STATUTORY INSTRUMENTS

2009 No. 3173

CORPORATION TAX

The Corporation Tax (Financing Costs and Income) Regulations 2009

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The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by paragraphs 17(3), 24, 25(4) and (5), 26, 29(3), 36 and 38 of Schedule 15 to the Finance Act 2009(**a**).

(**a**) 2009 c. 10.

PART 1

PRELIMINARY PROVISIONS AND INTERPRETATION

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Corporation Tax (Financing Costs and Income) Regulations 2009 and, subject to paragraph (2), shall come into force on 1st January 2010.

(2) Circumstance 4 in regulations 13(2) and 28(2) come into force on 1st April 2010.

(3) These Regulations have effect in relation to periods of account beginning on or after 1st January 2010.

Introduction and structure of Regulations

2.—(1) These Regulations make provision about the treatment for the purposes of corporation tax of certain financing costs and certain financing income of companies that are members of a group.

(2) The structure of these Regulations is as follows—

Part 1 makes provision in relation to general and preliminary matters;

Part 2 makes provision in relation to the disallowance of deductions;

Part 3 makes provision in relation to the exemption of financing income.

Interpretation

3.—(1) For the purposes of these Regulations—

(a) "Schedule 15" means Schedule 15 of the Finance Act 2009 (tax treatment of financing costs and income);

(b) a company is an "immediate parent" of another company if it directly owns more than 50% of the ordinary share capital of that other company;

(c) a company is an "ultimate UK parent" in relation to a group if it—

(i) is a member of the group,

(ii) is a corporate entity,

(iii) is not a subsidiary (whether direct or indirect) of a corporate entity resident in the United Kingdom,

(iv) is not a collective investment scheme, and

(v) is a company to which Part 3 and Part 4 of Schedule 15 apply.

(2) In this regulation, "collective investment scheme" has the meaning given by paragraph 80(2) of Schedule 15.

PART 2

DISALLOWANCE OF DEDUCTIONS

CHAPTER 1

APPOINTMENT OF AUTHORISED COMPANY

Appointment of authorised company

4.—(1) An appointment under paragraph 17 of Schedule 15 must be made in accordance with this regulation.

(2) The company seeking to be appointed ("the applicant company") must make an application in writing to an officer of Revenue and Customs at least 3 months before the time specified in paragraph 19(2) of Schedule 15 (submission of statement of allocated disallowances).

(3) The application must be sent to the tax office that deals with the corporation tax affairs of the applicant company.

(4) The application must specify—

(a) the name and the tax office reference of the applicant company,

(b) the names and the tax office references of the other companies to which Part 3 of Schedule 15 applies,

(c) the first period of account of the worldwide group in relation to which the appointment is to apply, and

(d) except in relation to the ultimate parent, the name of the immediate parent of the applicant company and each of the other companies to which Part 3 of Schedule 15 applies.

(5) The application must contain a statement by the applicant company and by each of the other companies to which Part 3 of Schedule 15 applies—

(a) that the appointment is made under paragraph 17 of Schedule 15,

(b) that the applicant company will act on behalf of all the companies to which Part 3 of Schedule 15 applies for all relevant periods of account for which the appointment has effect,

(c) that no application will be made by a company to amend its company tax return in relation to a financing expense amount specified under paragraph 21(4)(b) of Schedule 15 other than through a revised statement submitted by the applicant company in accordance with paragraph 20 of Schedule 15, and

(d) agreeing to be bound by any statement of allocated disallowances or revised statement delivered by the applicant company.

(6) The application must be accompanied by a specimen copy of a statement of allocated disallowances that the applicant company proposes to submit in relation to the relevant period of account.

Supplemental provisions: timing and effect

5.—(1) An appointment under paragraph 17 of Schedule 15 has effect on the date ("the three month date") that is three months after the application is delivered to the tax office in accordance with regulation 4(3).

This is subject to paragraphs (2) to (4).

(2) An officer of Revenue and Customs may accept the application before the three month date.

(3) Where paragraph (2) applies, the officer of Revenue and Customs may amend the list of companies to which Part 3 of Schedule 15 applies specified under regulation 4(4)(b) to exclude any company that is not a company to which Part 3 of Schedule 15 applies for the relevant period of account.

