This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

29 April 2022

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
5	It would be helpful to have examples in the guidance dealing with situations where a company becomes a member of a group mid-year and also an example showing the mechanics of the carry forward under the interest group provisions. This needs to be factored into the elections in s835AAK(3) as you would presume an election to join the interest group would be made subsequently to a company being acquired by a group.
7	As an overarching point, we suggest it would be useful to clarify in guidance how taxpayers should deal with iterative elements of tax computations that ILR will throw up i.e. the consequential knock-on impact to other claims and reliefs following the application of the ILR. For instance, in example 11.3 an ILR restriction is applied but the extra taxable amount is sheltered by losses forward. Hence, because the taxpayer applies all other tax rules before ILR, once ILR is applied, this may result in the revisiting or reapplication of other tax rules. As we have suggested at that example below, it might be worth confirming that a similar approach should be applied regarding group relief. A slightly more complicated variant arises with Schedule 24 Foreign Tax Credit (FTC) calculations. In the first instance, the 'P x I / R' will be applied pre ILR – this might include a deduction for unusable FTCs (where the foreign tax exceeds the Irish tax). Then, Part 35D is applied which might increase the tax due (because of a disallowed amount) or decreased (because of the use of a disallowed amount forward). This would seem to necessitate a revised FTC calculation which, in turn, might change the deducted FTCs, etc.
8	"Associated enterprises" and hybrids TDM – Is the intention here to repeat the commentary from the hybrids TDM or include a link? This is an important area and it is unclear if the TDMs on ILR and Hybrids will be published contemporaneously.
9	We would note that "entity" is defined as including "an association of persons recognised under the laws of the territory in which it is established as having the capacity to perform legal acts" which would include most partnerships whether they prepare consolidated accounts or not.
9	We are aware that in some instances, entities may not be consolidated in the above manner as they may be seen as immaterial from the perspective of the group as a whole. Is the intention for such entities to be seen as not forming part of a worldwide group and thus excluded from the Equity and Group Ratio Rules? Additional focus could be given to the accounting by an "investment entity" under IFRS10 or an "investment company" under the US GAAP equivalent whereby there can

This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
	be a line-by-line recognition of the assets and liabilities, but which does not amount to a consolidation of the subsidiary. This will be an important distinction for some entities, especially investment funds.
10	Further clarification regarding the meaning of "minority interest" in section 3.3 would be welcome. In particular, should it be determined by reference to GAAP or does it extend beyond a shareholding interest?
10	We believe the inserted text "(which would include collective investment undertakings)" is required for clarification purposes.
10	The reader is referred to the TDM on foreign entity classification with respect to the definition of a company. This TDM has not yet been made available to practitioners for review/comment but we would assume that the reference links the definition of company to that contained in S4 TCA 1997?
13	While noting the above commentary in relation to asset ownership under partnership law and the relevant CGT and income tax treatments applicable to partnerships, neither of these concepts (legal or tax) would extend to voting rights. In particular, in a limited partnership structure, the limited partners typically will have very limited influence over the partnership itself and are precluded from participating in the management of the entity. Instead, such control rights are normally allocated to the general partner. Consequently, it does not seem appropriate to suggest that voting rights over shares held by a limited partnership should be allocated between the limited partners unless the provisions of the partnership deed actually allow for such participation. We suggest that this is reflected in the TDM.
13	An example(s) of what type of arrangement/entity falls into the standalone entity exemption would be useful.
15	Could Revenue make it clear that a company with (for example) a 100% individual owner is a "single company worldwide group" and not a standalone entity?
17	Lessee companies preparing accounts under IFRS 16 no longer have to distinguish between operating and finance leases. Instead, everything gets accounted for in the way finance leases were previously. This can raise the question as to whether all the finance expense gets treated as interest equivalent for ILR purposes or if they can make a distinction between operating and finance leases based on how the lessor might account for them (as the difference is still relevant for lessors under IFRS16). While It may be reasonably understood that not all finance expenses are treated as interest equivalent where the IFRS 16 lessee accounting is adopted, it would be helpful for Revenue to include an explanation of their position in guidance.

