28 February 2025

Section 831B TCA 1997

Participation Exemption for Certain Foreign Distributions

Feedback on Suggested Areas for Revenue Guidance

1. Qualification criteria for a 'relevant distribution'

For a distribution to be considered a 'relevant distribution' as defined in section 831B(1) TCA 1997, it must be made in respect of the subsidiary's share capital:

> *"(i) out of the profits (within the meaning of section 21B(1)(a)) of the relevant subsidiary, or*
> *(ii) out of the assets of the relevant subsidiary where the cost of the distribution, or that part of the distribution, as the case may be, falls on the relevant subsidiary"*

Section 831B(5)(b) further provides that section 831B(3) applies only *"if the relevant distribution is made by the relevant subsidiary in respect of the relevant subsidiary's share capital out of the assets of the relevant subsidiary, where any gain on the disposal of that share capital by the parent company on the date on which the relevant distribution is made would not be a chargeable gain in accordance with section 626B."*

<u>Application of the section 626B test</u>

In circumstances where the distribution is made *"out of the assets of the relevant subsidiary"*, section 831B(5)(b) provides that the exemption applies only if any gain on the disposal of the shares on which the distribution is made would not be a

chargeable gain under the provisions of section 626B TCA 97, if the parent company were to dispose of those shares on the date of the distribution.

We understand that this condition in section 831B(5)(b) is not intended to apply where the distribution is made out of the profits of the relevant subsidiary under subpart (i) of the definition. The TCA Notes for Guidance on section 831B TCA 97 in the legislation area of Revenue's website are framed in this manner, stating that:

> *"[t]his requirement does not apply to distributions to the extent that they are made out of profits of the relevant subsidiary."*

However, section 831B(5)(b) does not specifically exclude distributions made out of profits. Any distribution, including a distribution which is declared and paid out of the profits of a company, could be said to be made out of the assets of the company with the cost similarly falling on the company in respect of such a distribution. Therefore, if such an interpretation of section 831B(5)(b) is taken, the requirement that the shares, if sold, would qualify for exemption under section 626B would potentially apply to any distribution made including distributions made out of profits.

We request that Revenue's Tax and Duty Manual (TDM) on the participation exemption for foreign dividends includes the same confirmation as is included in the Notes for Guidance.

<u>Distribution out of the assets of the relevant subsidiary</u>

Similarly, the requirement that the "*cost of the distribution… falls on the relevant subsidiary*" in sub-part (ii) is unclear, as arguably the cost of all distributions fall on a company if it is made out of its assets. We would welcome clarification in guidance on what is meant by this phrase. Our understanding is that it is not intended to represent an additional test.

Administrative issues - ‘out of profits’

In circumstances where a parent is not likely to be involved in the administrative aspects of the declaration and payment of a dividend by a subsidiary (this could particularly be the case if the parent only owns 5% or 10% in the subsidiary), some practical issues arise as to how to determine and/or evidence that the distribution is paid out of profits or otherwise.

We believe it would significantly ease the administrative burden for potential participation exemption claimants if Revenue made it clear that they will accept a distribution, as being made out of profits, provided the recipient has satisfied itself that there are sufficient retained earnings within the subsidiary, at the time of the distribution by the subsidiary, which can be traced to ‘profits’ per the definition in section 21B TCA 1997.

In the absence of any such view being expressed by Revenue, there may be uncertainty for potential claimants of the participation exemption in circumstances where the distribution is not expressly declared as being paid out of certain profits of a period or periods. Many parent companies will not be in a position to ensure that subsidiaries declare distributions in such a way, particularly in minority shareholding situations.

Exclusion of dividends paid/ distributions made by an offshore fund

Sub-part (V) of the definition of ‘relevant distribution’ provides for the exclusion of *“any dividend paid or other distribution made by an offshore fund as construed in accordance with section 743”.* Section 743 TCA 1997 (Chapter 2 of Part 27) provides that an offshore fund can include any company resident outside of the State in which any person has an interest which is a ‘material interest’.

(i) 'Non-equivalent' offshore funds located in the EU/EEA/OECD treaty territory

Section 747B(2A) TCA 1997 provides that income and gains relating to a 'non-equivalent' offshore fund located in an 'offshore state' (being the EU, the EEA or any OECD country with which Ireland has a double tax treaty) fall outside the scope of Chapter 4 of Part 27. These are essentially funds which are not similar in all material respects to an Irish regulated fund.

