HMRC

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Consultation on simplifying treaty relief from withholding tax on interest paid overseas

Introduction

UK Private Capital (formerly the British Private Equity and Venture Capital Association, or BVCA) represents 600 firms including the wider ecosystem of professional advisers and investors. Private capital consists of private equity and venture capital which makes long-term investments to grow British businesses and build a better economy. Private credit and venture debt also provide active and engaged debt finance to businesses.

The private capital industry backs 13,000 UK businesses, nine in ten of which are small or medium-sized enterprises. Businesses backed by the industry employ 2.5 million people across the UK and contribute 7% to GDP.

In 2024, £29.4bn was invested by private capital into UK businesses in sectors across the UK economy, ranging from consumer products to emerging technology. This increased investment has fuelled the growth of businesses across the UK, with six in ten (58%) of the businesses backed in 2024 located outside London. These investments are long term, with an average investment period of six years, in contrast to less than a year in public markets. UK-based private capital specialists have raised £190bn of funds, known as dry powder, expected to be invested over the next three to five years.

We are pleased to have the opportunity to respond to this consultation. UK Private Capital and the wider investment fund industry are aligned in supporting HMRC's aim to ensure that the administration of treaty relief on interest withholding is streamlined and efficient, while still protecting the Exchequer by ensuring that any tax due is properly collected.

Executive summary of our response

We support the Government's objective of simplifying the administration of treaty relief from withholding tax on cross-border interest payments. The current system directly affects the ease with which overseas capital can be deployed into UK businesses, the attractiveness of the UK as a borrowing jurisdiction, and the cost and complexity of doing business in the UK. The efficiency with which treaty relief can be obtained is therefore not only an administrative matter, but one with broader implications for investment, growth and competitiveness.

In private capital transactions, financing arrangements are often put in place under demanding commercial timelines and involve a wide range of domestic and international lenders. The current treaty relief processes are perceived as unusually reliant on HMRC approvals and administrative processes when compared with many other jurisdictions. As a result, parties frequently need to devote significant time and cost to negotiating contractual protections against delays, uncertainty and procedural failure. In some cases, businesses must manage withholding and repayment processes, defer interest payments, or pursue alternative structures solely because relief cannot be obtained with sufficient speed or certainty. These frictions create avoidable obstacles to investment activity.

While withholding tax is rarely a determining factor in isolation, investors and lenders make decisions on where to do business based on the overall ease, predictability and cost of operating within a jurisdiction. Reducing administrative complexity would help ensure that capital can be deployed more efficiently into UK businesses, particularly small and medium-sized enterprises, and would support the Government's wider objectives of encouraging investment and economic growth.

Against that backdrop, we welcome the Government's willingness to revisit the operation of the current regime. Our members' experience is that the principal challenges relate not to the underlying policy intent of the withholding tax rules, but to the administration of treaty relief and the level of uncertainty and delay that can arise in practice. Reforms which improve certainty, simplify compliance obligations and reduce reliance on administrative approvals would deliver meaningful benefits for borrowers, lenders and HMRC alike.

Key points in our response include:

- Delays and uncertainty associated with the DTTP process create additional costs, complexity and risk for commercial transactions.
- The current rules and guidance relating to transparent entities and partnership lenders are particularly difficult to apply in practice and can produce inconsistent outcomes.
- Delays in obtaining treaty relief can create significant cashflow issues for taxpayers and may require withholding and refund processes that are costly and time-consuming to manage.
- Extensive notification and administrative requirements often impose burdens that appear disproportionate to the underlying compliance risk.
- The traditional DT Company form is frequently difficult to use in modern financing structures and is not well suited to many common lender types.
- A move towards self-assessment, or a hybrid system that retains some elements of the existing Treaty Passport scheme, could significantly reduce administrative burdens while continuing to protect the Exchequer.
- Any new regime should accommodate the lending structures commonly used by private capital funds, including partnerships and other transparent entities.
- Maintaining a mechanism through which taxpayers can obtain formal certainty from HMRC in genuinely difficult cases would remain valuable, even if the wider regime is simplified.

