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& Customs

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Dear [contact name]

Corporation Tax – Claiming Management Expenses

We are writing to multiple companies which act as holding companies for overseas subsidiaries and are claiming Management Expenses to raise awareness of the guidance presented below. I recommend you share this letter with your group's UK Senior Accounting Officer¹ (if you have one) and any other advisors you deem appropriate.

Why you have received this letter

We note that in the UK company tax return(s) for the accounting period(s) listed below, the entities listed below have claimed Management Expenses.

Company Name	Accounting Period(s) Reviewed
[entity name(s)]	[insert date]

You have claimed Management Expenses as deductions in box 245 of your submitted CT600 form.

There are common issues related to Management Expense deductions. We are therefore running an educational awareness campaign. These issues often arise in relation to expenses with a distinct benefit to a connected party². In these circumstances it is often found that either the expenses should not have been deducted, or a transaction should have

¹ Please see <https://www.gov.uk/hmrc-internal-manuals/senior-accounting-officers-guidance> for more detail on the UK Senior Accounting Officer regime.

² Please note that where this letter refers to a 'connected party', it means a person with whom the participation condition as set out in section 148 TIOPA 2010 is met.

been recognised, in accordance with the arm's length principle in Part 4 of the Taxation (International and Other Provisions) Act 2010 ('TIOPA 2010').

Relevant guidance

Management Expenses are allowable if they meet the definition set out within section 1219(2) of the Corporation Tax Act 2009 ('CTA 2009').

If these requirements are not met, the expenditure may still be allowable where it is for the benefit of a connected party but only if the expenses are incurred as part of a trade which involves providing services to that connected party. If the expenses are incurred as part of that trade, we would expect a service fee to be charged in accordance with the arm's length principle, and if not a computational adjustment to adjust taxable income as if one had been charged, under Part 4 TIOPA 2010.

The guidance referenced below will help you understand how these expenses should be treated. Go to GOV.UK and search 'INTM412020' ([link](#)) for information on Part 4 TIOPA 2010 (Transfer Pricing) and 'CTM08000' ([link](#)) for guidance on section 1219 CTA 2009 (Management Expenses). On page INTM480020, a flowchart has been produced to help determine whether a recharge for services should be in place ([link](#)). There is also guidance on the scope of business deductions at BIM42100 ([link](#)). Guidance on the interaction between transfer pricing and other parts of the tax code can be found at INTM480520 ([link](#)).

For guidance on our interpretation of these group arrangements, go to GOV.UK and search 'CTM08180'.

We've also included more information in respect of Management Expenses and Shareholder Costs in the 'Further Guidance' section at the end of this letter.

Reviewing your Returns

Once you've read the guidance, you may wish to check your UK Company Tax return for the accounting period above for any related inaccuracies.

If you find you have incorrectly deducted Management Expenses or should have recognised a recharge or provision of services for Corporation Tax purposes, you will need to amend your Company Tax returns. Please also let us know if you make such amendments, and/or if you believe that you have filed incorrect returns that can no longer be amended.

You should either increase any taxable income by recording the appropriate recharge or service fee income (along with a disclosure breaking down the charge by connected party) or reduce the expenses claimed by removing any incorrect deductions.

If, after reading this message/letter, you think you need to make any changes to your previous tax declarations, **you may still be able to make an unprompted disclosure**. For more information, go to GOV.UK and search 'HMRC compliance checks factsheets', then choose 'Penalties'. If we decide to take action relating to the issue above in the future and find errors in your tax return that you haven't corrected/ find you have not told us you may owe tax, we'll treat any disclosure you make as prompted. This may affect any penalties you have to pay.

If you have any questions about this letter, please contact [\[insert CCM/CT TS\]](#)

If you have an agent that deals with your tax affairs, you may wish to discuss this letter with them. We have sent a copy of this letter to your agent, where you have previously advised HMRC to do so.

Yours sincerely,

[Signature]

To find out what you can expect from us and what we expect from you go to GOV.UK and search 'HMRC charter'.

Further Guidance

Information about Management Expenses

In accordance with section 1219 of CTA 2009, “Management Expenses are expenses of management of a company’s investment business so far as they are in respect of so much of the company’s investment business as consists of making investments”.

We expect that, in group arrangements, there is likely to be an intermingling of benefits from the costs incurred. Therefore, a clear distinction is needed between the expenses of managing the holding company’s investment and the businesses, or trades, of its subsidiaries.

For guidance on our interpretation of these group arrangements, go to GOV.UK and search ‘CTM08180’.

Where the costs are incurred for the benefit of the business or trade of its subsidiary, or any other connected party³, those costs cannot be deducted under section 1219 CTA 2009 unless they are recharged to the relevant subsidiary. In practice, such costs may also be allowed where they would have been set against UK taxable income in the subsidiary.

Determining the price of charges for services between group members

The amount of any charge should be determined in accordance with the ‘arm’s length principle’. This principle is set out at Article 9 of the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention, which states *“[where] conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly”*.

It follows that, in the event that a transaction is recognised between the two group members, that transaction should be priced as if it were made between two independent enterprises in comparable circumstances.

Guidance on the application of the arm’s length principle can be found in the OECD Transfer Pricing Guidelines (‘TPG’). Chapter VII of this provides guidance on intra-group services.

Shareholder Costs

The OECD acknowledges that intra-group activities may be performed by a group member which relate solely to its ownership interest in another group member. These are referred to as ‘shareholder activities’. Such activity is not expected to warrant a charge to the other group members. However, the guidance highlights the close affiliation between shareholder activities and stewardship activities, with the latter being services which benefit the other group members.

You can find further guidance on the treatment for transfer pricing purposes of such costs at B.1.2, Chapter VII, of the TPG. Section 164 TIOPA 2010 requires that Part 4 TIOPA 2010 is to be interpreted in accordance with OECD principles. This includes the TPG.

The key test in determining whether any charge should be recognised is whether the subsidiary would pay for the services provided by the parent / other group member, absent the controlled relationship. If the subsidiary would have paid for such services, then a transaction should be recognised between the subsidiary and the parent / other group member. For tax purposes, an appropriate charge should be applied to this transaction,

³ Corporation Tax Act 2010, Part 24, Chapter 1, Section 1122 (2)

resulting in taxable income being recorded in the parent and a taxable expense being recorded in the subsidiary.
