Interest Review - Public Consultation
Tax Division
Department of Finance
Government Buildings
Upper Merrion Street
Dublin 2
D02 R583

29 January 2025

Subject: Public Consultation on the Tax Treatment of Interest in Ireland

Dear Sir/Madam,

We are writing to you in response to your invitation for submissions on the Public Consultation on the Tax Treatment of Interest in Ireland as published by the Department of Finance ('you') on 27 September 2024.

First and foremost, we welcome the publication of this public consultation which seeks to progress the debate regarding the tax treatment of interest in Ireland. The publication thereof reflects Ireland's continued efforts to promote a business environment characterised by certainty and clarity, and which ensures Ireland's tax system continues to align with international best practice, thereby giving confidence and foresight to key stakeholders at a time of unprecedented change in the international taxation arena.

Immediate need to deal with intra-group financing deductibility

In recent years, Ireland has introduced substantial additional layers of complexity to domestic tax legislation. When layered on to the complex provisions for interest deductibility, this has

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made interest deductibility in Ireland extremely challenging in bona-fide commercial intra-group scenarios such as third party acquisitions or bona fide intra-group reorganisations.

Nowhere is this clearer than in applying Sections 247 and 249 Taxes Consolidation Act ('TCA') 1997 in practical situations. We are of the firm view that these rules should be removed in their entirety and replaced with a much simpler principles based and purpose-driven interest deduction provision. This proposed deduction regime would not be limited to a particular Case of the TCA. The removal of these sections would be best conducted by way of a transitional period phasing out the current rules (side by side with a long-stop date) and the retention of the requirement that the interest relief is available only in bona fide commercial scenarios.

We have outlined in greater detail in the Appendix section, a plethora of reasons as to why Section 247 and 249 is an ineffective and unnecessarily complex tax relief in practice. However, this is not an exhaustive list. The reality is that the conditions attached to Section 247 relief render the relief totally ineffective in many instances, and thus the optimal course of action would be to repeal and replace Section 247 and 249 with a more effective tax relief.

At a time of great uncertainty and change in the geopolitical and international tax landscape, the need to position Ireland as a business-friendly investment location is more important than ever. Simplifying and making the tax system less onerous is a crucial means by which to achieve this. The radical overhaul of Section 247 and 249 would go a long way to achieving this ambition and thus, reaffirm Ireland's credentials as an attractive location for inward investment. With significant new measures such as Pillar Two and the participation exemption for dividends now implemented, we believe that now is an opportune time to act and bolster Ireland's international reputation.

The need for simplification as a differentiator for Ireland's tax system

As the Minister has acknowledged, the taxation and deductibility of interest with respect to Ireland's tax code is a complex area. Our experience is that the current rules in relation to interest deductibility have become significantly overly complex and Ireland is uncompetitive in this area in an international context. Please refer to the Appendix section for further analysis in respect of this.

Ireland's ability to provide tax certainty and consistency to both domestic and multinational enterprises would be considerably enhanced by a strong focus on tax simplification and decreasing the complexity of tax compliance. Such initiatives would also serve as an enhancement to Ireland's competitive offering in the intensifying battle to retain and attract foreign direct investment. We note the recent introduction of a participation exemption on dividends was a welcome improvement to Ireland's competitive offering. However, it is imperative that Ireland's interest rules now be simplified in order to further bolster the strong message that Ireland is an attractive place for investment.

We note that “decluttering” of the international tax system is one of the future objectives of the OECD and the EU, demonstrating further the need for simplification of tax systems. Indeed, many international reports[1] now indicate that the simplicity of operating efficiently within the realm of business taxes will be a key differentiator for countries in attracting future investment.

While this consultation represents a welcome first step, and although we recognise this process will be a multi-year process, it is imperative that this consultation does not merely result in incremental or piecemeal adjustments to existing overly complex rules. A significant overhaul is required considering the now many layers of complexity which corporate taxpayers are required to adhere to in order to achieve a tax deduction for interest in bona-fide commercial situations. It is our view that a new, streamlined, framework for interest deductibility is now essential in order to maintain Ireland’s competitiveness internationally.