Overall, we believe this consultation presents an opportunity to modernise an area of the tax system that affects the flow of international capital into UK businesses. Well-designed reforms could reduce unnecessary friction, increase certainty, improve the UK's attractiveness as a destination for investment and lending, and support the Government's broader growth and competitiveness agenda, while continuing to safeguard the integrity of the tax system. We would welcome the opportunity to continue working with the Government and HMRC to develop practical and effective solutions.

Our responses to the consultation questions are set out more fully below. We note that the consultation does not cover the pausing and review of the statutory concession in relation to failure to operate withholding when treaty relief would have been available. However, it is difficult to divorce these areas entirely. The availability of the concession is important when assessing how the system operates, and we comment on this in our response.

Question 1: To what extent do the current processes for obtaining treaty relief on interest create delays, costs, or administrative burdens? Which specific aspects cause the most difficulty? Please provide examples or evidence where possible.

The private capital industry frequently encounters issues with withholding tax on interest. Credit fund lenders invest in the UK, and so there are overseas lenders (of differing entity types) lending to UK borrowers, while UK portfolio companies of private funds borrow from a wide range of lenders, including a variety of non-UK entities. In addition, fund vehicles (or their general partners) are often borrowers under fund financing arrangements.

Generally, the DTTP scheme is used if possible. It is less common for the private capital industry to utilise the traditional "DT Company" form, the Qualifying Private Placement ("QPP") regime or the quoted Eurobond exemption to address withholding, although this does occur, most notably with the use of the DT Company form. Some comments on the QPP are made in our further responses below, although we recognise the focus is on treaty relief.

We have encountered a number of issues with the DTTP scheme and the wider direction process.

DTTP1 – delays and related issues

Lenders obtaining a passport using DTTP1 have sometimes encountered lengthy delays in being given a passport number (and in receiving confirmation of a renewal of a passport). There is also significant unpredictability in the timing for a passport to be provided. This issue is particularly acute for credit fund lenders, who may be lending out of newly established vehicles. The risk of delays has resulted in burdens on both parties to loans, because negotiation of loan documents is carried out in the context of unpredictability and the risk of delay. This means that consideration needs to be given to, for instance, a passport not being obtained before the first interest payment date.

There is also uncertainty surrounding HMRC's approach to DTTP1, which may contribute to these delays. The treaty passport guidance appears to be clear. DTTP30110 states that corporate entities may apply for a passport if they are resident in a treaty country for tax purposes. Under DTTP30400, lenders granted a passport may only use it if they meet wider treaty requirements. This includes that they can "reasonably demonstrate" that they are the beneficial owner of the interest, something which can only technically be fully determined on a "loan by loan" basis once the loan is entered into and the surrounding circumstances are known. Thus, DTTP1 requires proof of residence, with the other conditions being met through use of the loan and related use of DTTP2.

However, lenders sometimes receive requests from HMRC for further information relating to beneficial ownership, which seem inconsistent with a DTTP1 application as envisaged in the guidance. Under the guidance, lenders may apply for a passport and, although the scheme is discretionary, can expect to be eligible if they are resident in a treaty jurisdiction. They may only use the passport for eligible loans and the question of beneficial ownership must, necessarily, be determined on a "loan by loan" basis, as the consultation confirms. Although, in most cases, lenders are likely to be the beneficial owners of interest under all loans, that is not universally the case and many lenders may apply for passports well before the terms and structures of a loan are finalised.

In the context of the use of DTTP1 as envisaged in the guidance, there appears to be limited scope for a substantive assessment by HMRC. Lenders need to evidence that they are resident in a treaty jurisdiction, and residence is typically determined by that jurisdiction. As a result, this aspect of the process might reasonably be expected to operate routinely and with a high degree of certainty. The delays and queries that arise in practice can be difficult to reconcile with the role of the DTTP1 process as described in the published guidance. Accordingly, we would welcome clarification of the intended operation of the DTTP1/DTTP2 process, including how any changes arising from this consultation are expected to apply in practice, so that taxpayers and advisers can navigate the regime with greater certainty.

Complexity for transparent lenders

In a funds context, lenders can sometimes be partnerships, and the rules on transparent entities including partnerships and their potential eligibility for a treaty passport are very difficult to understand. This results in mixed experiences and approaches, inconsistency and considerable cost in terms of analysis, options etc. Lack of clarity in the guidance has resulted in inconsistent outcomes, with different HMRC officials taking different approaches.

