

## The Association of Corporate Treasurers

Comments in response to  
***HMT / HMRC Taxation of the foreign profits of  
companies***  
Discussion Document  
20 June 2007

September 2007

### The Association of Corporate Treasurers (ACT)

The ACT is a professional body for those working in corporate treasury, risk and corporate finance. Further information is provided at the end of these comments and on our website [www.treasurers.org](http://www.treasurers.org).

Contact details are also at the end of these comments.

We have canvassed the opinion of our members through our Policy and Technical Committee.

### General

We appreciate the opportunity to contribute to this discussion process.

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### Response

The ACT recognises the attempts made by HMT / HMRC to address the challenge of globalisation in tax matters. In particular there is a need to respond to changes in EU tax practice following judgements in the European Court of Justice (ECJ). The ACT supports the principle that the tax regime should be fair, double taxation should be avoided and that UK taxpayers should not be inherently disadvantaged in respect of other EU jurisdictions. The Foreign Profits consultation is potentially a very major change to the UK tax system however and there are a number of aspects to the discussion document which bear specific comment.

(We have quoted Paragraph numbers where appropriate.)

- There is some concern that the discussion paper does not make clear the intended scope of the overall reforms proposed although it is appreciated that further formal consultation will follow. For example, we would welcome guidance on those areas where HMT / HMRC consider there is abuse of the current regime which potentially requires anti-abuse measures.
- The proposed approach to the passive income of Controlled Companies (CC) being taxed in the UK, even if the parent only owns 10% of the subsidiary, may be considered onerous. It is not clear on what basis this ownership level has been chosen as the new threshold for application of the new CC rules
- The paper refers to the GAAP to be used for calculating income and suggests UK GAAP. In practice, UK GAAP and IFRS GAAP should be very similar by 2009. We would suggest however that the appropriate GAAP to use is that in which the entity would ordinarily prepare its accounts, thus eliminating the additional bureaucracy of adjusting accounts for tax purposes.
- The suggested removal (6.8) of the S.765 / A rules - 'Treasury Consents' – is very much welcomed
- Exclusion of 'small' business via a gateway test is a sensible management measure
- There was an expectation that, as in Holland, the exemption of dividend income could be linked with abolition of interest relief for the cost of buying shares in foreign subsidiaries. We note that you are not proposing such a directly related abolition of interest relief so it would be interesting to our members to understand the HMT / HMRC position on this matter
- In 5.7 you propose a restriction on the relief for interest by reference to the group's external finance costs. Where there is a deliberate policy to locate disproportionate interest expense in the UK we understand your concern. However there can be structural or strategic reasons why a group may find that cash is building up offshore and distinguishing this from abusive behaviour would be difficult. The complexities of this option would make it unattractive.

## The Association of Corporate Treasurers

The ACT is the international body for finance professionals working in treasury, risk and corporate finance. Through the ACT we come together as practitioners, technical experts and educators in a range of disciplines that underpin the financial security and prosperity of an organisation.

The ACT defines and promotes best practice in treasury and makes representations to government, regulators and standard setters.

We are also the world's leading examining body for treasury, providing benchmark qualifications and continuing development through training, conferences, publications, including *The Treasurer* magazine and the annual *Treasurer's Handbook*, and online.

Our 3,600 members work widely in companies of all sizes through industry, commerce professional service firms.

Further information is available on our website (below).

Our policy with regards to policy and technical matters is available at <http://www.treasurers.org/technical/resources/manifestosept2006.pdf>.

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