



Institution **CIOT - ATT-CTA - 2020 November Exams**
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Course **CTA Adv Tech Taxation Major Corps**

Event **NA**

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Count (s)	Word (s)	Char (s)	Char (s) (WS)
Section 1	346	1654	2761
Section 2	611	3026	3611
Section 3	353	1635	2023
Section 4	727	3440	4141
Section 5	835	3984	4788
Section 6	425	2064	2475
Total	3297	15803	19799

Answer-to-Question-_1_

Profit before tax 7,248,000

Add

Depreciation N1 3,500,000

Gift N2 45,000

Loan w/o N3

Loss on disposal N4 200,000

QCD 25,000

Interest payable N5 400,000

Less

Pension N4 (700,000)

Capital allowances w2 (4,926,554)

Total 5,791,446

Trading profits 5,791,446

NTLR deficit (400,000)

TTP 5,391,446

QCD (25,000)

Group relief (CY) (900,000)

TTP 4,466,446

N1 - depreciation is specifically disallowable - capital allowances given instead

N2 - gifts to customers of items such as alcohol and tobacco are specifically disallowable.

N3 - the write off on an employee loan is allowable. This would be treated as a taxable benefit in kind for the employee.

N4 - Pension spreading applies. (w1)

N5 - loan to purchase vans - trading loan relationship
Loan to purchase shares - non trade loan relationship and therefore add back.

N6 - Post April 17 losses from Cranwellion:

CY loss relief, no restriction -

Trade loss	(500)
NTLR deficit	(400)
TOTAL	(900)

Workings

w1 Pension spreading for 2019

Step 1 - CY contribution is £5m

PY - £2m

$210\% \times £2m = 4,200,000$

Step 2 - excess

$\text{£}5\text{m} - (110\% \times \text{£}2\text{m}) = \text{£}5\text{m} - 2.2\text{m} = 2.8\text{m excess}$

Step 3 - spread over 4 years

$2.8/4 = 0.7\text{m per year}$

Allowable in 2020 =0.7

w2 Capital allowances

	FYA	MP	SRP
TWDv		15,087,330	1,822,248
Additions			
F&F			5,000,000
Machinery		1,250,000	
Lifts			750,000
Van 45g/km		1,250,000	
car 45g/km	500,000		
car 160g/km			75,000
Disposal w3		(600,000)	
FYA at 100%	(500,000)		
AIA at 100%			(750,000)
AIA at 100%	(250,000)		

TOTAL	16737330	689248
WDA at 18%	(3,012,719)	
WDA at 6%		(413,835)
TWDV cfwd	13,724,611	275413

w3

NBV 800,000
Loss (200,000)

Proceeds 600,000

PART 2

As at 31 March 2020 losses are as follows

Pre April 17 losses

Trade (1,000) NTLR (500)

Less:

Set agaisnt 2019 TP 800 -

Cfwd (200) (500)

Post April 17 losses

	Trade	NTLR
2018	(1,200)	(500)

2019	-	(400)
2020	(500)	(400)

Less

2020 CY GR	500	400
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c/fwd	(1200)	(900)
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When a company joins a group, for five years after the change in ownership, brought forward losses are not available to be surrendered for group relief.

-----ANSWER-1-ABOVE-----

-----ANSWER-2-BELOW-----

Answer-to-Question-_2_

To: Mike Jackson
From: Lesley walsh
Subject: Overview of CIR legislation and application to Giradson Ltd
Date: 13 November 2020

Dear Mike

I have set out below an overview of the corporate interest restriction legislation (CIR) and detailed how this applies to Giradson Ltd (GL)

CIR legislation and application to Giradson Ltd

There are special rules applicable to companies that acquire UK buildings for the purpose of letting them out and therefore are deemed to have a UK property business.

The exemption is called the public infrastructure exemption.

The exemption allows for companies with a UKPB to not include interest expenses paid on loans to third parties within its taxed interest expense where conditions are met:

1. The company must be fully taxable in the UK - this is applicable.
2. The company must elect for the special treatment to apply

before the start of the accounting period to which it is to have effect. Once the election is made it will roll forward and effect all subsequent periods until a revocation election is made.

3. The company must carry on a UK property business and significantly all its income should derived from that business and all its assets should relate to that business. Giradson only has one trade, being the construction and maintenance and letting of several buildings and therefore this will apply.

We would recommend that you make the election before you take out the loan.

The third party loan must limit the creditors eligibility for debt recovery to the asset of the company only.

