TTM01250 – Introduction to tonnage tax: Tonnage tax as a State aid

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Tonnage tax is a State aid. This is defined by the European Commission as an advantage in any form conferred on a selective basis to undertakings by national public authorities. General tax measures are not State aids but tonnage tax is because it is granted to a particular sector. The concern is that such aid could distort competition and affect trade between the Member States of the European Economic Area by favouring certain undertakings, so being incompatible with the principle of the single market. It follows that there is a general prohibition of State aids – Article 107 of the Treaty on the Functioning of the European Union, with a similar provision in the EEA Agreement (which covers Norway, Iceland and Liechtenstein in addition to the EU States). Tonnage tax aid is the difference between the tax payable under the scheme and tax which would be payable on general Corporation Tax principles.

The prohibition is, however, subject to certain exceptions one of which is that aid may be approved by the European Commission. Approved State aid must be operated within the terms laid down by the Commission, which in the case of tonnage tax are found in guidelines on State aid to maritime transport published on 17 January 2004 (Commission Communication C(2004)43).

When guidelines change (the previous version was dated 5 July 1997) the tonnage tax legislation is amended to ensure continuing compliance. This is the main reason for the amendments made by FA05/SCH7 (see TTM01030). The original UK tonnage tax scheme was approved by the European Commission as compatible with the Treaty when introduced (notification of 2 August 2000 under reference N 790/99). It follows that there should be no problems with State aid, and a company's clearance may be relied on (see TTM02040) provided the UK legislation is observed and the operations genuinely contribute to economic activity in the European Economic Area.

Exceptionally, if aid is identified by the European Commission as having been granted unlawfully, it may order recovery of the aid from the recipient together with compound interest.

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TTM02040 - Tonnage tax elections: Pre-election clearance

Information to be provided to HMRC

The non-statutory business clearance request should be made in writing and provide all relevant information to enable a decision to be made, including full details of the tonnage tax group structure. A meeting may subsequently be useful if further information is needed.

Status of the clearance

Subject to what follows, the treatment agreed by HMRC of the company or companies detailed in the election may be relied on provided

- all relevant information is fully and accurately supplied, and
- the proposals as described are implemented in full.

NBCG7600 gives further detail on the conditions of non-statutory business clearances.

Tonnage tax is a State aid approved by the European Commission. Where State aid is found to have been granted unlawfully, i.e. beyond the permitted limits, the Commission may order recovery of

the aid from the recipient, together with compound interest. However, provided the UK tonnage tax legislation is observed and the related operations genuinely contribute to economic activity within the European Economic Area, this issue should not arise. There is more about tonnage tax as a State aid at TTM01250.

It follows that the agreed treatment will continue until (and unless)

- company circumstances change such that the terms of the original clearance no longer apply, or
- there is a material legislative change in the scope or operation of the tonnage tax regime, or
- the European Commission has determined that State aid has been granted unlawfully.

Enquires into a tonnage tax company's tax return may extend to whether the terms of the clearance continue to be satisfied.

Where a tonnage tax company's business or structure materially changes it may seek confirmation from HMRC that the scope of clearance still applies.

If, exceptionally, HMRC considers that a clearance may have been given erroneously it will invite the company to discuss the circumstances and the terms of the clearance. If, in the light of this discussion, HMRC concludes that the clearance was indeed given erroneously it will agree with the company a reasonable period for possible adjustments and will then formally notify the company that the clearance is incorrect and is being rescinded. The treatment agreed in the clearance will cease from the date of the notification.

References

Areas covered by clearance application	TTM02030
Timing of clearance application	TTM02050
Foreign company or group	TTM02060

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TTM03050 - Qualifying companies and ships: Election to remain in tonnage tax

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Election to remain in tonnage tax

A company may elect to remain within the tonnage tax regime if, perhaps for instance through loss at sea, it temporarily ceases to operate any qualifying ships. The meaning of temporary is not defined but it does connote an intention to resume, and the longer the period grows the more likely is an HMRC enquiry seeking evidence of that intention.

Note that this provision does not apply to a company which continues to operate a ship that temporarily ceases to be a qualifying ship – that situation is covered by a separate provision, see TTM03710.

See TTM03060 for the circumstances in which such an election terminates.

Form of election

The company must give notice to HMRC stating-

its intention to resume operating qualifying ships, and

its wish to remain within tonnage tax

The notice must be given not later than the date that is the 'filing date' for the company's 'company tax return' for the accounting period in which the temporary cessation begins. For this purpose:

'filing date' has the same meaning as in **FA98/SCH18/PARA14**, and

'company tax return' has the same meaning as in **FA98/SCH18/PARA3**.

Effect of election

An election under FA00/SCH22/PARA17 has the following effects:

The company will be treated as if it had continued to operate the qualifying ship or ships it operated immediately before the temporary cessation.

The company will continue to calculate its tonnage tax profits as though it operated the same ships as it did immediately before cessation. The same training obligation will also continue to apply.

The cessation provisions (see TTM14001) will not apply, and the company will remain within Tonnage Tax when it resumes operating qualifying ships.

Purpose of election

This provision will be in point if the company is a singleton company, or if it is the only qualifying company in the group. If such a company did not give notice of its wish to remain within tonnage tax, it would cease to be a tonnage tax company when it first ceased to operate any qualifying ships – and it would be disqualified from coming back into tonnage tax for a period of at least ten years (see TTM14110).

A company which is a member of a group which includes at least one other qualifying company does not need to give notice of its wish to remain in tonnage tax. The group election will remain in force (because it still includes at least one qualifying company) and it will automatically become a qualifying company when it resumes operating qualifying ships.

Group Election

A group election covers all qualifying activities carried on by any company within the group. If one company within the group ceases to operate any qualifying ships, but at least one other company in the group continues to do so, the group election will continue to have effect. If it is still in force, that election will cover the first company if it later starts to operate qualifying ships again.

Subject to the rules on mergers in FA00/SCH22/PArT12, the group election also extends to newly acquired companies. If a single company has ceased to have any qualifying activities and is then acquired by a larger group and the company resumes qualifying activities after the merger, it will be within the tonnage tax regime if there is a group election in force. The fact that the group contains what was formerly a single ex-tonnage tax company does not prevent the group making a tonnage tax election or a renewal election (see FA00/SCH22/PARA140 (3)).

References

FA00/SCH22/PARA17 (temporarily ceasing to operate ships)	TTM17091

FA00/SCH22/PARA137 (exit from tonnage tax)	TTM17761
Termination of election to remain in tonnage tax	TTM03060
FA00/SCH22/PARA140 (3)	TTM03050

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TTM03170 - Qualifying Companies and ships: Ship chartered-out because of short-term over-capacity

A bareboat charter-out is allowed in the regime if

- the company has short-term surplus capacity (for instance through a temporary downturn in the market), and
- the ship is bareboat chartered-out for a period of no more than three years.