Section 747AA TCA 1997 further provides that *"without prejudice to 'offshore fund' having the meaning assigned to it by section 743 for the purposes of Chapter 4, where that Chapter does not apply to an offshore fund by virtue of subsection (2A) of section 747B, then Chapter 2 and section 747A shall not apply in respect of that offshore fund*". In essence, these funds are outside of the offshore funds regime.

We request confirmation in guidance that an offshore fund for the purposes of sub-part (V) of the definition of 'relevant distribution' does not include any 'non-equivalent' offshore fund, which is located in an 'offshore state', as defined in section 747B(1) and is excluded from the offshore funds regime by virtue of section 747B(2A) and section 747AA. This confirmation is important as the wording in sub-part (V) just references *"an offshore fund as construed in accordance with section 743"*.

(ii) Meaning of 'offshore fund'

The definition of 'offshore fund' in section 743(1) comprises <u>two</u> components:

1. The offshore concern must be a non-resident company, a unit trust scheme with non-resident trustees or an arrangement governed by foreign law which creates rights in the nature of co-ownership;

2. *"and any reference in this Chapter to an offshore fund shall be construed as a reference to any such company, unit trust scheme or arrangements in which any person has an interest which is a material interest."* [emphasis added]

We interpret point 2. above to mean that a person ('any person') must have a 'material interest' in the non-resident company/ unit trust scheme/ arrangement in order for that offshore concern to be an 'offshore fund' (i.e. a material interest must be present before a non-resident company/ unit trust scheme/ arrangement can be an 'offshore fund' for the purposes of paragraph (V) of the definition of 'relevant distribution').

Our interpretation aligns with the following statement in the Notes for Guidance on Part 27 TCA 1997 (provided in the context of section 743(2)):

"The legislation defines offshore funds by reference to the structure of investors' rights. Without a "material interest", an investor cannot be charged to tax by reference to the offshore fund provisions; ***further, without at least one material interest existing, an overseas concern cannot be an offshore fund at all****. …"* [emphasis added]

Notwithstanding the above, 3.1 What is an offshore fund [section 743(1) & (6)], Example 2 and Decision Tree 1 in TDM Part 27-02-01[1] could be interpreted to mean that the definition of an 'offshore fund' in section 743(1) is such that any non-resident company/ unit trust scheme/ arrangement is an offshore fund in the first instance, **irrespective** of whether any person has an interest in it which amounts to a 'material interest'.

[1] Last reviewed July 2023.

We request that:

- The comments on the meaning of an ‘offshore fund’ in TDM Part 27-02-01 be updated to reflect the interpretation contained in the Notes for Guidance on Part 27 TCA 1997 (i.e. *“without at least one material interest existing, an overseas concern cannot be an offshore fund at all”*).

- Revenue’s guidance on the participation exemption confirms that a *‘*material interest’ must be present before a non-resident company/ unit trust scheme/ arrangement can be an ‘offshore fund’ for the purposes of paragraph (V) of the definition of ‘relevant distribution.’

<u>Shares held via a partnership</u>

To the extent that shares are held via a partnership, which is akin to an Irish partnership, it is assumed that distributions from those shares to which the corporate partner is beneficially entitled, via the partnership, will be viewed as taxable dividend income in respect of those shares. We would welcome confirmation of same in guidance.

We would also request confirmation in guidance that where a corporate partner would have qualified to claim the participation exemption had it held its proportion of the shareholding directly, that corporate partner will also meet the shareholding requirement for the participation exemption, if the shareholding is held via a partnership.

2. Qualification criteria for a ‘relevant subsidiary’

The definition of ‘relevant subsidiary’ in section 831B(1) includes a requirement in sub-part (b) that the company did not at any time during the reference period, acquire *“(i) another business or part of another business, or (ii) the whole or greater*

part of the assets used for the purposes of another business" previously carried on by another company that was not resident in a 'relevant territory'. Similarly, sub-part (c) of the definition contains a requirement that the subsidiary was not formed through a merger where any party to that merger was another company that was not resident in a 'relevant territory' from the start of the reference period.

At the outset, we would make the point that some of the perceived 'mischief' being addressed might better be positioned elsewhere in the section and be considered in the context of distributions and the source of such distributions. This avoids the 'tainting' of an otherwise 'relevant subsidiary' by matters that have not impacted the distribution, effectively disqualifying the subsidiary entirely for a 5-year period.