This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
18	We understand from discussions at another forum that Revenue indicated it intends to amend the wording here in the draft TDM to reflect that its comments on negative interest in an ILR context only relate to the charges imposed on putting money on deposit and not as having scope to be read more widely than that (e.g. as applying to negative yields more generally). We would welcome such a clarification to be reflected here in the TDM.
20	Normally the EUR GBP FX rate would be quoted in Europe (including Ireland) as pounds per Euro rather than Euro's per pound (the latter is the way it would be quoted in the UK). Should the rate be shown as, for example, 0.8 pounds/euro in the guidance?
20	Example 4.3: FX gain on interest This example shows the FX rate moving from €1 for £1 to €1.40 to £1, but it is described as the Euro strengthening against the Pound while the example itself seems to be moving the other direction. Is this correct?
21	Example 4.3: FX gain on interest - Should the reference to "variable tax rate" be a reference to "variable interest rate"?
22	Example 4.5: Non-performing loans We understand from an accounting perspective, you would not further separate the interest calculated using the effective interest rate i.e. the 41m in this example would be regarded fully as interest income and should be reflected as such in the financial statements in most cases. Hence, this means the accounting position is that the IRR should economically be interest equivalent (the price you are effectively willing to pay to step into the shoes of the original creditor). The Institute Reps can arrange for an accounting colleague to discuss the accounting treatment with Revenue, if that would be helpful.
22	While we may understand the accounting methodology used, some general comments and observations on example 4.5: • The taxable interest will be the amount legally received .i.e. it is a question of fact. • In a financing trade which the example deals with, the timing of taxation will depend on the accounting treatment under GAAP (S.76A (& 76B if FV accounting used)) • If accounting interest in the P&L and the legal interest received is not the same, Revenue should comment on the adjustment that needs to be made to bring the accounting interest in line with the interest legally received. • If there is no difference in the legal and accounting interest, then there should be no need for Revenue direction.
22	We understand that Revenue has indicated that they may split this example into two separate examples for ease of understanding, with one example dealing with day one predictable cash flows being achieved and another where expectations were exceeded. However, in our view, significant reconfiguration of the example is needed to address the comments set out below.

This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
	We suggest that this example needs to be reconsidered. In particular, it appears to assume that the distressed loans would be purchased without any accrued interest. While there might be a limited number of circumstances where this might occur, it would be the exception rather than the rule. Typically, a distressed loan will (almost by definition) be in arrears and there will be a substantial amount of accrued, unpaid interest which is acquired as part of the transaction. Such amounts are "interest" and therefore, it is not necessary to consider whether they are "equivalent to interest" for the purposes of ILR. Moreover, in a normal loan arrangement, any payments made in respect of a loan are first made towards interest with any remainder paid towards the balance of principal. Therefore, in a scenario where distressed loans are purchased with accrued interest, the payments will first be made towards the accrued interest and any subsequent amounts will go towards principal. This example does not address this situation (which is the most common scenario) and appears to assume that the loans would be acquired only with a discount on their principal and without any accrued, unpaid interest. We would suggest that, as a result, this example is of very limited use and of very narrow application. It does not assist in the more common scenario described above. Absent any additional clarification, it would appear that where a finance house (or similar) acquires a portfolio of distressed loans, it would be necessary to disregard the accounting treatment applied (as EIR will not (only) measure the actual interest) and instead track the payments of each and every loan separately in order to determine the actual interest component and the amount of principal. A further calculation would seem to be necessary in order to determine what part of the principal payments are treated as equivalent to interest under the methodology outlined in this example. We previously suggested that in order to ease the administrative burden on all concerned, it would be better to assume that all of the profits or gains which are booked in the income statement in respect of distressed loans acquired by a financing company taxed under Case I principles, should be deemed to be equivalent to interest so that this separation of actual interest from interest equivalence is not necessary. We would strongly urge Revenue to reconsider this proposal as we feel it will otherwise mean that there is a very substantial administrative burden on the taxpayer (and equally on Revenue who would need to audit these positions). In addition, we note that the example only applies to companies which use an EIR method of accounting in respect of the distressed loans acquired and does not address the treatment to be applied where the loans are subject to fair valuing accounting through the income statement. We note that it would appear unreasonable to have a situation where two companies that are essentially in the same line of business would be taxed differently purely as a matter of the accounting treatment adopted (which is a subjective matter).

