

Corporate tax reform: lending to related parties (2) (1/36/17)

To pick up where we left off on [lending to related parties](#), this article offers examples for some of the exclusions where lending to related parties is not treated as a profit distribution.

Designations used in the examples:

Loan is not deemed a profit distribution - - - ->

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Example 1. A loan from a shareholder

The law

A loan that a shareholder makes to a taxpayer is not treated as a profit distribution.

PwC interpretation

The law is silent as to whether a shareholder's loan to a subsidiary's subsidiary (subsidiary B) qualifies for an exemption. We believe that this kind of lending also qualifies for an exemption.



Example 2. The amount of a loan from an unrelated party

The law

Lending to related parties will not be deemed a profit distribution, provided the loan made by the taxpayer does not exceed a loan taken from an unrelated party.

PwC interpretation

A taxpayer can lend to related parties to the extent of a loan he has taken from an unrelated party. This exemption essentially applies where the taxpayer is acting as, say, a group account holder who is lending out of finance received from a bank.



Example 3. Retained earnings brought forward

The law

Lending to related parties will not be deemed a profit distribution, provided no retained earnings appear on the taxpayer's balance sheet at the beginning of the financial year.

PwC interpretation

The taxpayer can lend out of any funds earned in the current period as long as he has no retained earnings brought forward on his balance sheet at the start of this period.



Example 4

The law

Lending to related parties will not be deemed a profit distribution, provided the loan made by the taxpayer does not exceed his authorised share capital at the beginning of the financial year less any loans not repaid, with the exception of loans specified at (a), (d) and (e) (see the section “Exclusions: loan criteria” in our earlier article).

PwC interpretation

The taxpayer can lend out of his share capital in the light of any qualifying loans made in past periods that are still to be repaid.



Please note that these examples –

a) are based on our interpretation of the new CIT Act and are subject to change depending on the content of the binding Cabinet Regulations currently in preparation that are not yet publicly available; and

b) ignore special situations that might arise during the period of transition and are described in the transition rules of the new CIT Act relating to retained earnings brought forward before 2018.