These rules need to align with the policy rationale behind Ireland’s changes to its dividend exemption regime and desire to be seen as a location of choice for international investment.

The removal of the dual tax rate based on the trading/non-trading interest distinction would be a positive step towards simplification, making the operation of the interest deductibility regime significantly simpler, more user-friendly and thus, enhance Ireland’s attractiveness as a location for inward investment. Global tax rates have generally reduced, such that this 25% rate is now at the higher end of the OECD corporate tax rate spectrum. Recent rate reductions, including that in the US, has resulted in the average OECD corporate tax rate reducing to 21.1%, which is significantly lower than the 25% “passive rate” in operation in Ireland. Removing the dual rates for passive and trading interest income, and moving to one fixed corporate rate, would not diminish the need for groups to continue to make substance-based investment in Ireland in order to benefit from the 12.5% corporate rate. The alignment to a single “branded” headline rate of 12.5% would lead to greater certainty, simplicity and security for stakeholders and modernise Ireland’s regime to be in keeping with international counterparts.

Interest Limitation Rules have been layered onto already existing rules

The current legislation (and corresponding tax return disclosures) is unnecessarily lengthy, with a number of EU ATAD provisions now rendering their related Irish provisions surplus to requirements under the Directive. A simplification of the new provisions relating to the Interest Limitation Rule would also be appropriate as part of the streamlining processes.

The ATAD Interest Limitation Rules (i.e. 30% of EBITDA ratio rule) were appended to the already extensive interest deductibility provisions without removing areas of duplication. This papering of rules on top of one another makes these provisions difficult and costly for businesses to operate in Ireland and comply with their tax obligations. We firmly believe that the

[1] Ease of Doing Business rankings. Available here.
The future of European competitiveness: Report by Mario Draghi (September 2024), Simplifying Rules, p68, available here.

rules governing interest deductibility must be made less complicated and compare more favourably to other jurisdictions,[2] and the Department should consider removing areas of duplication, such as those outlined further in our submission.

We further note that ATAD is on the EU decluttering agenda and currently undergoing its own evaluation at the EU Commission level, which may result in further changes or simplifications to the Directive. We note that Ireland's interest simplification project will therefore need to take these potential prospective changes in EU law into consideration.

New Streamlined Regime

In our view, any new interest deductibility regime should be based around a policy rationale that interest is prima facie deductible, subject to a bona fide commercial requirement. Considering the new international rules which have now been implemented in relation to anti-hybrid provisions, Pillar Two 15% minimum tax (which also contain their own anti-avoidance rules on hybridity as well as corresponding taxation in intra group lending situations) as well as the interest limitation rules, there are sufficient avoidance safeguards in place which ensure situations which artificially erode the tax base are not possible and which negate the requirement for the current complex rules which have built up over time. For groups within the scope, consideration could be given to simply mirroring the existing deductibility rules under Pillar Two.

Broadening interest reliefs likely to yield greater returns in the long run

The ability to deduct interest from taxable profits may come with a degree of cost to the exchequer. On the basis that the improved competitive offering will in turn attract more investors to make long-term substantive investments in Ireland (for example, the centralising of group financing functions into Ireland is a realistic outcome which would attract high-value jobs and generate new tax revenue streams), the return on this investment looks very positive from a long-term perspective.

We believe the broadening of domestic interest deductibility rules is unlikely to result in real or perceived negative outcomes for Ireland because Ireland is legally required to maintain a 30% EBITDA cap and Ireland has a 15% minimum tax rate for large groups who are perceived as being higher-risk from a base erosion perspective. The 15% Global Minimum Tax rate, which has already been adopted in around 40 countries with this number growing; along with BEPS Action 4, EU ATAD and transfer pricing rules means multinationals cannot artificially or aggressively erode a group's tax base through the use of loan and interest arrangements.

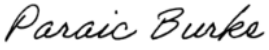
[2] See summary provided in Table A appended to this letter.