Where the election is made, in calculating the interest allowance, the tax EBITDA is treated as NIL and the £2million de minimis amount of the interest capacity for a worldwide group is also ignored in calculating the interest capacity.

We would be happy to provide you with calculations to support this if required.

Appointment of a reporting company

The group must appoint a company to be a reporting company of the worldwide group. The company must be subject to UK corporation tax and cannot be dormant.

Once the appointment has been made, this will automatically roll forward unless revoked.

The appointment must be authorised by at least half of the other UK taxable companies for this to be in place.

The company should give notice to HMRC within 12 months of the end of the accounting period to which it relates and the notice should specify the first period of account to which the appointment relates as well as a list of the companies providing authorisation as well as a statement that those companies constitute at least half of the UK taxable companies in the group.

The reporting company must inform each UK taxable company within the group that it is the reporting company as well as the ultimate parent company.

Filing interest restriction returns

An interest restriction return (IRR) must be submitted to HMRC by the reporting company by the later of 12 months from the end of the period of account or 3 months after the date on which the reporting company was nominated.

The company can either file a full interest restriction return or an abbreviated interest restriction return.

Where the group is not subject to any restriction, the reporting company can elect to submit an abbreviated return. Abbreviated returns do not allow companies to carry forward any unused allowance unless replaced with a full interest restriction return.

Amendments can be made within 36 months of the end of the period of account to which it relates.

We trust that the above is comprehensive, should you require any further information please do let me know.

Kind regards,

Yours sincerely,

Lesley Walsh

-----ANSWER-2-ABOVE-----

-----ANSWER-3-BELOW-----

Answer-to-Question-_3_

Grant of lease

The grant of the lease to Walburn Ltfd (WL) by Rossclair Ltd (RL) for a period of 20 years is the grant of a short lease.

A short lease is determined as less than 50 years.

The grant of a short lease will result in a part disposal of the interest held in the property

The capital element of the premium is calculated as follows:

Proceeds =

$2\% \times (n-1) \times \text{Premium}$

$2\% \times (20-1) \times \text{£}2.5\text{m} = 950,000$

Proceeds	950,000
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Less:

Cost	(511,538)
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Gain	438,462
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COST CALCULATED AS FOLLOWS:

$$a / (A+B) = 950,000 / (2.5m + 750,000) \times \text{Cost} = 511538$$

a = capital element being 950,000

A = Premium = 2.5m

B = reversionary interest = £750,000

The income element is therefore £1,550,000.

Sale of shares in Sylviarm

The disposal of the shares in Sylviarm Ltd (SL) will be deemed to take place at market value as Tim Willcox is connected to the majority shareholder of the group and therefore the proceeds will be calculated as follows:

$$£2,000 \times 2,000 \text{ shares} = £4,000,000$$

AS Tim will be holding 60% of the shares, the proceeds should be based on this value.

The cost of the original 40% shareholding was £4.5m and therefore the cost applicable to the original disposal would have been calculated as follows:

Cost x cost / MV of shares

$$4.5m / 4m + 9m \times 4.5m$$

COST of original disposal = 1,557,692

Cost attributable to the disposal of the remaining 20% shares in SL by GP is £2,942,308.

Therefore, the gain is calculated as follows:

Proceeds	4,000,000
Less:	
Cost	(2,942,308)
Indexation	(708,990)
Gain	348,702

Indexation calculated as follows:

$278.1 - 224.1/224.1 \times \text{COST}$

=708,990

As SL is an investment company, the substantial shareholding exemption will not apply (SSE).

The conditions for SSE are that the company being disposed of must have been a trading company and therefore this condition is not met.

The other conditions have been met, being that Greeson Plc held more than 10% of the shares in the company for at least 12 months prior to disposal, but all conditions must apply for SSE to be available.

-----ANSWER-3-ABOVE-----

-----ANSWER-4-BELOW-----

Answer-to-Question-_4_

1.

ROYALTY

The £20million Royalty should be adjusted and included as a non trading intangible fixed asset receipt.

BANK FEES

Bank fees for refinancing should be treated as non trade loan relationship debits.

DUE DILLIGENCE

Due diligence fees are allowable where no decision to acquire has yet been made.

FOREX

Forex gain on AUD bank loan to acquire shares can be hedged against the loan. Where a loan is taken out to hedge investment in shares, the disregard regulations apply. No election is required.

Therefore any gain is not brought into the profit and loss but is instead taken to other comprehensive income and will be added to

the consideration of the shares on subsequent disposal

WHT on interest received from AUS

The double tax relief will be available on the WHT suffered on the interest received.

