



HM TREASURY



HM Revenue  
& Customs

# Overview of draft legislation for Finance Bill 2011

December 2010





HM TREASURY



HM Revenue  
& Customs

# Overview of draft legislation for Finance Bill 2011

---

December 2010



Official versions of this document are printed on 100% recycled paper. When you have finished with it please recycle it again.

If using an electronic version of the document, please consider the environment and only print the pages which you need and recycle them when you have finished.

© Crown copyright 2010

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

ISBN 978-1-84532-812-2  
PU1109

This document and the Office for Budget Responsibility's forecast, which the Government accepts, constitutes the Pre Budget Report for the purposes of section 156 of the Finance Act 1998.

# Contents

---

	Page
Foreword	3
Chapter 1	Finance Bill measures 5
	Section 1a – Tax measures proposed for Finance Bill 2011 with draft legislation 6
	Section 1b – update on other proposed Finance Bill 2011 measures 10
Chapter 2	Tax information and impact notes 11



# Foreword

---

At the June Budget, I launched a consultation on how the Government could improve tax policy making.<sup>1</sup> I stated then my desire for a more predictable and stable tax system, and a policy cycle that allows proper time for scrutiny of draft legislative proposals. Today we are publishing our response to that consultation and setting out concrete proposals on how we intend to improve tax policy as a result.<sup>2</sup>

One of the main features of our new approach is a commitment to confirm the majority of tax measures at least three months before introduction of a Finance Bill. This will become an established feature of the tax policy cycle. A stable tax system relies on adequate scrutiny, which helps ensure that by the time legislation comes before Parliament it will work in the way intended, avoiding further amendments to legislation so often seen in recent years.

We are publishing today draft legislation for Finance Bill 2011, which will be available for technical comments until 9 February 2011.<sup>3</sup> Many of these measures have already been subject to policy consultations and the period between now and the Budget will allow the Government to consider points on how the legislation works. The Finance Bill will be published on 31 March 2011, shortly after the Budget.

This document provides an overview of each of the measures confirmed today. It also contains new Tax Information and Impact Notes (“TIINs”) for all measures. These are designed to provide greater clarity as to why we are making these changes and the likely impacts of each change. I look forward to hearing how our changes to tax policy making are received and how we can improve further to ensure our tax system is both robust and understandable.



David Gauke MP

Exchequer Secretary to the Treasury

<sup>1</sup> *Tax policy making: a new approach*, HM Treasury and HM Revenue & Customs (HMRC), June 2010.

<sup>2</sup> *The new approach to tax policy making*, HM Treasury and HMRC, December 2010.

<sup>3</sup> This Bill will be introduced to Parliament as the Finance (No.3) Bill as it is the third Finance Bill of the session. On Royal Assent it will become Finance Act 2011.



# 1

## Finance Bill measures

---

**1.1** The Government is committed to improving the way that tax policy is developed, communicated and legislated. Alongside the June Budget, the Government published proposals to increase predictability and stability in the tax system, with consultation on policy and scrutiny of legislation as cornerstones to the new approach.<sup>1</sup> Over the summer, the Government consulted with taxpayers and tax practitioners on these proposals and has today published its formal response.<sup>2</sup>

**1.2** One of the most significant features of this new approach is a commitment to confirm the vast majority of measures for inclusion in the Finance Bill at least three months prior to introduction of the Bill itself, and, where possible, to publish draft legislation for each of these measures. This gives taxpayers more certainty about future tax changes and provides a greater window for pre-legislative scrutiny.

### Consulting on draft clauses

**1.3** The Government today is publishing draft clauses for Finance Bill 2011.<sup>3</sup> The contents of the Bill will be confirmed at Budget 2011, and subject to overall decisions taken at Budget 2011. The Government does not envisage there being a large number of additional measures in the Bill over and above those set out in this document.

**1.4** The Chancellor of the Exchequer has already announced that the Budget will be held on 23 March 2011 and the Government has today confirmed that Finance Bill 2011 will be published on 31 March 2011. Reflecting the new tax policy cycle proposed in the Government's consultation document on tax policy making, the majority of measures to be legislated in Finance Bill 2011 were announced in the June Budget.

**1.5** The Government seeks comments on the draft clauses and draft explanatory notes published alongside this document, and would welcome comments to ensure that the draft legislation works as intended. Consultations on policy have already been completed where appropriate and the draft legislation reflects the Government's policy decisions in light of responses received.

**1.6** If you wish to comment on any of the draft clauses published today, please use the contact details provided at the end of the relevant explanatory note. Please send comments by 9 February 2011, when consultation on the draft legislation will close.

