HMRC - CFM95698 - Ttax-Interest: Securitisation Companies

The Taxation of Securitisation Companies Regulations 2006 (SI 2006/3296) - regulation 22

Broadly speaking, ‘securitisation’ is a method of raising debt finance which involves converting an income producing asset into marketable securities via a Special Purpose Vehicle (SPV).

There are specific taxation provisions for such vehicles and where they fall under the permanent regime, they will be taxed in accordance with The Taxation of Securitisation Companies Regulations 2006. Such companies will be taxed on their retained profit as provided by the capital market arrangements, rather than the profit or loss shown in their statutory accounts.

If the securitisation company is instead taxed under the interim regime, there are no corresponding adjustments to the interest restriction rules and taxable profits are computed using a particular form of UK GAAP.

Where a securitisation company does not fall within either the permanent or interim regime, it is taxed under general corporation tax principles.

Tax-interest income

‘Residual profit’

Absent regulation 22, the interest restriction rules could potentially require the SPV under the permanent regime to unpick the ‘retained profit’ figure into its individual components so that it could calculate its tax-interest amount. To ensure the SPV does not have to split this figure out, the new regulation provides that the ‘retained profit’ figure to be the net tax-interest income amount for the SPV.

Management fees paid to another UK group company

The only circumstance in which a figure other than the retained profit is taken into account when calculating the tax-interest income amount is where the SPV pays a management fee to another UK group company that is not itself a securitisation company taxed under the permanent regime. Where such a fee is paid, the amount is added to the retained profit amount when calculating the tax-interest income amount.

Tax-EBITDA

Regulation 22(1)(b) defines the adjusted corporation tax earnings of the SPV as a negative amount equal to the management fee paid to another UK group company.

Where no such fee is paid, the adjusted corporation tax earnings will therefore be nil.

Group-interest expense

No consideration needs to be given as to whether the interest paid by the SPV is dependent on its results when calculating the qualifying net group-interest expense (QNGIE) because TIOPA10/S414(3)(b) is specifically turned off by regulation 22(2).

Examples

Example One

An SPV holds an asset which produces £50m of income a year and issues notes on which it pays out interest of £48m. The capital market arrangement under which the securitisation is arranged requires the SPV to retain £50,000. This is therefore the ‘retained profit’ amount.

Although the profit or loss account will show a profit of £2m, the net tax-interest income of the SPV will be £50,000.

The adjusted corporation tax earnings of the SPV will be nil.

Example Two

The facts are the same as in Example One except the SPV also pays a £250,000 management fee to another UK group company.

The net tax-interest income of the SPV will be £300,000 being the sum of the retained profit (£50,000) and management fee (£250,000) amounts.

The adjusted corporation tax earnings of the SPV will be a negative amount of £250,000.

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