EXPLANATORY MEMORANDUM TO

THE CORPORATION TAX (FINANCING COSTS AND INCOME) REGULATIONS 2009

2009 No. 3173

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ('HMRC') and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of the Regulations is to supplement the provisions of Parts 3 and 4 of Schedule 15 to the Finance Act 2009 in determining the corporation tax treatment of certain financing costs and certain financing income of companies that are members of a group.

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Regulations will be made under powers included in paragraphs 17, 24, 25, 26, 29, 36 and 38 Schedule 15, Finance Act 2009. This will be the first occasion on which those powers will be exercised.

4.2 The Finance Act 2009 contains rules in Schedule 15 dealing with the taxation of financing costs and income. The rules limit the amount of finance costs that a company brings into account in calculating its profits for corporation tax purposes. Where the net finance costs of the UK members of a group exceed the gross consolidated finance costs of the group the excess is disallowed.

4.3 Part 3 of Schedule 15 provides for the disallowed amount to be allocated between UK companies that are members of the group. This can be done in one of two ways. The group may appoint a company ("the authorised company") to exercise certain functions on its behalf. The authorised company then submits a statement for each period of account showing how the disallowance is to be allocated. If no authorised company is appointed, or it fails to be submit a statement, the disallowance is allocated on a pro rata basis between group companies.

4.4 Where a group of companies has a disallowance under Schedule 15, Part 4 of that Schedule provides for an amount of financing income received by UK group companies to be disregarded for corporation tax purposes. The amount so disregarded is capped at the lower of the disallowed amount and the aggregate net financing income of UK group companies. Again, an authorised company may submit a statement showing how the exempted amount is to be allocated. In the absence of such a statement, a “default allocation” is made.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The policy intention is that UK companies and UK permanent establishments of non-UK companies carrying on a trade in the UK that are members of a group should not be able to claim finance costs in calculating their profits for corporation tax where in total the net finance costs of those UK members of the group that have net finance costs in total exceed the gross consolidated finance costs of the group as a whole. To the extent that other UK members of the group have net finance income and which in total does not exceed the finance costs disallowed, that net finance income will not be included in those member’s calculation of profits for corporation tax.

7.2 It is intended that groups should have the option appointing an authorised company, which will be responsible for allocating the disallowance of finance costs between relevant companies; and that, similarly, an authorised company should allocate the disregard of finance income. This allows groups to arrange their tax affairs in the most advantageous way, and gives individual companies certainty as to what should be included in their corporation tax self-assessments.

7.3 These Regulations contain detailed provisions that are ancillary to the rules in Parts 3 and 4 of Schedule 15 about appointing authorised companies and submitting a “statement of allocated disallowances” (under Part 3) or “statement of allocated exemptions” (under Part 4).

7.4 Specifically, they

- set out how an authorised company is to be appointed, for Part 3 and Part 4 purposes, and how an appointment is to be revoked;
- give details of how a statement of allocated disallowances, or a statement of allocated exemptions, or a revision to such a statement, is to be made to HMRC, and the information that it must contain; and
- provides machinery for companies to disallow financing costs, or disregard financing income, in their corporation tax self-assessments where a “default allocation” is necessary, including provision for the

parent company of a group to make requisite information available to its subsidiaries.

7.5 The rules contained within Schedule 15, Finance Act 2009 were introduced as a measure to support the introduction of exemption of distributions.

8. Consultation outcome

8.1 A consultation document was published in December 2008 which provided draft clauses for Schedule 15. These included rules for allocating disallowances, and exemptions of financing income, between group companies, including powers to make supplementary regulations. A draft of these Regulations was published in June 2009. Some comparatively minor changes to that draft have been made in response to comments received.

9. Guidance

9.1 HMRC will publish guidance on the operation of the Schedule, including the Regulations.

10. Impact

10.1 Schedule 15, Finance Act 2009 is one of a package of measures introduced as part of the Government's review of the taxation of the foreign profits of companies. A full and final impact assessment of the effect the package as a whole will have on the costs of business and the voluntary sector is available at http://www.hmrc.gov.uk.

10.2 These Regulations have no specific impact on business since they set out the detail of procedures already provided for in the primary legislation. They have no effect on charities or voluntary bodies, which are outside of the charge to corporation tax.

10.3 There is no impact on the public sector.

11. Regulating small business

11.1 The legislation will not apply to small business.

12. Monitoring & review

12.1 HMRC intend to monitor the practical operation of Schedule 15 Finance Act 2009 as a whole, including the "machinery" provisions contained in these Regulations, and will consider amending the Regulations if these provisions give rise to any significant difficulties or uncertainty.