A company has to have operated the ship prior to it being bareboat chartered out.

Both legs of the test must be met. Evidence should be available to support that there is no genuine short-term over-capacity, and that the term of the charter does not exceed three years. Officers should consider requesting a copy of the charter, together with evidence to support the short-term over-capacity.

References

FA00/SCH22/PARA18 (5) (meaning of operating a ship)	TTM17096
Bareboat charters-out	TTM03150

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TTM03500 - Qualifying companies and ships: qualifying ship

Meaning

A ship is any vessel used in navigation. Navigation is the art or science of conducting a ship from one point to another. The phrase 'used in navigation' conveys the concept of transporting passengers or goods by water to an intended destination. Navigation is not synonymous with movement on water; navigation is planned and orderly movement from one place to another.

The view that the vessel must have its own means of propulsion has now been withdrawn. See *Global Marine Drilling Company v Triton Holdings Ltd* [1999] ScotCS 277, applying an old authority *The Mac* (1882) 7 PD 126 (where the Court of Appeal overturned the decision of Phillimore J).

A ship will not be a qualifying ship unless it satisfies **all** of the following conditions:

It is 'seagoing'.	See TTM03510 for the meaning of 'seagoing'. The normal commercial

	operations of the ship must be undertaken at sea for the ship to be a qualifying ship.
It is of 100 tons or more gross tonnage **and** it has either a valid International Tonnage certificate (1969) or a valid certificate recording its tonnage as measured in accordance with domestic tonnage regulations.	See TTM01330 for details of how tonnage is to be measured and the tonnage certificates required.
It is used for one or more of the following:	
Carriage of passengers by sea	See TTM03545
Carriage of cargo by sea	See TTM03550
Towage, salvage or other marine assistance carried out at sea –	See TTM03560
Transport in connection with other services of a kind necessarily provided at sea –	See TTM03570
It is not used for the provision of goods or services of a kind normally provided on land.	See TTM03610
It is not the type of vessel excluded from being qualifying ships.	See TTM03620

See TTM03595 for further guidance on the meaning of 'sea'.

First qualifying

For when a new ship first becomes a qualifying ship, see TTM03580.

Ceasing to qualify

For when a ship ceases to be qualifying, see TTM03590.

Special rules for offshore activities

See TTM11001 onwards, for special rules applying to vessels engaged in 'offshore activities' (e.g. in the North Sea oil and gas industries).

End user of ship

There is a need to consider the end user of a chartered ship in considering whether the activities qualify; see TTM03675

References

FA00/SCH22/PARA19 (qualifying ships)	TTM17101
Examples of qualifying and non-qualifying ships	TTM03695

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TTM03515 – Qualifying companies and ships: Certification of ships

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Certification of ships

The legislation requires that a ship is seagoing which means it must be certificated for navigation at sea. A ship does not need any special form of certification to qualify for tonnage tax. This is not a question of tax law, but of merchant shipping legislation. The question is whether the competent authority has issued a certificate in accordance with relevant merchant shipping legislation that allows the ship to operate lawfully at sea.

Certificates issued under international conventions

Ships undertaking international voyages need to be certificated under various international conventions. HMRC will accept that a ship is a seagoing ship if:

- it has an 'International Load Line Certificate', or an 'International Load Line Exemption Certificate' – the latter certificate is issued to an unconventional ship which is seagoing but for which a conventional load line my be inappropriate, e.g. a hydrofoil or hovercraft, or
- it has a certificate issued under the International Convention for the Safety of Lives at Sea (SOLAS), and has a Certificate of Compliance with the International Safety Management code, or
- the company has a Safety Management Certificate and each vessel has a Document of Compliance in accordance with the ISM code.

Certificates issued under domestic legislation

The position is more complicated for ships which are not engaged in international traffic, as they are not necessarily covered by the international conventions, and in those circumstances their qualification as seagoing ships for the purposes of tonnage tax must be determined by reference to certificates that may be issued under domestic law. In the case of the UK this is the Merchant Shipping Acts.

Domestic certification must amount to certification for navigation at sea. In determining this it will be necessary to consider the extent to which 'conditions' or 'plying limits' imposed by the certificate restrict a ship's scope for operating at sea.

Competent authority

In the case of the UK the competent domestic authority is the Maritime & Coastguard Agency (MCA) under the Merchant Shipping Acts. It issues certificates to vessels not covered by international conventions. See TTM03520 and TTM03530 for details of how MCA certification affects qualification for tonnage tax.

Further advice

In cases of doubt or difficulty seek help from the Tonnage Tax Technical Adviser.

References

Restricted certificates	TTM03520
Sheltered waters	TTM03530

TTM03520 - Qualifying companies and ships: Restricted certificates

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Seagoing: Certification of ships

In order to qualify for tonnage tax, a ship must be certified for navigation at sea without significant restrictions as to the mode, location or circumstances of navigation. Restrictions on the certificate that limit the ship to navigating only

- on an occasional basis
- for a few months in a year
- in particular weather conditions
- within a minimal distance from coast or port of refuge
- within sheltered waters as defined by the Maritime & Coastguard Agency

preclude the ship from qualifying for tonnage tax.

Examples of such certificates are the Class VI or Class VI(A) certificates that may be issued by the Maritime and Coastguard Agency to passenger ships engaged on domestic voyages within the UK.

These certificates impose a number of restrictions on when the ships may operate at sea. These restrictions may cover:

- where the ship operates - a ship with a Class VI(A) certificate may operate no more than 3 miles from land
- when a ship operates - a ship with a Class VI certificate may not operate in winter or at night
- how many passengers may be carried – a ship with a Class VI(A) certificate may not carry more than 50 passengers.

Ships that have been issued with these certificates are only certificated for navigation at sea if they are operating in accordance with the restrictions set out in the certificate. It follows that a ship with a Class VI certificate is not certified as seagoing if it is operational in winter or at night.

Companies operating sea going ships must have a Safety Management Certificate and each vessel must have a Document of Compliance in accordance with the ISM code – see TTM03515.

References

Further details on certification of ships	TTM15030

TTM03530 - Qualifying companies and ships: Area of operation limited to sheltered waters

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Certification

To qualify for tonnage tax, a ship has to be certificated as capable of navigation at sea. This means it has to be certificated as capable of operating in waters defined as ‘sea’ under the relevant merchant shipping legislation.

