



CFC Discussion Document

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Overview

- Exemption for foreign dividends
- Worldwide debt cap
- Controlled foreign companies

Objectives

- Enhance UK tax competitiveness
- Prevent wholly artificial diversion of profits from the UK

Government Principles

- Competitiveness
- Fairness
- Minimising distortions
- Simplicity
- Stability and certainty
- Tax administration / Compliance costs

We welcome...

- Business and Government working well together
- Targeting the artificial diversion of UK profits
- Movement towards a territorial approach
- Removal of “default presumption” that everything would have been done in the UK but for tax.

We welcome...

- Stated aims of reflecting modern business practice, minimising compliance and providing certainty
- Taxation of entities rather than income streams
- Removal of restrictions on intra-group transactions

Issues

Issue: “Lower level of taxation” test is complex and carries a high compliance burden



Solution: Publish a “white list” of territories

Issues

Issue: Proposed “look back” tax charge for IP transfers is not acceptable to business



Solution: Follow current commercial practice
e.g. commercial valuations or
milestones/royalties

Other factors

- Should aim to use existing exit tax, transfer pricing and debt cap rules wherever possible
- Better for companies to be exempt unless expressly caught by the rules, rather than caught unless expressly exempted – risk that exemptions are too narrow
- Crucial to get motive test right:
 - needs to complement clear, objective tests;
 - *Cadbury* confirms target must be “wholly artificial arrangements” only

Other factors

- To be useful the *de minimis test* needs to be set at a realistic level
- Need to expressly exclude foreign-to-foreign transactions with no UK nexus
- Concern at presumption that surplus cash “belongs” to UK:
 - wrong to equate international group to UK;
 - many commercial reasons why overseas subsidiaries may hold cash
- Interaction with patent box will be key and more details on this would be particularly welcome