**1.7** This document provides supplementary information to the draft legislation for Finance Bill 2011, including:

- confirming the majority of measures to be included in Finance Bill 2011; and
- setting out, for each measure, what the legislation seeks to achieve, why the Government is undertaking the change and a summary of the expected impacts of the change in a Tax Information and Impact Note ("TIIN").

<sup>1</sup> *Tax policy making: a new approach*, HM Treasury and HM Revenue & Customs (HMRC), June 2010.

<sup>2</sup> *The new approach to tax policy making*, HM Treasury and HMRC, December 2010.

<sup>3</sup> Available on the HM Treasury website: [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk).

1.8 These changes reflect the Government's aim to improve the way in which information on tax policy changes is presented.

## Background to this chapter

1.9 This chapter has two sections:

- Section 1a sets out measures which will be introduced in Finance Bill 2011 for which draft legislation has been published today; and
- Section 1b provides updates on further measures announced that are being considered for inclusion in Finance Bill 2011 but are still subject to more detailed consultation.

## Section 1a – Tax measures proposed for Finance Bill 2011 with draft legislation

1.10 This section summarises all tax policy measures currently proposed for inclusion in Finance Bill 2011 for which draft legislation has been published today. More detail on each measure is set out in the TIINs following Chapter 2.

1.11 As set out above, the majority of these measures were announced in the June Budget. This section also includes a small number resulting from policy developments or other issues arising since then.

1.12 Finance Bill 2011 will also legislate for the annual changes in rates and duties either announced previously as part of the Government's fiscal consolidation plan or, as is normal, any further policy announced at Budget 2011.

### Personal tax

1.13 **Income tax rates and thresholds (including personal allowance)** – Legislation will be introduced to set rates and thresholds for income tax as announced at the June Budget. Values for these rates and thresholds were published on 2 December 2010.<sup>4</sup>

1.14 **Employer supported childcare: changes to the open generally condition** – Legislation will be introduced to remove the obligation on employers to make Employer Supported Childcare schemes delivered through salary sacrifice or flexible remuneration arrangements available to all employees.

1.15 **Employer supported childcare: changes to tax reliefs** – As announced in the 2009 Pre-Budget Report and confirmed in the June Budget, legislation will be introduced to ensure that the level of tax relief on childcare vouchers and directly-contracted childcare provided through employer-supported childcare schemes will be the same for all taxpayers.

1.16 **Furnished holiday lettings** – As announced at the June Budget and following consultation over the summer, legislation will be introduced to ensure that the tax rules for furnished holiday lettings are fully compliant with European Law. Further details are set out in the summary of responses to consultation published today.<sup>5</sup>

1.17 **Changes to the substantial donors rules** – As announced at the June Budget and following extensive consultation with the charity sector, legislation will be introduced to replace the existing provisions for countering known abuse of charity tax reliefs.

<sup>4</sup> Available on the HM Treasury website: [http://www.hm-treasury.gov.uk/tax\\_autumn\\_updates.htm](http://www.hm-treasury.gov.uk/tax_autumn_updates.htm).

<sup>5</sup> As above.

**1.18 Accommodation expenses of MPs** – Legislation will be introduced to ensure that the existing tax treatment of MPs' accommodation expenses will continue to apply following a simplification made to the expenses scheme by the Independent Parliamentary Standards Authority. This simplification was introduced with effect from 1 November 2010.

**1.19 Protection of Vulnerable Groups Scheme registration fee** – Legislation will be introduced to ensure that, following the introduction of the Protection of Vulnerable Groups Scheme in Scotland, an income charge does not arise on the fee for registering with the scheme.

## **Pensions tax**

**1.20 Restricting pensions tax relief** – As announced at the June Budget and following consultation over the summer, legislation will be introduced to restrict pensions tax relief for individuals by reducing the annual allowance from 2011 and the lifetime allowance from 2012. A summary of responses and draft legislation covering the changes to the allowances was published on 14 October.<sup>6</sup> Updated legislation has been published today. The Government is separately consulting on options to meet high annual allowance charges from pension benefits. Further details can be found in the discussion document published on 30 November 2010.<sup>7</sup> The Government intends to publish draft legislation covering this element by February.

