



HM TREASURY

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# CFC reform: The state of play

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## Competitiveness

A stable, sustainable and competitive business tax system continues to be critical to ensure business can start up, grown and invest. The Government's objectives for the business tax system are that it is internationally competitive, has the fewest distortions and the lowest compliance costs possible, ensure fairness within and across the tax system so that business is contributing a fair share of revenue to fund public services, and encourages growth through support for innovation and investment.

The UK economy: analysis of long term performance and strategic challenges (PBR 2008)





## History

### Why reform foreign profits?

- Identified by business as a key area for reform. Rules were viewed as uncompetitive and uncertain

### Key milestones

- 2007 discussion document
- First part of foreign profits reform delivered in FA2009
- Second part reform new CFC rules (aiming FB 2011)





## Foreign profits FA 2009 package

1. Dividend exemption
    - Credit to exemption system for foreign dividends – significant simplification
  2. Worldwide debt cap
    - Limited restriction on interest expense (world wide debt cap)
  3. Replacing treasury consent rules with post transaction reporting requirement
- Overall business welcomed package - increased the competitiveness of the UK





## CFC reform – where are we?

- CFC rules continue to be needed to protect the UK tax base
- The Government published a discussion document on CFC reform in January
- Aim of reform is to enhance competitiveness of UK whilst maintaining adequate protection of UK tax base
- Extensive consultation to date to input into proposals for framework, money and intellectual property. Need to ensure this continues





## Drivers for reform of CFCs

- Recognising and adapting to changes in the way that modern business operates globally
- Making the rules consistent with the recent changes to the taxation of foreign profits in line with a more territorial approach
- Targeting the rules as effectively as possible





## Policy principles

- Enhance competitiveness of UK whilst providing adequate protection of UK tax base
- Target artificial diversion of profit from UK
- Move to a more territorial approach
- Minimise compliance costs and provide taxpayers with certainty
- Compliant with EU law





## Proposals: Framework

- Apply on an entity basis (with hybrid elements to provide a more proportionate result)
- Overall the new regime should provide clearer, targeted, objective exemptions. Include:
  - Exempt activities
  - Exemption for countries with similar tax base and rate to UK
  - New motive test
  - Updated de-minimis





## Proposals: Intellectual property

Reflect a more territorial approach by refocusing on IP transfers from the UK, recognising that IP can be managed offshore as a trading activity

Proposals:

1. Exemption for active management of IP
2. Consider specific rules for IP transferred out of the UK whose value is not readily ascertainable and that significantly increases in value post transfer
3. Passive IP – Provide exemption where the IP has no connection to the UK





## Proposals: Monetary assets

Allow groups to manage monetary assets in a way which best supports overall competitiveness whilst providing sufficient protection of the UK tax base

Proposals:

1. Treasury operations company exemption
2. Finance company exemption (where appropriately funded)
3. Excess cash – restrict investment income in trading companies to an incidental or ancillary amount





## Key challenges

-Timetable: Need to ensure business engagement at each stage of process to reach an acceptable result for both Government and Business

-Striking the right balance between competitiveness and protection, for example:

- Finance companies and appropriate funding
- Intellectual property and defining active management