As outlined above, now represents an opportune time to simplify Ireland's interest deductibility regime. In an increasingly competitive FDI landscape, it is imperative that Ireland reaffirms its credentials as an attractive location in which to invest and from which to trade internationally. In a Pillar Two environment bolstered by strengthened transfer pricing rules globally, the rationale for maintaining dual rates of taxing interest income is increasingly without merit. With the appropriate combination of the EU ATAD Interest Limitation Rules, anti-avoidance rules, and simplified purpose based interest treatment rules, Ireland has the opportunity to improve its competitive offering to enhance its reputation as a place to do business and safeguard our long-term economic prospects.

As the leading advisor to a broad base of taxpayers, we draw on our experience of dealing with complex taxation matters to share our concerns and insights with you to ensure a tax treatment of interest in Ireland which reflects a business environment characterised by certainty and clarity, and which aligns Ireland's tax system with international best practice.

We welcome the opportunity to discuss the matters outlined below at your convenience.

Yours faithfully,



Paraic Burke
Head of Tax

Executive Summary

Below are some of the common issues which serve to highlight how uncompetitive Ireland has become in relation to interest deductibility.

Removal of Section 817A & 840A

Section 817A adds another layer of anti-avoidance on Section 247 over and above the specific anti-avoidance contained within Section 247 and the general anti-avoidance under Section 811C. We suggest a reconsideration of the need to maintain this provision as it adds on additional layers of complexity.

Section 840A was introduced by Finance Act 2011 as an anti-base erosion measure to restrict deductions for interest on intra-group borrowings where the borrowings are used to acquire assets from a company that is connected to the borrowing company at the time of the acquisition. Since then, and in accordance with various EU initiatives, interest limitation rules were introduced in Ireland which provide appropriate protections from base erosion involving interest deductions, as well as protections around hybrid transactions.

Ireland's interest limitation rules have been in effect since 1 January 2022. The rules apply to both group and third-party borrowings and are best practice internationally. Furthermore, Irish transfer pricing rules (in line with OECD best practice) are in place in respect of cross border arrangements which help protect against base erosion and the outbound payment rules also provide a layer of protection which did not exist in 2011. Consequently, consideration should be given to the need to maintain this restrictive provision, which provides an unnecessary additional layer of complexity for groups.

Section 130(2)(d)

Section 130 gives meaning to the term 'distribution' in tax legislation. It contains some provisions in relation to interest which recharacterise certain interest as a distribution. Our comments on this are as follows:

- The provision within Section 130 (2) (d) (iii) (II) recharacterises excess interest beyond a 'reasonable commercial rate' as a distribution. In practical terms this is applicable only in intra group situations. Considering the expansion of Irish transfer pricing arm's length requirements to all transactions, there should be no need for these rules where groups are already within the scope of the Irish transfer pricing rules and need to assess any interest rate from an arm's length perspective.
- The provisions within Section 130 (2) (d) (iv) automatically recharacterise all interest as a distribution in intra group scenarios. While this is disapplied in

trading situations[3], under Irish domestic law it is not disapplied where interest is paid in non-trading situations, such as under Section 247. This causes unnecessary complexity in situations where the policy intent should be to allow an interest deduction and other sufficient safeguards are already in place within legislation to achieve this.

Consideration of interest issues in conjunction with the review of Section 110 entities

We are aware that a review of non-trading companies who elect to use the Case I basis (Section 110 companies) is ongoing and that this will encompass a range of issues, including such companies' ability to deduct interest expenses. As a matter of priority we ask that some changes be made in terms of the "specified persons" provisions, particularly the opportunity should be taken to remove the inequitable position which denies a deduction for interest paid to certain pension funds, government bodies or other tax exempt persons which are resident for tax purposes in the European Union or country that has a tax treaty with Ireland. Interest payments made to such persons in Ireland are not subject to the same treatment.

In addition, there are a number of administrative tests / requirements within Section 110 which, if breached, remove the deductibility of interest. The 8 week notification requirement and the Day 1 €10m tests are two such requirements. These requirements, both of which are antiquated, are burdensome from a practical perspective and if breached carry a disproportionate adverse consequence of non-qualification for the Section 110 regime (and non-deductibility of interest). The removal of these tests would lend itself to a simpler regime, without any loss to the Exchequer.