UK waters

The waters around the coast of the UK are categorised by the Marine & Coastguard Agency, the appropriate competent authority, to distinguish between what is ‘sea’ and what is not ‘sea’. The categories range from Category A (narrow rivers) to Category D (tidal rivers and estuaries where the wave height is not expected to exceed 2 metres). MCA category waters A to D are not ‘sea’ for tonnage tax purposes (see TTM03500 and TTM03595)

A ship that is only certified to travel in waters falling within Categories A to D is therefore **not** certificated as 'seagoing' and is not a qualifying ship for tonnage tax purposes. A ship will only be 'seagoing' if it is certificated for navigation outside these waters. See also TTM03520 for vessels operating under restricted certificates.

Foreign waters

Other countries will normally have categorised their own waters to distinguish between what is 'sea' and what is not 'sea'. This categorisation will be influential, but not conclusive, in applying the principles above.

Further advice

In cases of doubt or difficulty seek advice from the Tonnage Tax Technical Adviser.

References

FA00/SCH22/PARA19(4) (certificated for navigation at sea)	TTM17101
Normal commercial operations	TTM03510
Certification of ships	TTM03520
Further details on certification of ships	TTM15030
Seagoing	TTM03510

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TTM03595 – Qualifying companies and ships: Sea - meaning of

To qualify for tonnage tax, the ship must be operating at sea – see FA00/SCH22/PARA19 (1), amended by FA05. It must not fall into one of the excluded categories of vessel – see TTM03620.

Sea does not include:

- a port or harbour
- an estuary, a tidal or other river or an inland waterway.

Apart from these exclusions sea is not defined by tonnage tax legislation and neither are harbour, estuary etc. HMRC considers the words should be given their ordinary common sense meaning in context.

In considering whether a particular stretch of water is 'sea' for the purposes of paragraph 19(1), HMRC will consider factors including

- whether the waters are classed as 'sea' for the purposes of the relevant local legislation on merchant shipping
- whether a ship needs to be certified as seagoing to operate in those waters.

Neither of these factors will necessarily be conclusive particularly if the local definitions of sea have been designed for a specific purpose and so produce an anomalous result if applied for the purposes of tonnage tax. Generally, though, HMRC consider such local definitions to be helpful and reliable.

UK Waters

For UK territorial waters, the Maritime & Coastguard Agency (MCA) categorises waters that are not regarded as 'sea' for the purposes of Merchant Shipping legislation (excepting marine pollution). The MCA is also the competent authority for certification of ships for navigation at sea. The MCA regards waters in category A, B, C and D as not being 'sea'. HMRC adopts this view for the purposes of PARA19 (1)(a) to (d).

For sheltered foreign waters see TTM03530.

Estuaries

HMRC consider that an estuary can normally be defined by reference to its ordinary dictionary definition:

> the tidal mouth of a large river, or
>
> the wide lower tidal part of a river, or
>
> an arm of the sea that extends inland to meet at the mouth of a river.

The seaward limit of an estuary is not defined in statute but is generally taken to be where the mingling of sea and fresh water begins. Mud banks, shoals and other topographical features may also be indicative. The First Tier Tribunal in *Western Ferries v HMRC* [2011] UKFTT 243 took this approach but also took into account some other geographical features which were particular to the estuary area they were considering in order to determine its limits.

If such data are not readily available, it is helpful to refer (in relation to a UK estuary) to the Merchant Shipping Notice MSN 1719(M) of the MCA. This Notice defines waters in Category C as:

> Tidal rivers and estuaries and large, deep, lakes and lochs where the significant wave height could not be expected to exceed 1.2 metres at any time.

It defines Category D waters as:

> Tidal rivers and estuaries where the significant wave height could not be expected to exceed 2.0 metres at any time.

HMRC takes the view that any waters in MCA Category C or D are either estuaries or tidal rivers or lakes. Any ferry operating in these waters is considered to be excluded from tonnage tax under FA00/SCH22/PARA20 (1).

Harbour

A harbour is a refuge or shelter for shipping. It may be a natural harbour or man-made. Used in its ordinary sense it has been recognised by the courts as meaning "a place to shelter ships from the violence of the sea, and where ships are brought for commercial purposes to load and unload goods". There is a similar, useful, definition of 'harbour' at section 313 of the Maritime Shipping Act 1995, which includes:

> Estuaries, navigable rivers, piers, jetties and other works in or at which ships can obtain shelter or ship and unship goods or passengers.

HMRC consider that these definitions are appropriate in determining what is a harbour for tonnage tax purposes.

There are in the UK a number of statutory harbour authorities, which have been given "powers of duties of improving, maintaining or managing a harbour." HMRC will also take the geographical extent of these powers into account when considering the extent of a harbour but again this is not necessarily determinative of its limits. Each case will have to be judged on its own facts.

These definitions and harbour authority boundaries will also be relevant to determining the limits of harbours overseas.

Where the extent of harbour authority is an issue, submit the case to the Tonnage Tax Technical Adviser.

References

FA00/SCH22/PARA19(5) Sheltered Waters	TTM03530
Paragraph 20A Schedule 22 FA 2000 Qualifying tugs	TTM03560

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TTM03645 - Qualifying companies and ships: Offshore installations

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Definition

An 'offshore installation' is defined in CTA10/S1132 as:

an offshore installation within the meaning of the Mineral Workings (Offshore Installations) Act 1971, or

what would be such an installation if the references in that Act to controlled waters were to any waters.

This definition will include such structures as mobile offshore drilling rigs, Floating Production, Storage and Offloading vessels (FPSO's) and flotels.

Section 1132 Corporation Tax Act 2010

1132 “Offshore installation”

(1) In the Corporation Tax Acts “offshore installation” means a structure which is, is to be, or has been, put to a relevant use while in water (see subsections (3) and (4)).

(2) But a structure is not an offshore installation if—

(a) it has permanently ceased to be put to a relevant use,

(b) it is not, and is not to be, put to any other relevant use, and

(c) since permanently ceasing to be put to a relevant use, it has been put to a use which is not relevant.

(3) A use is a relevant use if it is—

(a) for the purposes of exploiting mineral resources by means of a well,

(b) for the purposes of exploration with a view to exploiting mineral resources by means of a well,

(c) for the storage of gas in or under the shore or the bed of any waters,

(d) for the recovery of gas so stored,

(e) for the conveyance of things by means of a pipe, or

(f) mainly for the provision of accommodation for individuals who work on or from a structure which is, is to be, or has been, put to any of the above uses while in water.

(4) For the purposes of this section references to a structure being put to a use while in water are to the structure being put to a use while—

(a) standing in any waters,

(b) stationed (by whatever means) in any waters, or

(c) standing on the foreshore or other land intermittently covered with water.

