

2010 No.

CORPORATION TAX

The Tax Treatment of Financing Costs and Income (Available Amount) Regulations 2010

<i>Made</i>	- - - -	***
<i>Laid before the House of Commons</i>		***
<i>Coming into force</i>	- -	***

The Commissioners for Her Majesty's Revenue and Customs make the following regulations in exercise of the powers conferred by sections 332(1)(g) and 353B of the Taxation (International and Other Provisions) Act 2010(a)(b).

Citation and commencement

1.—(1) These Regulations may be cited as the Tax Treatment of Financing Costs and Income (Available Amount) Regulations 2010 and come into force on *** 2010.

(2) These Regulations have effect in relation to periods of account of the worldwide group beginning on or after ***2010.

Interpretation

2. For the purposes of these Regulations—

“CTA 2009” means the Corporation Tax Act 2009(c);

“alternative finance arrangements” has the meaning given in section 501(2) of CTA 2009 (introduction to chapter: definitions etc);

“alternative finance return” has the meaning given in sections 511 to 513 of CTA 2009 (purchase and resale arrangements, diminishing shared ownership arrangements and other arrangements);

“loan relationship” has the meaning given in section 302 of CTA 2009 (definitions of loan relationship, creditor relationship and debtor relationship);

“manufactured interest” has the meaning given in section 539(5) of CTA 2009 (introduction to chapter: definitions etc).

Amounts to be included within the available amount

3. In the case specified in regulation 4, references in Part 7 of the Taxation (International and Other Provisions) Act 2010 to the available amount for a period of account of the worldwide

(a) 2010 c. 8. Section 332 was amended by paragraph x of Schedule y to the Finance (No. 3) Act 2010 (c. z).
(b) See section 353 for the definition of “Commissioners”.
(c) 2009 c. 4.

group include amounts disclosed in the financial statements of the group for that period in respect of any matter of such description as is specified in regulation 5.

Case in which regulation 3 applies

4. Regulation 3 applies in a case in which—

- (a) the amount is a financing expense amount of a relevant group company, and
- (b) the amount is or includes an amount which is deducted (whether as a financing expense or otherwise) in arriving at the profits of the worldwide group as shown in the financial statements of the worldwide group.

Specified descriptions of matters

5. The specified descriptions of matters are—

- (a) a debit brought into account in accordance with section 481(1) of CTA 2009 (application of Part 5 to relevant non-lending relationships);
- (b) alternative finance return under alternative finance arrangements;
- (c) manufactured interest payable by a relevant group company;
- (d) an amount treated in accordance with section 551(4) of CTA 2009 (relief for borrower for finance charges in respect of the advance) as interest payable under a debt;
- (e) an amount treated in accordance with section 761(3) of the Corporation Tax Act 2010^(a) (deemed loan relationship if borrower is a company) as interest payable under a loan relationship.

name
name

Date Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 7 of the Taxation (International and Other Provisions) Act 2010 (“TIOPA 2010”) applies to groups of companies. It provides for the disallowance for corporation tax purposes of net financing deductions of the UK members of a group to the extent that the total of those deductions exceeds the “available amount”. The available amount is the sum of the amounts disclosed in the financial statements of the worldwide group for the relevant period of account in respect of matters within the descriptions specified in section 332(1) of TIOPA 2010 or in regulations made under that section. These Regulations specify descriptions of matters in addition to those specified in section 332(1).

Regulation 3 provides that an amount in respect of any matter whose description is specified in regulation 5 is included within the available amount if regulation 4 applies.

Regulation 4 applies if two criteria are met. The first is that the amount is a financing expense amount of a relevant group company. The second is that the amount is or includes an amount which is deducted in arriving at the profits of the worldwide group as shown in the consolidated accounts of the group.

Regulation 5 specifies the additional descriptions of matters in respect of which amounts are included within the available amount.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

(a) 2010 c. 4.