Interest deductibility

International Tax | Large Corporate

01 March 2016

CIOT comments on the HMT consultation

On 22 October 2015, the Treasury published a consultation document, Tax Deductibility of Corporate Interest Expense. This consultation sought views on the proposals to tackle action 4 of the BEPS project, set out in the OECD report on Limiting Base Erosion Involving Interest Deductions and Other Financial Payments. The Treasury and HMRC held a consultation event on 14 December 2015 which CIOT attended. Our response to the consultation reflects the discussions on that day.

The proposals in the document are around a structural interest restriction, which would be a significant change for the UK's corporate tax system.

We first questioned whether a structural interest restriction along the lines being considered is necessary at all in the UK, given that the concerns that led to this aspect of the BEPS action plan are either not relevant to the UK or have been addressed by other aspects of the BEPS action plan and/or existing UK tax rules. However, we can see some merit in having rules that are consistent with those of other countries, but this will arise if other countries do also implement similar rules.

We noted that the key feature for any such regime is that interest on third-party debt should not be restricted. We also advocated repealing some of the existing rules applying to interest, rather than simply adding new complex, but overlapping rules to the statute book. Primarily, the worldwide debt cap should be abolished.

We also strongly urged the government to delay any implementation of a structural interest regime from the proposed date of 1 April 2017 to ensure the end result reflects proper consideration all the issues and complexities. The aim must be to arrive at a regime that best achieves the stated policy objectives of tackling BEPS involving interest expense, while maintaining the competitiveness of the UK tax system, ensuring that there is certainty for businesses operating in the UK and

giving greatest efficiency in terms of business compliance and government administration. An accelerated timetable of change which rushes in a regime that does not work well could be unhelpful to the UK’s competiveness.

Our response favoured a group ratio rule as well as the fixed ratio rule, and also suggested that a widely drafted public benefit project exclusion would be necessary to ensure that the regime did properly target only groups and businesses that were a high BEPS risk.

The government is to publish with the Budget an update of its thinking on these proposals as part of the Business Tax Roadmap.

Read the full CIOT response here.