HMRC - CFM98760 - Procedure: Scope Of Enquiry And Interaction With A CT Return Enquiry

TIOPA10/SCH7A/PARA43

There are a number of restrictions on the scope of an enquiry

Limits if there has already been an enquiry

Once an enquiry into a return has been closed, it can only be reopened under the “discovery” provisions of TIOPA10/SCH7A/PARA42, see CFM98750.

If an enquiry has been closed, but a revised interest restriction return is subsequently submitted for the same worldwide group period of account, then the scope of an enquiry into a revised return (in the absence of a discovery) is restricted to the new information contained in the revised return - PARA43(5).

Limits by reference to amounts included in a company tax return

An interest restriction enquiry may not include an enquiry into an item that is contained in or should be contained in a company tax return - PARA39(2). If, for example, HMRC consider that the amount included in a company’s tax interest debits in respect of finance leasing expense is incorrectly computed, that should be the subject of an enquiry into the company’s tax return. It is not within the scope of an interest restriction enquiry.

However, if the amount is correctly stated in the company tax return but the officer considers its treatment in an interest restriction return is incorrect (for instance, if it has not been treated as a tax-interest amount falling within condition C in TIOPA 2010/s382(4) - see CFM95610), that

Equally, it would be in scope to enquire into whether amounts were correctly excluded in computing tax-interest or tax-EBITDA, for instance in respect of loan relationships (S383(3) and S386(3)) CFM95630, derivative contracts S384(3) and 387(3) CFM95650 or intangible fixed assets S408 CFM95805.

No interference with company tax return enquiries

Whilst the interest restriction enquiry does not extend to items included in a company tax return, it does not limit the operation of a FA98/SCH18/PT4 enquiry into a company tax return TIOPA10/SCH7A/PARA43(4). An enquiry into a company tax return of a UK group company may be opened, continued and closed irrespective of any interest restriction return enquiry that might impact a company accounting period under enquiry. After a company tax enquiry is concluded, its tax position for the accounting period may still be amended in consequence of the interest restriction return closure procedures, see CFM98790.

Enquiry into the composition of a group and its period of account.

PARA44 allows an interest restriction enquiry to deal with the question of whether the group’s accounting period has been correctly identified. In practice, this is most likely to arise if the ultimate parent of a group has been incorrectly identified, and has a different period of account from the company identified as the ultimate parent in an interest restriction return.

The enquiry can also extend to the composition of a group or groups; in particular whether a group consists of one or more different groups, or includes entities that should have been members of a different group, or excludes entities that should have been members of a group. The closure procedures address the additional steps that may need to be taken if an officer of Revenue and Customs concludes that an interest restriction return is incorrect in this respect, see CFM98830 and CFM98840.

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