waystone

An Overview of Section 110

Section 110 of the Tax Consolidation Act 1997 governs the tax treatment of such entities. Section 110 provides that the taxable profits of such qualifying companies are calculated on the same basis as a trading company.

This means that the cost of financing such as profit-dependent interest is generally tax-deductible and other costs such as the issuing of financial instruments are tax-deductible. A Section 110 company, therefore, overcomes issues with interest deductibility in certain circumstances.

Any surplus income earned by a Section 110 company is liable to tax at the higher 25% rate of corporation tax, however, with careful structuring such a vehicle should be tax neutral and be liable to minimal tax on its profits..

Section 110 Company - Criteria

Certain criteria must be met in order to be deemed a qualifying company, as well as criteria in respect of qualifying assets, for example:

- the company must be resident in Ireland for tax purposes
- the Section 110 company must acquire, hold or manage the qualifying assets in Ireland (please see definition below)
- the market value of all qualifying assets must not be less than €10 million at date of acquiring the assets.

Section 110 Company - Assets

A Section 110 Securitisation Company was originally limited to managing and holding of financial assets. The Finance Act 2011 extended the regime to include plant and machinery, leased assets and commodities such as carbon credits. The following is a list of what constitutes a 'qualifying asset', in relation to a qualifying company. This list includes:

- shares, bonds and securities
- futures, options, swaps and derivatives
- bills of exchange, promissory notes
- lease portfolios and loan portfolios
- insurance and reinsurance contracts
- commodities such as carbon credits
- plant and machinery.

Section 110 Company - Advantages

- with careful structuring, such a structure should be tax neutral
- the cost of funding and other related expenditure is tax deductible
- a Section 110 Company can avail of the benefits of Ireland's extensive taxation treaty network
- a Section 110 Company can avail of exemptions from withholding tax payments on interest and dividends payments
- there is an exemption from stamp duty available to a qualifying Section 110 Company on the issue and transfer of notes
- for VAT purposes, a Section 110 company would generally be treated as engaged in VAT-exempt activities for VAT purposes and such a company would have a limited ability to recover VAT on any services it receives.

How can Waystone help?

Waystone can assist with:

- incorporating the company in Ireland
- maintaining a registered office of the company in Ireland
- providing suitably qualified Irish resident directors appointed to the board
- opening an Irish Bank account
- maintaining the books and records of the company
- organising and holding quarterly board meetings in Ireland
- managing and filing the audit accounts with the CRO, including filing annual returns
- ensuring all regulatory reporting requirements from the Central Bank are prepared, reviewed and filed within the mandatory deadlines.

Each Section 110 Company is required to register with the Central Bank no later than five workings days after its first financial transaction, we ensure clients are registered in a timely manner with the Central Bank.
The Central Bank requires all Irish-resident Section 110 Companies (SPVs and FVCs) to complete quarterly and annual statistical returns. Waystone's in-house experts file these SPV and FVC returns quarterly within the required deadlines.

We ensure you are kept up-to-date with changes in regulations, including any new regulations which may affect existing clients to ensure adherence to European Union regulations, including submitting data to the Central Bank when and as required.

To find out more please contact your usual Waystone representative or contact us below

Contact Us →