This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
	Example 4.5 appears to assume that there is no purchased (i.e. accrued unpaid) interest (or that accrued interest is not 'real' interest), rather than an 'interest equivalent'. Again, it is worth noting that a distressed loan without purchased interest is a rare occurrence and so Example 4.5 is not reflective of a typical situation. Consistency in terms used (i.e. finance income versus interest income) would also be welcomed.
22	Issues also arise relating to loans that become non-performing and get converted to equity. It is understood that a loss on such a loan has no interest equivalent element and a gain on equity into which debt is converted is equally not taxable interest equivalent. Confirmation that this is in line with Revenue's understanding would be helpful.
22	As stated above, we firmly believe Example 4.5 needs to be significantly reconfigured. However, we would also wish to note that we think reference to €17.5m in the second last line of the example should read €16.5m?
24	It would be helpful for securitisation fees payable by or on behalf of the trading company to be confirmed as being included as interest equivalent in addition to the discount applied by the trader.
25	Example 4.7: Securitisation Nominees and trustees are not the same and a trustee share owner would be more likely.
25	Example 4.7: Securitisation If the SPV sells debt at a price that is different from its acquisition price (having been performing when acquired by it), it would be helpful to have confirmation therein that any profit will be taxable interest equivalent and any loss will be deductible interest equivalent
26	Example 4.8: Repo Transaction Nominees and trustees are not the same and a trustee share owner would be more likely.
26	Example 4.8: Repo Transaction If this example is from I Ltd's point of view should it be called 'Reverse Repo transaction' rather than 'Repo Transaction' as I Ltd is investing the cash and taking the securities as collateral? Could the example perhaps be explained and simplified by referring to a 'normal' legal entity?
26	Example 4.8: Repo Transaction Our understanding is that this example only applies to companies within the Stock Lending TDM which carves out Case I scenarios. It would be helpful if this point could be confirmed within the example.
27	Example 4.9: Synthetic Securitisations It would be helpful to include a CLO example acknowledging that ancillary returns arising in the ordinary course of a CLO transaction, such as those arising on loans which have an inherent capability of conversion to an equity or warrant instrument in certain default scenarios should be considered interest equivalent.

This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
29	Example 4.10: Commodities Nominees and trustees are not the same and a trustee share owner would be more likely.
30	It would be helpful to include a short note to explain how the qualifying long term infrastructure project exclusion operates in the identification of DIE and TIE. While the legislation does not explicitly provide for an exclusion of borrowing costs incurred on a qualifying long term infrastructure project, deductible or taxable interest equivalents as defined in S835AY(1) TCA 1997 refer to amounts that are deductible or taxable as the case may be in the calculation of the "relevant profit or loss". The calculation of relevant profit or loss takes no account of amounts in respect of income and expenses connected with a qualifying long term public infrastructure project. Accordingly, the calculation of exceeding borrowing costs (the difference between deductible interest equivalent and taxable interest equivalent) excludes such borrowing costs associated with a qualifying long term infrastructure project.
30	We would suggest that Deductible and Taxable Interest Equivalents could be referred to as the amounts "in respect of" interest equivalent. Such wording is in line with the legislation and recognises that DIE and TIE are not always euro for euro the same amount as interest equivalents but instead may need to be value based and are amounts in respect of the interest equivalent.
31	We note that Example 4.12 assumes that there is a renegotiation of the terms of the agreement such that the lender takes the opportunity to increase the interest rate being charged. There may well be circumstances where such an opportunity does not arise and, instead, the modification to the loan agreement arises purely as a consequence of the cessation of the LIBOR reference rate. In other words, while the agreement must be adjusted because LIBOR will no longer be published, it may well be the case that the substituted rate is not a renegotiated one based on current market rates or current circumstances but rather is a substitution of the new reference rate based on the best estimate of what the new reference rate would have been at the time the original interest rate was agreed. It would be helpful to confirm that, in such a scenario, the modification of the loan agreement in this manner would not result in any restriction. Indeed, the December 2020 ATAD Implementation Article 4 Interest Limitation Feedback Statement stated that a loan entered into before 17 June 2016 would not be regarded as having been modified, and the ILR would not apply, in circumstances where, as a result of benchmark reform and/or withdrawal, it is necessary to replace the reference rate on the loan with a comparable benchmark (for example, due to LIBOR being phased out). It would be helpful if this confirmation could be reflected in the guidance.
32	Regarding Example 4.12: Changing reference rate, we understand that for IC transactions if you change certain conditions you may sometimes also need to change the credit spread to reflect the prevailing market conditions.

