

Tax

January 2009

Rules on late paid interest

HMRC has published draft tax legislation dealing with the tax treatment of connected companies where interest is paid between them "late". For these purposes, "late" means more than 12 months after the end of the accounting period in which the liability accrued. The legislation is scheduled to come into force on 1 April 2009 (subject to transitional provisions which allow a company to disapply the new provisions for the first accounting period to which they would otherwise apply). This note discusses the proposed changes.

Current treatment

The late-paid interest rules apply so that if one connected party makes an interest payment to the other more than twelve months after the end of the accounting period in which it was due, then the debtor company can only claim an interest deduction, in relation to that interest, on a paid basis opposed to the usual accrued basis.

Proposed treatment

The draft legislation proposes that the late interest rules should be disapplied, except where either of the following conditions apply:

- i) that the creditor company is not resident in a 'qualifying territory'. A list of qualifying territories is available from HMRC's website and appears to be largely consistent with those territories that have a double tax treaty, containing a non-discrimination clause, with the UK; or
- ii) where the debtor company is party to an arrangement to secure itself an interest deduction, where no corresponding credit is brought into the charge to tax under either the UK loan relationship rules or an equivalent foreign tax rule.

Dundas and Wilson comment

Generally, these rules will simplify tax compliance where all companies involved are within the charge to UK tax. However, the new rules will not relieve interest accrued before the new rules come into force.

This Bulletin is correct to the best of our knowledge and belief at the time of going to press. It is however written as a general guide, so it is recommended that specific professional advice is sought before any action is taken. We are required by law to protect personal data.

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If you would like any further information on any of these cases or news items, or any other Tax issues, please call the person at D&W with whom you normally liaise, or one of the following specialists:

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