HMRC - CFM98700 - Company: Set Off Of Disallowances And Reactivations

TIOPA10/S381

In a single period of account a worldwide group cannot have both disallowances and reactivations. Either the group’s aggregate net tax-interest expense will exceed the interest allowance (including unused interest allowance from earlier years) resulting in disallowances; or it will not, in which case there will be no disallowance but reactivations may arise if there have been disallowances in earlier periods.

However it is possible that a single accounting period of a UK group company will straddle two periods of accounts of its worldwide group, with disallowances in one period and reactivations in the other. Or the company may change group part way through its accounting period in such a way that it might be allocated both disallowances and reactivations.

In these circumstances, TIOPA10/S381 provides for a netting off of disallowances and exemptions. Only the excess of a “gross disallowed amount” over a “gross reactivated amount” is to be disallowed under S375 or the excess of a gross reactivated amount over a gross disallowed amount is reactivated under S379.

As there can only be reactivations where a full interest restriction return is submitted, it would be very unusual for disallowances to arise for a period of account for which no interest restriction return is submitted (to which S376, rather than S375 would apply) to be netted off against reactivations from a different period or group, but S381 does provide for this to happen.

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