



# UNITED KINGDOM

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## LIST OF ABBREVIATIONS

<b>Directive</b>	Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payment made between associated companies of different Member States
<b>FA</b>	Finance Act
<b>ICTA</b>	Income and Corporation Taxes Act 1988
<b>Merger Directive</b>	Council Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States
<b>OECD</b>	Organization for Economic Cooperation and Development
<b>OECD MC</b>	OECD Model Tax Convention 2003
<b>Parent-Subsidiary Directive</b>	Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States
<b>Savings Directive</b>	Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments
<b>S., ss.</b>	section, sections



## **LIST OF LEGAL REFERENCES**

- Income and Corporation Taxes Act 1988.
- Finance Act 2004.
- The Exemption from Tax for Certain Interest Payments Regulations 2004 (Statutory Instrument 2004/2622).
- The Exemption from Tax for Certain Interest and Royalty Payments (Amendment to Section 97(1) Finance Act 2004 and Section 757 (2) of the Income Tax (Trading and Other Income) Act 2005) Order 2005 (Statutory Instrument 2005/2899).
- Income Tax (Trading and Other Income) Act 2005.

## PART I. IMPLEMENTATION OF THE DIRECTIVE

### 1. INTRODUCTION

#### 1.1. GENERAL INFORMATION ON THE IMPLEMENTATION OF THE DIRECTIVE

The implementing legislation with respect to Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payment made between associated companies of different Member States (the "Directive") is found in ss. 97-106 Finance Act (FA) 2004, which was enacted on 22 July 2004 with effect from 1 January 2004. These provisions have been partially rewritten as part of the Tax Law Rewrite project to make direct tax legislation easier to read. The rewritten provisions are found in ss. 757-767 Income Tax (Trading and Other Income) Act 2005.

These statutes are supplemented by procedural regulations in The Exemption from Tax for Certain Interest Payments Regulations 2004 (Statutory Instrument 2004/2622) and The Exemption from Tax for Certain Interest and Royalty Payments (Amendment to s. 97(1) FA 2004 and s. 757 (2) of the Income Tax (Trading and Other Income) Act 2005) Order 2005 (Statutory Instrument 2005/2899).

The following table shows the relevant provisions of the FA 2004 implementing the Directive.

Articles of the Directive	Relevant sections of FA 2004
Art.1	s. 98 FA 2004
Art.2	s. 97 FA 2004
Art.3	ss. 97 and 99 FA 2004
Art.4	s. 97 FA 2004
Art.5	s. 104 FA 2004
Art.7	s. 97 FA 2004

#### 1.2. TAX TREATMENT OF INTEREST AND ROYALTY PAYMENTS UNDER GENERAL TAX LAW

##### 1.2.1. Domestic rules

###### *a. Interest*

The United Kingdom imposes withholding tax on interest deriving from a UK source, which is paid to a non-resident company only in certain specified circumstances. The circumstances where UK-source interest is subject to withholding of income tax under domestic law outlined below are narrower than the circumstances covered by the Directive. The Directive will only be applicable when domestic law would impose withholding of income tax at source. A company is allowed to claim relief under a tax treaty where this would provide greater relief than under the terms of the Directive.

The savings income tax rate of 20% must be withheld from the payment of interest to non-residents. However, there is no withholding tax on interest payments to non-residents on quoted Eurobonds. The payment of short interest, i.e. interest paid in respect of borrowing of less than 1 year, is also exempt from withholding tax. Interest on deposits in banks may be paid free of withholding tax provided a declaration of non-residence is filed with the bank.

Where a person that is entitled to exemption from tax on interest income receives payments under deduction of tax, it can claim repayment of the tax deducted.

The rules apply to all resident companies and to UK branches of non-resident companies. The expense deduction or taxable amount, as the case may be, is the net figure of all debit and credit items, be they capital or revenue, relating to the loan relationship, i.e. interest, discounts, premiums, write-offs, waivers and expenses relative to the loan relationship. There are two net figures of debits and credits, one arising out of a loan relationship for the purpose of a trade and the other for non-trade debits and credits. A trading net debit or credit is brought into account as a trading expense or trading income, and a non-trading debit or credit is treated as investment income or a deficit. A non-trading deficit may be relieved as follows: (i) against all other profits (which include chargeable gains) or income of the company or its group for the same period or (ii) carried back or forward against non-trading profits, which also include chargeable gains (Schedule 8, para. 4, subpara. 3 FA 1996).

