HMRC - CFM99040 - Administration: Penalties: Notional Tax On The Return

TIOPA10/SCH7A/PARA30(5)

It would be very difficult to work out the additional tax that might be payable by the members of a worldwide group solely attributable to the settlement of an interest restriction enquiry. A multiplicity of consequential claims might be made.

Accordingly, any penalty is based on a notional tax figure. The first step is to work out the sum of the:

increase in the total disallowed amount (meeting condition A in TIOPA10/SCH7A/PARA30(2)) and

reduction in the interest reactivation cap (meeting condition B in PARA30(3)),

one of which may be zero - see CFM98430.

This amount is then multiplied by the average main rate of UK corporation tax for the period of account, computed by taking into account the number of days in the period that a particular rate applied.

Should this give an unfair result, because the notional tax is likely to be significant greater than any actual loss of tax from the group as a whole, this can be counteracted by a reduction in the penalty under PARA33, see CFM99050.

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