Under the wording of DTTP30100, transparent entities can participate in the scheme as lenders only if all of the constituent ultimate beneficial owners of the income are entitled to the same treaty benefits as the "applicant". The "applicant" is presumably the transparent entity itself, a point reflected in the fact that overseas partnerships are entitled to "apply" for a treaty passport, again, only where all partners are resident in the same jurisdiction and entitled to the same treaty benefits as the "applicant".

Under this interpretation, technically no transparent entity would ever be eligible because the "applicant" transparent entity itself will never be entitled to treaty benefits. Therefore, the constituent ultimate beneficial owners can never be entitled to the same benefits under the same treaty as the applicant. The difficulties in interpreting this guidance have, as stated, resulted in different experiences.

Although concession pauses are not the focus of this consultation, it is important to note that HMRC did operate a concessionary system under which a direction would be issued to a borrower on receipt of an explanatory letter in cases where limited partnership lenders had a small number of partners with treaty passports, and those partners were beneficially entitled to the interest.

This was outside the "DT Company" form but provided a valuable, pragmatic route to relief in instances in which there was, for instance, a separately managed account (SMA) lender which was a Cayman partnership with a Cayman general partner (who was not beneficially entitled to any interest) and a participant limited partner (beneficially entitled to all interest) which had a treaty passport. This concession also appears to have been paused for the present but was frequently very useful, and we would recommend that the Government consider whether (in light of whatever changes are made following this consultation) an equivalent treatment should be reinstated.

Cashflow and delays in refunds

While it is helpful that acknowledgement of an online submission of a DTTP2 entitles a borrower to pay gross immediately, the current delays in obtaining DTTP1 can result in the need for borrowers to withhold tax in the interim. This leads to reclaim delays, which can be very lengthy. This can be a significant problem, with some delays taking months to resolve, involving considerable management time and cost. This may be exacerbated by the need to agree the precise amounts to be refunded before repayments can be made. These issues significantly undermine the practical benefit of the immediate entitlement to pay gross on submission of a DTTP2.

Alternatively, parties will sometimes look to rely on the QPP while waiting for the DTTP processes to be completed. This results in a doubling of procedural formalities, with associated increased adviser costs and complexity in drafting of the relevant documentation.

The need to claim refunds places a considerable cashflow burden on borrowers who have to withhold and then wait for the refund process. Frequently, these borrowers are small UK companies. This creates significant difficulties for them and causes hardship to UK businesses.

In order to avoid the delays and administration involved in reclaims, it is not uncommon for interest payments to be deferred. This impacts lenders and can result in the UK appearing unattractive to investors. This consultation offers an opportunity to improve this situation, and we hope the Government will take forward reforms in this area.

Excessive notification requirements

Under the passport scheme (see DTTP30410 and 30420), "material changes" relating to a lender or loan require notification to HMRC. Some of the points listed do not seem very material (e.g. a change in a lender's correspondence address) while the potential breadth of others (e.g. "material change in the terms or ownership of a loan") require lengthy consideration, result in inconsistent advice and need not even be relevant to the question of treaty eligibility. This makes the passport scheme administratively burdensome to operate.

Syndicated loans are especially complicated in this regard, noting that the Syndicated Loan Scheme is rarely applicable to loans within investment fund structures. Specific notification rules apply where there is a change in lender, leaving UK borrowers dealing with onerous administration in relation to lender changes. It is not unusual for borrowers to be unaware of the need to file additional paperwork on the change in lender and, as stated above, advice can be inconsistent or even erroneous. Furthermore, agents and lenders can fail to communicate changes to borrowers.

Since lenders (new or existing) using the passport scheme are ultimately, as a rule, treaty eligible, it is unclear what policy objective these extensive notification requirements achieve. In practice, they appear primarily to increase compliance burdens for lenders, borrowers and HMRC, while creating greater scope for inadvertent administrative errors. This is especially challenging in the context of the "concession pause".

DT Company form not fit for purpose

The "traditional" DT Company clearance form is also challenging. Although intended as a "fallback" it is often unsuitable for many types of entity and requires significant modification before submission. It is also unhelpful that, despite being a formal clearance, it cannot be obtained in advance of entry into a loan.

Question 2: How well does the current process for obtaining directions in advance of payments of interest allow easy and certain access to treaty relief?