This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
	In this respect, the example is quiet clear that the ester + margin (equivalent to LIBOR +2%) is still grandfathered? This would then imply that the basis differential would also be grandfathered but it would be helpful if this could be further clarified.
32	With respect to Example 4.12, it would be more meaningful for this to state EURIBOR. Use of LIBOR without any modifier implies a GBP-based rate (Euro LIBOR would be the little used Euro equivalent in the LIBOR system). This is important as it is clear that one interest rate risk maybe included. A change from a GBP derivative to a Euro-based one would imply FX risk as well. It is worth noting also that €STR is a risk-free rate (assumed secured borrowing) whereas LIBOR/EURIBOR are not risk-free. Accordingly, it may be expected that the credit margin (2.00% in this example) might ordinarily be adjusted even in the absence of deterioration in the position of the borrower.
33	Example 4.14: Legacy debt – facility agreement This example assumes a FIFO approach should be followed in respect of loan repayments. A facility agreement might have separate draw down notices which may specify different terms and maturities. As such, it might be the case that the second draw down is due for repayment before the first. If the funds repaid can be clearly identified as having been drawn down post 2016 (e.g. funding the acquisition an asset post 2016 and documented as such), we expect there should be scope to conclude that repayment relates to the post-2016 debt rather than the pre-2016 debt. It should be a matter of fact as to what loan is repaid. We would request Revenue to re-consider the example in light of this.
40	Leasing – section 835AY The reference to 'accounts' might include balance sheet.
40	We note that leases may include payments that are not necessarily taxed as income (such as maintenance reserves which are refundable and consequently held on balance sheet) and may have elements which are contingent (e.g., linked to floating interest rates or dependent on the extent of use of the asset). We would suggest that guidance confirms that 'A' is the best estimate of the projected taxable income (or failing this, accounting income) as determined at the commencement of the lease and, for that purpose, to the extent that amounts are receivable under the lease that would not immediately be credited to the lessor's income statement (and hence included in taxable income), they are only included to the extent that of the best estimate of so much of those amounts as will ultimately be credited to the lessor's income statement.
42	Example 8.1: Finance leases Regarding the phrase "the value of the leased asset recognised in the accounts on the date the lease", we suggest clarifying that as a lease may be entered into on a date other than one on which financial statements have been prepared, the value is the NBV as it would have so appeared if accounts had been drawn up.