13. Contact

Sue Davies at HM Revenue and Customs (Tel: 020 7147 2565 or email: sue.davies2@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency:	Title:	
HM Treasury	**Review of the taxation of the foreign profits of companies**	
Stage: Final Proposal	**Version:** 2.0	**Date:** 21 April 2009

Related Publications: http://www.hm-treasury.gov.uk./media/E/9/consult_foreign_profits020707.pdf; http://www.hm-treasury.gov.uk/d/foreignprofits_impactassessment111208.pdf

Available to view or download at:

http://www.hm-treasury.gov.uk/consult_foreign_profits.htm

Contact for enquiries: Alex Harris **Telephone:** 020 7270 6104

What is the problem under consideration? Why is government intervention necessary?

The current "tax-with-credit" system that gives relief from double taxation on dividends from foreign subsidiaries is administratively burdensome, expensive and results in relatively little tax. The Government's conclusion is that the system hinders the competitiveness of UK businesses. Intervention is needed to modernise the system and create a more straightforward regime for taxing foreign profits.

What are the policy objectives and the intended effects?

The primary policy objective is to improve the competitiveness and attractiveness of the UK as a location for multinational companies while ensuring that the new regime does not undermine the UK tax base. The effect will be to move to a system in which most foreign dividends paid to UK companies will be exempt from UK tax, accompanied by a limited restriction of interest relief to protect UK tax revenues and some consequential changes to the Controlled Foreign Companies (CFC) rules. The current Treasury Consent rules will also be replaced with an information reporting requirement, targeted at high-risk transactions.

What policy options have been considered? Please justify any preferred option.

Consultation identified 4 options: Option 1: In FB 2009, introduce exemption from UK tax for most foreign dividends received by UK companies; worldwide debt cap for interest; some consequential changes to CFC rules and replacement of the Treasury Consent rules. The Government has chosen to adopt this option. Option 2: Change to the treatment of portfolio dividends; changes to Treasury Consents in FB 2009; delay other reforms to FB 2010. Option 3: Abandon wider dividend exemption, but change the treatment of portfolio dividends; changes to Treasury Consents in FB 2009. Option 4: Do nothing - maintain the status quo.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The reforms will be monitored once they are implemented. Compliance costs are routinely reviewed 1-3 years after implementation.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

> ***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

Signed by the responsible Minister:

Stephen Timms

Date: 21 April 2009

Summary: Analysis & Evidence

Policy Option: Option 1 (preferred)	Description: Exemption for most dividends , worldwide debt cap for interest, changes to existing CFC rules and replacing the Treasury Consent rules.

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	Yrs	The introduction of a worldwide debt cap is expected to result in an annual admin burden of £8.6m (£7.5m in 2005 prices).
£ Nil		
Average Annual Cost (excluding one-off)		
£ 8.6m		**Total Cost** (PV) £ N/A

Other **key non-monetised costs** by 'main affected groups' The Standard Cost Model (SCM) only identifies admin burdens. Compliance costs not captured by the SCM include cost of business uncertainty, cash flow costs and the cost of deciding whether or not to do something.

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	Yrs	There is a yearly admin burden saving of £2.2m (£1.9m in 2005 prices), which represents a 100% reduction of the burden of complying with the current credit method for foreign dividends. For Treasury Consents, the new threshold for reporting transactions will reduce the annual admin costs by 75% i.e. by £5.7m (£5m 2005 prices) from £7.7m (£6.7m) to £2m (£1.7m).
£ Nil		
Average Annual Benefit (excluding one-off)		
£ 7.9m		**Total Benefit** (PV) £ N/A

Other **key non-monetised benefits** by 'main affected groups' The SCM only identifies reduction in admin burdens. Other benefits not captured by the SCM are substantially simplified rules for taxing foreign profits and deregulatory benefits with the replacement of the Treasury Consent rules, which will give business greater flexibility in managing their commercial affairs.

Key Assumptions/Sensitivities/Risks This package of measures is expected to decrease the amount of tax collected by 2011/12 by £650m. All figures have been quoted in present-day terms except for the admin burden figures, which are based on 2005 baseline SCM prices.