It is helpful to have a formal "direction" from HMRC, in the sense that it provides a level of certainty (the QPP is often less attractive for this reason, as explained below). This is especially true for borrowers. Lenders may have complicated structures, and borrowers will not necessarily be empowered to understand these and ascertain treaty eligibility. Some treaty tests (e.g. purpose) are highly subjective. If no direction is provided, it will be important that borrowers have an equivalent level of comfort that treaty relief can be applied.

Members have also had positive experiences with HMRC personnel in the treaty relief team, particularly valuing the ability to discover HMRC's views on points of difficulty that can arise in complex financings or in respect of new developments (such as the application of the new UK-Luxembourg DTT protocol). While individual experiences may vary, access to experienced HMRC personnel can be particularly valuable in providing clarity on complex technical issues.

The availability of a "white space" in the DT process is also appreciated, as this provides scope for slightly unusual circumstances to be explained and considered by HMRC.

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Question 3: Should UK payers of interest to lenders in jurisdictions with whom the UK have a double taxation agreement be permitted to apply treaty relief on interest payments without prior HMRC clearance? What would be the benefits and risks of this?

This would clearly have some very significant benefits as it would reduce administrative burdens, and improve timing and cashflow issues. It would assist UK competitiveness, in that it is more consistent with the operations of other jurisdictions. It would also limit scope for procedural errors, a point which is especially important in the context of the concession pause mentioned above. Furthermore, the potential ability to consider partnerships in a more practical way is an additional benefit.

As a result, we think there is a strong case for a more streamlined approach that reduces administrative burdens while continuing to achieve the intended policy objective. We therefore recommend that the Government gives this avenue further consideration, although careful thought would need to be given to the management of the associated risks.

It would be very important that any self-assessment system does not place an undue burden on UK borrowers and involve them assuming an unacceptable level of risk. As stated above, borrowers, especially in relation to fund lenders, would not be expected to have knowledge of the lender's wider structure and would not be in a position to comment on subjective treaty eligibility matters, such as purpose and beneficial ownership. Accordingly, if a form of self-assessment is introduced, borrowers should be able to accept a self-certification from a lender unless they have reason to believe it is inaccurate. They should not be put at greater risk of procedural errors and related interest and penalties under a new system.

It will be important that borrowers have an equivalent level of comfort that they do not need to withhold as is currently obtained through receipt of the direction. Without this, they may wish to seek extensive lender representations or indemnities, which may not be acceptable to lenders and may discourage overseas lenders from financing UK borrowers.

It would be important that any self-certification regime operates based on a prescribed form. It would be very helpful for HMRC to publish a template form to be completed by lenders, that is flexible enough to cover a wide range of lenders. The form could be available to be downloaded from HMRC's website, in a similar format to the template for Section 431 elections that is available in the context of employment-related securities.

We would not expect the completed form to need to be submitted to, and approved by, HMRC (as this would detract from the proposal being a true self-certification model), but having a prescribed form would reduce some of the friction that has been experienced with the QPP. In the case of the QPP, the "creditor certificate" is without an agreed form, resulting in uncertainty for borrowers around the form and content of the certificates.

In addition, a clearly agreed form will be important for lenders in the investment fund industry. Without it, investment funds may be less attractive as lenders than banks, where more informal self-certification may be easier to implement.

From the point of view of the lender, self-certification standards will require careful consideration. While HMRC will clearly expect lenders to give due consideration to their position and to be in possession of clear evidence of e.g. residence, it would not be appropriate to have a form which requires them to obtain an adviser opinion on the more complex technical matters such as beneficial ownership.

Under the current DTTP system (see DTTP30400), lenders are eligible to use a passport if they can "reasonably demonstrate" that they are the beneficial owner of interest. We consider that a similar standard would be appropriate here and should not cause undue issues for lenders. It should be noted that lenders under "LMA style" loan documents are required to fully consider their treaty position in any event to determine that they are "Treaty Lenders".

Self-assessment should also ease the burdens described above relating to syndicated loans and changes in lenders. The absence of any need to navigate a passport system or deal with repeated HMRC updates and approvals would be beneficial in this area. Lender changes occur for a variety of commercial reasons and transfers are growing in number and frequency as alternative credit institutions grow in scale and reorganise their portfolios (for example through the rise of secondaries investments). A self-assessment system would be better equipped to address these modern challenges.