(4) An appointment under paragraph 17 of Schedule 15 is of no effect if before the three month date an officer of Revenue and Customs refuses the application on the grounds that—

(a) the specimen statement of allocated disallowances provided in accordance with regulation 4(6) is not adequate for the purposes of Part 3 of Schedule 15, or

(b) a company to which Part 3 of Schedule 15 applies has been omitted from the list of companies specified under regulation 4(4)(b).

Duration of appointment

6. Once an appointment under paragraph 17 of Schedule 15 has effect, it continues to have effect until it ceases to have effect in accordance with regulations 7, 8 or 9.

Revocation of appointment by notice

7.—(1) An appointment under paragraph 17 of Schedule 15 ceases to have effect if revoked by the company appointed under that paragraph by notice in writing to an officer of Revenue and Customs at the tax office that deals with the corporation tax affairs of that company.

(2) The appointment ceases to have effect in relation to the relevant period of account in which the notice is given or such subsequent relevant period of account as may be specified in the notice.

Revocation of appointment on authorised company ceasing to be a relevant group company

8.—(1) An appointment under paragraph 17 of Schedule 15 ceases to have effect if the company appointed under that paragraph ceases to be a company to which Part 3 of Schedule 15 applies.

(2) The appointment ceases to have effect in relation to the relevant period of account in which the company ceased to be a company to which Part 3 of Schedule 15 applies and subsequent periods of account.

Revocation of appointment on a company becoming or ceasing to be a company to which Part 3 of Schedule 15 applies

9.—(1) An appointment under paragraph 17 of Schedule 15 ceases to have effect if a company becomes or ceases to be a company to which Part 3 of Schedule 15 applies.

(2) The appointment ceases to have effect in relation to the relevant period of account in which the company becomes or ceases to be a company to which Part 3 of Schedule 15 applies and subsequent periods of account.

(3) But paragraph (1) does not apply if within three months of a company becoming or ceasing to be a company to which Part 3 of Schedule 15 applies, the reporting body notifies an officer of Revenue and Customs at the tax office that deals with its corporation tax affairs of the change.

(4) A notification under paragraph (3) must—

(a) be in writing, and

(b) specify the name and the tax office reference of the company that has become or ceased to be a company to which Part 3 of Schedule 15 applies.

(5) Where a new company has become a company to which Part 3 of Schedule 15 applies the notification must be accompanied by a statement by that company—

(a) that the company appointed under paragraph 17 of Schedule 15 will act on its behalf for all relevant periods of account for which the appointment has effect;

(b) that no application will be made to amend a financing expense amount specified under paragraph 21(4)(b) of Schedule 15 other than through a revised statement submitted by the reporting body in accordance with paragraph 20 of Schedule 15;

(c) agreeing to be bound by a statement of allocated disallowances or a revised statement delivered by the reporting body.

CHAPTER 2

STATEMENT OF ALLOCATED DISALLOWANCES

Submission of statement of allocated disallowances

10.—(1) A statement of allocated disallowances must be submitted to the tax office dealing with the corporation tax affairs of—

(a) in a case in which an appointment under paragraph 17 of Schedule 15 has effect in relation to the relevant period of account, the company appointed under that paragraph, or

(b) in a case in which such an appointment does not have effect in relation to the relevant period of account—

(i) the ultimate parent where that entity is resident in the United Kingdom, or

(ii) in any other case, the UK ultimate parent.

(2) In a case within paragraph (1)(b)(ii), if there is more than one UK ultimate parent the statement of allocated disallowances must be submitted to the tax office dealing with the corporation tax affairs of each.

Information to be given in connection with a statement of allocated disallowances

11. A statement of allocated disallowances must be accompanied by the following information—

(a) the full name and the unique taxpayer number in relation to each company listed in the statement in accordance with paragraph 21(4)(a) of Schedule 15,

(b) where a company has delivered a tax return for a relevant accounting period and as a result of submitting a statement or revised statement—

(i) there is a change in the amount of profits on which corporation tax is chargeable for the period, or

(ii) any other information contained in the return is incorrect,

details of the change mentioned in paragraph (i) or the information mentioned in paragraph (ii).

Statement of allocated disallowances treated as received within specified time

12.—(1) A statement of allocated disallowances which is not received by HMRC by the time specified ("the specified time") in paragraph 19(2) of Schedule 15, shall be treated as if it were so received in one of the circumstances specified in paragraph (2).