With effect from 1 April 2004, thin capitalization rules are repealed and the transfer pricing regime is extended to apply to thinly capitalized enterprises and to transactions between UK companies. Exemption from the new rules is available for small and medium-sized enterprises (as defined for EU purposes).

#### *b. Royalties*

There is no comprehensive definition of a royalty for the purposes of UK tax law and withholding taxes only apply to certain particular categories of royalty (ss. 349(1), 536 and 537B of the ICTA 1988). Income tax at the basic rate (currently 22%) must be withheld by a resident company from the payment of patent royalties and mining royalties to a non-resident. The basic income tax rate must also be withheld from the payment of copyright royalties to non-residents, but this does not apply to film and video royalties.

In the case of royalty payments, the payer is not required to deduct income tax if it has a reasonable belief that the recipient is entitled to the exemption. Where the belief turns out to be mistaken, the tax authority can recover the tax that should have been deducted and impose penalties where the belief could not have been reasonable.

A royalty for the use of a foreign patent is similarly treated as an annual charge, except where the licensor provides continuing services in connection with the use of the patent. Otherwise, royalties for the use of trademarks, foreign patents in certain circumstances, and unpatented processes are deductible in computing trading profits. Copyright royalties are similarly treated.

Where a person that is entitled to exemption from tax on royalty income receives payments under deduction of tax, it can claim repayment of the tax deducted.

If payments of royalties and service fees exceed a normal commercial charge, the excess may not be tax deductible in computing trading profits (on the grounds that the excess was not incurred wholly and exclusively for the purposes of the trade) or as a charge on income (on the grounds that the excess was not incurred for valuable and sufficient consideration).

*c. Transfer pricing*

The arm's length principle applies to transactions between UK residents and related resident or non-resident persons, including interest (subject to exemption for small and medium enterprises) and royalty payments. If a UK resident undercharges, or is overcharged by, a non-resident associate, it is obliged to adjust its taxable profits to reflect the price which would have been charged between independent persons dealing at arm's length under the self-assessment regime.

Transfer pricing adjustments can generally only be made where the transaction is between related parties, i.e. where it is between a company or partnership and the person(s) controlling it (who may be individuals) or companies and/or partnerships which are under common control. A person has "control" over a body of persons if he has the power to ensure that the affairs of the body of persons are conducted in accordance with his wishes. With effect from 4 March 2005, the regime is further extended to loans and other financing arrangements where any persons act together in relation to such arrangements (e.g. certain private equity transactions).

*d. Constructive distribution rules*

A hidden profit distribution is treated as a constructive dividend for tax purposes under domestic law. Repayments of paid-up share capital, and distributions made in the winding-up or liquidation of a company, are generally not treated as constructive dividends (s. 209(1) ICTA). The term does, however, include the following:

(1) Any distribution out of assets of a company, whether in cash or in kind, in respect of shares in the company, except to the extent that the company is reimbursed for the distribution (s. 209(2)(b) ICTA). Thus, any transfer of assets by a company at less than market value, and possibly any transaction by which the assets of a company are depleted, could involve a constructive dividend if the transfer, etc. is made to or for the benefit of a shareholder or on his instructions. A transaction, however, is not treated as a distribution under this heading unless it is "in respect of shares"; a benefit provided for a director or employee who is also a shareholder is therefore generally not regarded as a distribution, provided that it is reasonable in all the circumstances.

(2) The market value of any benefit provided by a company to a shareholder as a result of a transfer of assets or liabilities between them (s. 209(4) ICTA). Under this category, as distinct from (1) above:

- the transfer must be directly between the company and the shareholder;
- there must be an actual transfer of assets or liabilities, as opposed to a more indirect depletion of a company's assets; and
- the transfer need not be to or from the shareholder in his capacity as such.

There is no constructive dividend under either (1) or (2) where the transfer or other transaction is between companies which are members of the same UK resident group (a 51% relationship is required).

(3) Any bonus redeemable shares or bonus securities issued to existing shareholders (s. 209(2)(c) ICTA).

(4) Bonus shares issued subsequent to a repayment of paid-in share capital (up to the amount of the repayment), and repayments of share capital following an earlier bonus issue of share capital (up to the nominal amount of the bonus issue). Unless the company is closely controlled, there is exception for cases where there is an interval of at least 10 years between two transactions and the later transaction does not involve redeemable shares (ss. 210 and 211 ICTA).