Another area of friction that arises under the current system relates to situations where it is unclear whether an interest payment has a "UK source". We understand that under the current system HMRC does not encourage applications for treaty relief to be made on a "protective" basis. This requires a detailed assessment of the position (and associated time and cost) even though, were the interest to have a UK source, no withholding would be required. It would be helpful if any new regime eliminated this issue (which could be achieved through self-certification or "option 1" described below, although would also need to be considered in the context of any proposed annual reporting or similar).

There are further possibilities which could be considered, including the following options.

Alternative option one: combine self-assessment with a Lender Registration scheme

If, following this consultation, the Government's view is that there should be HMRC involvement in the self-certification process, one option would be to explore a "hybrid" of self-assessment and an updated version of the DTTP scheme. Under this proposal, lenders would be able to apply to HMRC to obtain a passport and be added to the passport register (in a similar way to the current passport scheme). However, the DTTP2 filing and need for direction would be discontinued, and passport holders would be permitted to self-assess their position on a loan by loan basis in line with the current DTTP2 principles.

The benefit of this approach would be that HMRC would continue to have oversight of the award of DTTPs, and lenders would still be required to provide certain information to HMRC or face sanction under the scheme (in essence, this proposal would allow HMRC to oversee the right of particular lenders to self-certify their position). Thus HMRC could be reassured that the scheme is operated through them, and there is no widespread non-compliance which they cannot see.

Borrowers would be entitled to rely on the passport and not risk liability through administrative oversight once a lender has confirmed to them that they are relying on the DTTP for a particular loan. In addition, borrowers could take comfort from the fact that the lender has gone through the passport application process, addressing some of the concerns that have limited the uptake of the QPP exemption.

The withholding tax is the lender's tax and so it is appropriate that they identify themselves and justify their eligibility to HMRC for the passport. It will, however, be important that the DTTP1 process is streamlined and that the function of DTTP1 is clear and agreed. In particular:

- it should be clear that borrowers are entitled to rely on a combination of the passport and the lender's self-certification, without being required to conduct any further investigation into the lender's treaty eligibility;
- the application process for a DTTP should be clear and streamlined and conducted in accordance with clear and predictable timelines. Any unpredictable and complicated process or lack of clarity will limit the UK's appeal as a jurisdiction to lend to and result in inconsistency;
- there should be clarity as to what assessment HMRC is making at the time of grant of the DTTP. As noted above, under current processes there is some ambiguity as to what level of assessment HMRC is carrying out prior to granting a passport and what level of certainty this provides lenders. Any new arrangements should provide clarity in this respect;
- the application process should not be more onerous for lenders than the current process to ensure that procedural formalities do not to act as a barrier for lenders. Any requirement to provide more extensive information to HMRC than is currently required (and to continuously update such information) may be such a barrier; and
- there should remain a forum under which SPV lenders who wish to provide HMRC with additional information in respect of their beneficial ownership position of the sort set out at HMRC manual page INTM332070 can do so.

Alternative option two: a new exemption

Another possibility, which would be of significant help to the private capital industry, would be a new exemption applicable to loans by investment funds (or their holding companies) and separately managed accounts. We consider that this exemption would be hugely beneficial and attract investment into the UK, with minimal leakage to the exchequer given the typical investor profile in such entities (treaty eligible or tax exempt, including sovereign wealth investors). It would greatly reduce the administrative burdens involved when, for instance, there are changes of partners.

We would be happy to discuss this option further. We would note that the QAHC withholding exemption has been very successful and not subject to abuse, and this would be broadening similar principles.

Provision for partnership lenders

Any new system (pure self-assessment, hybrid or a new exemption, although it should be relatively straightforward with a new exemption) should accommodate partnership lenders, and we would be happy to assist with developing this proposal. There should be provision for "look through" treatment for partnerships, and accommodation for partnerships with lenders in different treaty jurisdictions (and the UK, where the relief issues will be different) and for cases where not all partners necessarily receive interest payments.

For example, a Cayman limited partnership lender with a Cayman general partner but treaty-eligible limited partners who receive all the interest payments as beneficial owners should be eligible for gross payment of interest, despite being organised in a non-treaty country. Similarly, a Luxembourg SCSp should not be ineligible for gross payment of interest because partners are in different treaty countries. There would need to be a process for monitoring partner changes but we believe these areas (and others, such as issues relating to a mix of treaty and UK partners together with, potentially, sovereign immune partners) could be accommodated. Again, we would be happy with assist with developing workable processes.