We would also ask that some measure of understanding is given to the application of this 5-year look back period as it is extremely onerous and the level of work required in some cases could be so significant that the taxpayers concerned would not wish to claim the participation exemption, which would be a regrettable outcome.

These aspects, and the matters below, to the extent they are policy matters will be raised with the Department of Finance.

<u>Acquisition of loss-making/ immaterial activity</u>

We understand this condition aims to ensure that the participation exemption is not claimed in respect of profits that arose in a non-relevant territory. However, the relative scale of the business or assets acquired from another company is not a relevant factor. It may be low in the context of the overall activities of the subsidiary and may not make any material contribution to the profits or assets of the subsidiary. The business acquired may in fact be loss-making. However, even in these cases, the acquisition would appear to result in the subsidiary not being a 'relevant subsidiary' for a period of five years after the acquisition.

We would welcome clarification in guidance that in circumstances where the business acquired is loss-making or not material in the context of the activities of the subsidiary, it does not need to be taken account of for the purposes of subpart (b) of the definition of ‘relevant subsidiary’.

Similarly, sub-part (c) of the definition contains a requirement that the subsidiary was not formed through a merger where any party to that merger was another company that was not resident in a ‘relevant territory’ from the start of the reference period. This condition takes no account of whether any assets, liabilities or activities were acquired from the other company and, as such, the acquisition may not have contributed to the profits or assets of the subsidiary. Again, any business acquired may be loss-making.

We would welcome clarification in guidance that, in circumstances where no assets or activities were acquired from the other company as part of the merger or where any such assets/ activities acquired make no contribution to the profits or assets of the subsidiary or are not material in the context of the subsidiary’s business, the merger does not need to be taken account of for the purposes of subpart (c) of the definition of ‘relevant subsidiary’.

<u>Business previously carried on by more than one entity during the specified time period</u>

The test to be applied puts the focus on whether there has been an acquisition by the relevant subsidiary of a business or part of a business or the greater part of the assets of a business, where the business concerned was ‘**previously**’ carried on by another company that was not resident in a relevant territory. We would ask for clarification from Revenue as to whether it is necessary to consider the position of the entity that sells the business to the relevant subsidiary in this regard or whether it is necessary to consider the position of all entities that might have ‘previously’ carried on the business at any time within the 5-year window. If it is the latter, this

will require significant work and all the relevant information required to reach a conclusion on the point might not be readily available.

Acquisitions of shares

We would welcome clarification in guidance that it can be accepted for the purposes of section 831B, the terms ‘business’ and ‘assets used for the purposes of a business’ do not include shareholdings in another company. Such an interpretation would appear appropriate in a section 831B context where neither the transferor nor the transferee entities held or hold the shares as trading assets.

Third party acquisitions

The assessment of the conditions contained in sub-parts (b) and (c) require the parent company to have knowledge of the residence status of the other company at the time of the acquisition or merger and also its residence history in the period up to five years before the date of the distribution. The parent company may not be in possession of this information, particularly in circumstances where the other company is a third party. It might also not know whether the assets being acquired represent the business or part of the business of the seller or the greater part of the assets used for the purposes of the business of the seller.

We would welcome clarification in guidance that the test should take into account what the qualifying parent company knows or could be reasonably expected to know in respect of the profile of the other company, in the case of third party transactions, considering the relevant facts and circumstances and available information. It would be helpful if the guidance confirms that there is no requirement for the parent company to seek additional information or to carry out additional due diligence beyond what would ordinarily be undertaken in such a transaction to ascertain, for example, the residence history of that third party company.

Tax residence status of the seller

Similarly, if the ‘relevant subsidiary’ acquires a business/ part of a business/ greater part of the assets used in a business from another entity, is it necessary to examine the status of the seller entity to determine its tax residence position for the period referred to in sub-part (b)? The relevant subsidiary may not have enough information to determine its tax residence position for the period referred to in sub-part (b) because it is a third party transaction. Or it may be the case that the seller is a US vehicle meaning it could be difficult to identify the residence position of that seller. Or it may be the case that the seller entity is unwilling or unable to confirm its tax residence location for the previous 5 years (or the acquirer may not be in a position to ask the question of the seller due to poor relations between them). We would welcome some practical guidance from Revenue as to how to approach these types of scenarios.