**1.21 Pensions annuitisation** – As announced at the June Budget and following consultation over the summer, legislation will be introduced to remove rules from April 2011 that currently create an obligation for members of registered pensions schemes to secure an income by age 75. Further detail is set out in the responses to consultation document published today.<sup>8</sup>

**1.22 Pensions taxation: enabling retirement savings programme** – As announced at the June Budget, legislation will be introduced to deal with unintended tax consequences which arise due to the interaction of Pensions Act 2008 and tax legislation.

## **Corporate tax measures**

**1.23 Corporation tax: main rate** – At the June Budget, the Government announced a phased reduction in the main rate of corporation tax over four years. Legislation will be introduced to reduce the main rate of corporation tax to 26 per cent from 1 April 2012. The Government welcomes views on whether legislating for all the remaining pre-announced reductions to the main corporation tax in Finance Bill 2011 would provide greater certainty to business and whether the Government should pursue this option. If you have any comments on this issue, please use the contact details provided at the end of the relevant explanatory note.

**1.24 Corporation tax: small profits rate** – At the June Budget, alongside reductions in the main rate of corporation tax, the Government also announced a 1 per cent reduction in the small profits rate of corporation tax. Legislation will be introduced to reduce the small profits rate of corporation tax to 20 per cent from 1 April 2011.

**1.25 Capital allowances: writing-down allowances** – As part of the package of corporate tax reforms announced at the June Budget, legislation will be introduced to reduce the rate of writing-down allowances on the main pool of plant and machinery expenditure to 18 per cent and on the special rate pool to 8 per cent, both from April 2012.

**1.26 Capital allowances: annual investment allowance** – As part of the package of corporate tax reforms announced at the June Budget, legislation will be introduced to reduce the annual investment allowance to £25,000 from April 2012.

<sup>6</sup> Available on the HM Treasury website: [http://www.hm-treasury.gov.uk/consult\\_pensionsrelief.htm](http://www.hm-treasury.gov.uk/consult_pensionsrelief.htm).

<sup>7</sup> As above.

<sup>8</sup> Available on the HM Treasury website: [http://www.hm-treasury.gov.uk/tax\\_autumn\\_updates.htm](http://www.hm-treasury.gov.uk/tax_autumn_updates.htm).

**1.27 Interim controlled foreign companies (CFCs) reform** – As set out in the corporate tax reform document published on 29 November 2010, legislation will be introduced to make the current CFC rules easier to operate and as a first step to making the rules more competitive ahead of the full reform planned for Finance Bill 2012.<sup>9</sup>

**1.28 Taxation of foreign branches** – As set out in the corporate tax reform document published on 29 November 2010, legislation will be introduced to provide an opt-in exemption from corporation tax for the profits of foreign branches of UK companies.<sup>10</sup>

**1.29 Bank Levy** – At the June Budget, the Government announced that a permanent Bank Levy would be introduced with effect from 1 January 2011. Following consultation over the summer, the Government published a summary of responses and initial draft legislation for the Bank Levy on 21 October 2010.<sup>11</sup> Further amended legislation is published today.

**1.30 Corporate capital gains simplification** – As confirmed at the June Budget, following extensive consultation on simplification of the capital gains rules for groups of companies, legislation will be introduced to:

- remove some existing restrictions on the use of capital losses within a group of companies after acquisition of a business;
- replace a complex set of anti-avoidance rules with a clearer purpose-based rule; and
- modernise the degrouping charge rules, in particular how they interact with the substantial shareholdings exemption, which will make it easier for companies to plan acquisitions and disposals of group companies.

Further detail can be found in the summary of consultation responses published today.<sup>12</sup>

**1.31 Associated companies** – As confirmed at the June Budget, following extensive consultation, which included the publication of a consultation document in October 2009, legislation will be introduced to ensure that companies are only held to be associated where the substantial commercial interdependence exists between them. The summary of responses to the consultation was published on 27 July 2010 along with draft legislation and guidance.<sup>13</sup>

**1.32 Modernisation of investment trust companies** – As announced at the June Budget, and following consultation over the summer, legislation will be introduced to provide a new definition of an “investment trust”. A summary of responses document has been published today.<sup>14</sup>

**1.33 Stamp duty reserve tax: changes to “Schedule 19”** – As announced at the June Budget and following ongoing engagement with industry, legislation will be introduced to expand an exemption under the Schedule 19 rules, with the aim that Schedule 19 will only apply to collective investment schemes’ investments in underlying funds where those underlying funds themselves are significantly invested in UK equities.

**1.34 Oil and gas minor measures** – Following ongoing engagement with industry, legislation will be introduced to make minor changes to the tax regime for oil and gas companies that operate in the UK or on the UK Continental Shelf.