(5) The purchase, redemption or repayment by a company of its own shares, the amount of the deemed dividend being the difference between the payment and the amount of paid-up share capital and premium received on issue.

Certain transactions with loan creditors are also treated as distributions, in particular interest paid on the following securities when issued to non-corporate lenders:

- bonus securities (debentures, loan stock, etc. whether secured or unsecured) issued after 5 April 1965;
- unquoted convertible securities issued on terms which are not reasonably comparable with the terms of similar quoted securities; and
- securities carrying a rate of interest which depends on the company's profits or which exceeds a reasonable commercial return (only the excess is a distribution) (s. 209(2)(e) ICTA).

Interest on securities issued to a corporate lender is treated as a distribution if:

- the amount of interest exceeds a reasonable commercial rate (and then only as regards the excess) (s. 209(2)(d) ICTA);
- interest paid on 50-year-plus loans or equity notes to a 75% parent, co-subsiary, or funded company (s. 209(2)(e)(vii), (9), (10) and (11) ICTA), unless such interest is subject to UK corporation tax on the recipient (s. 212(1)(b) ICTA); or
- the lender is exempt from tax on the interest (s. 212(3) ICTA).

However, no withholding tax is levied on actual or constructive dividends under domestic law.

### **1.2.2. Treaties**

The UK has effective tax treaties with all EU Member States (see Annex). The UK is willing to accept zero rates of withholding tax on interest and royalty payments if the treaty partner is prepared to offer reciprocal treatment of payments to UK residents.

The UK generally seeks to include anti-avoidance provisions in the interest and royalty articles of its income tax treaties. The interest and royalties articles usually include an additional paragraph providing that the provisions of the respective article do not apply if the debt-claim in respect of which the interest is paid or the right or property giving rise to the royalties were created or assigned mainly for the purpose of taking advantage of those articles and not for bona fide commercial reasons.



## 2. SCOPE

### 2.1. PAYMENTS

#### 2.1.1. Concept of interest

##### *a. Definition*

The FA 2004 makes a reference to the definition of interest given by Article 2 of the Directive (s. 97 FA 2004).

##### *b. Exclusion of hybrid financial arrangements (Art. 4(1) b)-d))*

The UK has not exercised the option to exclude any of the arrangements listed in Art. 4(1) b), c), d) of the Directive. These exclusions are generally already covered within UK tax law. In relation to Art. 4(1)(b) and (c), certain payments from debt claims which carry a right to participate in the debtor's profits and payments from certain debt claims which entitle the creditor to exchange a right to receive interest for a right to participate in the debtor's profits are already treated as a distribution for UK tax purposes. As indicated above, no withholding tax would apply to such payments.

With regard to Art. 4(1)(d) of the Directive, certain debt claims which contain no provision for repayment of the principal or where the repayment is more than 50 years after the date of issue are treated as "equity notes" under UK tax legislation where they are between companies within a 75% or more group shareholding relationship. Interest on such equity notes is treated as a distribution, not subject to withholding tax.

##### *c. Exclusion of interest reclassified as profit distribution or conflicting arm's length (Art. 4(1) a) and Art. 4(2))*

With respect to Art. 4(1)(a) of the Directive, there are already extensive provisions in UK tax law which may treat interest payments as a distribution for tax purposes (see 1.1.2. c. *Constructive distribution rules* above). Where this legislation applies, the payment no longer represents interest for tax purposes and is not subject to withholding tax. A repayment of capital would not represent interest under UK law and would not be subject to withholding.

The option to exclude interest from application of the relief under the Directive has not been exercised other than in cases of special relationships and/or avoidance.

The exemption from withholding tax on interest does not apply where:

- the payments are excessive due to a special relationship between the parties (s. 103 FA 2004); or
- with effect from 8 April 2004, arrangements have been created specifically to take advantage of the exemption (s. 104 FA 2004).

The wording of these conditions is derived from similar provisions found in UK tax treaties. In the absence of a definition of "special relationship" in the Directive, the tax authority's practice is to rely on guidance in the commentaries to the OECD Model Income Tax Treaty.

For arrangements created specifically to take advantage of the exemption, see 4. FRAUD AND ABUSE below.

### 2.1.2. Concept of royalties

#### *a. Definition*

The FA 2004 makes a reference to the definition of royalties given by Art. 2 of the Directive (s. 97 FA 2004).

#### *b. Classification of revenue from leasing and software*

The FA 2004 makes a direct reference to the definition of royalties in Art. 2 of the Directive. The implementing provisions do not provide any additional interpretation to the income from leasing and software, nor there is any guidance published with this respect.

