has the meaning given by section 476(1) of CTA 2009.”
- 7 (1) Section 423 (capitalised interest brought into account for tax purposes in accordance with GAAP) is amended as follows.
- (2) After subsection (2) insert—
 - “(2A) Section 413 has effect, in the case of a GAAP-taxable asset that is a relevant asset, as if—
 - (a) the definition of “upward adjustment” included so much of its carrying value written down in the group's financial statements for the relevant period of account as is attributable to a relevant expense amount brought into account in the group's financial statements in determining its carrying value, and
 - (b) the definition of “downward adjustment” included so much of the reduction of its carrying value written down in the group's financial statements for the relevant period of account as is attributable to a relevant income amount brought into account in the group's financial statements in determining its carrying value.
 - (2B) For the purposes of subsection (2A) it does not matter whether the relevant expense or income amount is brought into account in determining the asset's carrying value in the group's financial statements for the relevant period of account or an earlier period.”
- (3) In subsection (3), for “But subsection (2)(b) of this section is of no effect where” substitute “ But subsections (2)(b) and (2A) of this section are of no effect so far as ”.
- (4) In subsection (4), at the end insert “ (and, for the purposes of this subsection, an asset is a GAAP-taxable asset even if an election under section 730 of CTA 2009 is, or could be, made in respect of it) ”.

Adjusted net group-interest expense: impairment debts and credits and connected companies

- 8 (1) Section 413 (meaning of “adjusted net group-interest expense”) is amended as follows.
- (2) In subsection (3)(d)(i)—
 - (a) for “or 323A” substitute “ , 323A, 358 or 359 ”, and
 - (b) omit “(cases where credits not required to be brought into account)”.
- (3) In subsection (4)(d)(i)—
 - (a) after “section 323A” insert “ or 354 ”, and
 - (b) omit “(cases where credits not required to be brought into account)”.

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Interest allowance (alternative calculation) election: unpaid employees' remuneration

9 After section 424 insert—

“424A Unpaid employees' remuneration

- (1) Where an interest allowance (alternative calculation) election has effect in relation to a period of account of a worldwide group, this Chapter applies in relation to the period subject to this section.
- (2) The definition of “the group's profit before tax” in section 416(2) has effect as if references to amounts that are recognised in the financial statements of the group for the period, as items of profit or loss, excluded amounts so recognised in respect of employees' remuneration that are not paid before the end of the period of 9 months immediately following the end of the period of account.
- (3) If—
 - (a) an amount is, as a result of subsection (2), excluded from the financial statements of the group for the period of account, and
 - (b) the amount is paid in a later period of account of the group in relation to which an interest allowance (alternative calculation) election has effect,

the definition of “the group's profit before tax” in section 416(2) has effect as if references to amounts that are recognised in the financial statements of the group for the later period of account, as items of profit or loss, included the amount that is paid in that later period.
- (4) Section 1289 of CTA 2009 (unpaid remuneration: supplementary) applies for the purposes of this section as it applies for the purposes of section 1288 of that Act.”

Interest allowance (alternative calculation) election: changes in accounting policy

- 10
- (1) Section 426 (changes in accounting policy in cases where interest allowance (alternative calculation) election has effect) is amended as follows.
 - (2) In subsection (3)—
 - (a) after “means” insert “ the following provisions as modified by subsection (4)”, and
 - (b) after paragraph (a) insert—

“(ab) sections 261 and 262 of that Act (property profits);”.
 - (3) For subsection (4) substitute—

“(4) The provisions mentioned in subsection (3)—

 - (a) are to have effect for the purposes of this section as if their application were limited to cases where there is a change of accounting policy and as if any election had been made under the provisions, and
 - (b) are to have effect subject to any modifications necessary for the purposes of this section.”

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Interest allowance (non-consolidated investment) election

- 11 In section 427 (group interest and group-EBITDA), after subsection (5) insert—
- “(5A) Any increase to be made as a result of subsection (4) or (5) is to be made as part of a single calculation required by section 413(1) or 414(1) (so that the amount produced by that calculation is subject to section 413(2) or 414(2)).”

Public infrastructure

- 12 In section 433 (meaning of “qualifying infrastructure company”), in subsection (5), after paragraph (c) insert—
- “(ca) assets held for the purposes of a pension scheme under which benefits are provided to, or in respect of, persons employed for the purpose of the carrying on of qualifying infrastructure activities by the company or another associated qualifying infrastructure company,
- (cb) assets in respect of deferred tax so far as attributable to qualifying infrastructure activities carried on by the company or another associated qualifying infrastructure company.”
- 13 In section 439 (exemption in respect of certain pre-13 May 2016 loan relationships), in subsection (3), after paragraph (b) insert—
- “, but ignoring amounts that represent the reimbursement of expenses incurred by C or the other company.”