<sup>9</sup> *Corporate Tax Reform: Delivering a More Competitive System*, HM Treasury and HMRC, November 2010.

<sup>10</sup> As above.

<sup>11</sup> Available on the HM Treasury website: [http://www.hm-treasury.gov.uk/fin\\_bank\\_levy.htm](http://www.hm-treasury.gov.uk/fin_bank_levy.htm).

<sup>12</sup> Available on the HM Treasury website: [http://www.hm-treasury.gov.uk/tax\\_autumn\\_updates.htm](http://www.hm-treasury.gov.uk/tax_autumn_updates.htm).

<sup>13</sup> Available on the HM Treasury website: [http://www.hm-treasury.gov.uk/consult\\_simplification\\_review.htm](http://www.hm-treasury.gov.uk/consult_simplification_review.htm).

<sup>14</sup> Available on the HMRC website: [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

**1.35 Tonnage Tax and leasing** – Following changes to the wider capital allowances regime, legislation will be introduced to equalise the capital writing-down allowances for ships leased into UK Tonnage Tax with assets held outside Tonnage Tax.

**1.36 OECD transfer pricing** – Following new guidelines approved by OECD for publication in July 2010, legislation will be introduced to amend the definition of “transfer pricing guidelines”.

**1.37 International accounting standards and leasing** – New accounting standards are expected to be introduced from 2011. Legislation will be introduced to ensure that the tax treatment of lease transactions is not affected by future changes to lease accounting standards.

**1.38 Apportionment changes** – Legislation will be introduced to address an unintended tax charge by amending the current apportionment rules for life insurance companies.

## Indirect tax

**1.39 High and low strength beer duty** – Following the review of alcohol taxation announced at the Budget, the Government intends to introduce a new duty on high strength beer and a reduced rate of duty for low strength beers. As set out in the update published on 30 November 2010, further discussion with industry will take place ahead of inclusion in Finance Bill 2011.<sup>15</sup>

**1.40 Vehicle excise duty (VED) for heavy goods vehicles (HGVs)** – As confirmed in the June Budget legislation will be introduced to apply higher exceptional rates of VED solely to the categories of HGVs for which an existing rate is below the mandatory EU minimum tax rate.

**1.41 Academies VAT refund** – As announced on 22 November, legislation will be introduced to allow academies to recover VAT on a similar basis to local authority maintained schools.

**1.42 VAT: treatment of business samples** – As explained in a Revenue & Customs Brief published today, legislation will be introduced to ensure that where businesses provide samples of their products free of charge to individuals for marketing purposes, none of the samples are liable to VAT.<sup>16</sup>

## Avoidance

**1.43** The Exchequer Secretary set out the Government’s commitment to tackling tax avoidance in a written ministerial statement on 6 December.<sup>17</sup> Alongside this a number of anti-avoidance measures were announced. The Government remains committed to addressing tax avoidance and may introduce further measures for Finance Bill 2011 as required.

**1.44 Group mismatches** – Following consultation over the summer, legislation will be introduced to ensure that groups of companies cannot use loan relationships or derivative contracts to generate profits or losses purely as a result of accounting asymmetries. As confirmed in the written ministerial statement on 6 December 2010, an interim measure has been introduced with immediate effect to prevent tax losses from new schemes.

**1.45 Loan relationships avoidance: derecognition** – Following consultation over the summer, legislation will be introduced to prevent the avoidance of corporation tax in respect of loan relationships and derivative contracts where amounts are not fully recognised for accounting purposes. This was confirmed in the written ministerial statement on 6 December 2010.

**1.46 Disguised remuneration** – As announced at the June Budget, legislation will be introduced to ensure that income tax and national insurance contributions (NICs) on employment income

<sup>15</sup> Available on the HM Treasury website: [http://www.hm-treasury.gov.uk/alcohol\\_taxation.htm](http://www.hm-treasury.gov.uk/alcohol_taxation.htm).

<sup>16</sup> Available on the HMRC website: [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

<sup>17</sup> Available on the HM Treasury website: [http://www.hm-treasury.gov.uk/tax\\_autumn\\_updates.htm](http://www.hm-treasury.gov.uk/tax_autumn_updates.htm).

are not avoided or deferred through the use of trusts or other intermediaries, including Employee Benefit Trusts and Employer Financed Retirement Benefit Schemes (EFRBS). This is in keeping with the changes to the pensions tax regime from April 2011. This is today confirmed in a written ministerial statement.