(5) In this section “structure” includes a ship or other vessel.

References

FA00/SCH22/PARA20 (1)(d) and (5) (offshore installation)	TTM17106
Excluded vessels	TTM03620
Need to consider end-user of chartered ship	TTM03675

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TTM03680 – Qualifying companies and ships: Tugs other than qualifying tugs

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Not all tugs qualify for tonnage tax. Port and harbour tugs do not qualify. A sea going tug must spend at least 50 per cent of its operational time in towage or salvage at sea in order to qualify for tonnage tax. A qualifying tug must also be registered on the register of a Member State (TTM03685)

Any waiting time spent by a tug for the purposes of a particular activity is treated as time during which the tug is used for that activity.

Examples of how this will apply to different types of tugs are:

- a tug used to tow barges or other unpowered vessels across the sea may qualify for tonnage tax
- an ocean going salvage tug may qualify for tonnage tax
- a tug used to assist ships into and out of harbour does not qualify for tonnage tax
- a tug towing barges on inland waters does not qualify for tonnage tax
- a tug towing barges mainly in estuarine conditions (for example the Humber or Thames estuaries) will not qualify for tonnage tax.

This list is not exhaustive

Sunken cargo

Where a tug is involved in raising sunken cargo, this is regarded as diving support, and will be a qualifying ship under FA00/SCH22/PARA19 (1)(d) –see TTM03570.

Any profits from the sale of salvaged goods will fall outside the tonnage tax ring-fence.

Anchor handling tug supply vessels

Anchor handling tug supply (AHTS) vessels are a type of multi-functional support vessel for the oil industry. They differ from platform supply vessels in that they are fitted with winches. They raise and carry anchors, tow the rigs and act as supply and attendance vessels.

The rules relating to tugs are primarily aimed at excluding from tonnage tax vessels which do not in the main operate on the open sea, reflecting the status of tonnage tax as a State aid approved by the EU Commission, focused on internationally tradable services. An AHTS should not be regarded as a tug.

References

FA00/SCH22/PARA20A (2) Qualifying tugs and dredgers	TTM03560
Excluded vessels	TTM03620

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TTM03695 - Qualifying companies and ships: Examples of qualifying and non-qualifying ships

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In the following table it is assumed that the ships are seagoing and of 100 tons or more gross tonnage. The examples are grouped according to the four types of use specified in FA00/SCH22/PARA19 (1).

	Qualifying	Non-qualifying
Carriage by sea of passengers	Passenger liners Seagoing ferries	Harbour, estuary & river ferries Pleasure craft Vessels operating in MCA Category A, B, C or D waters.
Carriage by sea of cargo	Tankers Container ships Bulk carriers Reefers Tweendeckers Supply vessels RO-RO	Dedicated shuttle tankers Vessels operating in MCA Category A, B, C or D waters.
Towage, salvage, or other marine assistance	Qualifying tugs Anchor handlers Ice breakers Safety standby* Oil spill recovery vessels*	Non qualifying tugs Fixed & floating oil rigs and platforms Floating production, storage & offtake vessels Flotels
Transport by sea in connection with other services of a kind necessarily provided at sea	Qualifying dredgers Light construction vessels* Diving support vessels Seismic survey vessels* Hydrographic survey vessels Research vessels Cable layers* Pipe layers* Heavy lift vessels* Remote operated	Non qualifying dredgers Fishing boats Factory ships

	vessels* Trenching vessels* Well stimulation vessels*	

For starred (*) vessels see TTM11001 onwards for special rules applying to vessels engaged in 'offshore activities', e.g. in the North Sea oil and gas industries.

References

FA00/SCH22/PARA19 (qualifying ships)	TTM17101
FA00/SCH22/PARA20 (excluded vessels)	TTM17106
Qualifying ships	TTM03500
Excluded vessels	TTM03620

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TTM03800 - Qualifying companies and ships: Strategic and commercial management

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Introduction

The definition of a qualifying company in FA00/SCH22/PARA16 (1)(c) provides that qualifying ships operated by a company must be strategically and commercially managed in the UK. This is not the same as the 'central management and control' test relevant to determining whether a company is resident in the UK, but see TTM03810.

Origin of test

Tonnage tax is a State aid approved by the EU Commission (by letter dated 2 August 2000). The Commission issues guidelines, the most recent version being Commission Communication C(2004)43, reported in Official Journal 2004/C 13/03, 'Community guidelines on State aid to maritime transport'. The guidelines contain the following paragraph.

The objective of State aid within the common maritime transport policy is to promote the competitiveness of the Community fleets in the global shipping market. Consequently tax relief schemes should, as a rule, require a link with a Community flag. However, they may also, exceptionally, be approved where they apply to the entire fleet operated by a ship-owner established within a Member State's territory liable to corporate tax, provided that it is demonstrated that the strategic and commercial management of all ships concerned is effectively carried on from within the territory and that this activity contributes substantially to economic activity and employment within the Community.

The test is therefore aimed at ensuring that there is, through the strategic and commercial management of ships in a territory, a substantial contribution to economic activity and employment within the EU (and the EEA). The Commission requires evidence of economic links including details of vessels owned and operated under EU registers, EU nationals employed on ships and in land-based activities and investments in fixed assets (ships and supporting assets). The EU dimension should be borne in mind when interpreting the following TTM paragraphs, although these are written from the UK standpoint. The Commission guidelines list the aims of maritime transport State aid as

improving a safe, efficient, secure and environmentally friendly maritime transport [industry] encouraging the flagging or re-flagging to Member States' registers contributing to the consolidation of the maritime cluster established in Member States while maintaining an overall competitive fleet on world markets maintaining and improving maritime knowhow and protecting and promoting employment for European seafarers contributing to the promotion of new services in the field of short sea shipping following the White Paper on Community transport policy.

A company within tonnage tax should be able to demonstrate that it contributes towards meeting the aims: though this does not necessarily mean all of them (short sea shipping may not be relevant, for example).

With effect from 1 April 2008 there is a strict flagging requirement for certain vessels for UK tonnage tax (see TTM03900). Financial years 2005 2006 and 2007 are 'excepted years': FA00/SCH22/PARA22A has been disapplied by statutory instrument (see TTM03905). But regardless of the flagging rules, companies must be able to demonstrate strategic and commercial management that meets the above criteria.

The Commission's guidelines stress that companies as well as the Member State authority (HMRC) must be aware of their rights and obligations. If State aid rules are breached, the Commission may order recovery of unauthorised aid, together with compound interest - see TTM03820. As the strategic and commercial management test is not defined, HMRC adopt an interpretation which takes into account the different strands of management activity that might be considered relevant. In cases of doubt companies may use the non-statutory business clearance procedure (see TTM02030).

