

2010 No. 2929

CORPORATION TAX

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

<i>Made</i>	- - - -	<i>8th December 2010</i>
<i>Laid before the House of Commons</i>		<i>9th December 2010</i>
<i>Coming into force</i>	- -	<i>1st January 2011</i>

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

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 1st January 2011.

(2) These Regulations have effect in relation to periods of account of the worldwide group(b) beginning on or after 1st January 2011.

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);

“relevant non-lending relationship” has the meaning given in sections 479(d) (relevant non-lending relationships not involving discounts) and 480 (relevant non-lending relationships involving discounts) of CTA 2009.

(a) 2010 c. 8. See section 353 for the definition of “Commissioners”.

(b) See section 337 of the Taxation (International and Other Provisions) Act 2010 for the definition of “the worldwide group”.

(c) 2009 c. 4.

(d) Section 479 was amended by section 42 of the Finance Act 2009 (c. 10) with effect from 22nd April 2009.

Specified matters

3. The following matters are specified for the purposes of section 332(1) of the Taxation (International and Other Provisions) Act 2010 to the extent that they are not included in the available amount by virtue of any of paragraphs (a) to (f) of that subsection—

- (a) interest payable in respect of a relevant non-lending relationship;
- (b) alternative finance return under alternative finance arrangements;
- (c) manufactured interest;
- (d) a finance charge 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) a finance charge treated in accordance with any of the following provisions of the Corporation Tax Act 2010^(a) as interest payable under a transaction or a loan relationship—
 - (i) section 761(3) (deemed loan relationship if borrower is a company),
 - (ii) section 762(3) (deemed loan relationship if borrower is a partnership with a corporate member),
 - (iii) section 766(3) (deemed loan relationship), or
 - (iv) section 769(3) (deemed loan relationship).

*Steve Lamey
Dave Hartnett*

8th December 2010

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 those members of a group of companies that are subject to corporation tax, 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 specified in section 332(1) of TIOPA 2010 or in regulations made under that subsection.

Regulation 3 specifies the additional matters in respect of which amounts are to be included in the available amount, to the extent that they are not already included by virtue of section 332(1)(a) to (f) of TIOPA 2010.

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.