**1.47 Functional currency switch schemes** – Legislation will be introduced to counter avoidance involving changes in the functional currency of an investment company. At the same time, the legislation will also introduce the option for investment companies to be able to elect for a functional currency for tax purposes other than that in the accounts. This was confirmed in the written ministerial statement on 6 December 2010.

**1.48 VAT supply splitting** – Legislation will be introduced to cancel the tax advantage currently enjoyed by businesses that supply services and arrange for different suppliers to supply printed matter which is connected to those services. This was confirmed in the written ministerial statement on 6 December 2010.

## **HMRC administration**

**1.49 Financial securities for PAYE** – The Government is consulting on proposals to allow HMRC to require a security from employers for PAYE and NICs that is seriously at risk. Further detail can be found in the consultation document published today.<sup>18</sup>

**1.50 Data-gathering powers** – The Government is consulting on proposals to modernise and simplify HMRC's information gathering powers. Further detail can be found in the consultation document published today.<sup>19</sup>

## **Section 1b – update on other proposed Finance Bill 2011 measures**

**1.51** This section provides an update on other tax measures that have been announced for possible inclusion in Finance Bill 2011, but for which draft clauses have not yet been published.

**1.52 Junior ISA** – The Government announced on 26 October 2010 that it will create new tax-free children's saving accounts.<sup>20</sup> This is likely to be legislated for through a combination of Finance Bill 2011 and detailed secondary legislation. The Government is working closely with interested parties on the design of the accounts, and intends to publish draft legislation – including detailed secondary legislation – in spring 2011.

**1.53 Climate change levy reform** – The June Budget announced that the Government would publish proposals to provide support and certainty to the carbon price through reform of the climate change levy (CCL). A consultation will be published shortly. Subject to the outcome of consultation, the Government will bring forward relevant legislation in Finance Bill 2011 and intends to share draft legislation for the lead option in January.

**1.54 Taxation of gaming machines** – Following a consultation in 2009 on the taxation of gaming machines, the Government now intends to introduce a new duty on the profits from the playing of prize games on machines. The current Amusement Machine Licence Duty (AMLDD) will be brought to an end and the exemption from VAT for betting and gaming will be extended. More detail is set out in the summary of responses published today.<sup>21</sup> Draft legislation will be published early in the new year.

<sup>18</sup> Available on the HMRC website: [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

<sup>19</sup> As above.

<sup>20</sup> Available on the HM Treasury website: [http://www.hm-treasury.gov.uk/press\\_57\\_10.htm](http://www.hm-treasury.gov.uk/press_57_10.htm).

<sup>21</sup> Available on the HM Treasury website: [http://www.hm-treasury.gov.uk/tax\\_autumn\\_updates.htm](http://www.hm-treasury.gov.uk/tax_autumn_updates.htm).

# 2

## Tax information and impact notes

---

**2.1** As set out in Chapter 1, the Government has been consulting on its approach to tax policy making. One of the elements of this has been how information about changes in tax policy is communicated and presented. A theme of consultation responses from interested parties was that it would help if HM Treasury and HM Revenue & Customs set out clearly, in a single place:

- what changes the Government proposes to make to the tax system through a specific measure;
- why it proposes these changes; and
- what it expects the impacts of these changes will be.

**2.2** As set out in its consultation on tax policy making, the Government is introducing a new approach to impact analysis for tax measures, in place of the current regulatory Impact Assessment used elsewhere in Government and covering a wider range of impacts than that model.<sup>1</sup>

**2.3** Drawing on feedback received during the consultation, the Government will therefore publishing a new Tax Information and Impact Note (“TIIN”) for each proposed tax measure, which will explain what the measure is, why it is proposed, and what are its expected impacts.

**2.4** The intention is that TIINs will be published for all tax measures at the point at which the proposed policy is settled. This will typically be when draft legislation is published for scrutiny, to ensure it will effect the desired change. TIINs will replace Budget Notes and Impact Assessments that were usually published at this time.

**2.5** The Government is publishing TIINs for the first time this autumn, alongside Finance Bill 2011 draft clauses. It wants to ensure that these products are genuinely informative and useful to taxpayers and tax practitioners. The Government recognises the need to continue to improve the content and analysis set out in these notes, as it embeds broader improvements to the tax policy making process. To inform this work and the development of TIINs, the Government welcomes feedback from interested parties.

**2.6** Please send any comments on the role, style and layout of TIINs by 9 February 2011 to: [taxpolicymaking@hmtreasury.gsi.gov.uk](mailto:taxpolicymaking@hmtreasury.gsi.gov.uk).