(2) The specified circumstances are—

(a) the statement was submitted without unreasonable delay and this regulation has not applied in relation to any previous statement of allocated disallowances, or

(b) the statement was submitted as soon as possible but was not received by the specified time for exceptional reasons beyond the control of the reporting body.

Revised statement of allocated disallowances treated as received within specified time

13.—(1) A revised statement of allocated disallowances which is not received by HMRC by the time specified ("the specified time") in paragraph 20(2) of Schedule 15, shall be treated as if it were so received if conditions A and B are met.

(2) Condition A is that the statement is received in one of the following circumstances.

Circumstance 1

A notice of enquiry is given before the specified time in relation to the company tax return of a company to which Part 3 of Schedule 15 applies, the enquiry is not completed until after the specified time and the revised statement is received by HMRC by the last of the following dates—

(a) 30 days after the enquiry is completed;

(b) if the return is amended by notice under paragraph 34(2) of Schedule 18 to the Finance Act 1998(**a**), 30 days after the notice is given;

(**a**) 1998 c. 36; paragraph 34(1) to (2A) of paragraph 34 of Schedule 18 are to be substituted for sub-paragraphs (1) and (2) by section 119(6) of the Finance Act 2008 (c. 9) with effect from 1st April 2010 (by virtue of S.I. 2009/405).

(c) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.

Circumstance 2

A determination under paragraph 36 of Schedule 18 to the Finance Act 1998 is made in relation to a company to which Part 3 of Schedule 15 applies which is superseded by a self-assessment in accordance with paragraph 40 of that Schedule and the revised statement is received by HMRC within 30 days of delivery of the company tax return.

Circumstance 3

A discovery assessment or discovery determination is made under paragraph 41 of Schedule 18 to the Finance Act 1998 in relation to a company to which Part 3 of Schedule 15 applies and the revised statement is received by HMRC by the last of the following dates—

(d) 30 days after the discovery assessment or discovery determination is made;

(e) if an appeal is brought against the discovery assessment or discovery determination, 30 days after the date on which the appeal is finally determined.

Circumstance 4

An amendment is made under paragraph 34(2A) of Schedule 18 to the Finance Act 1998 in relation to a company to which Part 3 of Schedule 15 applies and the revised statement is received by HMRC by the last of the following dates—

(f) 30 days after the notice of the amendment is given;

(g) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.

(3) Condition B is that the amount of the difference between—

(a) the financing expense amounts specified in accordance with paragraph 21(4)(b) of Schedule 15 in the statement of allocated disallowances, and

(b) the amounts so specified in the revised statement,

does not exceed the change made to the amount of profit on which corporation tax is chargeable as a result of the enquiry, determination, assessment or amendment referred to in paragraph (2).

Statement of allocated disallowances treated as complying with paragraph 21 of Schedule 15

14. A statement of allocated disallowances which does not comply with paragraph 21 of Schedule 15 because of an obvious error or omission in the statement (whether an error of principle, an arithmetical mistake or otherwise) shall be treated as if it did so comply if the error or omission is corrected by the reporting body as soon as it becomes apparent.

CHAPTER 3

FAILURE OF REPORTING BODY TO SUBMIT A STATEMENT OF ALLOCATED DISALLOWANCES

Reduction of financing expense amounts

15.—(1) The financing expense amounts of a company that must be reduced under paragraph 25(2) of Schedule 15 must be reduced in the following order until the amount of the reduction is equal to the amount determined under paragraph 25(3) of that Schedule.

First, reduce any amounts that meet condition A in paragraph 54(2) of Schedule 15 and would be brought into account in respect of a loan relationship under Part 5 of the Corporation Tax Act 2009(**a**) (other loan relationships).

Second, reduce any other amounts that meet condition A in paragraph 54(2) of Schedule 15.

(**a**) 2009 c. 4.

Third, reduce any amounts that meet condition B in paragraph 54(4) of Schedule 15.

Fourth, reduce any amounts that meet condition C in paragraph 54(5) of Schedule 15.

(2) But a company required to make reductions under paragraph 25 of Schedule 15 may elect to make such reductions differently.

(3) An election under paragraph (2)—

(a) must be made in the company's tax return,

(b) must specify the particular reductions made, and

(c) may be withdrawn, with or without making a new election, at any time that the company may amend its company tax return under paragraph 15(4) of Schedule 18 to the Finance Act 1998.

(4) A company required to make reductions under paragraph 25 of Schedule 15 must notify its ultimate UK parent of the particular reductions made.