Withholding tax on publicly listed debt

It can be difficult in certain commercial third party borrowing circumstances (e.g. in syndicated debt borrowing) to evidence or gain comfort on the exact lender location, such that it is necessary to publicly list debt as a Quoted Eurobond in order to manage withholding tax. It would be preferable if there were a simpler way to manage withholding tax in third-party borrowing situations. This may involve removing some of the burdensome administrative elements to Section 64 regarding non-Irish paying agents or offering a broad WHT exemption on bona fide listed debt.

Ireland-to-Ireland payments of interest

There can be scenarios where withholding tax may apply between Irish tax resident entities (e.g. involving an Irish treasury company) where it is necessary to put declarations / notifications to Irish Revenue in place. It would be preferable if the WHT

[3] Under Section 452 TCA 1997

position on interest payments between Irish tax resident entities could be made simpler. Generally it is our view that applying withholding tax in a domestic scenario is unnecessary (low to no risk of base erosion) and we would suggest removing the requirement to withhold on payments to Irish resident companies and individuals.

Improve netting beyond what was introduced brought in last year (76E)

Finance (No.2) Act 2023 introduced a new qualifying financing company regime under Section 76E which provides a net basis of taxation under Case III for certain intermediary financing structures. The rules as currently drafted are incredibly narrowly drawn up and can only apply to very niche fact patterns. As such, a broadening of these rules would be welcome. Alternatively, a more simplistic "follow the accounts" approach would be far easier to manage, without complicated conditions to get to taxing net interest income (so would align the base as between trading and passive, without need to do this Qualifying Financing Company or s110 structuring).

QFCs are only entitled to deductions on a paid basis also and given the commercial nature of when third party interest is actually paid this can create a non-deductible interest which is accrued in the last number of weeks of the financial year. As such, an accrual taxation basis (i.e. one which is in line with the accounts for companies) would provide the benefit of simplicity.

Simplify bond washing and stock lending provisions (Part 28 - Purchase and Sale of Securities)

Bond washing

While these rules were introduced in order to counter "bond washing" transactions undertaken for the purpose of creating an artificial tax loss, the evolution of the financial sector since the introduction of the rules results in a huge volume of genuine commercial transactions falling within scope of the rules. Given the volume of transactions undertaken by modern financial traders, producing the calculations required by the current bond washing provisions creates a very significant administrative burden for taxpayers.

In order to mitigate this, and to modernise the existing rules to align with today's high-frequency trading environment, we would suggest that the bond washing provisions are disapplied in respect of all transactions which are undertaken:

- as part of a Case I trade; and
- for bona fide commercial purposes and not with a main purpose of reducing the corporation tax liability of the entity in question.

Stocklending and repo transactions

There is a longstanding Revenue practice whereby the profits of a stocklending or repo transaction carried on in the course of a “corporate trade” are chargeable to corporation tax in accordance with the accounting profits rather than in accordance with the provisions of Chapter 3 Part 28. This practice should be formalised in legislation in order to provide affected taxpayers with certainty over the position.

Appendix

Section 247 and Section 249

Section 247 is a relief that allows groups a tax deduction for interest expenses paid on loans drawn down to facilitate external acquisitions and other purpose based investments within the group. However, some of the conditions attached to Section 247 relief render the relief ineffective in many instances. Our comments on this are as follows:

- The requirement to 'defray money applied' is subjective and can require cash to be moved. This is a significant undertaking and treasury exercise for multinational groups without any obvious policy rationale underpinning the requirement. The movement or non-movement of cash in this scenario is not understood to give rise to any lesser or greater risk of tax avoidance or perceived avoidance. While this condition can be met in third party acquisitions this is often not the case in other situations such as intra-group reorganisations, meaning that in many situations, where other means of consideration are given, the relief cannot be availed of.