Price Base Year 2009	Time Period Years	**Net Benefit Range** (NPV) £ N/A	**NET BENEFIT** (NPV Best estimate) £ N/A

What is the geographic coverage of the policy/option?			United Kingdom	
On what date will the policy be implemented?			Finance Bill 2009	
Which organisation(s) will enforce the policy?			HMRC	
What is the total annual cost of enforcement for these organisations?			£ Absorbed	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ N/A	
What is the value of changes in greenhouse gas emissions?			£ N/A	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro Nil	Small Nil	Medium N/A	Large N/A
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of £ 7.5m		Decrease of £ 6.9m	**Net Impact**	£ **0.6m increase**

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base

1. The Issue

Current Regime

1.1 Under the current system of taxing foreign profits, the profits of the foreign subsidiaries of UK groups (this includes both UK headed groups and UK subgroups of foreign headed groups) are taxed in one of two ways:

- the dividends from the profits are taxed when they are received in the UK; and
- where profits are diverted to a low tax jurisdiction, a charge may be imposed on the UK parent company in respect of those profits by the Controlled Foreign Companies (CFC) regime.

1.2 When taxing foreign dividends, the UK tax due on those dividends is reduced by the amount of foreign tax already paid by foreign subsidiaries on the repatriated profits. As the profits of UK subsidiaries are taxed directly, no further tax is imposed on dividends paid between UK companies. The rules for determining the correct amount of credit are complex to apply for multinational groups, as dividends can pass through several subsidiaries and countries before arriving in the UK.

1.3 In broad terms, the CFC rules prevent UK companies from diverting UK profits to subsidiaries set up in tax havens. A company is a CFC if it is resident outside the UK, is controlled by UK persons and suffers a lower level of tax. The profits of a CFC are taxed provided that the UK person's interest in the CFC is at least 25 per cent. There are a number of exemptions to this rule e.g. if the CFC pursues an acceptable distribution policy or satisfies the holding companies test for exemption.

1.4 The Acceptable Distribution Policy (ADP) allows a UK company an exemption from a CFC charge if 90 per cent of those profits are returned to the UK by way of dividend within 18 months.

1.5 A holding company is a company that owns part, all, or a majority of other companies' shares. The holding company test allows a company to be exempt from the CFC rules if 90 per cent of the income is 'good'. 'Good' income is defined as qualifying dividends and income actually received in the territory of the holding company. Qualifying dividends are defined as any dividends other than those for which there is an entitlement to a deduction for tax purposes in the territory of the payer.

1.6 The holding company test allows groups to mix 90% of their 'good' and 10% of 'bad' (e.g. cross border interest from surplus cash deposits) sources of income and thereby shelter 'bad' income from UK tax. This practice is known as 'swamping'. There are currently three types of holding company exemption: superior, non-local and local. The exact definition of 'good' income differs between these types of exemption.

1.7 The Treasury Consent rules (sections 765 & 765A ICTA 88) require UK companies with overseas subsidiaries to obtain advance clearance from the Treasury before carrying out certain transactions with those subsidiaries. Under the existing rules, a criminal penalty of imprisonment can be imposed for failure to comply. This will be removed, and a modernised post-transaction reporting requirement (with an appropriate monetary penalty) will be introduced in its place.

The case for reform

1.8 The current system of taxing foreign dividends and relieving double taxation through crediting foreign tax produces only a modest amount of direct tax yield and results in significant administrative burdens for both business and HMRC. Business has long held that the system for taxing foreign profits is over-burdensome and hinders UK competitiveness.

1.9 The Government recognises that the current method of taxing foreign dividends, and allowing credit for underlying tax, is less than straightforward for businesses and hinders the competitiveness of UK based companies.

1.10 The Government recognises that changing the current method of taxing foreign dividends could leave the UK's current tax regime at risk of abuse. One form of such abuse would be if a UK company within a multinational group were to claim excessive tax deductions arising from inappropriate amounts of debt being loaned to the UK. In response to this, the Government has decided that tax deductions for interest claimed by the UK members of a group will be capped at the group's consolidated gross external finance costs. This "debt cap" is a principled approach, and UK interest relief will remain generous, allowing groups to claim a UK tax deduction for all worldwide external debt financing costs, but not to go beyond that.

1.11 Business has asked for the repeal of the Treasury Consents rules. This is in part because of the criminal sanction provision, but also because of the outdated requirement to apply to the Treasury for consent before carrying out certain commercial transactions, and the resulting administrative burden.

1.12 The Government acknowledges that repealing the Treasury Consents rules and replacing them with a modern targeted reporting system will remove the need for business to apply to the Treasury before entering into commercial transactions. The new information-reporting requirement will target high-risk transactions over £100m. This will result in a fall in the number of reports required compared to current rules, and reduce admin costs.