(5) A notice under paragraph (4) must be made no later than the date on which the company delivers its company tax return and must be accompanied by—

(a) any election made under paragraph (2), and

(b) details of any error made by the company in calculating its net financing deduction for the relevant period together with the correct amount.

Information to be provided in relation to a company required to make default reductions

16.—(1) An ultimate UK parent must send a company required to make default reductions details of the amounts of—

(a) the tested expense amount, and

(b) the total disallowed amount,

for the worldwide group for the relevant period of account.

(2) The information in paragraph (1) must be supplied to the company required to make default reductions before the filing date for the company's tax return (see paragraph 14 of Schedule 18 to the Finance Act 1998(**a**)).

Non-compliance

17.—(1) If an ultimate UK parent does not provide the information specified by regulation 16 within the requisite time period, HMRC must determine to the best of their information and belief the amounts of the tested expense amount and the total disallowed amount for the worldwide group for the relevant period of account.

(2) A notice of determination under this regulation must be sent to the company required to make the default reduction and to the ultimate UK parent stating the date on which the determination is issued.

(3) No determination under this regulation may be made more than 3 years after the day on which the power becomes exercisable.

(4) If after a determination has been made under this regulation, the ultimate UK parent provides the information specified by regulation 16, that information shall supersede the determination.

(5) But paragraph (4) does not apply if the information is supplied more than 3 years after the determination is made.

(**a**) 1998 c. 36.

Amendment of tax return by company

18.—(1) A company required to make default reductions may amend its company tax return so as to reflect a reduction under paragraph 25 of Schedule 15 within 3 years of the end of the relevant period of account.

(2) But where one of the following circumstances applies the company may amend its tax return at any time before the specified date.

Circumstance 1

Where there is an enquiry into the company tax return of the company, the specified date is the last of the following dates—

(a) 30 days after the enquiry is completed;

(b) if after the enquiry HMRC amend the return under paragraph 34(2) of Schedule 18 to the Finance Act 1998, 30 days after notice of the amendment is issued;

(c) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.

Circumstance 2

Where a determination under paragraph 36 of Schedule 18 to the Finance Act 1998 is made in relation to the company which is superseded by a self-assessment in accordance with paragraph 40 of that Schedule, the specified date is 30 days after delivery of the company tax return.

Circumstance 3

Where a discovery assessment or discovery determination is made under paragraph 41 of Schedule 18 to the Finance Act 1998 in relation to the company, the specified date is the last of the following dates—

(d) 30 days after the discovery assessment or discovery determination is made,

(e) if an appeal is brought against such the discovery assessment or discovery determination, 30 days after the date on which the appeal is finally determined.

Circumstance 4

Where a determination under regulation 17 is made in relation to the company which is superseded by the provision of information under paragraph (4) of that regulation, the specified date is 30 days after the provision of that information.

PART 3

EXEMPTION OF FINANCING INCOME

CHAPTER 1

APPOINTMENT OF AUTHORISED COMPANY

Appointment of authorised company

19.—(1) An appointment under paragraph 29 of Schedule 15 must be made in accordance with this regulation.

(2) The company seeking to be appointed ("the applicant company") must make an application in writing to an officer of Revenue and Customs at least 3 months before the time specified in paragraph 31(2) of Schedule 15 (submission of statement of allocated exemptions).

(3) The application must be sent to the tax office that deals with the corporation tax affairs of the applicant company.

(4) The application must specify—

(a) the name and the tax office reference of the applicant company,

(b) the names and the tax office references of the other companies to which Part 4 of Schedule 15 applies,

(c) the first period of account of the worldwide group in relation to which the appointment is to apply, and

(d) except in relation to the ultimate parent, the name of the immediate parent of the applicant company and each of the other companies to which Part 3 of Schedule 15 applies.

(5) The application must contain a statement by the applicant company and by each of the other companies to which Part 4 of Schedule 15 applies—

(a) that the appointment is made under paragraph 17 of Schedule 15,

(b) that the applicant company will act on behalf of all the companies to which Part 4 of Schedule 15 applies for all relevant periods of account for which the appointment has effect,

(c) that no application will be made by a company to amend its company tax return in relation to a financing income amount specified under paragraph 33(4)(b) of Schedule 15 other than through a revised statement submitted by the applicant company in accordance with paragraph 32 of Schedule 15, and

(d) agreeing to be bound by any statement of allocated exemptions or revised statement delivered by the applicant company.

