

Tax Treatment of Intra-Group Financing Costs and Income – Explanatory Notes

Paragraph 21

This paragraph excludes intra-group finance income from the calculation of the company's tested amount where the company is engaged in certain oil extraction and other activities. The finance costs excluded are those costs that are brought into account by a company in calculating its trading profits within section 492 of ICTA 1988.

Paragraph 22

Part VI of Schedule 22 to FA 2000 sets out the rules for calculating relevant shipping profits. These are the profits that effectively fall out of taxation in respect of corporation tax, being replaced instead with a tax charge based on the tonnage of particular vessels. In calculating the relevant shipping profits, the company should allocate finance costs that are incurred in earning those profits.

So in order to exclude a company's intra-group finance costs that are included within the calculation of those relevant shipping profits from the calculation of that company's test amount, there is no actual requirement to identify those costs. As the relevant shipping profits are not within the charge to corporation tax, any amount that is taken into account in calculating those profits cannot be within paragraph 13 of this Schedule.

A company may incur finance costs that partly relate to its activities within the tonnage tax regime and partly to activities outside that regime. In calculating a company's relevant shipping profits, specific rules provide for adjustments to be made if an incorrect allocation of finance costs is made. Such an adjustment is made by way of non-trading loan relationship credit to the corporation tax profits of the non-tonnage business.

Paragraph 22 ensures that any such adjustment (made under either section 61 or 62 of Schedule 22 to FA 2000) is disregarded in calculating a company's tested amount.

Consider a company that is due to pay intra-group finance costs of 1000 in a particular accounting period. The company includes 400 of those costs in the calculation of its relevant shipping profits. It is agreed that the correct amount of the costs to be included in that calculation is actually 600. The adjustment is made by way of a non-trading loan relationship credit of 200 to the non-tonnage tax intra-group finance costs of 600, resulting in total debits of 400.

Overall 600 of the intra-group finance costs should be disregarded in calculating the company's tested amount. 400 of those costs are never actually taken into account for corporation tax purposes as they are included from the outset in the calculation of the relevant shipping profits. Paragraph 22 ensures that the additional amount of 200 that is adjusted by virtue of section 61 of Schedule 22 to FA 2000 is also disregarded.

Paragraph 40

This paragraph excludes the external finance income received by a company from the calculation of the available amount where the company is engaged in oil extraction and certain other activities. The finance income excluded is that income

that is brought into account by a company in calculating its trading profits within section 492 of ICTA 1988.

The available amount is the difference between

- the non-UK external finance costs of the group, less
- the worldwide external finance income of the group.

To the extent that a company is within section 492 of ICTA 1988, it cannot contribute to the non-UK external finance costs of the group and so the only potential adjustment to the available amount is in respect of that company's external finance income.

Paragraph 41

External finance income received by a company and included in that company's calculation of its relevant shipping profits under Part VI of Schedule 22 to FA 2000 is disregarded from the calculation of the available amount. The external finance to be disregarded is the income that falls within paragraph 50 of that Schedule.

To the extent that a company is subject to Schedule 22 to FA 2000, it cannot contribute to the non-UK external finance costs of the group and so the only potential adjustment to the available amount is in respect of that company's external finance income.

Paragraph 42

This paragraph excludes the external finance income received by a company from the calculation of the available amount where part or all of the company's profits are exempted from corporation tax because those profits are treated as arising to a separate business within the UK-REIT regime. The finance income excluded is that income that is brought into account by a company in calculating the corporation tax exempt profits within section 113 of FA 2006.

To the extent that a company is subject to section 113 of FA 2006, it cannot contribute to the non-UK external finance costs of the group and so the only potential adjustment to the available amount is in respect of that company's external finance income.