**2.7** All the tax policy changes contained in this document have been tested against the same list of different possible impacts as used in regulatory Impact Assessments.<sup>2</sup> Each change has been tested against each of these impacts and any impacts have been reported appropriately in the TIIN. In most cases, these impacts will be included in the “Other impacts” section of the TIIN. Those tests which result in no impact have not been recorded.

**2.8** The full list of impacts against which each policy has been tested is as follows:

- equality;

<sup>1</sup> *Tax policy making: a new approach*, HM Treasury and HM Revenue & Customs, June 2010.

<sup>2</sup> See Annex 6 of the Impact Assessment toolkit: <http://www.bis.gov.uk/assets/BISCore/better-regulation/docs/10-901-impact-assessment-toolkit.pdf>.

- competition;
- small firms;
- carbon emissions;
- wider environment;
- health;
- sustainable development;
- rural proofing;
- justice; and
- privacy.

**2.9** TIINs are published in this document for all measures for which draft legislation has been published today. TIINs are presented in the order the measures are presented in Chapter 1 of this document. For other measures to be included in Finance Bill 2011, TIINs will be produced when draft legislation is published in the spring, or alongside the Budget.

**Box 2.A: Ministerial sign-off for tax information and impact notes**

I can confirm that Treasury Ministers have read the attached Tax Information and Impact Notes and are satisfied that, given the available evidence, each represents a reasonable view of the likely costs, benefits and impacts of the measures for which the Government is publishing draft legislation on 9 December 2010.



David Gauke MP

Exchequer Secretary to the Treasury

## Order of Tax Information and Impact Notes

<b>Personal Tax</b>		<b>Corporate tax (cont)</b>	
Income Tax Rates, Rate Limits and Personal Allowances for 2011-12	14	Modernisation of the Tax Rules for Investment Trust Companies	89
Changes to the Open Generally Condition for Employer-Supported Childcare	18	Reform of Stamp Duty Reserve Tax on Collective Investment Schemes	93
Changes to Tax Reliefs for Employer-Supported Childcare	21	Oil and Gas Minor Measures	95
Furnished Holiday Lettings	24	Leasing into Tonnage Tax	98
Replacement of the Anti-Avoidance Legislation on Substantial Donors to Charities	28	OECD Transfer Pricing Guidelines	100
Expenses Paid to MPs	32	Changes to Accounting Standards for Leases	102
Tax Relief for PVGS Fees Paid or Reimbursed by Employers	34	Life Insurance Apportionment Rules	106
<b>Pensions Tax</b>		<b>Indirect Tax</b>	
Restricting Pensions Tax Relief	37	Beer Duty on High and Low Strength Beers	108
Removing the Effective Requirement to Annuitise by Age 75	44	Exceptional Rates of Vehicle Excise Duty for Certain Heavy Goods Vehicles	111
Enabling Retirement Savings Programme: Pensions Taxation	51	Refunding Irrecoverable VAT Costs Incurred by Academies	114
<b>Corporate Tax</b>		VAT: Change of Treatment of Business Samples	117
Main Rate of Corporation Tax Reduction	54	<b>Anti-avoidance</b>	
Small Profits Rate of Corporation Tax: Reduction	56	Corporation Tax Loan Relationships and Derivative Contacts: Anti-Avoidance: Group Mismatches	119
Writing-Down Allowances: Reduction from April 2012	58	Corporation Tax Loan Relationships and Derivative Contacts: Anti-Avoidance: Derecognition	122
Annual Investment Allowance: Reduction to £25,000	62	Disguised Remuneration	125
CFC Interim Improvements	66	Functional Currency: Investment Companies	129
Taxation of Foreign Branches	69	VAT Zero-Rating: Splitting of Supplies	132
Bank Levy	72	<b>HMRC administration</b>	
Corporate Capital Gains: Capital Losses after a Change of Ownership (Simplification)	76	Review of HMRC Powers, Deterrents and Safeguards: Security for PAYE & National Insurance Contributions	135
Corporate Capital Gains: Value Shifting (Simplification)	79	Review of HMRC Powers, Deterrents and Safeguards: Data-Gathering Powers	138
Corporate Capital Gains: Degrouping Charges (Simplification)	82		
Reform of Associated Company Rules as they apply to the Small Profits Rate of Corporation Tax	86		

# Income Tax Rates, Rate Limits and Personal Allowances for 2011-12

---

## Who is likely to be affected?

Income tax payers, employees and the self-employed.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to set:

- the basic rate of income tax at 20 per cent;
- the higher rate at 40 per cent; and
- the additional rate at 50 per cent.