This will be at the lower of:

- UK tax (19%) on the income and
- overseas tax suffered (10%)

Therefore the full tax suffered will be deductible.

The amount included in the computation should be the gross amount.

Chargeable gain

The dividend of £5million will need to be adjusted as this is not a chargeable gain.

This will be taxable as it does not fall under any of the exemptions for large companies and should therefore be subject to tax as the dividend is in respect of preference shares.

GROUP RELIEF

Include a claim for group relief for the current year £1.7m trading loss arising in Cabbot Online Ltd to reduce profits for the period. No restriction applies to the use of current year losses.

Post April 17 losses brought forward can be offset against all income and gains

The used of brought forward losses will be restricted and the deductions allowance of £5million + 50% of the companys unrelieved profits should be taken into account.

The nominated company will need to attribute the deductions allowance to the Cabbot Plc.

2. Diverted Profits Tax (DPT) is designed to counter the use of aggressive tax planning techniques by multinational enterprises to artificially divert profits from the UK and applies from 1 April 2015.

DPT applies to large companies and not SMEs.

It may apply where the licensee is a UK tax resident company (cabbot Plc) and the licensor as connected companies and the licensing of the IP results in an effective tax mismatch outcome and there is insufficient economic substance.

Effective tax mismatch is a transaction which results in expenses being deductible or a reduction in income that would have otherwise been included in computing the tax or the resulting reduction in tax in one jurisdiction exceeds the tax payable in the other.

If the tax payable by Cabbot GmbH is less than 80% of the reduction in tax by Cabbot Plc - then a tax mismatch has occurred.

Insufficient economic substance occurs where the transaction itself is designed to secure a reduction in the tax.

DPT is calculated at 25% of the diverted profit plus any true up interest due.

3. Incorporation of the UK PE

~The incorporation of the US permanent establishment will result in the end of a chargeable accounting period and the deemed disposal of assets that are being used in the US. There will be a cessation of the trade by the UK company if the PE carried on a separate trade.

Where assets are still subject to UK corporation tax, such as UK property or assets situated in the UK or used with the UK company trade, there is no deemed disposal.

Stock will be deemed to be disposed of at market value and fixed assets also. Balancing adjustments will arise on the capital allowances pools.

Capital assets such as IFAs will be deemed to be disposed of and reacquired at market value.

A claim can be made to postpone the chargeable gains arising where the following conditions are met:

1. A UK resident company has been carrying on a trade outside the UK through a PE
2. The trade and assets are transferred to a company that is non UK resident
3. the transfer is wholly or partly in exchange for securities issued by the New overseas company to Cabbot Online.
4. Following the issue of the shares the transferor holds at least 25% of the ordinary share capital of the newco.
5. there is a net chargeable gain arising on the assets transferred.

-----ANSWER-4-ABOVE-----

-----ANSWER-5-BELOW-----

Answer-to-Question-_5_

TO: Tax partner at Kolter Knight Roberts LLP
From: Senior tax manager
SUBJECT : ANCL group

Meeting notes

Migration of ANCL Water Ltd

ANCL Water (water) is UK resident by virtue of incorporation.

Where a company is UK resident, it is subject to UK Corporation tax on its worldwide income and gains.

Water will be deemed to migrate to the Netherlands due to it being centrally managed and controlled in Netherlands.

The double tax treaty between UK and the netherlands will determine where the place of effective management is undertaken. This is decided by determining where the senior management and the companys head office is located.

The directors permanently emigrting abroad may result in the place of efective management being located in the netherlands and therefore migration of the company.

Where the double tax treaty (DTT) has a treaty tiebreaker clause, the competent authorities are able to mutually agree where the company is resident and therefore who has primary taxation

rights.

The agreement suggests that the company will be deemed resident in the netherlands due to it being managed and controlled there.

Procedure

Water should have given advanced notice to HMRC (2 months prior) of its intention to cease being UK resident and specify when it ceased.

Penalties can be imposed if no advance notice is given, up to the amount of tax due.

The directors could be made liable for the penalties or the controlling company being ANCL Utilities Ltd.

Tax consequences

The migration of 'water' will result in an accounting period ending on 31 December 2018.

The waterworks located in the isle of man will be deemed to be disposed of at market value being roughly £10million.

A gain of £5m (£10m- 5m) will arise on the deemed disposal and the company will then be deemed to have reacquired the waterworks at £10m.

The patents held by the company will also be deemed to be disposed of at market value and immediately reacquired.