Real Estate Investment Trusts

- 14 (1) Section 452 (Real Estate Investment Trusts) is amended as follows.
- (2) In subsection (4), at the end insert “ (and, accordingly, the profits mentioned in section 534(1) or (2) of CTA 2010 are not calculated for the purposes of this Part in accordance with section 599 of that Act) ”.
- (3) After subsection (4) insert—
- “(4A) An amount charged on the residual business company as a result of section 543 of CTA 2010 (excessive property financing costs) is treated for the purposes of this Part as if it met condition A, B, C or D for the purposes of section 385 (tax-interest income amounts).”
- (4) For subsection (5) substitute—
- “(5) The allocated disallowance for the property rental business company (if any) for the accounting period—
- (a) is to be taken into account in calculating the profits of the property rental business for the purposes of section 530 of CTA 2010 (condition as to distribution of profits), but
- (b) must be limited to such amount as secures that neither subsection (3) (b) nor subsection (5) of that section (distribution of profits not required if would result in unlawful distribution) applies.”

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Interest restriction returns

- 15 In—
- (a) paragraph 1(4)(a) of Schedule 7A (period for appointing a group's reporting company), and
 - (b) paragraph 2(4)(a) of that Schedule (period for revoking appointment),
- for “six months” substitute “ 12 months ”.
- 16 In paragraph 7(5) of Schedule 7A (meaning of “the filing date”)—
- (a) for paragraph (b) substitute—
 - “(b) if an appointment of a reporting company under paragraph 4 or 5 has effect in relation to the period of account, the end of the period of 3 months beginning with the day on which the appointment was made,”, and”
 - (b) after that paragraph insert—
 - “whichever is the later”
- 17 (1) In paragraph 7 of Schedule 7A (submission of interest restriction returns), after sub-paragraph (5) insert—
- “(5A) For an extension of the filing date in the case of a takeover, see paragraph 7A.”
- (2) After that paragraph insert—
- “7A (1) This paragraph applies if—
- (a) a period of account (“the affected period”) of a worldwide group (“the old group”) ends solely as a result of the ultimate parent of the old group becoming a member of a different worldwide group, and
 - (b) the time at which that happens is within 12 months of the beginning of the affected period.
- (2) For the purposes of this Part of this Act the filing date in relation to the affected period of the old group is whichever is the later of—
- (a) the date given by paragraph 7(5), and
 - (b) the end of the period of 24 months beginning with the affected period.”

18 In paragraph 20 of Schedule 7A (required contents of interest restriction return: full returns and abbreviated returns), after sub-paragraph (5) insert—

“(5A) In addition to the matters required to be included in an interest restriction return in accordance with sub-paragraph (3) or (5), the return must include such other specified information as may reasonably be required for the purposes of this Part of this Act.

(5B) In sub-paragraph (5A) “specified” means specified in a notice published by Her Majesty's Revenue and Customs (and different information may be specified for different purposes).”

Consequential amendments

- 19 In section 411 (definitions of “relevant expense amount” and “relevant income amount”), omit subsection (4).

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- 20 In section 494(1) (other interpretation), after “interest restriction return” insert—
““pension scheme” has the meaning given by section 150(1) of FA 2004;”.
- 21 In Part 7 of Schedule 11 (index of defined expressions used in Part 10 of TIOPA 2010), at the appropriate place insert—
- | | |
|------------------------------|-----------------|
| “pension scheme (in Part 10) | section 494(1)” |
|------------------------------|-----------------|

Commencement

- 22 (1) The amendments made by paragraphs 2, 5 to 11 and 14(2) and (4) have effect in relation to periods of account of worldwide groups that begin on or after 1 January 2019.
- (2) In this paragraph “period of account” and “worldwide group” have the same meaning as in Part 10 of TIOPA 2010.
- 23 The amendments made by paragraphs 3 and 4 have effect in relation to any change in ownership taking place on or after 29 October 2018.
- 24 Part 10 of TIOPA 2010 has effect, and is to be deemed always to have had effect, with the amendments made by paragraphs 12, 13, 14(3) and 19 to 21.
- 25 The amendment made by paragraph 17 has effect where the affected period ends on or after 29 October 2018.
- 26 The amendment made by paragraph 18 has effect in relation to any interest restriction return submitted on or after 1 April 2019.

Transitional provision in case of interest allowance (alternative calculation) elections

- 27 (1) This paragraph applies if—
- an interest allowance (alternative calculation) election has been made before 7 November 2018 with effect in relation to any period of account of a worldwide group ending before that date, and
 - the election would, but for this paragraph, have been irrevocable as a result of paragraph 16(3)(b) of Schedule 7A to TIOPA 2010.
- (2) If the appointment of a reporting company has effect in relation to the first period of account of the group beginning on or after 7 November 2018, the reporting company may revoke the election so that it ceases to have effect in relation to that period of account and subsequent periods of account of the group.
- (3) The revocation—
- must be made before the end of the period of 3 months beginning with the day on which this Act is passed, and
 - must be made by notice in writing given to an officer of Revenue and Customs (and, accordingly, paragraph 12(2) of Schedule 7A to TIOPA 2010 does not apply to the revocation).
- (4) Expressions used in this paragraph have the same meaning as in Part 10 of TIOPA 2010.

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