Accommodating these structures would reduce the administrative burden on taxpayers and HMRC alike, and would provide greater certainty for internationally mobile capital. It would also help to ensure that legitimate commercial lending arrangements are not disadvantaged by the legal form through which investors hold their interests. This, in turn, would support the efficient flow of capital into UK businesses.

Retention of formal clearance

Finally on this point, in our view a system of clearances (both advance and following entry into a loan) and a related formal direction process should remain a possibility. There are always likely to be challenging situations where HMRC input and certainty would be of significant assistance.

Question 4: How would moving to self-assessment of treaty relief benefit your business (such as time saved, reduction of fees, cash-flow improvements, greater certainty)?

We have largely addressed these points above in the context of the description of possible self-assessment options.

Question 5: Do you have a view on how interest payers would satisfy themselves that all the requirements for treaty relief are met before applying treaty relief to payments? What experience do you have in other jurisdictions where self-assessment of treaty relief is possible? How well does this work?

Again, we have largely addressed how this might be considered above.

In terms of other jurisdictions, there are a range of experiences.

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In Spain, the non-Spanish lender must submit annually to the borrower a tax residence certificate (issued by the competent tax authorities of its country) within the meaning of the relevant DTT (i.e. it must say it is resident for the purposes of the DTT). In relation to wider treaty eligibility, borrowers sometimes request confirmation from lenders. This system would seem to be less helpful for investment funds with more complicated lending structures, which could lead borrowers to favour bank lenders. It is critical that any new system should not be burdensome for UK borrowers.

In Belgium, treaty relief is generally subject to the submission of a specific form to the Belgian tax authorities. The form must be completed by the lender and typically certified by the tax authorities of the lender's state of residence. In practice, subject to borrower acceptance, these forms may be provided on a periodic basis (e.g. annually) rather than per payment, provided there is no change in circumstances. There is no formal statutory requirement to notify the Belgian tax authorities of changes (whether material or immaterial). However, updated self-certification or treaty forms may be required in practice where a change affects the lender's eligibility (e.g. change in tax residence, legal status, or beneficial ownership).

In Canada, there is no requirement that specifies any information needs to be collected before reducing withholding tax to rates per the relevant tax treaty and making interest payments gross. Canada does have a process which involves the Canadian borrower submitting a form ("NR301 form") to the overseas lender, where the lender self certifies that they are beneficial owner of the interest income, they are resident in the country in question and that they are entitled to the treaty benefit. This process is not legally required and does not require tax residency certificates or routine submission to the Canada Revenue Agency, but businesses find it helpful to have a process set out that can be used to evidence reasonable care has been taken to determine the self-assessment position in event of an audit.

Ireland has a simple self-assessment process for treaty relief, under which a lender may self-certify that they are eligible to receive a partial or full refund of withholding tax by filling in a form that confirms relevant criteria are met (Form 8-3-6 Interest) and providing a copy of this to the relevant borrower for their records. There are then exceptions for jurisdictions – including the US – where local tax authorities may not be willing to support completion of the relevant form, in which case a certificate of residence may be relied upon; and if there are delays in receiving the relevant forms, AML information may be relied upon. The process remains fully self-assessed, even when forms require local tax authority support.

US domestic law benefits from greater exemptions from withholding on interest payments to non-residents. Beyond that, "W8" forms may be relied upon by borrowers absent obvious inaccuracy. However, these are quite detailed forms and are signed under penalty of perjury, which can mean that lenders find them burdensome and often rely on adviser input.

Question 6: Should self-assessment of treaty relief only be available where the risk of base erosion is low because the payer is subject to other effective restrictions on interest deductibility? If so, what would be a good basis for a threshold (such as being subject to transfer pricing rules, having net finance costs exceeding the de minimis for Corporate Interest Restriction, being subject to Pillar 2, or some combination of these)

In our view, different processes for different borrowers and lenders could impact the competitiveness of certain lenders and distort the market, as well as introducing another element of complexity. Hence we would not support this proposal. There are already robust measures to deal with base erosion issues separately.