#### *c. Exclusion of royalties reclassified as profit distribution or conflicting arm's length (Art. 4(1) a) and Art. 4(2))*

See 2.1.1. *c. Exclusion of interest reclassified as profit distribution or conflicting arm's length (Art. 4(1) a) and Art. 4(2))* above.

## 2.2. COMPANIES

### 2.2.1. Types of companies benefiting from implementing provisions (Art. 3(a)(i))

#### *a. Other types of entities*

Where interest or royalty payments are not exempt from withholding tax under general rules (see 1.2.1. Domestic rules above), the UK limits the benefits under the Directive to entities listed in the Directive.

#### *b. Hybrid entities*

There are no special rules for hybrid entities. If a hybrid entity is listed in the Annex to the Directive it is eligible for relief under the Directive. Otherwise, the relief does not apply.

### 2.2.2. Residence requirement (Art. 3(a)(ii))

#### *a. Implementation of the requirement*

An EU company is defined as a company resident in an EU Member State other than the UK (s. 97 FA 2004).

#### *b. Application of the requirement in dual residence cases*

In a situation when payment is made by a company, which is the dual resident of the UK and another EU Member State, the relief under the Directive is available. The same is true when payment is received by a company, which is a dual resident as between two EU Member States other than the UK.

In a situation when payment is made by a UK company to a dual resident company that is also resident in the UK the payment is exempt from withholding tax under domestic law.

### **2.2.3. Subject-to-tax requirement (Art. 3(a)(iii))**

The subject-to-tax requirement is not specifically stated in the legislation. However, s. 97 FA 2004 makes a direct reference to Art. 3 (a) of the Directive, which lays down the 'subject-to-tax' requirement, to define a "company" for the purposes of the implementing provisions. Also the relief is only available where a claim is submitted to the tax authority (s. 98 FA 2004). The claim form requires the claimant to specify the taxes listed in the Directive that it is subject to (for more details about the claim form, see 3. PROCEDURE below).

### **2.2.4. Associated company (Art. 3(b))**

A company is an "associated company" of another company if:

- it has a direct minimum holding of 25% of the capital or voting power in the other company; or
- a third company has such a holding in both companies.

The provision generally follows the definition of "associated company" set out in Art. 3(b). Indirect holdings fall out of the scope of the implementing provisions. However, rather than replacing the criterion of a minimum holding in the capital of the company with a minimum holding of voting rights, the UK implementing provision allows relief where the holding is of either of the capital or the voting rights.

In situation where fellow subsidiaries are treated as associated companies, the UK implementation legislation clearly requires, that all three companies must be resident in EU Member States, as the definition of "company" in the implementation legislation applies only to a "company of a Member State" under Art. 3(a) (s. 97(2) FA 2004). No minimum holding period is required (s. 99 FA 2004).

### **2.2.5. Beneficial ownership (Art. 1(4))**

The beneficial ownership and subject-to -tax requirements are not linked.

The person beneficially entitled to the income must be an EU company (but not such a company's permanent establishment in the UK or a third country).

However the FA 2004 does not include any further provisions to enact the concept of beneficial ownership as set forth in Art. 1 (4) of the Directive. No specific guidance has been issued on this point, but in practice it is likely that the tax authorities will adopt the same approach as they use in interpreting the term in bilateral tax treaties, i.e. relying on guidance in the OECD commentary on Arts. 10-12 of the OECD MC.

## **2.3. PERMANENT ESTABLISHMENTS**

### **2.3.1. Definition (Art. 3(c))**

There is no specific definition in the legislation incorporated for the purposes of the Directive. However, the claim form refers to the definition in the Directive (for more details about the claim form, see 3. PROCEDURE below). The general definition of a permanent establishment in UK tax law is also similar.

### 2.3.2. Application of source rules (Art. 1(2))

The UK follows the Directive definition of permanent establishment. There have been no instances reported where the UK interpreted it more narrowly than Art. 5 of the OECD MC.

### 2.3.3. 'Tax-deductible expense' requirement (Art. 1(3))

A permanent establishment is considered as the person making the payment (instead of the company and as a source criterion) to the extent that the payment is tax deductible in the territory in which it is situated (s. 99 FA 2004).

If the payment is not deductible and assuming no domestic law reliefs are applicable, it would potentially be liable to withholding tax.