- The in-built anti-avoidance[4] in relation to the prohibition of intra-group lending and share acquisition situations where there is a deemed "effective repayment" of monies to the original lender is widely drafted such that it can include situations where monies are paid to any connected party in a group. In the context of international groups' modern global funding requirements, this provision often renders Section 247 unworkable.

- The requirement to have a common director between the investee and the investor company from the time of purchase of the shares to the time the interest was paid. There is a financial and administrative cost to this requirement and it is difficult to see any policy rationale in any event.

- Another aspect of Section 247 relief is the "use it or lose it" nature of the relief. This part of Section 247 should also be removed as there is no policy rationale to support such outcomes, especially since the introduction of interest limitation rules which limit base erosion through interest expenses.

- The interaction between Section 247 and other provisions such as double taxation relief means that in certain situations deductible interest is used in priority to double taxation relief. It should be clarified that interest deductibility can

[4] Section 247 (4A) TCA 1997

be preserved in situations where double taxation relief would have been available in any event.

Uncommercial outcomes of Section 247 and Section 249

Claimants need to consider the various provisions when undertaking common financing activities such as refinancings and internal reorganisations including group simplification exercises. The below represent some of the uncommercial outcomes we have encountered:

- Section 247 can cause issues in relation to third party debt which should not be the case (at most, it should only impact intra-group financing).
- The outcome under Section 247(4G) is difficult to reconcile from a policy perspective.
- Finally, actual or deemed repayment of loans in everyday transactions requires detailed and costly Section 249 analysis.

The provisions can impact the ability to consolidate activities or to eliminate dormant companies or unnecessary holding companies even when not involving the borrower or investee companies. Deemed repayments can also arise for the borrower in circumstances where the capital recovered is used by the borrower for a purpose that would qualify for Section 247 relief. Some of the relieving / reinvestment measures currently afforded to investee companies and intermediate holding companies by Section 249 could be extended to the borrower itself.

Revisit the need for certain anti-avoidance provisions

We strongly recommend a review of the Section 247 and Section 249 anti-avoidance and recovery of capital provisions in light of Ireland's implementation of the interest limitation rule (ILR) and the Pillar Two intra-group financing (IGFA) rule. Both of these rules are anti-base erosion and profit shifting measures, capping the interest deductibility in group lending scenarios. To a degree, the policy outcomes mirror the Section 247 provisions; for example Section 247(4A) prohibits circularity of financing to acquire a group company unless there is a trading purpose or the borrowing creates taxable income for the lender (similar outcome to the IGFA outcomes under Pillar Two).

As stated at the outset, the labyrinthine of anti-avoidance provisions contained within Section 249 as well as the conditions required to meet Section 247 in the first instance have become so unworkable that interest deductions are, in effect, not available in bona fide commercial situations. This should not be the policy intent and the rules should be replaced with a much simpler principles based and purpose driven regime for interest deductibility.

Question 12

Are there any aspects of the ILR which could be enhanced or simplified, within the confines of ATAD?

Please explain, noting both the benefits and any adverse consequences of same.

