HMRC - CFM98210 - Rules: Introduction

TIOPA/S378-S380 and S392-S395

The purpose of the carry forward provisions within the Corporate Interest Restriction is to reduce the risk that additional interest restrictions are imposed due to variations over the business cycle, other sources of volatility, and the fact that the rules are applied separately to each period of account. Volatility in a group’s profitability, or in the prevailing levels of interest rates, could lead to large disallowances in one period but none in others, leading to different outcomes depending on when profits are earned. Allowing certain amounts to be carried forward achieves a degree of smoothing over a period of time, which can reduce or prevent future disallowances that would otherwise arise due to volatility.

There are three types of amounts that can be carried forward:

The disallowance of tax-interest is applied at company level which creates an attribute to be carried forward indefinitely at company level until the disallowed amount is reactivated in a later period. The attribute is capable of being accessed even if the company becomes a member of a different group.

Unused interest allowance is a group attribute which is carried forward for up to five years, but can only be used to reduce disallowances by members of the group. It can be augment the interest capacity for a subsequent worldwide group period of account and thereby reduce or eliminate the interest restriction for that period.

The interest allowance of a group for a period of account may be limited by reference to the fixed ratio or the group ratio percentage to the group’s aggregate tax-EBITDA. In a subsequent year the fixed ratio or group ratio debt cap might be the limiting factor. The rules provide for carry-forward of excess debt cap to the next following period of account; this may be added to the debt cap for that next period and thereby increase the interest capacity for that period.

Note that the mechanics of the set-off computation are such that brought forward interest allowance from an earlier period cannot lead to reactivation of a UK group company’s restricted interest from an earlier period.

Interest allowance and excess debt cap are attributes of the worldwide group and not a particular company. The identity of the group is determined by the ultimate parent. A group can change composition and the identity of the group is retained so long as the ultimate parent does not change. It follows that a change in composition of the group does not of itself cause carried forward unused interest allowance to be lost. However, if there is a takeover of the group, any unused interest allowance and excess debt cap of the group taken over is lost. Furthermore, if a transaction involves the creation of a new company to become the ultimate parent of the enlarged group, any interest allowance and excess debt cap of both original groups is lost.

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