Two-legged test

All elements of management activity relevant to the ships in question should be taken into account in determining whether strategic and commercial management is carried out in the UK, and whether these management activities contribute substantially to economic activity and employment within the EU. Particular care should be taken if there is any element of artificiality in the company's arrangements. It is unlikely the test could be satisfied without contributions from both legs.

References

FA00/SCH22/PARA16 (1)(c) (strategic and commercial management)	TTM17086

Strategic management	TTM03810
Commercial management	TTM03820
Additional factors	TTM03830
Examples	TTM03840

TTM03810 - Qualifying companies and ships: Strategic management

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Strategic management

The strategic management test displays features in common with the central management and control test for corporate residence, operating at a high level of decision making including

- decisions on significant capital expenditure and asset disposals (e.g. purchase and sale of ships)
- award of major contracts
- agreement on strategic alliances (e.g. shipping 'conferences' (see TTM15210) and vessel pooling)
- direction of foreign establishments.

Possible factors include

- location of headquarters, including senior management staff
- location of company board meetings
- location of operational board meetings
- residence of directors and key employees.

For strategic management to be in the United Kingdom, the UK directors and key personnel must have effective independent power to make strategic decisions, genuinely and not just formally; their power over the affairs of the company must not be effectively usurped. On the other hand, there may be decisions affecting the strategy of the group as a whole which might be taken at group holding company level. The question is whether, so far as the company's affairs are concerned, its directors apply their minds to 'suggestions' from the parent and form an independent judgment or whether they merely act as a rubber stamp.

Particular issues arise with a permanent establishment in the UK. To satisfy the strategic management test it would be necessary to demonstrate that the business of the establishment was strategically managed in the UK, distinctly from the other affairs of the company. Ultimately this is a question of fact.

References

FA00/SCH22/PARA16 (1)(c) (strategic and commercial management)	TTM17086
Introduction to strategic and commercial management	TTM03800
Commercial management	TTM03820
Additional factors	TTM03830

Examples	TTM03840

TTM03820 - Qualifying companies and ships: Commercial management

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Commercial management of a ship

This concept is undefined. But it is likely to include a range of ship and technical management activities carried out in the UK over a broad spectrum which includes the following (and where it can be demonstrated that these activities contribute substantially to economic activity and employment within the EU/EEA):

- route planning
- bookings for cargo or passengers
- arranging insurance
- arranging finance
- personnel management
- direction of foreign establishments
- provisioning and victualling
- arranging training
- arranging repair and maintenance of vessels
- ship superintending
- bunker management
- safety management
- recruiting and managing crew
- support facilities (e.g. training centre, terminal management)
- ship registration/flagging
- classification society
- dry and wet docking management.

The test, as discussed at TTM03800, has to be interpreted purposively according to Commission guidelines and it is not possible to lay down clear rules on the extent and nature of the above criteria which must be included, but TTM03830 gives some pointers. Greater weight will be given to higher levels of decision-making and management, in contrast to routine daily management. Companies will need to review their activities in the light of the guidelines and these TTM paragraphs. In the event of a successful challenge by the Commission on grounds of unlawful State aid HMRC would be obliged to recover the aid in full and with compound interest. See *Commission v Germany, Case C-70/72, 'Kohlegesetz' [1973] ECR 813 at [13]*; and, as regards interest, *Commission decision No 195/04/COL*.

Vessel pools

These are explained at TTM15210. The aim of vessel pooling is to provide cost-effective commercial management activities for a collection of similar class vessels which may be in different ownership. The vessels typically operate under a time charter with fuel bunker and port expenses borne by the charterer and operating costs including crew, maintenance and insurance typically paid by the owner. This type of arrangement should be regarded as consistent with retaining commercial management where indicators are satisfied looked at together. See TTM03830.

References

FA00/SCH22/PARA16(1)(c) (strategic and commercial management)	TTM17086
Introduction to strategic and commercial management	TTM03800
Strategic management	TTM03810
Additional factors	TTM03830
Examples	TTM03840

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TTM06510 - Relevant shipping profits: Relevant shipping income

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Certain interest etc

As described in TTM06500, investment income cannot be 'relevant shipping income'. The fact that the recipient of interest carries on a trade does not of itself displace the general rule that the income should be brought to account for tax under its normal head of charge.

However, certain interest etc may be included in relevant shipping income – but only if it would fall to be treated as trading income under the normal corporation tax rules.

For accounting periods beginning *on or after 1 October 2002*, the types of income which may come within this rule include:

- anything giving rise to a credit that would fall to be brought into account for the purposes of CTA09/PART5 (loan relationships), and
- credits arising on derivative contracts (CTA09/PART7).

There are limited circumstances in which interest may be regarded as a trade receipt and such interest may be included in relevant shipping income.

Trade receipt

The conditions to be satisfied before HMRC accepts that financial income should be treated as trading income are described in BIM40805$http://home.inrev.gov.uk/bimmanual/bim40801.htm onwards.

The general test is that interest will rank as a trade receipt only where it is an integral part of the business operations to employ capital to produce such income, for example, in the case of banks and other financial concerns. See *Nuclear Electric Plc v Bradley* (1996) 68TC670 where the House of Lords approved the reasoning in an earlier Court of Session case *Bank Line Ltd v CIR* (1974) 49TC307; and, by way of contrast *Liverpool and London and Globe Insurance Co v Bennett* (1913) 6TC327.

In the *Bank Line* case (which related to the treatment of interest on a ship replacement fund), Lord Avonside commented:

"Income becomes a trading receipt when it arises from capital actively employed and at risk in the business because it is required for its support or, perhaps, to attract customers looking to the credit of the business. Trading income is 'the fruit' of the capital employed in the business in the present and active sense………Turning to the present case it is found as a fact that the capital sum in issue

was created for the purpose of replacement of ships as and when they became obsolete. In my opinion it is absolutely clear that the retained monies were not employed in the business carried on by the appellants. Of course the appellants could not carry on business without ships and for that reason they set up a capital fund with which to purchase new vessels as and when existing vessels became obsolete. That fund, in truth, far from being employed in the carrying on of the business, was created by withdrawing money from the business. Naturally, it has been put out to earn interest and does so, but that interest cannot be looked upon in the circumstances as 'trading receipts'."

The point is a difficult one: see *Euroceanica (UK) Ltd v HMRC* [2013] UKFTT 313 (TC). This tribunal decision is not binding and HMRC are advised that aspects of it are open to challenge. It does, however, support the view that FA00/SCH22/PARA50 is an exclusive provision. The treatment of a credit arising under a loan relationship or derivative contract therefore falls to be tested under that paragraph, and treatment for tonnage tax follows normal corporation tax principles.