- Article 4 of ATAD requires Member States to impose a restriction on the interest deductibility of corporate entities up to a limit of 30% of a taxpayer's taxable earnings before interest, tax, depreciation, and amortisation ("EBITDA").
- ***De minimis amount -*** *the legislation allows for a de minimis amount of exceeding borrowing costs of €3m in respect of a relevant entity for an accounting period of 12 months in length. Once this €3m threshold is exceeded, the full amount of interest is subject to the ILR rules. This could be enhanced such that the €3m de minimis exemption applies to exceeding borrowing costs over €3m (not a cliff edge). In addition, if companies elect into an interest group, each company in the ILR group cannot avail of the de minimis exemption of €3m. It would be beneficial if each company that elects into an ILR group can avail of the €3m de minimis exemption in its own right.*
- **Legacy debt** (the terms of which were agreed before 17 June 2016) - this definition needs to be simplified. It is unclear what exactly falls within the parameters of "legacy debt". For example, it is uncertain whether an amendment to extend the term of a loan/maturity date falls within the scope of the legacy debt exclusion.
- **Interaction with Section 291A TCA 1997 -** the interaction of the ILR rules with the rules in respect of interest incurred in connection with the provision of a specified intangible asset under Section 291A could be simplified. Section 291A(6) TCA 1997 already restricts the deductibility of interest to 80% of trading income and then companies are required to apply the ILR provisions on top of this (i.e. a disallowable amount which reduced the amount of interest deductible in connection with the provision of a specified intangible asset cannot be deducted as a deemed borrowing cost in a future period, but rather be may be available for relief under 291A and carried forward as an amount of interest for which relief cannot be given by virtue of section 291A(6)(a)) TCA 1997). This could be simplified by not having an interest restriction under both Section 291A and the ILR provisions.
- **Equity Ratio (Section 835AAI TCA 1997) -** where the conditions of the Equity Ratio are satisfied, the relevant entity or ILR group may make a claim such that the ILR does not apply. For this exemption to apply, the relevant entity's equity ratio must be no lower than two percentage points below the worldwide group's equity ratio. This could be enhanced to enable more taxpayers to avail of this relief by increasing the percentage points. Furthermore, in order to determine if this carve out applies for an ILR group, this is a heavy lift and it typically requires input from an accounting team. A company usually has to prepare a consolidated balance sheet for the chosen members of the Irish ILR group. This could be simplified.

- **Reporting requirements in the Irish corporation tax return** - the tax reporting requirements in the Irish corporation tax return has become very complex and time consuming to complete in the context of the ILR provisions. These should be reduced.
- The Pillar Two GloBE rules and the ATAD overlap in the interest limitation rules introduced via Article 4 of the ATAD, and the intra-group financing arrangements provisions in Article 16(8) of Pillar Two. While the mechanics of both rules are different, the outcome under both rules is that interest expense deductions may be restricted. The complexity from having these two rules becomes clear when you consider that the taxpayer first operates the interest limitation rule under ATAD, then layers on the intra-group financing arrangement adjustment when determining their jurisdictional GloBE top-up tax.

Question 16

Are there any aspects of the above provisions relating to other interest restrictions which could be enhanced, simplified or removed (within the confines of Ireland's international obligations)? Please explain, noting both the benefits and any adverse consequences of same.

Clarifying the order of application between the Interest Limitation Rule and transfer pricing rules for related party interest would be welcomed. In some jurisdictions, it is explicitly stated that transfer pricing adjustments that adhere to arm's length conditions should be applied before any other provisions of the local tax acts. Although our current practice aligns with prioritising transfer pricing adjustments, there remains some ambiguity that could be addressed by including a specific clarification on this matter in a Tax and Duty Manual. Such guidance would ensure consistency in how interest limitation is calculated and reduce any potential confusion.

Question 26

Are there any aspects of these reporting obligations which could be enhanced, or simplified? Please explain, noting both the benefits and any adverse consequences of same.

In the context of well-established FATCA/CRS and DAC6 reporting requirements, consideration should be given to significant simplification of domestic interest reporting obligations. There exists (i) significant overlap between the requirements of a number of the interest reporting sections (section 891 and 891B TCA 1997 for example), (ii) intricacies with respect to the information requested (e.g. actual address of the relevant recipient in the context of s.891A TCA 1997) and (iii) some of the returns / reports are ultimately in respect of interest paid (in the context of s.891A TCA 1997) when the relevant company has more readily available information on interest accrued.

With respect to (i), consideration should be given to the removal of the requirements in section 891, or the merger of both 891 and 891B, with the information requirements being standardised

to allow for easier reporting by financial institutions, such that international reporting requirements are addressed via FATCA/CRS, and domestic reporting is addressed via a single reporting requirement with standardised information requirements. With respect to (ii) and (iii) a simplification of what is required to be reported (e.g. perhaps a reference to the country to whom the interest is paid, as opposed to the full address) and a removal of the requirement to identify the actual amount of relevant interest - as both requirements place undue burden on the taxpayer, where the applicability of the exemption is without question.