(6) The application must be accompanied by a specimen copy of a statement of allocated exemptions that the applicant company proposes to submit in relation to the relevant period of account.

Supplemental provisions: timing and effect

20.—(1) An appointment under paragraph 29 of Schedule 15 has effect on the date ("the three month date") that is three months after the application is delivered to the tax office in accordance with regulation 19(3).

This is subject to paragraphs (2) to (4).

(2) An officer of Revenue and Customs may accept the application before the three month date.

(3) Where paragraph (2) applies, the officer of Revenue and Customs may amend the list of companies to which Part 4 of Schedule 15 applies specified under regulation 19(4)(b) to exclude any company that is not a company to which Part 4 of Schedule 15 applies for the relevant period of account.

(4) An appointment under paragraph 29 of Schedule 15 is of no effect if before the three month date an officer of Revenue and Customs refuses the application on the grounds that—

(a) the specimen statement of allocated exemptions provided in accordance with regulation 19(6) is not adequate for the purposes of Part 4 of Schedule 15, or

(b) a company to which Part 4 of Schedule 15 applies has been omitted from the list of companies specified under regulation 19(4)(b).

Duration of appointment

21. Once an appointment under paragraph 29 of Schedule 15 has effect, it continues to have effect until it ceases to have effect in accordance with regulations 22, 23 or 24.

Revocation of appointment by notice

22.—(1) An appointment under paragraph 29 of Schedule 15 ceases to have effect if revoked by the company appointed under that paragraph by notice in writing to an officer of Revenue and Customs at the tax office that deals with the corporation tax affairs of that company.

(2) The appointment ceases to have effect in relation to the relevant period of account in which the notice is given or such subsequent relevant period of account as may be specified in the notice.

Revocation of appointment on authorised company ceasing to be a UK group company

23.—(1) An appointment under paragraph 29 of Schedule 15 ceases to have effect if the company appointed under that paragraph ceases to be a company to which Part 4 of Schedule 15 applies.

(2) The appointment ceases to have effect in relation to the relevant period of account in which the company ceased to be a company to which Part 4 of Schedule 15 applies and subsequent periods of account.

Revocation of appointment on a company becoming or ceasing to be a company to which Part 4 of Schedule 15 applies

24.—(1) An appointment under paragraph 29 of Schedule 15 ceases to have effect if a company becomes or ceases to be a company to which Part 4 of Schedule 15 applies.

(2) The appointment ceases to have effect in relation to the relevant period of account in which the company becomes or ceases to be a company to which Part 4 of Schedule 15 applies and subsequent periods of account.

(3) But paragraph (1) does not apply if within three months of a company becoming or ceasing to be a company to which Part 4 of Schedule 15 applies, the reporting body notifies an officer of Revenue and Customs at the tax office that deals with its corporation tax affairs of the change.

(4) A notification under paragraph (3) must—

(a) be in writing, and

(b) specify the name and the tax office reference of the company that has become or ceased to be a company to which Part 4 of Schedule 15 applies.

(5) Where a new company has become a company to which Part 4 of Schedule 15 applies the notification must be accompanied by a statement by that company—

(a) that the company appointed under paragraph 29 of Schedule 15 will act on its behalf for all relevant periods of account for which the appointment has effect;

(b) that no application will be made to amend a financing income amount specified under paragraph 33(4)(b) of Schedule 15 other than through a revised statement submitted by the reporting body in accordance with paragraph 20 of Schedule 15;

(c) agreeing to be bound by a statement of allocated exemptions or a revised statement delivered by the reporting body.

CHAPTER 2

STATEMENT OF ALLOCATED EXEMPTIONS

Submission of statement of allocated exemptions

25.—(1) A statement of allocated exemptions must be submitted to the tax office dealing with the corporation tax affairs of—

(a) in a case in which an appointment under paragraph 29 of Schedule 15 has effect in relation to the relevant period of account, the company appointed under that paragraph, or

(b) in a case in which such an appointment does not have effect in relation to the relevant period of account—

(i) the ultimate parent where that entity is resident in the United Kingdom, or

(ii) in any other case, the UK ultimate parent.

(2) In a case within paragraph (1)(b)(ii), if there is more than one UK ultimate parent the statement of allocated exemptions must be submitted to the tax office dealing with the corporation tax affairs of each.