‘Not generally exempt from foreign tax’

One of the requirements to be a ‘relevant subsidiary’ (and also a ‘parent company’) is that the company is, on the date on which it makes the relevant distribution and throughout the relevant period, ‘not generally exempt from foreign tax’.

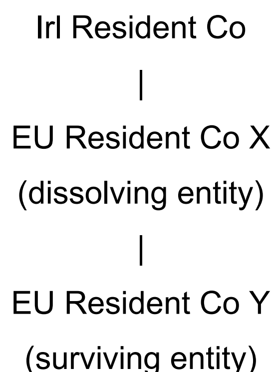
A similar ‘not generally exempt from foreign tax’ requirement is contained in the definition of ‘parent company’; however, in this regard, it is a point in time test.

We ask Revenue to confirm in guidance that the company is only required to be within the general scope of foreign tax in the relevant territory to satisfy the ‘not generally exempt from foreign tax’ requirement. Revenue has provided a similar confirmation in its guidance in respect of the outbound payments defensive measures (i.e. paragraph 3.3 of TDM 33-05-01).

<u>'Formed through a merger'</u>

Another interpretation issue in respect of which clarity would be welcome arises from the requirement for the 'relevant subsidiary' not to have been *"formed through a merger ... where a **party** to the merger was another company that was not, by virtue of the law of a relevant territory, resident for the purposes of foreign tax in a relevant territory"*. The following illustrates a potential scenario that is likely to arise in practice.

Merger scenario: EU Resident Co X merges downward into EU Resident Co Y with EU Resident Co Y surviving



The question that arises is whether, for the above purposes, Irl Resident Co would be considered to be a 'party' to such a merger in circumstances where shareholder consent is required for the merger between the two EU resident entities to take place. The requirement in relation to mergers appears to be concerned with and aimed at the merging entities themselves as opposed to the shareholders of any such entities.

Confirmation is sought that when interpreting 'party' to a merger, it is Revenue's view that the parties in question for this purpose, in the context of section 831B, are limited to the merging entities only. To interpret it otherwise, such that it includes a shareholder in any such entity risks an Irish resident shareholder of two EU subsidiaries which merge, being considered a 'party' to the merger of the two EU

subsidiaries with the result that participation exemption may not be available to the Irish parent, due to its status of not being considered resident of a relevant territory. There would not appear to be any policy rationale for such an interpretation to be taken.

3. Application of exemption to certain preference shares

Section 831B(3) provides that the participation exemption can be claimed on a relevant distribution in respect of which the parent company would otherwise be chargeable to corporation tax under, inter alia, "*Case IV of Schedule D in accordance with section 138*".

The subsection goes on to provide that *"subject to subsections (5) to (8), and except where otherwise provided by the Corporation Tax Acts, corporation tax shall not be chargeable on the relevant distribution and the relevant distribution shall not be taken into account in computing income for corporation tax."* It would seem illogical to refer to section 138 in section 831B(3) if it is not to apply the participation exemption to it.

We would note that the taxing provision in section 138(3) states the following:

> *"<u>Notwithstanding any provision in the Tax Acts</u>* - [emphasis added]
> *…*
> *(b) the dividend shall be chargeable to corporation tax under Case IV of Schedule D."*

We understand the policy intention is that the underlined text does not prevent the provisions of section 831B(3) applying where the necessary conditions to claim the participation exemption are met. We would ask that this is confirmed in guidance.

4. Alternative forms of equity interests akin to ordinary share capital

By virtue of the meaning of ‘qualifying participation’ in section 831B(2), the parent company is required to directly or indirectly own ‘ordinary share capital’ in the relevant subsidiary. We ask for confirmation from Revenue in guidance that this ordinary share capital requirement, when applied in the context of a body corporate formed under foreign law, would be met where that body corporate has ownership interests that are analogous to ‘ordinary share capital’ (as defined in section 2 TCA 1997). For example, a US Limited Liability Company (LLC) may issue transferrable LLC interests analogous to ordinary share capital (typically denoted as ‘membership interests’).

We understand that Revenue has previously confirmed that the holding of a membership interest in a US LLC would be treated as the holding of ordinary share capital for the purpose of the application of a number of provisions including section 626B TCA 1997.

5. Period to elect

The period within which a parent company must elect to claim the exemption is very short in view of the complexity of the issues to be considered in making such a decision, particularly in circumstances where it is a blanket election impacting all relevant distributions received by a holding company with potentially multiple shareholdings.