This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
42	We note that leases may include payments that are not necessarily taxed as income (such as maintenance reserves which are refundable and consequently held on balance sheet) and may have elements which are contingent (e.g., linked to floating interest rates or dependent on the extent of use of the asset). We would suggest that guidance confirm that 'A' is the best estimate of the projected taxable income (or failing this, accounting income) as determined at the commencement of the lease and, for that purpose, to the extent that amounts are receivable under the lease that would not immediately credited to the lessor's income statement (and hence included in taxable income), they are only included to the extent that of the best estimate of so much of those amounts as will ultimately be credited to the lessor's income statement.
46	Long-term Public Infrastructure Project One of the conditions required for the exemption looks to where the income and deductible interest equivalent arise (i.e. they must arise in a Member State). A common feature of long-term infrastructure projects is that revenues may not crystallise for a number of years after the project is completed and the facility becomes operational. It would be useful for this part to include a confirmation recognising this fact and noting that the condition will be met even where the income from the project has not yet arisen.
46	It would be helpful if Revenue could expand or provide examples of circumstances involving the "provision, upgrading, operation or maintenance" of a large-scale asset.
48	The Interest Limitation – operation of the restriction Further examples as to how the restriction works would be welcome for clarification purposes, as the only example included is the interest group example. A number of single entity examples dealing with where interest deductible against 12.5% income, 25% income and 33% income would be helpful. An example involving a "disregarded" transaction between ILR group members taxed at different rates would also be welcome.
51	Carry forwards - An illustrative example of carry forwards under the interest group provisions would be helpful.
52	It would be helpful to include a chargeable gains example in the guidance, given chargeable gains are adjusted for corporation tax purposes at 12.5% to provide further clarity.
53	Example 11.1: Deemed borrowing cost – tax paying company sets out how the ILR works but does not explain the manner in which the carry forward rules are to work.
55	Example 11.3: Deemed borrowing costs – losses forward There seems to be an error here: €9m @ 30% = €2.7m.

This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

Page	**Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)**
55	We think this would be a useful confirmation - **Equally, if group relief were available from another member of the same loss group, this could be used in like manner.*
58	Reference is made in the first paragraph of this part to "total relief available in an accounting period in respect of a disallowable amount or deemed borrowing cost under section 835AAD(3), (8), or (12)….". The aforementioned sections in legislation refer to relief for deemed borrowing costs only and not "disallowable amounts" and for clarity we would recommend that references to disallowable amounts be removed.
59	Example 11.5: Interaction of ILR and section 291A We suggest expanding this example to note that if s.291A capital allowances were capped due to the 80% restriction, that the capital allowances claim could be increased by 2m if sufficient capital allowances were available - s.835AAC(6) refers.
62	Guidance from Revenue regarding the expected approach to be taken regarding the inclusion or exclusion of exceptional items when applying the Group Ratio would be helpful.
63	*"Where these financial statements are subject to audit, it will be the audited financial statements that will be used."* - This suggestion is to address the fact that, in some cases, the accounts might not be audited (but they will nevertheless need to be GAAP compliant per previous sentence).
63	*"Where the relevant entity is an interest group which is not otherwise required to prepare consolidated financial statements, the relevant entity may use non-statutory consolidated financial statements which it prepares for this purpose so long as they conform to international accounting standards, Irish GAAP, or an alternative body of accounting standards, as appropriate*." This is to facilitate groups which may not have a legal obligation to prepare local consolidated accounts but are able to produce them.
67	It would be helpful to consider guidance or examples covering joiners and leavers of a WWG.
69	We note this useful clarification; however, it does not clearly address whether or not the bankruptcy remote company will be an associated of the nominee itself. Absent clarification to the contrary, it would mean that a nominee company may be obliged to report all companies with respect to which it holds shares as nominee or trustee as associated enterprises for these purposes. Based on the text herein, it would appear that it is accepted that the beneficial interests in the shares (in terms of both their economics and their voting power) does not truly rest with the nominee for ILR purposes.

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
	Otherwise, where a nominee / trustee company held more than 25% of the shares in two or more companies, they would, by definition, have to be treated as associated enterprises. Assuming that this is the logic underpinning this clarification, we suggest that additional clarification is provided to say that the nominee or trustee company should also not be treated as an associated of the bankruptcy remote enterprise concerned. Moreover, we think it would be useful to clarify Revenue's view as to whether or not it should be established whether the beneficiary of the relevant trust is/could be deemed an associated enterprise of the relevant bankruptcy remote vehicle. For example, if the shares were held for the benefit of a single charity (and that charity was in corporate form) then it would be helpful to understand if Revenue's view is that an association for ILR purposes could exist in those circumstances.
69	There appears to be an inconsistency here in that both a look-through and non-look-through approach are being applied with respect to the same entity i.e. a partnership. Under Irish partnership law, the partners in a partnership are each agents for each other with respect to the partnership business (only) and hence may be deemed to act together with respect to the partnership business and its assets. This appears to support the basis for a look-through insofar as determining whether or not a partner is an associate of, for example, a subsidiary of the partnership. However, it would not be consistent to say that the partners are also acting together with respect to their interest in the partnership. Their agency relationship exists only with respect to the business and assets of the partnership and not more generally. Hence, one partner may be agent for the others in respect of partnership business but is not automatically able to act as their agent for any matters not pertaining to partnership business. In other words, there appears to be a conflation between the legal position that partners are agents for each other and carry on business in common with respect to the business of and assets of the partnership and the partners' own stake in the partnership (as a deemed separate entity). This distinction is important where a partnership is deemed to be a separate entity for the purposes of these rules. In particular, while any given partner may be automatically an associate of a subsidiary of a partnership, it does not follow that the partner concerned is also an associated enterprise of the partnership itself where that partner's stake is less than 25%. We submit that the text should be amended so that it is consistent with the legal position.
69	As the definition of a single company worldwide group means a company that is not (inter alia) a member of a worldwide group, it is difficult to see how a SCWG can be part of a consolidated group for financial accounting purposes. Could Revenue clarify this point?