1.13 In June 2007 the Government published a discussion document on proposals for radical reform as a response to discussions with business in the preceding year. After extensive consultation, the Government issued a technical note on 21 July 2008 that set out a number of possible options for change and invited the views of business, tax advisers and other interested parties on these as well as welcoming other ideas on the way forward.

1.14 Nearly 200 representations were received from business in response to the taxation of foreign profits draft clauses published on 9 December 2008. These covered a range of issues for all measures, but the policy objective and design of the worldwide debt cap were the main themes of most business representations. As this is the revenue raising measure in the package, the Government expected it to attract most attention.

1.15 The responses to the discussion document, as well as the subsequent consultation and engagement with stakeholders, have informed this Impact Assessment.

2 Policy Objectives and Intended Effects

2.1 The primary policy objective is to enhance the competitiveness and attractiveness of the UK as a location for multinational business, while ensuring that the new regime cannot be used to undermine the UK tax base.

2.2 Further policy objectives are to simplify the system for taxing foreign profits and to reduce administrative costs wherever possible.

2.3 The intended effects are to improve UK economic performance through attracting more investment and enabling multinational business to operate more effectively.

3 Measures introduced

3.1 The following measures will be implemented in Finance Bill 2009.

- Exemption from tax for dividends received by any UK-resident companies broadly in the following situations (effective 1 July 2009):
  - o dividends on non redeemable ordinary shares;
  - o dividends received from a company that is controlled by the recipient;
  - o dividends from portfolio holdings of the share class concerned;
  - o dividends derived from a transaction not designed to reduce UK tax (motive test); and
  - o dividends in respect of shares accounted for as liabilities.

  All are subject to targeted anti-abuse rules (TAARs).
- Worldwide debt cap whereby tax deductions for interest claimed by the UK members of a group will be restricted by reference to the group's total consolidated external finance costs (effective for accounting periods beginning on or after 1 January 2010).
- Consequential changes to the existing CFC rules. This will mean removing some exemptions, namely the ADP and the superior and non-local holding company tests (see paragraphs 1.4 – 1.5). Following the introduction of dividend exemption, these exemptions will no longer be appropriate or necessary. The Government however recognises the need to make transitional provisions for existing holding company arrangements, which will run for a period of two years.
- Repeal of the Treasury Consent Rules (sections 765 & 765A ICTA 88) and replacement with a modernised post-transaction reporting requirement (effective 1 July 2009).

Small business

3.2 Last December's draft legislation did not propose a wide dividend exemption for small business, as the Government's view was that a better understanding of the risks and costs involved was needed especially if anti-avoidance legislation is widely applied to small business. Following further consideration, the Government has now decided to extend the dividend exemption to small business. Broadly, dividends received by small companies will be exempt where received from the UK or from a country that is not a tax haven, and where the dividend is not paid as part of a scheme that has the obtaining of a UK tax advantage as a main purpose.

3.3 The de minimis carve-out from the debt cap will mean that small businesses are highly unlikely to be affected by the debt cap measure.

4 Costs and Benefits / Impacts

4.1 The main affected groups in practice are:

- large and medium UK multinationals that have controlling interest in foreign subsidiaries; and
- large and medium non-UK multinationals.

4.2 The Government does not expect the package to affect any one sector disproportionately. In the light of consultation, a carve-out from the debt cap for financial services companies has been introduced, to ensure that these companies do not suffer a disproportionate burden. Different elements of the reform package will affect different businesses in different ways and there will be winners and losers in each sector depending on a company's ownership model, structure, and its method of financing. Broadly, it is likely that groups with headquarters in the UK will benefit from dividend exemption and the removal of the advance consent requirements under the repeal of the Treasury Consents rules.

4.3 Those groups affected by the worldwide debt cap and not gaining a benefit from the dividend exemption are likely to see an increase in tax liability. This measure targets those companies that have previously taken advantage of the UK's generous interest rules by putting more debt into the UK than they have borrowed externally for their worldwide business. Other countries have interest restrictions to target inappropriate use of deductions.

4.4 The package will have the following impact:

4.4.1 For those UK multinational groups with headquarters in the UK the benefits of dividend exemption will be a modernised and more straightforward system as well as simplicity and certainty year-on-year. The Government believes that this will give business greater flexibility in managing their commercial affairs, increase competitiveness and reduce admin costs.

