TREASURY, RISK
AND FINANCE
PROFESSIONALS
ACT

# The Association of Corporate Treasurers

**Comments in response to**

## *Consultation on possible changes to income tax rules on interest*

## HM Revenue & Customs

Issued 27th March 2012

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## 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 back of these comments and on our website www.treasurers.org.

Contact details are also at the back of these comments.

We canvas the opinion of our members through our monthly e-newsletter to members and others, *The Treasurer magazine*, topic-specific working groups and our Policy and Technical Committee.

## General

The ACT welcomes the opportunity to comment on this matter, although we confine our comments to those sections most relevant to our members. Our comments are from the standpoint of non financial companies and we would be happy to discuss the issues further if that would help.

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## Specific comments

### Section 4 Yearly interest arising in the UK

Your consultation notes that the concept of yearly interest is now somewhat archaic, which perhaps it is to some extent, but the application of concept of yearly interest does mean that certain payments of interest not covered by the exemptions in Part 15 of ITA, may nonetheless still be made without deduction of tax. The particular example that we are aware of is the payment of interest from a UK company to a non UK company in the same group. This arises on a routine basis for international companies that operate a bank account pooling arrangement whereby cash in the bank accounts of all the group's subsidiaries are swept each night into a central treasury bank account from where central deposits or borrowings are undertaken daily. Next morning the balances are restored to the subsidiary bank accounts. This is normal efficient treasury cash management and applied in many groups. The cash that is centralised in accounting terms and legal terms is recorded by movements on intra-group current accounts and the appropriate interest is paid to the subsidiaries as yearly interest without deduction of income tax.

In the interests of simplicity of administration we would argue that either yearly interest be retained for this sort of payment or that an additional exemption be added to Part 15.

If you are not familiar with how cash sweeping and related practices work around the world, do please contact us. They are to ensure that idle cash does not gross-up group borrowings both to reduce net interest expense and can also, in some cases, to help manage observance of some debt or loan covenants affecting gross indebtedness or interest cost.

**Section 5 Quoted Eurobonds**

We note the concern over the conversion of existing inter-company debt into quoted Eurobonds to enable a company to make gross payments of interest out of the UK to a fellow group company, where otherwise deduction of tax would be required. You state that HMRC will seek to deny the exemption only in the case of intra-group Eurobond issues that appear to be undertaken for the purpose of circumventing the requirement to deduct tax at source rather than being directed at the raising of third party finance. Certainly the exemption does assist companies in raising external finance from third party non-UK lenders through the issue of Eurobonds, and in such a circumstance it is important to preserve the exemption.

There can be occasions when a bond issuer wishes to repurchase its own bonds in the market and for various reasons this will often be done via another group company so that such Eurobonds as are successfully bought back become an intra group bond. Assuming this practice is not regarded as abusive we wonder if the Eurobond exemption can continue subject to some proviso about the bond having been previously issued to third parties (possibly for some minimum period) or genuinely open to be traded.

In discussing listed Eurobonds issued between group companies in paragraph 5.5 you propose that the quoted Eurobond exemption would not apply where the Eurobond is issued to a fellow group company and listed on a stock exchange on which there is no substantial or regular trading in the Eurobond and further that it is not your intention to affect the exemption that applies to the overwhelming majority of Eurobond issues. We welcome the preservation of the quoted Eurobond exemption for genuine third party issues but would point out that in drafting any changes care needs to be taken not to introduce any general requirement for exempt Eurobonds to be subject to a regular trading test.

Most purchasers of bonds are "buy and hold" investors in intent. A number may take comfort from the possibility of sale in case of need, for example for partial fund redemptions or because the bond falls below the minimum credit standing for the fund. All investors value the supervision of the listing authority and the application of the prospectus directive and market abuse provisions etc. Thus, for most quoted Eurobonds, after the initial placing and adjustments in the following period, even for the largest and most liquid issues, there is often very little trading activity and for some smaller issues the trading volumes will be negligible. In any case, most bond transactions are private over-the-counter transactions and not actually on-exchange trading. Banks making the market for particular bonds may show prices on their screens but if you want to buy or sell in any quantity they will give you a price that may be quite different. Since the financial crisis, bank inventories of corporate bonds in their trading books have fallen very substantially and this reinforces the effect last mentioned.

Again, please contact us if you would like us to elaborate on any of these points.

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## The Association of Corporate Treasurers

The Association of Corporate Treasurers (ACT) is the leading professional body for international treasury providing the widest scope of benchmark qualifications for those working in treasury, risk and corporate finance. Membership is by examination. We define standards, promote best practice and support continuing professional development. We are the professional voice of corporate treasury, representing our members.

Our 4,200 members and 2,100 students work widely in companies of all sizes through industry, commerce and professional service firms.

For further information visit www.treasurers.org

Guidelines about our approach to policy and technical matters are available at http://www.treasurers.org/technical/manifesto.


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| Contacts:<br>Martin O'Donovan, Deputy Policy and Technical Director<br>(020 7847 2577; modonovan@treasurers.org)<br>John Grout, Policy and Technical Director<br>(020 7847 2575; jgrout@treasurers.org )<br>Colin Tyler, Chief Executive<br>(020 7847 2542 ctyler@treasurers.org) | The Association of Corporate Treasurers<br>51 Moorgate<br>London EC2R 6BH, UK<br>Telephone: 020 7847 2540<br>Fax: 020 7374 8744<br>Website: http://www.treasurers.org |


*The Association of Corporate Treasurers is a company limited by guarantee in England under No. 1445322 at the above address*