HMRC - CFM56020 - Taxing Meaning Of ‘Unallowable Purpose’

What is an unallowable purpose?

CTA09/S691 defines the ‘unallowable purpose’ as a purpose which is not amongst the business or other commercial purposes of the company a) being party to the derivative contract or b) entering into transactions which are related transactions by reference to the derivative contract.

Any part of a company’s activities which is not within the charge to CT does not, for the purposes of this legislation, have a business or other commercial purposes.

A company within the charge to CT in respect only of part of its activities (for example, a club whose profits partly arise from mutual trading) has to apportion debits on derivative contracts on a just and reasonable basis into allowable and non-allowable parts. Any exchange credits would have to be similarly apportioned.

If the main or one of the main purposes for which a company is party to a derivative contract is a ‘tax avoidance’ purpose, there is an unallowable purpose. Similarly if a company enters into a related transaction in respect of a derivative contract it will do so for an unallowable purpose if the main or one of the main purposes of entering into the transaction is tax avoidance.

The provision is not intended to deny relief for debits incurred in pursuit of a company’s legitimate business or commercial purposes. However, it may apply to transactions where there is more than one main purpose (even if one of the purposes is a business or commercial purpose), and another of the main purposes is an unallowable purpose.

‘Tax avoidance’ means any purpose that consists of securing a tax advantage for the company or any other person. ‘Tax advantage’ has the meaning given by CTA10/S1139, see CTM36820.

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