Interest on an investment

Interest on an investment may be treated as trading income only if:

- the investment is for a short term, and
- it is an integral feature of the trading activity to make such an investment, and
- the funds deposited can be regarded as continuing to be employed in the business and to form part of the current working capital.

Investments made **in the course of banking, insurance and other financial trades** will normally meet these conditions. See for example the *London and Liverpool and Globe Insurance* case.

Investments by non-financial concerns are unlikely to meet these conditions if for example they:

- endure from one period of account to another, or
- represent capital even if it is only temporarily surplus to requirements, or
- although short term, represent part of a series of deposits which together constitute a long term setting aside of part of the capital.

Interest on working capital

Where interest is received on balances required in the company's trade as working capital, then that income will normally form part of the company's 'relevant shipping income', but only to the extent that the balances did not exceed the amount genuinely needed for working capital.

'Working capital' of a company may be defined as:

- funds held on a day-to-day basis to meet revenue expenditure obligations as they fall due.

Reasonable assumptions about the receipt of trading income and payment of expenditure must be made in arriving at the working capital required so that, for example, the working capital requirement in respect of a ship which is chartered-out on the spot market may be higher than that for a ship which is chartered-out on a long term charter (in order to provide for the potential loss of charterhire income caused by market fluctuations).

Working capital, by its nature, must be held in liquid or near-liquid form. HMRC does not accept that interest on term deposits or other long-term investments can be relevant shipping income.

Interest and forex gains and losses on loan and defeasance deposits

As part of the arrangements for obtaining loan finance, a shipping company may be obliged to make a deposit on which interest arises. This most commonly occurs in cases where the finance is being

provided by means of a finance lease and the lender requires a defeasance deposit (see TTM10100) because it is not prepared to take on the whole of the underlying risk. Security deposits may also be required in conjunction with ordinary loans. As a general principle, HMRC does not accept that interest arising on security deposits of this kind constitute relevant shipping income.

Interest that does fall to be treated as trading income will be a relevant shipping profit within FA00/SCH22/PARA44 (2)(b).

Examples

See TTM06520 for some illustrations as to what may come within relevant shipping income, and what may not.

References

FA00/SCH22/PARA44(2) (relevant shipping income)	TTM17261
FA00/SCH22/PARA50 (certain interest etc.)	TTM17291
FA00/SCH22/PARA51 (general exclusion of investment income)	TTM17296

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TTM07470 – The ring fence: Finance cost adjustment

Examples

The examples below are designed to demonstrate how a just and reasonable result might be reached. They are not intended to be exhaustive and have been kept simple.

Example 1

Scenario

A tonnage tax (TT) group consists of a parent and a wholly owned subsidiary. Both companies carry out qualifying shipping operations and all activities are within TT. External finance costs of £1m were incurred by the parent company.

Tax consequences

No adjustment will be required under paragraph 62 as all finance costs are within the TT ring fence.

Example 2

Scenario

A TT group comprises a UK parent (non TT) and a wholly owned UK subsidiary which is within TT. The TT company is wholly funded by equity and the parent has incurred finance costs of £1m. Both companies have similar funding requirements, so the just and reasonable apportionment is 50 per cent.

Tax consequences

The finance costs outside the TT ring fence exceed a reasonable proportion of the total costs, so an adjustment is required under FA00/SCH22/PARA62.

Using the suggested formula at TTM07450, the finance cost adjustment (FCA) will be:

A = £1,000,000	(group finance costs outside the ring fence)
B = £1,000,000	(total group finance costs assuming no TT election)
F = 50 per cent	(just and reasonable fraction)

FCA = £1,000,000 – (50% x 1,000,000 = £500,000)

FCA = £500,000

The FCA of £500,000 is assessable on the TT company as a non-trading loan relationship credit. The net effect for the group is:

Deduction re finance costs (non TT company)	-£1,000,000
FCA assessable on TT company	£500,000
Net effect on the group	-£500,000

Example 3

Scenario

A TT group comprises a UK parent (non TT) and a wholly owned UK subsidiary which is within TT. The non TT company has finance costs of £750,000 and the TT company has incurred finance costs of £1m. Both companies have similar funding requirements, so the just and reasonable apportionment is 50 per cent.

Tax consequences

Using the suggested formula at TTM07450, the FCA will be:

A = £750,000	(group finance costs outside the ring fence)
B = £1,750,000	(total group finance costs assuming no TT election)
F = 50 per cent	(just and reasonable fraction)

FCA = £750,000 – (50% x 1,750,000 = £875,000)

FCA = Nil

In this example the finance costs outside the ring fence are less than the just and reasonable apportionment, so no FCA is required. The legislation only permits an adjustment where the finance

costs outside the ring fence exceed a just and reasonable amount, so a negative adjustment is not due.

Example 4

Scenario

A TT group consists of a UK TT company, a UK non TT company and an overseas company which qualifies to pay dividends under the provisions of paragraph 49 (see TTM06400 and following). Finance costs of £1.2m have been paid by the UK non TT company. All three companies have the same funding requirements.

Tax consequences

The finance costs outside the TT ring fence exceed a reasonable proportion of the total costs, so an adjustment is required under paragraph 62. The overseas company counts as TT for FCA purposes as it is within paragraph 49, so the just and reasonable apportionment is 33.33 per cent.

Using the suggested formula at TTM07450, the finance cost adjustment (FCA) will be:

A = £1,200,000	(group finance costs outside the ring fence)
B = £1,200,000	(total group finance costs assuming no TT election)
F = 33.33 per cent	(just and reasonable fraction)

FCA = £1,200,000 – (33.33% x 1,200,000 = £400,000)

FCA = £800,000

The FCA of £800,000 is assessable on the TT company as a non-trading loan relationship credit. The net effect for the group is:

Deduction re finance costs (non TT company)	-£1,200,000
FCA assessable on TT company	£800,000
Net effect on the group	-£400,000

References

Finance costs of group companies	TTM07430

TTM07500 - The ring fence: Interaction of finance costs adjustment and intra group interest

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Any interest paid on intra-group loans across the ring fence (including any interest imputed under the transfer pricing rules – see TTM07510) is taken into account in arriving at the 'just and reasonable' proportion of the group's finance costs which may be allowed as a deduction outside the ring fence under the finance cost allocation rules.

As explained at TTM07400 onwards, the finance cost allocation rules are intended to place a limit on the amount of the total finance costs of the group or company which may be claimed as a deduction outside the ring fence. Therefore, subject to the limited exception mentioned in TTM07510, an adjustment may only be made if the finance costs actually charged outside the ring fence exceed the 'just and reasonable' proportion of the total finance costs (see TTM07460).