Information to be given in connection with a statement of allocated exemptions

26. A statement of allocated exemptions must be accompanied by the following information—

(a) the full name and the unique taxpayer number in relation to each company listed in the statement in accordance with paragraph 33(4)(a) of Schedule 15;

(b) where a company has delivered a tax return for a relevant accounting period and as a result of submitting a statement or revised statement—

(i) there is a change in the amount of profits on which corporation tax is chargeable for the period, or

(ii) any other information contained in the return is incorrect,

details of the change mentioned in paragraph (i) or the information mentioned in paragraph (ii).

Statement of allocated exemptions treated as received within specified time

27.—(1) A statement of allocated exemptions which is not received by HMRC by the time specified ("the specified time") in paragraph 31(2) of Schedule 15, shall be treated as if it were so received in one of the circumstances specified in paragraph (2).

(2) The specified circumstances are—

(a) the statement was submitted without unreasonable delay and this regulation has not applied in relation to any previous statement of allocated exemptions, or

(b) the statement was submitted as soon as possible but was not received by the specified time for exceptional reasons beyond the control of the reporting body.

Revised statement of allocated exemptions treated as received within specified time

28.—(1) A revised statement of allocated exemptions which is not received by HMRC by the time specified ("the specified time") in paragraph 32(2) of Schedule 15, shall be treated as if it were so received if conditions A and B are met.

(2) Condition A is that the statement is received in one of the following circumstances.

Circumstance 1

A notice of enquiry is given before the specified time in relation to the company tax return of a company to which Part 4 of Schedule 15 applies, the enquiry is not completed until after the specified time and the revised statement is received by HMRC by the last of the following dates—

(a) 30 days after the enquiry is completed;

(b) if the return is amended by notice under paragraph 34(2) of Schedule 18 to the Finance Act 1998(**a**), 30 days after the notice is given;

(c) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.

Circumstance 2

A determination under paragraph 36 of Schedule 18 to the Finance Act 1998 is made in relation to a company to which Part 4 of Schedule 15 applies which is superseded by an a self-assessment in accordance with paragraph 40 of that Schedule and the revised statement is received by HMRC within 30 days of delivery of the company tax return.

(**a**) 1998 c. 36; paragraph 34(1) to (2A) are to be substituted by section 119(6) of the Finance Act 2008 (c. 9) with effect from 1st April 2010 (by virtue of S.I. 2009/405).

Circumstance 3

A discovery assessment or discovery determination is made under paragraph 41 of Schedule 18 to the Finance Act 1998 in relation to a company to which Part 4 of Schedule 15 applies and the revised statement is received by HMRC by the last of the following dates—

(d) 30 days after the discovery assessment or discovery determination is made;

(e) if an appeal is brought against the discovery assessment or discovery determination, 30 days after the date on which the appeal is finally determined.

Circumstance 4

An amendment is made under paragraph 34(2A) of Schedule 18 to the Finance Act 1998 in relation to a company to which Part 3 of Schedule 15 applies and the revised statement is received by HMRC by the last of the following dates—

(f) 30 days after the notice of the amendment is given;

(g) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.

(3) Condition B is that the amount of the difference between—

(a) the financing income amounts specified in accordance with paragraph 33(4)(b) of Schedule 15 in the statement of allocated exemptions, and

(b) the amounts so specified in the revised statement,

does not exceed the change made to the amount of profit on which corporation tax is chargeable as a result of the enquiry, assessment or determination referred to in paragraph (2).

Statement of allocated exemptions treated as complying with paragraph 26 of Schedule 15

29. A statement of allocated exemptions which does not comply with paragraph 33 of Schedule 15 because of an obvious error or omission in the statement (whether an error of principle, an arithmetical mistake or otherwise) shall be treated as if it did so comply if the error or omission is corrected by the reporting body as soon as it becomes apparent.

CHAPTER 3

FAILURE OF REPORTING BODY TO SUBMIT A STATEMENT OF ALLOCATED EXEMPTIONS

Information to be provided in relation to a company required to make default reductions

30.—(1) An ultimate UK parent must send a company required to make default reductions details of the amounts of—

(a) the total of the unrestricted reductions,

(b) the total disallowed amount, and

(c) the tested income amount,

for the worldwide group for the relevant period of account.

(2) The information in paragraph (1) must be supplied to the company required to make default reductions before the filing date for the company's tax return (see paragraph 14 of Schedule 18 to the Finance Act 1998(**a**)).