In relation to interest, 'outbounds' with upstream loans and excessive debt in the UK compared to their external worldwide debt, may have some of the interest disallowed under the worldwide debt cap.

The removal of the superior and non-local holding company exemption may lead to some outbounds having to restructure their holdings to take full advantage of dividend exemption, or to avoid triggering a CFC charge, subject to the two-year transition.

The advance Treasury Consent requirement is seen as unpopular and administratively burdensome by business. Its replacement with a new, targeted information reporting requirement (with fewer reportable transactions) and the removal of the criminal sanction for failure to comply, will be seen as beneficial by all businesses affected. This will save both time and internal compliance costs.

4.4.2 Multinational groups with headquarters outside the UK are not expected to benefit from dividend exemption, as they do not usually have subsidiaries below the UK subsidiary from which to receive dividends.

The worldwide debt cap will affect them only if the interest deduction claimed is in excess of the interest that the worldwide group is paying on its external borrowings.

These groups will not be affected by the consequential changes to the CFC rules or the Treasury Consent rules.

4.4.3 Private equity owned groups are unlikely to be affected by dividend exemption, changes to the CFC requirements or changes to the Treasury Consent rules unless they invest in a UK group with overseas subsidiaries. If so, the group as a whole would benefit from the changes, as is the case with outbound groups. For most private equity owned groups, the worldwide debt cap is not expected to have an impact.

4.4.4 Collective investment vehicles and life insurers will benefit from the package, as they will receive exemption for the dividends they receive on their investments and are unlikely to be affected by the debt cap or the changes to the CFC rules.

4.4.5 The Government does not expect banks or insurance companies to be adversely affected by the changes, as the debt cap measure includes a carve-out for these sectors.

Revenue effects

4.5 The package is expected to reduce the amount of tax collected year-on-year on a permanent basis. The amount of tax collected in the period from 2009/10 to 2011/12 is expected to decrease by £650 million.

Conclusion

4.6 The Government expects that in the long term the main beneficiaries will be multinational groups with UK headquarters. This is because these groups should benefit from dividend exemption.

4.7 The worldwide debt cap mostly affects UK headed multinationals, because this measure is designed to target excess debt located in the UK, which for a UK headed group is typically in the form of upstream loans. With the introduction of dividend exemption, these upstream loan arrangements can be largely unwound and profits can instead be brought back into the UK in the form of exempt dividends.

4.8 In the consultation process, stakeholders were supportive of a broad dividend exemption to be introduced in 2009, and this forms the basis of the final package. The package is a successful outcome for both business and Government, and fits with the Government's primary objective of enhancing the UK's competitiveness.

5 Compliance Costs

Administrative Burden

5.1 HMRC has targets to reduce the administrative burden on business. Administrative burdens, which are a subset of wider compliance costs, are measured through the 'Standard Cost Model'. This is an activity-based costing model that identifies what activities a business has to do to comply with HMRC obligations. It also estimates the cost of these activities, including agents' fees and software costs.

5.2 In understanding the figures, it is important to note that the 'Standard Cost Model' (SCM) has been used to derive an estimate of the costs to business of complying with HMRC obligations to disclose information to HMRC or to third parties. The SCM considers which activities a business has to carry out to comply with an HMRC obligation, how many businesses have to comply, and how often they need to comply. The SCM considers the burdens applying to different sizes of business.

5.3 The SCM estimates the cost of using agents, the cost of undertaking work in-house and the cost of actually transmitting the information. The SCM does not consider one-off costs or transitional costs. The SCM does not consider costs that a business would have incurred had the relevant HMRC obligation not existed. It considers the costs that apply to a normally efficient business and the costs to businesses that comply with their obligations. The SCM does not consider wider compliance cost issues, such as the costs of business uncertainty, cash flow costs, or the costs of deciding whether or not to do something, as noted above.

5.4 The Impact Assessment requires SCM figures to be presented in May 2005 prices, as admin burden reduction targets relate to a May 2005 baseline.

5.5 The summary points are:

- An existing burden of £1.9m has been identified for dividend taxation in the SCM almost all of which is incurred by large and medium business.
- Alternative methods of calculating the compliance burden were considered, which suggest that there will be significant compliance benefits from the dividend exemption measure in addition to the SCM reductions. This was borne out by the

fact that business representatives estimated the existing cost of the current "tax-with-credit" system of taxing foreign dividends to be £7m.

