HMRC - CFM96930 - Infrastructure Company JV: How TIOPA10/S401 And TIOPA10/S427 Apply To A Single Company That Has Made A Section 444 Election

TIOPA10/444(2)-(3)

The Group Ratio (Blended) Election

A JV company that has made a QIC joint venture election can still make a group ratio (blended) election under TIOPA10/s401. TIOPA10/s444(2) modifies the calculation assuming that the qualifying investors are removed from the calculation.

Example

In this example the JV has two qualifying investors that each have a 30% share and two non-qualifying investors that have 25% and 15% shares respectively.

For the purpose of the blended group ratio calculation we assume that the qualifying investors were not investors in the group. This means that A and B are treated as if they do not have a share of the JV.

C’s share is now recalculated as 25/40 x 100 = 62.5%

D’s share is now recalculated as 15/40 x 100 = 37.5%

The blended ratio is calculated under S401(3)-(4).

This is (62.5% x 60%) + (37.5% x 80%) = 37.5 + 30 = 67.5%

The Interest Allowance (non-consolidated investment) election

A non-qualifying company that is an investor in a QIC that makes a QIC joint venture election can still make an interest allowance (non-consolidated investment) election. TIOPA10/s444(3) modifies the calculation assuming that the qualifying investors are not included in the calculation.

To illustrate how the election works we assume the same structure as the previous example. The JV has third party interest expense of 200 and has group EBITDA of 100. A, B, C and D each lend to the JV and receive related party interest from the JV of 6, 6, 5 and 3 respectively.

TIOPA10/s444(5) calculates the exempt amount from the third party interest of the JV. The combined qualifying proportion of A and B is 60% so the exempt amount is 60/100 x 200 = 120. The interest of 12 that is paid to A and B is also an exempt amount as A and B are QICs. Therefore the total exempt amount in the JV is 132.

It therefore follows under TIOPA10/s442(2) that the remaining amount that is not an exempt amount is 80 and as this is third party interest both the adjusted net group-interest expense and qualifying net group-interest expense of JV is 80. The interest paid of 8 to C and D is related party interest expense and this increases the adjusted net group-interest expense by 8. It does not increase the qualifying net group-interest expense.

Under TIOPA10/s444(10) the group-EBITDA of JV is calculated to the proportion of the non-qualifying investors. This is 40/100 x 100 = 40.

Applying TIOPA10/s444(3) it is assumed for the purposes of applying the non-consolidated investment election that the qualifying investors are ignored so the effective proportions of the group held by the non-qualifying investors are not further diluted. These are calculated as follows:

C’s share is 62.5% and Ds share is 37.5%.

Application of the non-consolidated investment election to C

C increases its adjusted net group-interest expense on the remaining third party interest of 80 by (62.5/100) x 80 = 50

C increases its qualifying net group-interest expense on the remaining third party interest of 80 by (62.5/100) x 80 = 50

For the purposes of this election the loan from C to JV of 5 is ignored. C increases its adjusted net group interest expense on the balance of the related party interest by (62.5/100) x 3 = 1.9

C share of the JV’s group-EBITDA is (62.5/100) x 40 = 25

Application of the non-consolidated investment election to D

D increases its adjusted net group-interest expense on the remaining third party interest of 80 by (37.5/100) x 80 = 30

D increases its qualifying net group-interest expense on the remaining third party interest of 80 by (37.5/100) x 80 = 30

For the purposes of this election the loan from D to JV of 3 is ignored. D increases its adjusted net group interest expense on the balance of the related party interest by (37.5/100) x 5 = 1.9

D share of the JV’s group-EBITDA is (37.5/100) x 40 = 15

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