References

Outline of finance costs adjustment	TTM07400
Meaning of 'finance costs'	TTM07410
Group companies' finance costs	TTM07430

TTM07510 - The ring fence: Interaction of finance costs and transfer pricing: Intra group interest-free loans

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State aid considerations

Tonnage tax is a State aid (broadly a benefit out of public resource to a particular sector which could potentially distort competition). It is, however, one notified to and approved by the EU Commission. See TTM01250.

Among the conditions stipulated in the approval are

- that open market values are used for tax purposes where transactions within a group take place across the ring fence
- that no tax relief for the costs of debt finance relating to qualifying activities within the ring fence are available outside.

These conditions underpin the existence of transfer pricing arm's length principles (TTM7300 onwards) and the finance cost adjustment (TTM7400 onwards).

Interest-free loans

Where there are any intra-group interest-free loans across the tonnage tax ring fence, the transfer pricing rules should be applied before the finance cost adjustment rules are applied to the group. Where the borrowing company is inside the ring fence, no deduction for the imputed interest payable (notional finance cost) will be available. The finance cost adjustment rules will then apply to

restrict to activities taking place outside ring fence the group's allowable finance costs by reference to a just and reasonable proportion.

Interest-free loans used as an alternative to equity investment

Many shipping groups use intra-group interest-free loans from one UK company to another as a more flexible alternative to an equity investment. Under the transfer pricing rules, interest is not imputed on loans which cross the ring fence if they are properly regarded as performing an equity function – i.e. where, and to the extent that, the loan renders the debtor company thinly capitalised.

The fact that an interest-free loan is made as an alternative to an equity investment does not in itself mean that the loan is performing an equity function. The transfer pricing rules will operate to impute interest on loans where they cross the ring fence unless they do perform an equity function. There is guidance at INTM502060 onwards. If the loan or any part of the loan is actually performing an equity function (i.e. the debtor is thinly capitalised), then interest will not be imputed, or will be imputed only on the balance of the loan which does not serve an equity function.

References

Outline of transfer pricing	TTM07300
Transfer pricing between companies	TTM07310
Outline of finance costs adjustment	TTM07400
Meaning of 'finance costs'	TTM07410
Group companies' finance costs	TTM07430
Interaction of finance costs and transfer pricing	TTM07500

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TTM09140 – Capital allowances: During tonnage tax (P&M)

Change of use of non-tonnage tax asset

Asset begins to be used wholly for tonnage tax trade

Where plant and machinery used by a tonnage tax company for non-tonnage tax activities begins to be used wholly for the purposes of its tonnage tax trade:

- the provisions of CAA01/S61 (1)(e) apply, so that
- a disposal value is brought into account in the general pool (or other pool as appropriate) of the non-tonnage tax trade,
- the company is treated as having acquired the asset at its disposal value,
- the disposal value will be market value, per table in CAA01/S61 (2) , and
- there is no effect on the tonnage tax (frozen) pool.

A balancing adjustment arising as a result of this disposal event is calculated under the normal capital allowance rules. Reduction under the rule at FA00/SCH22/PARA78 (see TTM 09210) is not available as the balancing charge does not arise 'under this Part of the Schedule', that is, under

ICTA88/SCH22/PARA68 to PARA88. It arises under the normal rules before the vessel enters the tonnage tax regime, although as a result of entering it.

Asset begins to be used partly for tonnage tax trade

Where plant and machinery used by a tonnage tax company for non-tonnage tax activities begins to be used partly for the purposes of its tonnage tax trade:

- the provisions of CAA01/S61 (1)(e) and CAA01/S206 to S207 apply, so that
- a disposal value is brought into account in the capital allowance computation,
- a pool for a notional trade is created using that disposal value,
- the disposal value will be market value , per table in CAA01/S61 (2),
- any subsequent writing down allowance given, or balancing charge, on the notional trade pool is reduced in proportion to its tonnage tax use, and
- there is no effect on the frozen pool.

A balancing adjustment arising as a result of this disposal event is calculated under the normal capital allowance rules. Reduction under the rule at FA00/SCH22/PARA78 (see TTM 09210) is not available as the balancing charge does not arise "under this Part of the Schedule", that is, under FA00/SCH22/PARA68 to PARA88.

References

Change of use of non-tonnage tax asset	TTM17421
Change of use of tonnage tax asset	TTM09110

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TTM09210 – Capital allowances: Balancing charges (P&M)

Reduction of balancing charges arising during tonnage tax

A company's liability to balancing charges in respect of allowances is phased out over the first seven years following entry into the regime. Any balancing charge that may arise is reduced according to the number of **whole years** that the company has been in the tonnage tax regime. The reduction rises to 100 per cent if the company has been in tonnage tax for 7 years or more.

This means that any disposal taking place after the company has been in the regime for 7 years or more will have no capital allowance consequences.

The following table gives the amount by which a balancing charge arising after entry is to be reduced:

Number of complete years since entry	**Percentage reduction**
1	15%

2	30%
3	45%
4	60%
5	75%
6	90%
7 or more	100%

Any balancing charge arising by virtue of the disposal event that occurs following the change of use of a non tonnage tax asset does not arise under FA00/SCH22/PART9 (the provisions dealing with capital allowances under the tonnage tax regime) but as result of the vessel entering the tonnage tax regime.

References

FA00/SCH22/PARA78 (reduction of balancing charge)	TTM17421

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TTM09330 – Capital allowances: Exit from tonnage tax (P&M)

Qualifying expenditure: Long-life assets

Long-life assets are those which may reasonably be expected to have a useful economic life of at least 25 years when new. Ships were excluded from the long-life asset legislation until 31 December 2010.

Expenditure on long-life assets is written down in the special rate pool. See CA23700$http://home.inrev.gov.uk/camanual/CA23700.htm onwards. From 6 April 2012 the rate is 8 per cent on reducing balance basis.

The qualifying expenditure that should go into a company's special rate pool in respect of long-life items of machinery or plant is a percentage of the original cost of the asset.