Question 7: Would it be necessary or helpful to introduce a facility for interest-payers to obtain certainty in advance of paying interest that HMRC agrees treaty relief is available? How might such a facility work? Are you aware of other jurisdictions providing such a facility?

As stated above, we are of the view that it would be helpful to have this available for uncertain situations. A letter from the interest-payer explaining the situation should enable HMRC to offer clearance. We would not expect this system to be extensively used if the withholding system is improved, but it would remain important.

In addition, we would repeat our comments above (in our response to Question 3) that some lenders will consider it important to retain the ability to provide HMRC with additional information in respect of their beneficial ownership position, as described in HMRC manual page INTM332070.

Question 8: Are there other jurisdictions you have experience of where the administrative burden to obtain treaty relief is low, but the regime still provides effective protection against base erosion using interest? What are the requirements in such jurisdictions when paying cross-border interest? How is protection against base erosion achieved (particularly for owner-managed businesses)?

We have set out jurisdictional comparators above.

Question 9: Do you have any comments on the potential impacts of these changes on tax receipts or avoidance/evasion behaviour? We are especially interested in how businesses and lenders might respond to changes.

We would not anticipate that easing the administrative burden on withholding to non-residents would have a significant impact on the risk of tax avoidance. The UK has an exceptionally extensive treaty network and withholding on interest is not, in our understanding, a key revenue generator. Accordingly, easing the process would be a positive move for the competitiveness agenda, which we would not expect to create opportunities for tax avoidance.

We think both borrowers and lenders would react positively to the easing of the process for claiming treaty relief, whether via pure self-assessment, a "hybrid" system, new exemptions or a combination.

Question 10: What reporting requirements are imposed in other jurisdictions in which you have significant operations/investments?

Our observations on different jurisdictions are set out above.

Question 11: Would it be significantly burdensome to report payments made with complete relief (so that no UK tax is due) in the CT61, alongside payments made without relief or with partial relief? Would it be preferable instead to report them alongside treaty rated cross-border royalty payments in the CT600H? Why?

We do not think it should be necessary to report these payments through CT61, since it would have the effect of creating further burdens when the objective of the consultation is to ease them.

We would also observe that the CT61 process needs to be modernised. Currently, the tax compliance adviser must write to HMRC each quarter to request a CT61. HMRC then issues a paper form for the taxpayer to complete. This process is outdated and unnecessarily burdensome.

We do, however, appreciate that, especially if the system moves to self-assessment, HMRC will likely need to receive this information. Accordingly, we would suggest the use of a schedule to a company's corporation tax return (or a partnership's information return if the borrower is a partnership) containing these details. This would be easier than a quarterly form which falls outside the "natural" filing cycle.

Question 12: What sanctions are imposed in other jurisdictions in which you have significant operations/investments?

We have no comments on this question at this time.

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Question 13: What would be a proportionate but effective set of sanctions for non-compliance in this area? How should this apply in the following circumstances?

The UK already has a robust framework for penalties, so additional "sanctions" should not be required. It is important that administrative errors should not have disproportionate consequences. For this reason, the concession approach, while currently paused, worked very well. It is not appropriate for borrowers who erroneously make gross payments to be required to account to HMRC not only for late payment interest but also for the amounts of tax which were not withheld, even where the overseas lender is ultimately treaty-entitled to receive interest payments gross or at a reduced rate. We note that some disclosures resulting from the concession pause are become extremely time consuming to resolve and can go back over many years.

Question 14: Are there any other options or ideas for simplifying the withholding process on interest that you believe the government should consider? This could include international examples not mentioned above, or innovative uses of technology or data sharing.

We have addressed this above.

Question 15: Do you have any other comments in relation to changes which could be made to the current system for withholding on payments of interest and how these would impact (positively or negatively) to your/your clients' organisation? This may be in the form of time saved per transaction, reduction in fees, cash-flow.

We have addressed this above.

In our view, this consultation presents a valuable opportunity to improve the efficiency, certainty and competitiveness of the UK's processes for claiming treaty relief on interest. We therefore encourage the Government to take forward meaningful reforms in this area and would be pleased to continue engaging constructively to support the development of a regime that works effectively for taxpayers, HMRC and the wider economy.

Yours sincerely

The UK Private Capital Tax Committee