### 2.3.4. Beneficial ownership (Art. 1(5))

A permanent establishment in the UK of a company resident in an EU Member State is treated as beneficially entitled to the income (instead of the company itself) to the extent that:

- the debt-claim, right or use of information is effectively connected with the permanent establishment , and
- the payment represents income in respect of which the permanent establishment is subject to UK corporation tax or a corresponding tax in the territory in which it is situated (ss. 98 and 99 FA 2004).

This definition applies for the purposes of Art. 1 (5) of the Directive (s. 99 (3) FA 2004). No beneficial ownership rules are laid down with respect to permanent establishments of qualifying companies located in EU Member States.

### 2.3.5. Permanent establishment in a third country (Art. 1(8))

A non-EU permanent establishment is defined as a permanent establishment in a territory other than a Member State (s. 97 FA 2004). Non-EU permanent establishments and UK permanent establishments of an associated company are excluded from the application of exemption for interest and royalties (s. 98 (3) FA 2004).

A permanent establishment in the UK or a third country of a company resident in an EU Member State is treated as beneficially entitled to the income (instead of the company itself) to the extent that:

- the debt-claim, right or use of information is effectively connected with the permanent establishment , and
- the payment represents income in respect of which the permanent establishment is subject to UK corporation tax or a corresponding tax in the territory in which it is situated (ss. 98 and 99 FA 2004).

### 3. PROCEDURE

No holding period is required for the exemption to apply. Both exemption at source and refund procedures are applied.

The procedure varies according to whether interest or royalties are being paid. The relief on interest is only available where a claim is submitted to the tax authority and exemption notice is issued (s. 98 FA 2004). The exemption notice requirement does not apply in relation to the exemption of royalties under the Directive.

#### 3.1. MINIMUM HOLDING PERIOD (ART. 1(10))

No holding period is required for the exemption to apply.

#### 3.2. ATTESTATION (ART. 1(11) AND 1(13))

##### 3.2.1. General

As stated above, the requirements differ slightly depending on whether interest or royalties are paid. Attestation in form of the claim form is required to apply the exemption at source with respect to interest and not required for royalty payments. Refund is given on the basis of claim form both in case of interest and royalties.

##### *Interest*

If interest is to be paid, a recipient files a claim to the tax authority (ss. 98 and 100 FA 2004). Attestation requirements set out in Art. 1 (11) to (13) of the Directive are not specifically introduced by the implementing provisions. However, the attestation forms part of the claim form. The claim form must include sufficient information to support the claim. The claim form must be signed by the claimant and certified by the tax authority of the other Member State.

Once the tax authority has received a certified claim for relief from withholding tax on interest, it must issue an exemption notice or refuse the claim within 3 months. If the tax authority accepts that the conditions for the relief have been satisfied it will send to the payer an instruction to pay interest without deduction of UK tax. The instruction will normally apply for a period of 3 years from the date when the certified form is received by the tax authority. If tax is deducted the claim form must be completed to establish entitlement to a refund of the tax deducted.

##### *Royalties*

It is not possible to obtain advance clearance to pay royalties gross. Instead, the taxpayer is allowed to pay royalties gross if it has a reasonable belief that the exemption applies (s. 101 FA 2004). If tax is deducted the claim form must be completed to establish entitlement to a refund of the tax deducted.

##### 3.2.2. Appeals

The beneficial owner of the interest or royalties can appeal to the Special Commissioners (a tax tribunal) against a refusal to issue an exemption notice or the cancellation of an existing notice within 30 days of the date of notification of the refusal or cancellation. Although the decision of the Commissioners is final, the decision is limited to the granting of the exemption notice and the taxpayer can still appeal against the imposition of the tax liability. Furthermore,

any decision of the tax authority can be challenged under the “judicial review” procedure if it can be shown to be unreasonable.

### **3.3. DECISION ON APPLICATION OF THE RELIEF (ART. 1(12))**

#### **3.3.1. General**

The relief on interest is subject to the issue of an exemption notice. The exemption notice requirement does not apply to royalty payments. See 3.2.1. General above.

#### **3.3.2. Supporting documents**

A copy of the loan agreement must be submitted with the claim form. Where the amount of the loan exceeds GBP 50 million, a copy of the borrower’s consolidated accounts for the accounting period preceding the loan is also required.

#### **3.3.3. Appeals**

See 3.2.2. Appeals above.