Legislation in the Finance Bill will also increase the personal allowance for those aged under 65 to £7,475 and reduce the basic rate limit to £35,000.

The national insurance contributions (NICs) Upper Earnings Limit and Upper Profits Limit will be reduced to the level of the higher rate threshold (the total of the personal allowance for those aged under 65 and the basic rate limit) by separate regulations.

## Policy objective

The increase to the personal allowance for those aged under 65 will contribute to the Government's objective of a fairer tax system by providing support to individuals on low and middle incomes, and by increasing the rewards to work. The reduction to the basic rate limit and changes to NICs target the additional support on basic rate taxpayers.

## Background to this measure

- The June Budget announced that the personal allowance for 2011-12 for those aged under 65 will increase to £7,475 and the basic rate limit reduced so that higher rate taxpayers do not benefit from the increase.
- The June Budget also announced that the alignment of the Upper Earnings/Profits Limit with the higher rate threshold (the total of the personal allowance for those aged under 65 and the basic rate limit) will be maintained.
- There are no changes to the main rates of income tax for 2011-12.

## Detailed proposal

### Operative date

The measure will have effect on and after 6 April 2011.

## Current law

The annual Finance Act (FA) provides the charge and the main income tax rates (from 2010-11, the basic rate, higher rate and additional rate). Section 1 of FA 2010 provides for income tax and the tax rates for 2010-11.

Section 1 of FA 2010 also provides that for 2010-11, the personal allowances for those aged under 65 is the same amount as for 2009-10. Section 3 of FA 2009 provides that the personal allowance for those aged under 65 is £6,475.

## Proposed revisions

For 2011-12, the income tax rate and allowances will be:

Personal allowance for someone aged under 65	£7,475
Income limit for the personal allowance	£100,000
Personal allowance for someone aged 65 to 74	£9,940
Personal allowance for someone aged 75 or over	£10,090
Married couple's allowance for someone born before 6 April 1935 and aged over 75	£7,295
Minimum amount of married couple's allowance	£2,800
Income limit for age-related allowances	£24,000
Blind person's allowance	£1,980
Starting rate limit for savings	£2,560
Basic rate limit	£35,000
Higher rate limit	£150,000

Existing legislation requires the Government to increase personal allowances and rate limits by the annual percentage increase to the retail prices index (RPI) for the year to September preceding the new tax year. The Government made the Order to set the relevant amounts on 2 December.

The Government has announced that for 2011-12 it will over-ride the amounts set in the order for the personal allowance for those aged under 65 and the basic rate limit. These provisions will be included in Finance Bill 2011.

The personal allowance provides an amount of tax free income. An individual is liable to basic rate tax on their taxable income up to the basic rate limit. Above the basic rate limit, higher rate tax is payable up to the higher rate limit. Above the higher rate limit, additional rate (50 per cent) tax is payable.

## Summary of impacts

Exchequer impact (£m)	2010-11	2011-12	2012-13	2013-14	2014-15
	0	-3490	-3700	-3770	-3910
This costing relates to the £1,000 cash increase in the income tax personal allowance for those aged under 65 to £7,475 in 2011-12 including accompanying reductions in the basic rate limit and National Insurance Upper Earnings/Profit Limit. The costing is based on the Office of Budget Responsibility's June Budget forecast.					

<b>Economic impact</b>	The measures to increase the personal allowances for income tax form part of a package which includes an increase in the secondary threshold for employer NICs. The OBR's central judgement was that these measures would change post-tax labour income; with the measure having a positive impact on GDP (details are provided in the June Budget).
<b>Impact on individuals and households</b>	<p>The increase in the personal allowance will remove the 880,000 lowest income taxpayers out of tax altogether, and around 23 million basic rate taxpayers will gain by £170 per annum on average.</p> <p>There will be no significant change for the majority of higher rate taxpayers, but 1.75 million higher rate and additional rate taxpayers will have an average loss of £220 per annum. This includes those with incomes above £114,950 whose personal allowance will be tapered to zero, and therefore will not benefit from the increase to the allowance (approx 520,000 individuals). There will also be some higher rate or additional rate taxpayers whose tax loss is not offset by the reduction in the NICs Upper Earnings/Profit Limit (approx 1.3 million individuals, including 350,000 pensioners who do not pay NICs, and 275,000 self-employed individuals).</p> <p>In addition, there will be a further 400,000 higher rate taxpayers. However, 280,000 of these are better off because they experience the full benefit of the allowance increase without experiencing the full loss from the reduction in the basic rate limit.</p>
<b>Equalities impacts</b>	<p>Income tax changes apply regardless of personal circumstances such as gender, race, or disability. Of these categories, HM Treasury and HM Revenue &amp; Customs (HMRC) only hold taxpayer data on gender:</p> <ul style="list-style-type: none"> <li>• 45 per cent of the 23 million people better off as a result of this measure are female; and</li> <li>• 60 per cent of the 880,000 taken out of tax are female.</li> </ul>
<b>Impact on business including third sector</b>	There will be no significant compliance costs for businesses from making this routine change to employees' PAYE thresholds.
<b>Impact on public sector</b>	The impact on HMRC is negligible because changes to the amounts of personal allowances and rate limits are a routine requirement.
<b>Other impacts</b>	Small firms who are also employers will make changes to their PAYE payrolls to reflect the new amounts of personal allowance and basic rate limit. Generally speaking, this is an annual requirement and HMRC provides comprehensive support and guidance to all employers and pension providers to minimise any potential impacts.