It will be important that the normal 4-year time limit for self-correction under self-assessment, contained in the legislation, applies so that a parent company can amend its corporation tax return to either claim the participation exemption or remove a claim for the exemption after the date of filing its corporation tax return within that time-limit. This clarification was given at TALC and we ask that it is also included in guidance.

6. Targeted Anti-Avoidance Provision

Section 831B(7)(a) provides that the participation exemption does not apply where the relevant distribution arises in respect of an arrangement or part of an arrangement which:

- has been put in place for the main purpose of obtaining a tax advantage or one of the main purposes of which is obtaining a tax advantage, and
- is not genuine having regard to the facts and circumstances.

Section 831(7)(b) provides that an arrangement or part of an arrangement will be regarded as non-genuine in circumstances where it is not put in place for valid commercial reasons that reflect economic reality.

Further guidance on the application of this test would be welcomed. In particular, we would welcome the inclusion of examples in guidance which would illustrate the practical application of the provision. We have included two suggested examples below for Revenue's consideration for the guidance.

Example 1

IreCo is a member of a non-EU headquartered international group and is the principal EMEA region trading company of the group. For various commercial reasons, the group also has subsidiaries in other EMEA jurisdictions. Commercially it would make sense for IreCo to be the holding company of these other EMEA subsidiaries; however, due to the absence of a dividend participation exemption regime in Ireland, these other EMEA group members have been owned by a non-Irish sister company of IreCo: XCo. On foot of the introduction of section 831B TCA 1997, the group transfers those subsidiaries of XCo that could satisfy the definition of 'relevant subsidiary' to IreCo.

Section 831B(7) should not apply in these circumstances and IreCo should be entitled to apply the participation exemption in respect of relevant distributions from its newly acquired relevant subsidiaries.

Example 2

Ire Co 1 directly owns 96% of the ordinary shares of a UK company which qualifies as a relevant subsidiary. Ire Co 1's wholly owned Irish subsidiary, Ire Co 2, owns the other 4% of the ordinary shares of the UK company. Consequently, while Ire Co 1 holds a qualifying participation in the UK company, Ire Co 2 does not.

The group considers either transferring 1% of the of the ordinary shares of the UK company owned by Ire Co 1 to Ire Co 2; or transferring the 4% of the of the ordinary shares of the UK company owned by Ire Co 2 to Ire Co 1.

Section 831B(7) should not apply in either scenario and Ire Co 1 or Ire Co 2 (as the case may be) should be entitled to apply the participation exemption in respect of relevant distributions from the UK company.

Deductible Dividends

The participation exemption does not apply to deductible dividends. However, there are circumstances where a dividend may be deductible under the terms of an anti-avoidance provision but not deductible generally against income tax.

As a policy matter, the governments of some jurisdictions may wish to discourage the retention of (certain classes of) profits in companies because the non-payment of dividends may result in the deferral of income tax for the shareholders. One approach to encourage the making of regular dividends is to impose an additional tax (a surcharge) on profits which are not distributed within a specified timeframe.

Ireland has such a rule in its domestic legislation whereby close companies may be subject to a surcharge on their undistributed estate and investment income or a surcharge on their service company income where the profits from these activities is not distributed within a specified timeframe.

The relevant legislation for surcharge on estate and investment income says:

> *"Where for an accounting period of a close company the distributable estate and investment income exceeds the distributions of the company for the accounting period, there shall be charged on the company an additional duty of corporation tax (in this section referred to as a "surcharge") amounting to 20 per cent of the excess.*"

On a plain reading of the above, it could be concluded that legislation framed in this manner does not provide for a deduction for distributions made as the surcharge (which is a form of corporation tax) is imposed on such amount of the relevant profits that exceeds the distributions made. Under this interpretation, any rule denying the application of the participation exemption where a tax deduction has been taken for the dividend concerned would not apply where a similar surcharge is framed in the above manner (albeit it would be desirable to make this clear in the enacting legislation).

That said, while the Irish legislation does not make specific reference to the taking of a tax deduction for dividends in determining the amount subject to a close company surcharge, it is quite possible that the tax laws in another jurisdiction could implement a similar policy initiative but frame it as entailing a tax deduction for the making of the dividend rather than imposing the surcharge on the excess of profits over distributions. Indeed, this is the case for the US personal holding company rules.