The percentage varies according to length of time that the company owned the asset before leaving the tonnage tax regime, as follows:

Length of period of ownership to date of exit	**Percentage of original cost to go into capital allowance pool**
Less than or equal to 1 year	94
From 1 year and one day to 2 years	88
From 2 years and one day to 3 years	83
From 3 years and one day to 4 years	78

From 4 years and one day to 5 years	73
From 5 years and one day to 6 years	69
From 6 years and one day to 7 years	65
From 7 years and one day to 8 years	61
From 8 years and one day to 9 years	57
From 9 years and one day to 10 years	54
From 10 years and one day to 11 years	51
From 11 years and one day to 13 years	47
From 13 years and one day to 16 years	40
From 16 years and one day to 19 years	33
From 19 years and one day to 22 years	27
From 22 years and one day to 25 years	23
From 25 years and one day to 30 years	18
From 30 years and one day to 35 years	13
From 35 years and one day to 40 years	10
From 40 years and one day to 45 years	7
From 45 years and one day to 50 years	5
From 50 years and one day to 60 years	3
From 60 years and one day to 70 years	2
More than 70 years	Nil

References

FA00/SCH22/PARA85 (exit: plant & machinery)	TTM17466
SI00/2303/REG6 (writing-down basis of long-life assets)	TTM18006
Qualifying expenditure on exit from tonnage tax	TTM09300

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TTM09400 – Capital allowances: Industrial buildings

There are no IBA writing down allowances for Financial Year 2011 onwards. See CA30101

Buildings used in a tonnage tax trade

The definition of an industrial building or structure includes a building or structure used for the purposes of a transport undertaking or a dock undertaking (see CA32200$http://home.inrev.gov.uk/camanual/CA32200.htm onwards). It is therefore entirely possible that some assets to be used for the purposes of a company's tonnage tax trade would qualify under the normal capital allowances regime for industrial buildings allowances.

However, no capital allowances of any kind are available to a tonnage tax company in respect of expenditure on any assets used for its tonnage tax trade.

Where any identifiable part of an industrial building or structure is used for the purposes of a company's tonnage tax trade, that part is treated for IBA purposes as being used otherwise than as an industrial building or structure (see CA32650$http://home.inrev.gov.uk/camanual/CA32650.htm).

Balancing charges

Balancing charges on industrial buildings within tonnage tax are phased out using the same percentages as for plant and machinery, (see TTM09410).

Residue of qualifying expenditure after sale

There are special rules for calculating the buyer's entitlement to IBA, (see TTM09420).

Company leaves tonnage tax

Similar provisions apply to the computation of unrelieved qualifying expenditure when a company leaves tonnage tax, (see TTM09430).

References

FA00/SCH22/PARA82 (industrial buildings: mixed use)	TTM17451

[TTM09410 to TTM09430 are amended similarly]

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TTM10100 – Ship leasing: Defeased leasing: Outline

Concept of 'defeasance'

Defeasance is a term applied to arrangements made by a borrower who sets assets aside to cover the liability. In the context of leasing it is used where arrangements are put in place to remove the usual risk of a lessor that payments will not be made under the lease.

Thus, under a straightforward finance lease, the lessor provides the finance that the lessee needs to acquire an asset. The lessor, as the owner of the asset, is entitled to claim capital allowances, and the tax benefit of these allowances is passed onto the lessee in the form of lower lease rentals.

However some finance leasing schemes do not involve the provision of new finance, and they are in substance no more than arrangements for the sale of the benefit of the capital allowances, with little or no risk to the lessor. Such leases are said to have been 'defeased'. See also TTM10110.

Special rules for ships leased to tonnage tax companies

Tonnage tax companies cannot themselves claim capital allowances, and there are special rules (in FA00/SCH22/PART10) to prevent lessors claiming capital allowances if they have not provided the finance required to purchase the underlying asset.

No capital allowances are available if the lease is part of sale and lease-back arrangements, even if those arrangements do not involve defeasance, see TTM10200.

For new acquisitions, the special rules are intended to prevent allowances being given where there is:

> 'Cash defeasance', whereby the proceeds of the financing arrangement finds its way back into the banking system (for instance by a defeasance payment being deposited in a bank account from which the lease rentals are paid), or
>
> 'Legal defeasance', whereby a third party assumes all the rental obligations under the lease in return for a defeasance payment from the lessee.

However, 'leveraged leasing' is effectively permitted, i.e. the lessor may lay off (share) the risk with a third party (as long as the arrangements with that third party do not themselves involve defeasance).

How the special rules work

Defeasance schemes can take many forms, and so the rules work by denying capital allowances in cases where the arrangements remove the whole, or the greater part of the lessor's non-compliance risk, (see TTM10110).

When considering the extent of the lessor's non-compliance risk for this purpose, certain forms of security may be disregarded. These are known as 'excepted forms of security', (see TTM10120 and TTM10130).

References

FA00/SCH22/PARA90 (defeased leasing)	TTM17496
FA00/SCH22/PARA91 (excepted forms of security)	TTM17501
FA00/SCH22/PARA92 (sale and lease-back arrangements)	TTM17536
Meaning of defeased leasing	TTM10110

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TTM11120 – Offshore activities pre 2005: Vessels to which the special rules do not apply

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There are certain types of qualifying ship to which the special rules do not apply, and which will stay within the normal tonnage tax regime even when they are engaged in offshore activities.

These are listed in FA00/SCH22/PARA105:

Offshore supply vessels: also known as platform supply vessels (PSVs) used to transport equipment, supplies & personnel between shore bases and offshore oil installations.

Tugs: generally used to tow drilling rigs (and other vessels such as cargo barges) to and between the offshore locations.

Anchor-handling vessels: used to position drilling rigs and the laying of large anchors on the sea bed (to keep the rig in position during drilling) and their retrieval once the rig is ready to move to the next location.

Tankers: generally used to transport crude oil from offshore oil installations to oil refineries or terminals.

This list is exhaustive. However, in modern shipping practice, it is common for vessels to be multifunctional. Where a vessel can undertake one or more of the functions related to the types of vessel listed above it may also be treated as a type to which the special rules do not apply. But sometimes the allocation to vessel type is unclear.

Multifunctional vessels

These are constructed to undertake a variety of activities including:

Anchor handling

Towing

Trenching

ROV (remotely operated vehicle) operation

Cable laying

Pipelaying

Underwater construction work

Helicopter operations

Safety standby

Supply.

Doubtful cases

The question of whether a multifunctional vessel falls within the prescribed type is one of fact and may turn on expert opinion. The legislation does not define the types of vessel listed at FA00/SCH22/PARA105 and it follows that they will be given their common usage meaning. However, these are shipping industry terms and are likely to be interpreted according to how a person knowledgeable in that trade would view them. If the company obtains advice that the vessel should be regarded as falling within the PARA105 categories, this should be accepted in the absence of evidence to the contrary of similar standing. The Tonnage Tax Technical Adviser will seek to obtain this in cases where an officer is not satisfied.

References

FA00/SCH22/PARA105 (special provisions do not apply)	TTM17601
Different types of vessel and their treatment	TTM11100
Contact points	TTM01120

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