- The design of the proposed debt cap has changed since the version costed at PBR 2008. This change has had both an impact in the Government's estimate of the yield from the policy, as well as the compliance burden on businesses. The changes proposed make the calculations easier and provide more certainty for groups in applying the rules.
- The change in design should lead to a decrease in the total yearly administrative burden for a group to comply with the policy. However, it has been necessary to reduce the number of "Gateway Tests" (simple tests which, if passed, mean that detailed calculations are not required). The effect of this is that more groups will need to comply with the full debt cap data gathering and calculations, though for these groups the burden will be lower.
- In the responses from stakeholders following the publication of draft clauses, they expressed concerns that implementing the debt cap would be more complex than envisaged, and would likely lead to higher compliance costs than estimated in the previous Impact Assessment.
- We have identified that the current CFC rules have an administrative burden of around £48m, a large proportion of which goes on agents' fees. Removing the ADP, superior holding company and non-local holding company exemptions will not have a significant impact on admin burdens, assuming that groups will apportion their income instead. Therefore, the Government estimates that there will be no change to the admin burdens for this particular part of the package.

Table 1 Summary of admin burdens

	Existing burden	New burden	Change	% Reduction in burden
Dividend exemption				
1. Standard Cost Model				
Large only	£1.2m		-£1.2m	100%
Large & Mediums	£1.6m	-	-£1.6m	100%
Large, Medium & Small	£1.9m		-£1.9m	100%
Interest debt cap	£0	£7.5m	+£7.5m	
CFC amendments	£48m	No change		
Treasury consents	£6.7m	£1.7m	-£5m	75%

6 Implementation Plan

6.1 The proposed reform to the taxation of foreign profits will be implemented with effect from 1 July 2009, with the exception of the debt cap, which will apply to accounting periods beginning on or after 1 January 2010. This will give sufficient time for business to prepare for, and adapt to, the new rules.

7 Impact tests

7.1 Competition Assessment

The Government's assessment is that the measures introduced are unlikely to have an impact on the capacity of any business to enter markets or to compete rigorously within them. This is because for any given economic sector, each measure applies equally to all UK companies competing within that sector.

7.2 Small Firms Impact Test

The legislation will apply to small business.

The measures introduced will chiefly affect large and medium business. The de minimis carve-out from the debt cap will ensure that the compliance impact on small business is negligible.

Following consultation, the Government has decided that small business is to be included in the dividend exemption, and to the extent that there is any compliance or administrative impact on small business, this should be a benefit rather than a cost.

7.3 Legal Aid

The Government's assessment is that the measures introduced will not have any implications for Legal Aid.

7.4 Sustainable Development

The Government's assessment is that the measures introduced will not have any effect on sustainable development.

7.5 Carbon Assessment

The Government's assessment is that the measures introduced will not affect carbon emissions.

7.6 Other Environment

The Government's assessment is that the measures introduced will not cause any other environmental impacts.

7.7 Health Impact Assessment

The Government's assessment is that the measures introduced will not impact on people's health.

7.8 Equality Assessments

The impact on equality groups covered by the NI Act and including disability, gender and race as covered by GB equality legislation has been considered with reference to the following criteria:

- Is there a reason to believe that people are, or could be, differently affected because of their equality group?
- Is there concern from staff/customers that the policy/activity or proposal is causing discrimination?
- Is there any concern from staff/customers that the policy/activity or proposal is damaging race relations or not taking opportunities to improve equality outcomes?

No disproportionate impact or opportunity for promotion of equality has been identified in the consultation process and so a full EQIA was not considered necessary.

7.9 Human Rights

The Government has been advised that the measures introduced do not have any Human Rights Act implications. This position will continue to be monitored throughout the legislative process.

7.10 Rural Proofing

The Government's assessment is that the measures introduced will not be to the detriment of rural communities.

8 Caveats and risks

8.1 As discussed above, analysis shows that there is a potential fiscal risk associated with the introduction of dividend exemption. Since assessment of these costs is based on assumptions about likely behavioural responses, it is vulnerable to a degree of uncertainty. There is therefore a risk that the fiscal impact of dividend exemption is significantly greater or less than the central estimate.

9 Monitoring and evaluation

9.1 The reforms will be monitored once they are implemented. Compliance costs are routinely reviewed 1-3 years after implementation.

10 Conclusion

10.1 The Government's assessment is that the measures introduced achieve the primary objective of enhancing competitiveness while protecting the UK tax base.

Specific Impact Tests: Checklist

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

All the above issues have been considered as part of this impact assessment.