This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
71	In the context of the group ratio and the consolidation test, if notes are held in a recognised clearing system, would Revenue consider applying a reasonable awareness test to ascertain whether the director would be expected to know that the SPV and noteholder are fully consolidated in the same set of consolidated accounts?
73	Example 14.1: Interest group The workings in this example would suggest that the companies are both Case I (i.e. requiring no value basing in identifying relevant profits, Deductible Interest Equivalent, EBITDA etc). It would be helpful if the example could confirm this.
75	The draft guidance correctly notes that in the absence of an allocation, Total Spare Capacity is allocated to group members pro-rata based on the Taxable Interest Equivalent of a member. This is a legislative anomaly, which will not work if there is no Taxable Interest Equivalent. This situation could arise where the entire Total Spare Capacity is generated by Limitation Spare Capacity i.e. 30% of EBITDA. As one cannot divide by zero, the ROS software will need to factor in a workaround to address this, for example, by requiring an allocation (the default being zero allocations if no Taxable Interest Equivalent).
79	Please see previous comments regarding orphan entities and trustee and nominee reporting.
80	The Finance Act 2021 modifications to S.959AR and S.959AS would appear to have simultaneously removed the ability for taxpayers to make a top up of preliminary tax in respect of: • chargeable gains on the disposal of assets after the date for the payment of preliminary tax; or • profits, gains, or losses accrued and not realised in the accounting period on financial assets or liabilities. We had previously sought confirmation from Revenue that the above outcome was not intended, and the ability to make a top up payment preliminary tax payment in respect of items (a) and (b) is still be available for FY22 onwards. It was indicated at a meeting of TALC BEPS on 9 March that this issue may be addressed via legislative amendment rather than through guidance. We would welcome confirmation from Revenue that this matter will be addressed in Finance Bill 2022.
80	The last paragraph confirms Revenue's existing view that the top up for chargeable gains/profits or gains on financial assets should remain unaffected by the changes in Finance Act 2021. The recently updated TDM on Preliminary tax obligations (eBrief No 72/22) does not, however, reflect this. Given that some taxpayers may not be concerned with the ILR and may only refer to the TDM on PT obligations it would be helpful to include this clarification in the PT manual in addition to the ILR manual for completeness.
83	Appendix 1: Sample ILR calculation

This technical query paper summarises the feedback submitted to Revenue on 29 April 2022 on the draft Tax and Duty Manual on the Interest Limitation Rule, which was circulated to the TALC BEPS Implementation Subcommittee on 19 April 2022.

Page	Feedback on draft TDM on the Interest Limitation Rule (Version circulated 19 April 2022)
	Although, the example in Appendix 1 gives the correct result, we do not follow the entries for 'Deductible interest equivalent – 25%' in the Net Interest Equivalent calculation. Instead of 4m, 14m and 12m for Property Co, Trade Co 3 and Holding Company, should these be 4m, 10m and 6m? It appears that some of these numbers may have been grossed up prematurely as this is what should be happening on the next line. Is the reference to passive income intended to refer to non-Case I income, as it is not a statutory term?