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The Roundtable March 2024

Interest deductibility rules

The concept of a 'qualifying financing company' has been introduced in the Finance (No.2) Act 2023, signed into law on 18th December 2023. Can you outline what a 'qualifying financing company' is and the implications for entities potentially affected as being in scope, and their interest deductibility? In your view, what would be the most impactful changes that could be made to simplify Ireland's rules around interest deductibility?

Angela Fleming, Partner & Head of Financial Services Tax, BDO: Section 40 of the Finance (No. 2) Act 2023 introduced a new Section 76E of the Taxes Consolidation Act 1997 ("TCA 1997").

This new section provides for the introduction of the concept of a "qualifying financing company". In short summary, a qualifying financing company is one which obtains third-party finance and advances this finance to a subsidiary for a qualifying business purpose. Like all good tax legislation, there are a number of qualifying conditions that need to be met, and the section is subject to strict anti-avoidance rules.

In order for a company to qualify as a "qualifying financing company" the following conditions must be met:

- The financing company holds a direct ownership of 75% or more of the ordinary share capital of one or more qualifying subsidiaries, or an intermediate holding company,
- The financing company borrows money for the purpose of on-lending that money by way of the making of qualifying loans to one or more (direct or indirect) qualifying subsidiaries, and
- Apart from (a) and (b) above, the financing company does not carry on any other activities (other than ancillary activities).


Angela Fleming

A "qualifying subsidiary" means a trading company which is tax resident in an EU, EEA or tax treaty country. In order for a loan to be qualifying it must be on arm's length terms and used by the qualifying subsidiary for trading purposes.

Section 840A TCA 1997 is an anti-avoidance provision that denies a trading deduction for interest payable on intra-group borrowings to purchase assets from a connected company. The Finance (No. 2) Act 2023 also amends section 840A so that it does not apply to interest payable to a qualifying financing company.

In his Budget Day speech, the Minister for Finance announced his commitment to engaging with stakeholders in the period ahead on Ireland's current regime for interest deductibility, noting its complexity. More recently, the Minister for Finance indicated that while the review will commence this year, it will require a significant body of work over potentially a multi-year timeframe.

While the introduction of these new rules for qualifying financing companies is a very welcome development, we are hopeful that it merely represents a first step in the simplification and modernisation of Ireland's interest deductibility rules.

Tax Debt Warehousing

In early February the Minister for Finance announced changes to the Tax Debt Warehousing scheme. Can you outline these changes, the Revenue Commissioners' renewed approach and the implications for companies that have availed, or continue to avail, of the scheme?

Lee Kavanagh, Assistant Manager, Financial Services Tax, BDO: On 5 February 2024, the Minster for Finance announced significant changes to the Tax Debt Warehousing Scheme. The Tax Debt Warehousing Scheme was originally introduced to allow businesses who experienced trading difficulties during the Covid-19 pandemic to defer paying certain PAYE and VAT liabilities until they were in a better position financially. Originally, the scheme allowed for businesses to defer these liabilities on an interest-free basis for a certain period of time, and thereafter at a reduced 3% interest rate. More than €3 billion of debt belonging to more than 105,000 businesses has been deferred during the lifetime of the Debt Warehousing Scheme.

The key change announced on 5 February in relation to the scheme was that the Government were reducing the interest rate applicable on the warehoused debt from 3% to 0%. They have also confirmed that they will issue refunds of any interest at 3% that had already been paid by businesses on their warehoused debt. The legislation to effect the recently announced changes to the Debt Warehousing Scheme will be brought forward shortly. However, Revenue have confirmed that they will operate the 0% interest rate on an administrative basis pending the legislative change.

Lee Kavanagh

It is important to note that although the interest rate on the warehoused debt has been reduced to 0%, businesses must still engage with Revenue on addressing the warehoused debt by either paying the warehoused debt in full or agreeing a Phased Payment Plan with Revenue in relation to the debt by 1 May 2024. Revenue have signalled that they will take a flexible approach in relation to the repayment of the warehoused debt which will include the possibility to extend the duration of payment plans beyond the typical three-to-five-year period on a case-by-case basis.

In order to remain in the Debt Warehousing Scheme and benefit from the 0% interest rate, businesses must continue to file their current tax returns and pay current tax liabilities as they fall due. Where a business does not meet these conditions, they will be removed from the Debt Warehousing Scheme and the tax liability for periods which had been warehoused will become payable immediately, may be subject to debt collection enforcement action and will be subject to interest charges of 8% or 10% per annum.

The recently announced changes will provide a welcome boost for the circa 58,000 businesses who remain in the Debt Warehousing Scheme. However, it is critical that businesses continue to satisfy the conditions to qualify for the Scheme in order to avail of the 0% interest rate.