



BRADLEY TAX CONSULTING



**Irish interest free loan structures
Changes introduced in Finance Act 2011**

February 2011

The Irish Finance Act was enacted on 6th February 2011. One of the measures will have a significant impact on Irish interest free loan structures that are channelled via Luxembourg and The Netherlands.

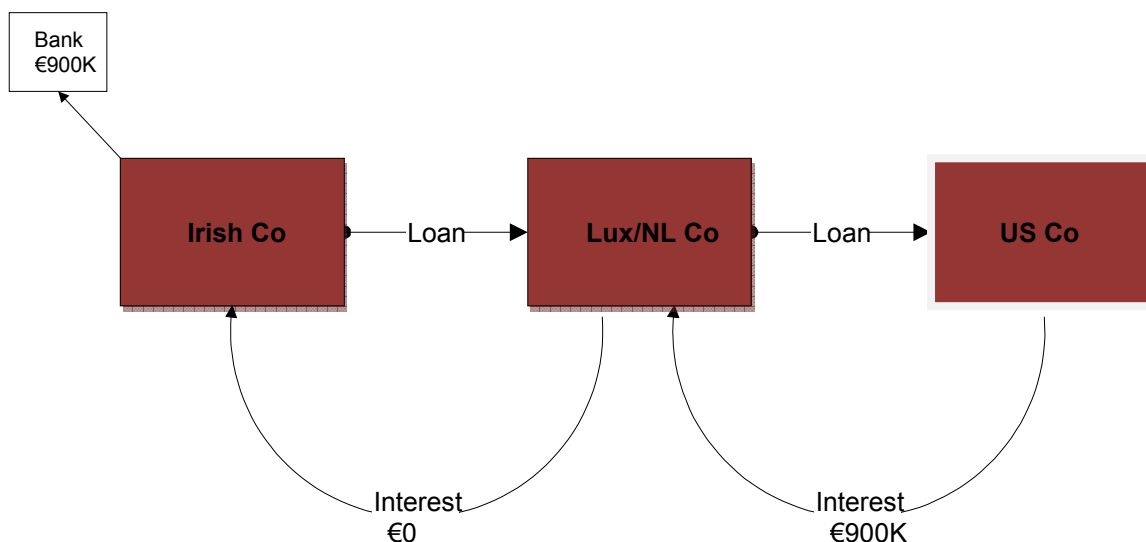
Many intergroup financing structures involved an Irish company granting an interest free loan to a foreign affiliate that is located in a jurisdiction that would give a deemed deduction for “interest” on an interest free loan. To the extent that the Irish company borrowed from a third party financial institution, it could qualify for interest on the sums paid to the external bank even though it earned no interest income once the funds were loan to a Luxembourg or Dutch entity.

Following Finance Act 2011, the Irish company’s interest relief as a charge on borrowings used by a non resident company to generate interest income is restricted in certain cases. In quantifying the restriction, one has to determine the amount of interest income earned, if any, by the Luxembourg or Dutch company which is not repatriated to Ireland.

Example:

Assume the following facts

- Irish Co borrows from an external bank and pay annual interest in the sum of €900,000
- Irish uses the monies to grant an interest free loan to a Luxembourg/Dutch finance company, Lux/NL Co
- Lux/NL Co onlends these monies to US Co and earns interest of €900,000. In Luxembourg and The Netherlands, Lux/NL Co would get a “deemed” deduction for interest on the loan from IrishCo even though no interest is actually payable.



Prior to Finance Act 2011, the Irish company could claim relief on the interest paid on the loan to the bank of €900,000, assuming of course it satisfies all the other conditions of S247 TCA 1997.

Post Finance Bill 2011, the interest relief in Irish Co is computed will be nil. This is because the interest paid on the internal loan of €900,000 exceeds the amount of interest arising to the IrishCo (Nil). The amount of relief available for this interest shall not exceed the amount by which the interest paid to the bank (€900,000) exceeds the interest arising to the other company (€900,000). As the excess is nil, no relief is available for the interest paid of €900,000.

This section shall apply in respect of a loan made on or after 21 January 2011 other than any such loan made in accordance with a binding written agreement made before that date. Grandfathering provisions are therefore in place in respect of existing loan agreements. However, this measure will have a significant impact on interest free loan structures and alternative planning will be necessary for new financing arrangements that will be put in place.

For further information, please contact

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