

# Summary of substantive changes to guidance resulting from consultation responses

The following themes were identified from representations received from stakeholders.

## **FOREX**

Guidance on FOREX losses has been expanded in INTM551013 to address points raised regarding internal hedging. The revised guidance is at INTM551050.

## **Interest free loans**

Guidance at INTM550530 (now INTM550540) and INTM551021 (now INTM551080) has been updated to provide a position consistent with Action Point 2 of the OECD report on hybrid mismatches on interest free loans and deemed deductions. The example at INTM551170 (now INTM551270) has also been revised. The example at INTM551160 (now INTM551260) has been withdrawn for further review and will be reinstated when the guidance is finalised.

## **Interaction with corporate interest restriction rules**

Guidance originally at INTM551010 (now INTM551020) has been amended to reflect the introduction of s259NEA TIOPA 2010.

## **Just and reasonable**

Guidance originally at INTM551033 has been re-written and now includes comment on when it may be just and reasonable to extend the permitted taxable period. The revised guidance is at INTM551150.

## **WHT**

Guidance originally at INTM550540 (now INTM550560) has been updated to clarify that, consistent with Action Point 2 of the OECD report on hybrid mismatches, income subject only to WHT is not ordinary income. Additional comment is included at INTM550510 (now INTM550520) regarding the definition of tax for Part 6A.

## **Operative date**

Guidance at INTM597010 has been amended to reflect the correct position.

## **CFC inclusion for ordinary income**

Guidance at INTM550550 has been rewritten to INTM550570 and updated for CFC inclusion. The revised wording is also reflected at INTM551040.

### **Imported mismatches**

An additional example is included at INTM559430, and the examples at INTM559410 and INTM559420 have been amended. We are considering additional examples based on scenarios submitted by respondents.

### **Reasonable to suppose**

New guidance is now included at INTM550640 as part of the key definitions.

### **Dual inclusion income**

INTM557230 is currently being reviewed. This example will be reinstated before the guidance is finalised.

### **Hybrid payee**

Example at INTM555120 is currently being reviewed and will be reinstated before the guidance is finalised. There is ongoing engagement with stakeholders to address administrative issues associated with the application of the hybrid payee rule.

### **Hybrid entity DD mismatches**

Examples at INTM557210 and INTM557230 are being reviewed and will be reinstated before the guidance is finalised. Guidance at INTM557220 has been amended.

### **Multinational DD mismatch**

Example at INTM558090 is currently being reviewed and will be reinstated before the guidance is finalised.

### **Financial instrument debt release**

Example at INTM551200 has been revised, and is now at INTM551300.

## **Annex: List of Respondents**

Allen & Overy LLP

The Association for Financial Markets in Europe (AFME)

Baker & McKenzie LLP

The BBA

The British Private Equity and Venture Capital Association (BVCA)

Chartered Institute of Taxation

Deloitte LLP

Ernst & Young LLP

Esso UK Ltd

Mr M J Holland

KPMG LLP

The Law Society

The Loan Market Association

Macfarlanes LLP

McDermott Will & Emery UK LLP

PricewaterhouseCoopers LLP

Slaughter and May

The Transatlantic Tax Group

Smith & Williamson LLP

Zurich Insurance plc