

## **Interest Payments made to a 75% or more Non-Resident Parent Company**

### **Part 06-02-04**

This document should be read in conjunction with section 130(2)(d)(iv) of the Taxes Consolidation Act 1997

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## Introduction

The purpose of this manual is to reaffirm the existing treatment of interest payments which fall within the provisions of Section 130(2)(d)(iv) TCA 1997.

### 1. Background

A decision by the Supreme Court in December 1986<sup>1</sup> held that a payment of £765,900 made by the company as interest on a loan from its Japanese parent company in respect of the year 1979/80 was not a dividend within the meaning of Article 11 ("Dividends") of the Double Taxation Relief (Taxes on Income) (Japan) Order 1974, but was a payment of interest to which Article 12 ("Interest") of the Convention applied. The Court also held that the payment was a distribution within the meaning of section 130(2)(d)(iv) TCA 1997 (formerly section 84(2)(d)(iv) CTA 1976) and that there was no conflict between that section and the provisions of the Convention.

### 2. Revenue Practice

The Revenue treatment of interest which is regarded as a distribution under section 130(2)(d)(iv) has always depended on the definition of dividends contained in the double taxation treaty between this country and the country of residence of the 75% parent company in question. It should be noted that some treaties do not extend the definition of dividends to include certain interest payments, it is therefore imperative that each treaty is looked at separately.

**The provisions of section 130(2)(d)(iv) will clearly apply in cases where –**

- Companies, resident in Ireland, are making service payments on debt claims arising here, to 75% parent companies resident in countries where the treaty contains a definition of dividends which includes payments deemed to be distributions under the provisions of section 130 TCA 1997.

Where the definition of dividends in the relevant treaty has not been revised, interest payments falling within the provisions of section 130(2)(d)(iv) TCA have always been treated in the same manner as interest generally under the relevant treaty and, unless otherwise prohibited, such payments have been allowed as a trading expense to the paying company.

This treatment is to be continued. This will include cases involving treaties which provide for the application of withholding tax rates to such interest payments.

[Double taxation treaties](#)

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<sup>1</sup> Murphy (Inspector of Taxes) -v Asahi Synthetic Fibres (Ireland) Ltd III ITR 246