Comparison of Ireland's interest regime with other OECD jurisdictions:

Table A - Taxation and deductibility of interest

	Taxation of Interest Income		**Deductibility of Interest Expense**	
Country	**Rate**	**Basis**	**General Rules**	**Restrictions (i.e. ILR, thin cap, etc)**
Austria	23%	Standard CIT rate of 23%	Interest payments are generally tax deductible if they meet the general arm's-length requirements.	Company finance expenses are deductible up to a max of 30% EBITDA - for tax groups; applies to entire group No thin capitalisation rules.
Denmark	22%/26%	CIT rate of 22% CIT rate for financial companies of 26% Danish Companies Income from PEs & Real Estate abroad excluded from taxable income Non-resident companies taxable on Danish-source income only	Danish resident companies subject to restrictions on: ●Thin Capitalisation ●Asset based rules ●EBITDA based rules Also, some restrictions on payments to foreign affiliates	1. Thin capitalisation; disallows gross interest & capital losses up to 4:1 debt equity ratio. 2. Asset Based; If net financing costs > DKK 21.3 million, deductibility limited to 6% of certain assets of the group. 3. EBITDA; Limited

				to 30% of EBITDA Also some restrictions on payments to foreign affiliates; no payments to recipients on EU blacklist of tax havens.
Finland	20%	All company income taxable at 20% regardless of source.	A company's net financing expenses in Finland are limited to 25% of the company's adjusted taxable income (EBITD)	No thin capitalisation rules. A company’s net financing expenses are limited to 25% of the company’s adjusted taxable income Net financing expenses are always deducted before internal financing expenses
Germany	15.825%	15.825% + Trade tax (TT): First a base rate of 3.5%. This base rate is multiplied by a municipal rate fixed by the municipality a company runs its business in. The TT rate depends on the municipality where a	Interest expense (from short term and long-term loans) relating to participations in corporations is generally deductible within the general limitations of the German interest capping regulations.	Arm's length interest expenses are generally tax deductible within the limitations of the German interest capping rules.

		company runs its business and usually ranges between approx. 7%-19%.		
Italy	27.90%	Standard rate of 24% & regional tax of 3.9%	Interest expense (net of interest income) deductible up to 30% of EBITDA.	ILR in line with provisions from ATAD I & ATAD II. No thin capitalisation rules.
Luxembourg	24.94%	CIT Rate; 17% + 7% surtax on 17% Municipal Business Tax Rate; 6.75%	Interest expense generally deductible	Interest deductions restricted if: ●Connected to Exempt income ●Thin capitalisation rules apply ●30% EBITDA rules apply ●Anti-hybrid rules apply
Netherlands	25.8%	In 2023, the general CIT rate is 25.8% for taxable amounts in excess of EUR 200,000. For taxable amounts ≤ EUR 200,000 a 19% CIT rate applies.	Arm's length interest expenses are generally tax deductible on an accrual basis unless specific rules may restrict the deduction of interest.	As from 1 January 2019, the earnings stripping rules are applicable.

Spain	25%	CIT Rate 25%. Banks and certain oil and gas companies are subject to a 30% rate.	Interest Expense Generally Deductible	Several limitations to the tax deductible of interest expenses may apply (e.g. interest capping rules, anti-debt-push down provisions, leveraged acquisition rules etc.), depending on the specific facts and circumstances.
UK	25%	CIT rate of 25% applicable for profits in excess of 250k. 19% CIT rate for profits below 50K. For companies with augmented profits between GBP 50,000 and GBP 250.000, there is a sliding scale of tax rates	Interest is generally deductible in line with the accounting treatment, subject to anti-avoidance provisions such as: Arm's length transfer pricing test; anti-hybrid rules; EBITDA based limitation; group net debt cap; business purpose test.	Corporate interest restriction - net UK interest is restricted to 30% of UK taxable EBITDA. Thin capitalisation and transfer pricing - transactions between related parties should be on arm's length terms.