For US federal corporate income tax purposes, in general, a corporation will be considered a personal holding company if:

(a) at least 60% of the corporation's adjusted ordinary gross income for the tax year is from certain dividends, interest, rent, royalties, and annuities; and

(b) at any time during the last half of the tax year, 5 or fewer individuals directly or indirectly own more than 50% in value of the corporation's outstanding stock.

Under the US personal holding company rules, in addition to paying ‘ordinary’ US federal corporate income tax, a personal holding company is subject to an additional tax (called a personal holding company tax) on its undistributed personal holding company income (as defined) equal to 20% of that undistributed personal holding company income.

The relevant legislation provides that a personal holding company’s ‘undistributed personal holding company income’ is its taxable income (subject to various adjustments) ‘minus’ the dividends paid during the taxable year (and certain other dividends).

As a result, the framing of the personal holding company tax surcharge is such that a tax deduction is taken for relevant distributions. While the formulation of the surchargeable amount is different, the policy objective underpinning this additional tax is essentially the same as that under the Irish close company rules.

Importantly, in the case of an Irish company subject to the Irish close company rules and a US company subject to the US personal holding company rules, a company is subject to ‘ordinary’ corporation tax and federal corporate income tax respectively. In neither case can a tax deduction be taken against the profits of the company concerned for the purposes of computing those taxes.

We request confirmation in guidance that a distribution will still be a relevant distribution where it is taken into account (by means of deduction, reduction, or otherwise) in computing a tax that corresponds to a close company surcharge in the State so long as it is not deducted for the purposes of a tax in a foreign territory which corresponds to corporation tax in the State (other than a surcharge levied under Part 13).

7. Making a 'relevant claim' for accounting periods that straddle 1 January 2025

In circumstances where a parent company does not have a 31 December accounting period end (e.g. accounting years ending on 31 March 2025), distributions may be made by a 'relevant subsidiary' to that parent company both before and after 1 January 2025.

For the purposes of making a relevant claim under section 831B(8), we would welcome confirmation as to how the Form CT1 requirements will be framed. Will it clearly indicate that the claim relates to relevant distributions made on or after 1 January 2025? Will there be a requirement to specify the relevant distributions in the return?

8. Jurisdictions without a local concept of tax residence

As section 831B is currently worded, there is considerable uncertainty surrounding how subsidiaries located in such a jurisdiction will be able to satisfy the requirements to be considered a relevant subsidiary for the purposes of the participation exemption for foreign dividends. The definition of a relevant subsidiary in subsection (1) requires a subsidiary to be *"resident for the purposes of foreign tax".*

Both Hong Kong and the US, for example, are considered to be relevant jurisdictions by virtue of the fact that they have tax treaties in place with Ireland. However, the US and Hong Kong are generally considered as not having the concept of tax residence

in their domestic tax legislation. Consequently, it is not clear how subsidiaries located in the US or Hong Kong would satisfy the residency condition to be a relevant subsidiary.

Revenue has several published practices dealing with difficulties presented by a treaty jurisdiction which does not have a concept of corporate tax residence under domestic law. For example, Revenue guidance dealing with issue in respect of Hong Kong corporations states that a residency condition would be satisfied if the company paying the interest is a resident of Hong Kong for the purposes of the double tax treaty with Ireland.[2]

To ensure certainty and consistency for taxpayers, we ask that the guidance confirms that where a subsidiary is considered to be resident in a relevant jurisdiction under a tax treaty with Ireland, it should satisfy the residency requirements for the purposes of being considered a relevant subsidiary.

<u>Territorial regimes and ‘foreign tax’</u>

In addition to the ‘resident’ issue outlined above, there is a further point which requires clarification. Territorial regimes could be said to ‘generally’ apply tax to income arising from sources within that territory as opposed to generally applying tax to all income arising to a company. If this narrow interpretation is taken in relation to territorial regimes, then income distributions from an entity that is treaty resident in a ‘relevant territory’ which operates a territorial taxation regime would not be eligible for the participation exemption. Such an interpretation would appear to be contrary to the policy intention of the legislation as it applies to residents of treaty partner states.

[2] Revenue Tax and Duty Manuals Part 08-03-06 and Part 35b-01-01.

We note that Revenue has been willing to clarify that they accept certain relieving provisions apply in relation to payments to treaty partners that operate territorial regimes. We would ask that a similar confirmation is provided in guidance on the participation exemption.