HMRC - CFM98640 - Company: Disallowances For Consenting Companies.

TIOPA10/S375(1) and (2), SCH7A/PARAS70, 70A.

In straightforward situations, where interest restrictions arise a reporting company will submit a full interest restriction return, either the original return or a revised return. If the return states that the group is subject to interest restriction for the period of account to which it relates and the statement of allocated interest restrictions comprised in the return allocates a disallowance to a consenting company for an accounting period, that company must leave out of account tax-interest equal to that disallowance. The amount allocated to a consenting company is at the discretion of the reporting company.

Note that although the interest restriction return is for a worldwide group period of account, the restrictions allocated in the statement of allocated interest restrictions are for a relevant accounting period of the UK group company in question that falls wholly or partly within that period of account. It follows that a single accounting period may be impacted by disallowances for more than one worldwide group period of account - or even for different worldwide groups. It is also possible that there might be a disallowance and reactivation in the same period of account. For how these situations are dealt with see CFM98200+.

According to the legislation as enacted in F(2)A 2017, the company to which the disallowance is allocated is treated as having amended its company tax return for the accounting period to this effect. However, this is changed by amendments to TIOPA10/SCH7A in F(2)A17/SCH8/PARAS15-17.

Company tax return amendment procedure

Where a company has submitted a company tax return and an interest restriction return has been submitted that causes information included in the tax return to be incorrect, PARA70(1A) requires to company to amend its tax return so as to correct the information.

In the first instance, where the change results from the allocation of a taxinterest restriction or a reactivation the amounts to be disallowed or reactivated follow the default rules in S377 or S380. Alternatively, the company may elect to override the default rule and substitute its own identification.

If no event supersedes the requirement to amend the return, the company must amend its company tax return by the later of:

3 months of the submission of the interest restriction return; and

the normal time limit for amending a company tax return in FA98/SCH18/PARA15(4). This is usually 24 months after an accounting period, but may differ where company periods of account are long or where the notice requiring the filing of a return was served late.

Consequences of failure to amend return

If the company fails to amend its return within this time limit (and no other event, such as the submission of a revised interest restriction return, or the making of a valid election under s377 or S380, has intervened to supersede the requirement to amend the company tax return), PARA70A provides that:

the company becomes liable to a penalty of £500. The penalty is administered in the same way as a penalty for failure to deliver an interest restriction return.

HMRC may amend the company tax return, within a time limit of 12 months.

If the company disagrees with the HMRC amendment, it has three months in which to make its own amendment.

After this process, the company may still amend its return if, within the applicable time limits, it makes an election under s377 or S380 or a revised interest restriction return is submitted which, once more, renders its company tax return incorrect.

For the position where no interest restriction return or a non-compliant return is submitted, see CFM98654.

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