
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for relief from double taxation in relation to the bank levy and any tax imposed by a foreign territory which corresponds to the bank levy (“equivalent foreign levy”).

Regulation 1 provides for citation, commencement and effect. Authority for retrospective effect is provided by paragraph 67(3)(a) of Schedule 19 to the Finance Act 2011.

Regulation 2 provides that the Regulations apply where the bank levy and an equivalent foreign levy are charged in relation to the relevant group which is a foreign banking group or a relevant non-banking group, or the relevant entity which is a relevant foreign bank.

Regulation 3 specifies the equivalent foreign levy as Art. 235 ter ZE du code général des impôts imposed by the law of France.

Regulation 4 provides that an amount of the equivalent foreign levy in relation to a chargeable period is allowed as a credit to reduce the amount of the bank levy (but not to below nil) for that period.

Regulation 5 sets out how to calculate the amount of equivalent foreign levy allowable as a credit against the bank levy. This calculation is based on the amount of assets and UK assets of the relevant group or relevant entity.

Regulation 6 sets out how to determine the assets and UK assets of the relevant group or relevant entity.

Regulation 7 provides for the exchange rate to translate the amount of the equivalent foreign levy into its sterling equivalent.

Regulation 8 provides for the time limits for making a claim for a credit under regulation 4.

Regulation 9 provides that where the bank levy is charged in relation to the relevant group a claim for credit must be made by the responsible member.

Regulation 10 makes provision to restrict the credit in the case of groups where the parent entity is not resident in the territory the law of which imposes the equivalent foreign levy. The credit is only available to reduce the amount of the bank levy charged in respect of chargeable equity and liabilities of members of the group held by a resident in the territory which imposes the equivalent foreign levy.

Regulation 11 provides for a reduction in the credit if a payment is made in respect of a credit for the equivalent foreign levy.

Regulation 12 makes provision for priority of credits where credits are allowed in relation to equivalent foreign levies imposed by the law of two or more foreign territories under these Regulations or under these Regulations and any Regulations made under paragraph 66 or 67 of Schedule 19 to the Finance Act 2011.

Regulation 13 makes provision in relation to a claim or assessment made in consequence of an adjustment of the bank levy or the equivalent foreign levy.

Regulation 14 makes provision for a notice to be given where in consequence of an adjustment of the bank levy or the equivalent foreign levy the credit given under regulation 4 has become excessive.

A Tax Information and Impact Note covering this instrument was published on 23 March 2011 alongside draft legislation for the Bank Levy and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.