

To:
Non-Resident Company Landlord Group

Your Ref:

Our Ref: FD

DT application for relief at source - Interest paid by non-resident company landlord

Part 1

- 1.1 Non resident company landlord paying interest []
- 1.2 Overseas applicant receiving interest []
- 1.3 Date of loan agreement []
- 1.4 Amount of loan or maximum under facility (see *Technical Memo TS 89/2000*) []
- 1.5 Date of receipt of application, certified by overseas Revenue, in CNR (Nottingham).
- 1.6 Termination date [] ***If no termination date is shown, or the one given is inappropriate, please give a date for clearance to expire*

- This memo is about an application to relief from UK tax on the above interest, under the terms of the Double Taxation Agreement ("treaty") between the UK and []
- I attach a copy of the loan agreement.

Please complete the form in **black ink** in **CAPITAL** letters and

- fill in any missing details above
- answer the questions in **Parts 2** and **3** overleaf as appropriate *and*
- take a photocopy of the completed form for your file.

REPLY

** Delete whichever is not appropriate.*

To: CNR (Nottingham) DT Caseworkers, Fitz Roy House, Nottingham, NG2 1BD

- *I have completed the form and am returning it direct to you.
- *I have considered the questions in Parts 2 and 3, but no further enquiries are necessary.
- *I recommend that treaty clearance be granted.

To: Revenue Policy International (Business Tax Group), Victory House,
London, WC2B 6ES.

- *The loan is **above £50 million**. I have completed the form as far as possible. I am now sending it to you to consider whether the interest is excessive.
- I attach *a copy of the loan agreement
- *accounts or return for the accounting period immediately before the loan was made.

*The loan is **£50 million or less** and I have considered the questions in Part 3 myself. The outcome of enquiries is shown on the attached summary. (See TS 89/2000)

Please pass the form on to CNR (Nottingham).

Inspector's signature _____

Inspector's name _____

Telephone number _____

District ref. *if not as above* _____

District date stamp

Part 2

CNR (Nottingham) DT Caseworkers are responsible for checking whether the applicant is entitled to relief under the interest Article in the treaty.

Either you as District for the UK payer, or International (Business Tax Group), are responsible for deciding how the interest payments should be treated. Please see Technical Memo TS 89/2000 for details of how this responsibility is shared.

In completing this form please refer to TS 89/2000 and DT1919B.

IM4650 onwards and ITH Chapters 11 and 12 also give details of the technical background to treaty claims on interest and in particular the effect of Sch 28AA ICTA. In determining whether the interest on this loan is excessive you should refer to these instructions and can seek the assistance of International (Business Tax Group) at any stage of the enquiry.

Contact names and telephone numbers can be found on the International intranet site.

Questions

Please enter details and "✓" as appropriate

2.1	What is the interest rate?		%
2.2	Does the lender control the borrower by means of	NO	YES
	1) More than 50% share ownership, or	<input type="checkbox"/>	<input type="checkbox"/>
	2) a joint venture where each party holds at least a 40% shareholding, or		
	3) another form of "special relationship"?		
	If so, and before giving treaty clearance, consider whether Sch 28AA denies an interest deduction in the NRCL accounts for the full amount being claimed on the basis that at arms length		
	<ul style="list-style-type: none">• the borrower could not or would not have borrowed the full amount, or• the lender would not have lent the full amount, or• the terms of the loan, including the rate of interest would not have applied. Treaty clearance will be limited to the amount which is not considered excessive.		
	If there is no control relationship, treaty clearance may be given to allow the interest to be paid gross (without deduction of income tax) but you should consider these questions first:		
2.3	Is the loan guaranteed, etc., by an associated overseas entity?	NO	YES
	<i>If so this may influence the amount that the borrower can obtain from a third party. Sch 28AA ICTA may apply to disallow excessive interest, but treaty relief may still be due on the full amount.</i>	<input type="checkbox"/>	<input type="checkbox"/>
2.4	Do you suspect that the loan is matched by a backing deposit, etc. from an overseas associate?	NO	YES
	<i>Such a series of transactions may mean that the provisions of Sch 28AA can be applied to disallow excessive interest if the full amount would not be borrowed without it. Treaty relief may still be due.</i>	<input type="checkbox"/>	<input type="checkbox"/>
2.5	Is there any evidence that the loan or facility is connected with a UK permanent establishment of the overseas applicant?	NO	YES
	<i>The Interest Article of the relevant tax treaty may exclude such interest from relief</i>	<input type="checkbox"/>	<input type="checkbox"/>
2.6	Has the loan been put in to take advantage of treaty shopping?	NO	YES
	For instance have they routed the loan through a particular country to gain the benefit of that country's treaty?	<input type="checkbox"/>	<input type="checkbox"/>

Please now turn to Part 3.

Your action will depend upon the amount of the loan and your answers to the questions in Part 2.

Part 3

Notes (see TS 89/2000)

Where the loan is for **£50 million or less**, ensure that you have answered all the above questions. If necessary, contact International (Business Tax Group), who will help you to determine whether any of the interest is excessive and should be disallowed within the accounts or denied treaty clearance.

Where the loan is **above £50 million**, please:

1. Attach a copy of the loan agreement and accounts or return for the accounting period immediately before the loan was made.
2. Send them with this form to Revenue Policy International (Business Tax Group) to consider whether the interest is excessive.
3. Advise CNR (Nottingham) that you have referred the form to Revenue Policy International.

In all cases, please complete the **Reply** section on the front of this form.

CNR date stamp

For CNR (Nottingham)

Tel. 0115 974 []
Fax 0115 974 []