HMRC - CFM97300 - Infrastructure: Exemption For Interest Payable To Third Parties

TIOPA10/S438

Where a company meets all four conditions for being a qualifying infrastructure company (QIC) for an accounting period, certain amounts which would otherwise be considered {tax-interest expense}, are considered excluded from the calculations in that period.

A tax-interest expense amount would be excluded so far as it is attributable to:

A creditor which is not a {related party} of the company;

A related party creditor which is a QIC; or

A related party creditor which has a qualifying old loan relationship with the company.

This applies in respect of all types of tax-interest amounts. So as well as expense amounts from loan relationships, it also applies to derivative contracts, finance leases, debt factoring arrangements (or similar transactions) and service concession arrangements accounted for as a finance liability. It such cases the reference to the ‘creditor’ should be read as being a party to the particular derivative contract or financing arrangements.

In all cases, for the exemption to apply, the recourse of the creditor must be limited to qualifying infrastructure matters in the event that the company fails to perform its obligations under that relationship.

Guarantees from related parties

To determine whether a creditor is a related party or not, the main rules about {guarantees from related parties} are turned off for the purposes of the infrastructure rules. Instead that are specific restrictions about the {limited recourse of financial instruments} which need to be applied.

Other amounts to be ignored or treated as nil

Note that where a company is a qualifying infrastructure company, then further amounts will be ignored or treated as nil for the purposes of the fixed ratio method and the group ratio method.

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