### **3.4. APPLICATION FOR REFUND (ART. 1(15) AND 1(16))**

#### **3.4.1. General**

Both exemption at source and refund procedures are available (see 3.2.1. General above). For a refund, the taxpayer submits a claim for the tax withheld to be refunded. The same information that is required to support a claim to exemption should be supplied. The normal 6 year limitation period applies.

#### **3.4.2. Appeals**

The recipient can file an income tax return for the relevant tax year and appeal against the amount of the income tax charged. See also 3.2.2. Appeals above.

## **4. FRAUD AND ABUSE (Art. 5)**

### **4.1. MEASURES UNDER ART. 5(1) OF THE DIRECTIVE**

#### **4.1.1. Domestic**

The exemption from tax on interest or royalty payments does not apply where:

- the payments are excessive due to a special relationship between the parties; or
- with effect from 8 April 2004, arrangements have been created specifically to take advantage of the exemption (ss. 103-104 FA 2004).

The wording of these conditions is derived from similar provisions generally found in UK tax treaties with other EU Member States (e.g. Articles 11 and 12 of the UK-Netherlands income tax treaty, see 1.2.2. Treaties).

#### **4.1.2. Agreement-based**

See 4.1.1. Domestic above.

### **4.2. MEASURES UNDER ART. 5(2) OF THE DIRECTIVE**

The UK relies on the specific measures noted in 4.1.1.

### **4.3. COMPARISON WITH SIMILAR MEASURES UNDER PARENT-SUBSIDIARY AND MERGER DIRECTIVES**

As the UK does not levy withholding tax on dividends, it was not necessary to implement that part of the Parent-Subsidiary Directive. In relation to abusive claims to double tax relief the UK uses specific provisions intended to counter the relevant forms of abuse (ss. 801 et seq. ICTA 1988).

The UK has only implemented the Merger Directive in part, pending adaptation of its corporate law to permit certain transactions covered by the Directive. Consequently, the anti-abuse measures adopted are specific to the reliefs that have been implemented. In the case of the Merger Directive the reliefs may be denied where the transfer of assets is not carried out for bona fide commercial reasons and forms part of any arrangement which has one of its main purposes the avoidance of tax (ss. 140A and 140C Taxation of Chargeable Gains Act 1992). This provision is quite different from the wording of the anti-abuse provisions under the Directive, which are focused on excessive payments due to a special relationship and on assignments to take advantage of the exemption.

## 5. SUMMARY

It appears that the UK tax authorities have generally implemented the Directive. However, in practice the relief under the Directive will apply only to those types of interest and royalty payments that are not generally exempt under domestic rules or the relevant tax treaty.

### Scope

The concepts of interest and royalties are identical to those laid down in Art. 2 of the Directive. The UK applies the benefits only to types of entities listed in the Annex to the Directive.

There is no guidance with respect to tax treatment of payments in situation of hybrid entities. Dual residency situations do not entail imposition of withholding tax on interest or royalty paid or received by a dual resident company.

All associated companies must be resident in EU Member States to be eligible for an exemption. The UK implementing provisions allow relief where the holding is of either of the capital or the voting rights. The UK implementing provisions do not incorporate the definition of beneficial owner set out in Art. 1 (4) of the Directive.

### Procedure

No holding period is required. Both exemption at source and refund procedures are applied. The relief on interest is subject to the issue of an exemption notice by the tax authority.

### Fraud and abuse

Specific anti-abuse measures potentially apply against abuse of benefits under the Directive.





## **PART II. THE AGREEMENT**

The Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments has not yet been implemented in the UK.

## ANNEX

Table of the maximum withholding tax rates on interest and royalty payments under the tax treaties between the UK and the EU Member States.

EU Member State	Interest (%)	Royalties (%)
Austria	0	0/10 <1>
Belgium	15	0
Cyprus	10	0
Czech Republic	0	0
Denmark	0	0
Estonia	10	5/10 <2>
Finland	0	0
France	0	0
Germany	0	0
Greece	0	0
Hungary	0	0
Italy	10	8
Ireland	0	0
Latvia	10	5/10 <2>
Lithuania	0/10 <3>	5/10 <2>
Luxembourg	0	5
Netherlands	0	0
Poland	0	10
Portugal	10	5
Slovak Republic	0	0
Slovenia	10	10
Spain	12	10
Sweden	0	0

<1> The higher rate applies if the Austrian company controls more than 50% of the voting stock in the UK company.

<2> The lower rate applies to equipment rentals.

<3> The lower rate applies to interest paid by a public body.