Table B - Anti-hybrid rules; interest withholding tax; anti-avoidance rules

Country	Anti-Hybrid Rules	Interest WHT	Anti-Avoidance
Austria	Only the minimum requirements implemented. Tax effects essentially neutralised by disallowing deduction for expenses in Austria/ including corresponding revenue in Austria	Not subject to WHT: ●Payments to non-resident companies ●Bank deposit interest received by EU residents Subject to WHT: ●Bank deposit/bond interest accrued by non-resident individuals: ○Bank dep - 23% ○Bonds - 27.5%	GAAR legislation in place in regards to interest expense, and a credit system in regards to dividends from substantial participations. Also has anti-abuse rules in place based on "substance over form" and "abuse of law" doctrines
Denmark	Anti-hybrid rules are applied in line with ATAD provisions and OECD reports.	Interest generally free of WHT Payments to companies outside of EU/Tax treaty states subject to WHT @ 22%	GAAR was adopted as part of the EU ATAD on 1/1/2020, and is applied to both domestic and cross-border transactions.
Finland	Anti-hybrid rules are applied in line with ATAD provisions and OECD reports.	WHT rates on interest for residents and non-residents vary on a case-by-case basis.	GAAR assesses the form of a situation that is deemed not to correspond with the true nature of the matter, and applies tax as if the correct form had been applied.
Germany	Anti-hybrid rules are applied in line with ATAD	German tax on interest can be assessed by withholding tax (WHT) of 26.375% or	Germany has a GAAR which is generally applicable if no specific anti-

	provisions and OECD reports.	require a tax return filing by non-resident investors. Double Taxation Treaties (DTT) or the EU Interest and Royalties Directive may reduce or exempt German interest taxation, with potential reductions to 15.825% subject to anti-treaty shopping rules and specific LOB rules	abuse rule applies. It states that tax related facts and circumstances should be taxed regardless of the legal framework if a legal construction is meant to evade taxation.
Italy	Anti-hybrid rules are applied in line with ATAD provisions and OECD reports.	Generally, at 26%, but can be zeroed/reduced under certain conditions.	Provides rules against undue tax benefits - benefits obtained in contrast to the purpose of the law.
Luxembourg	Anti-hybrid rules are applied in line with ATAD provisions and OECD reports.	No withholding tax on interest.	Has an anti-abuse rule. Has implemented EU GAAR.
Netherlands	Anti-hybrid rules in the Netherlands apply to the participation exemption and dividend withholding tax exemption, targeting double deductions and deductions without inclusion from hybrid entities or financial instruments.	The Netherlands generally does not levy interest withholding tax, but as of January 1, 2021 A conditional 25.8% withholding tax applies to interest and royalty payments to affiliated companies in low-taxed (corporate tax rate below 9%) or EU-blacklisted jurisdictions, with targeted anti-abuse rules for certain structures.	The Netherlands implemented the EU General Anti-Abuse Rule (GAAR) in the EU Parent/Subsidiary Directive as from 2016. The Netherlands did not implement the ATAD based GAAR into its legislation, since the Netherlands already has a General Abuse doctrine (Fraus Legis)
Spain	Anti-hybrid rules are applied in line with ATAD provisions and OECD reports.	The domestic WHT rate on interest is 19%, which can be reduced or eliminated by a double tax treaty. Interest paid to Interest on government debt and certain corporate	The Spanish tax legislation includes two general anti-avoidance rules, that allow the tax authorities to ignore and/or recharacterise transactions:

	Interest on intra-group profit participating loans is not deductible	bonds is exempt from WHT.	The simulation (or sham) rule applies when legal documents reflect a transaction that does not actually occur or differs from the parties' real intentions.
UK	The UK has implemented a wide-ranging imported mismatch rule and a targeted anti-avoidance rule to address hybrid arrangements not counteracted in intermediate jurisdictions.	Withholding tax is levied at 20% on payments of yearly interest. Several domestic law exemptions apply, in addition to relief under tax treaties. No withholding tax levied on interest payments made by a UK Qualifying Asset Holding Company.	The UK General Anti-Abuse Rule (GAAR) targets the most aggressive tax avoidance transactions, with no further changes currently planned.