Non-compliance

31.—(1) If an ultimate UK parent does not provide the information specified by regulation 30 within the requisite time period, HMRC must determine to the best of their information and belief

(**a**) 1998 c. 36.

the amounts of the total of the unrestricted reductions, the total disallowed amount and the tested income amount for the worldwide group for the relevant period of account.

(2) A notice of determination under this regulation must be sent to the company required to make the default reduction and to the ultimate UK parent stating the date on which the determination is issued.

(3) No determination under this regulation may be made more than 3 years after the day on which the power becomes exercisable.

(4) If after a determination has been made under this regulation, the ultimate UK parent provides the information specified by regulation 30, that information shall supersede the determination.

(5) But paragraph (4) does not apply if the information is supplied more than 3 years after the determination is made.

Amendment of tax return by company

32.—(1) A company required to make default reductions may amend its company tax return so as to reflect a reduction under paragraph 25 of Schedule 15 within 3 years of the end of the relevant period of account.

(2) But where one of the following circumstances applies the company may amend its tax return at any time before the specified date.

Circumstance 1

Where there is an enquiry into the company tax return of the company, the specified date is the last of the following dates—

(a) 30 days after the enquiry is completed;

(b) if after the enquiry HMRC amend the return under paragraph 34(2) of Schedule 18 to the Finance Act 1998, 30 days after notice of the amendment is issued;

(c) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.

Circumstance 2

Where a determination under paragraph 36 of Schedule 18 to the Finance Act 1998 is made in relation to the company which is superseded by a self-assessment in accordance with paragraph 40 of that Schedule, the specified date is 30 days of delivery of the company tax return.

Circumstance 3

Where a discovery assessment or discovery determination is made under paragraph 41 of Schedule 18 to the Finance Act 1998 in relation to the company, the specified date is the last of the following dates—

(d) 30 days after the discovery assessment or discovery determination is made,

(e) if an appeal is brought against such the discovery assessment or discovery determination, 30 days after the date on which the appeal is finally determined.

Circumstance 4

Where a determination under regulation 31 is made in relation to the company which is superseded by the provision of information under paragraph (4) of that regulation, the specified date is 30 days after the provision of that information.

Mike Eland
Dave Hartnett

2nd December 2009 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provisions relating to the treatment for the purposes of corporation tax of certain financing costs and financing expenses of companies that are members of a group. The regulations are supplemental to the provisions made by Schedule 15 to the Finance Act 2009 ("Schedule 15").

Part 1 contains regulations 1 to 3 which deal with preliminary matters and interpretation.

Part 2 contains regulations 4 to 18 which make provision in relation to financing expense amounts of a company to which Part 3 of Schedule 15 applies that are not to be brought into account by the company for the purposes of corporation tax. Part 2 is divided into three chapters. Chapter 1 contains regulations 4 to 9 which make provision relating to the appointment and revocation of a company as a reporting body to exercise functions conferred by Part 3 of Schedule 15. Chapter 2 contains regulations 10 to 14 which make provision relating to the statement of allocated disallowances required to be submitted under Part 3 of Schedule 15. This statement specifies the financing expense amounts not to be brought into account by companies in the group. Chapter 3 contains regulations 15 to 18 which make provision relating to a failure to submit a statement of allocated disallowances.

Part 3 contains regulations 19 to 32 which make provision in relation to financing income amounts of a company to which Part 4 of Schedule 15 applies that are not to be brought into account by the company for the purposes of corporation tax. Part 3 is also divided into three chapters. These make provision relating to financing income amounts which correspond to those made in Part 2 relating to financing expense amounts. Chapter 1 contains regulations 19 to 24 which make provision relating to the appointment and revocation of a company as a reporting body to exercise functions conferred by Part 4 of Schedule 15. Chapter 2 contains regulations 25 to 29 which make provision relating to the statement of allocated exemptions required to be submitted under Part 4 of Schedule 15. This statement specifies the financing income amounts not to be brought into account by companies in the group. Chapter 3 contains regulations 30 to 32 which make provision relating to a failure to submit a statement of allocated exemptions.

A full and final impact assessment of the effect the legislative package of which these Regulations are part will have on the costs of business and the voluntary sector is available at http://www.hmrc.gov.uk and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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STATUTORY INSTRUMENTS

2009 No. 3173

CORPORATION TAX

The Corporation Tax (Financing Costs and Income) Regulations 2009

£5.50

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