The loan from ANCL SARL will be deemed to be disposed of at fair value and reacquired by the company.

Any fixed assets will also be deemed disposed of at market value

and will result in balancing adjustments in the capital allowances pools.

As the migration took place prior to 1 January 2020, a joint election can be made to postpone the exit charges arising on the disposal of the capital assets and patents where the migrating company is a 75% subsidiary of a UK company.

the election must be jointly made by water and utilites within 2 years of migration. Therefore recommend this is made before 1 January 2021.

The gains can then be postponed.

The postponed gains will come into charge if any of the assets are disposed of within 6 years or water ceases be a 75% subsidiary or utilities ceases to be UK resident.

As the company will have migrated within the EEA, an exit charge payment plan can be entered into to pay the tax due for the period to migration.

There are two options, the standard instalement or the realisation method.

Interest paid to SARL

The interest paid to SARL on the loan does not require any withholding tax to be deducted at source as under the interest and royalty directive with EU countries, interest paid to an overseas company within the EU can be paid without withholding 20% income tax.

Usually, interest paid overseas requires a 20% withholding and a form CT61 will need to be filed and paid within 14days of the

quarter end.

Therefore, there are no implications of this transaction.

ANCL Financing Ltd

Financing is a controlled foreign company of Utilities as it is a foreign company controlled by a UK company by virtue of its 100% shareholding.

A CFC charge should arise based on the profits arising on the loan between financing and water being attributable to the non trading profits finance gateway and therefore chargeable on utilities in the UL.

The 25% taxable and 75% exemption rule does apply to this income as the interest arising is from a qualifying loan relationship.

The lender and borrow are connected and controlled by the same person and therefore the interest income arising in the Irish entity should would have been taxable on utilities if instead of utilities subscribing for shares in the Irish entity, it lent the money directly to Water.

The charge is not able to be offset against tax losses and therefore this is incorrect and the tax returns should be amended or a disclosure made to HMRC.

ANCL Electrics Ltd

This is a controlled foreign company as 100% of the shares are held by ANCL Utilities Ltd a UK resident company.

It is likely that no CFC charge will arise on the profits as the tax exemption will apply as the local tax on profits in Jersey is 20% which is at least 75% of the UK tax and therefore this

exemption will apply.

This should be disclosed on ANCL Utilities tax returns but no CFC charge will arise.

-----ANSWER-5-ABOVE-----

-----ANSWER-6-BELOW-----

Answer-to-Question-_6_

TO: TAX PARTNER
From: TAX MANAGER
SUBJECT : TAX DISPUTES

BRIEFING NOTE

Compliance checks and procedures

HMRC are able to issue an enquiry or compliance check into a companys tax position.

This can either be an aspect enquiry or a full enquiry.

For small groups, HMRC have an enquiry window of 12 months from the day after the return is received. For large companies it is 12 months from the filing date.

Companys have 30 days from receipt of the notice of enquiry to respond to HMRC and provide the information requested

Discovery Assessments

HMRC are able to raise a discovery assessment where they believe the following:

1. An amount that ought to have been assessed and subject to UK

Corporation tax has not been assessed.

2. An assessment that has been made was insufficeint
3. Excessive relief was given.

The discovery assessment has to be in an amount which HMRC consider is necessary to make good the tax lost.

Where a company has delivered a return for an accounting period, HMRC areunable to make a discoery assessment unless the loss of tax was careless or deliberate or HMRC are unable to reasonably assess the loss of tax based on the infomration made available to them at the time.

The general time limit for assessments is four years from the end of the accounting period to which it relates, however where the case is involving carelessness it is six years and where the action is deliberate this is extended to 20 years.

Penalty regime for inaccuracies

Where a tax return or relief claim contains inaccuracies which lead to the understatement of tax or inflated losses or relief claims, penalties will apply.

Where returns contain more than one error, penalties can be charged fore each.

Depending on how HMRC see the motive of the inaccuracy, depends on the level of the penalty. HMRC will asses their deemed behaviour of the company and apply a penalty based on the bahaviour they believe has been reflected

Where there has been an unprompted disclosure by the company, the penalty rates are lower. Where HMRC have prompted a disclosure the penalty rates are higher. These are based on the

behaviour and whether it is deemed deliberate and concealed,
delliberate but not concealed or careless.

Where the penalty relates to offshore matters, the minimum
penalty can be increase by 10%/

There are no penalties for inaccuracies where the company has
taken reasonable care and this can be proved.

The percentage is then applied to the amount of the potnetial
lost revenue.