### **Monitoring and evaluation**

The £1,000 cash increase announced at the June Budget is the first step towards the Government's longer term commitment of increasing the personal allowance to £10,000.

A key aim of this policy is to boost the rewards to employment, and HMRC and HM Treasury will seek to assess the cumulative labour market effects of personal allowance increases in the context of other relevant tax and benefit changes.

### **Further advice**

If you have any questions about this change, please contact Paul Thomas on 020 7147 2479 (email: [paul.thomas@hmrc.gsi.gov.uk](mailto:paul.thomas@hmrc.gsi.gov.uk)).

# Employer-Supported Childcare: Changes to the “Open Generally” Condition

---

## Who is likely to be affected?

Employers with employees on employment earnings at or near the National Minimum Wage (NMW) who wish to provide or continue to provide an employer-supported childcare scheme delivered through salary sacrifice or flexible remuneration arrangements.

The changes do not affect workplace nurseries.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to make a change to the qualifying conditions for employer-supported childcare (ESC) schemes in respect of childcare vouchers (CCVs) and directly-contracted childcare.

The tax exemption and national insurance contributions (NICs) disregard (for CCVs) for ESC schemes only apply if a number of conditions are met. One of these conditions is that the scheme must be open generally to employees (i.e. available to all). Many employers use salary sacrifice or flexible remuneration arrangements to provide access to schemes. These arrangements cannot be applied to workers earning at or near the NMW because of legislation in that area, which means that the schemes strictly fall outside the conditions for the relief.

The legislation amends the conditions to allow employers to make their ESC schemes unavailable to those employees earning at or near NMW levels, where the schemes are delivered through salary sacrifice or flexible remuneration arrangements. This does not prevent employers from offering ESC schemes to these employees that do not rely on salary sacrifice arrangements.

## Policy objective

This measure ensures that employers can continue to offer ESC schemes that rely on salary sacrifice arrangements, without compromising tax relief for employees. This is consistent with the Government’s objective of keeping the tax system as simple as possible. The measure does not undermine the protection afforded to employees earning at or near the NMW, and does not prevent employers continuing to offer ESC schemes to these employees.

## Background to this measure

- This measure was announced in the March Budget.
- The measure was developed in consultation with industry and employer stakeholders.

## Detailed proposal

### Operative date

The legislation will apply from the tax year 2005-2006, when tax relief for CCVs and directly-contracted childcare was introduced. Amendments to provide for retrospective change to the associated NICs legislation will be made separately.

## Current law

Sections 270A (limited exemption for qualifying childcare vouchers) and 318A (childcare: limited exemption for other care) of the Income Tax (Earnings and Pensions) Act 2003 set out the qualifying conditions for the tax relief to apply to CCVs and directly-contracted childcare. The open generally condition is taken to mean that an ESC scheme is available to all employees except in exceptional and isolated circumstances.

## Proposed revision

This proposal amends the qualifying conditions to allow employers who use salary sacrifice or flexible remuneration arrangements to make or to continue to make their ESC schemes unavailable to those employees earning at or near NMW levels without compromising tax relief.

The NICs disregard for CCVs will be amended by separate legislation.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The Exchequer impact of this measure will be confirmed at the Budget. It is expected to have a negligible impact on receipts.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	<p>There is little, if any, impact on individuals and households from this measure.</p> <p>It will protect existing tax relief provided to those employees, earning above the NMW, whose employer offers ESC through a salary sacrifice scheme.</p> <p>By law, an employee's earnings may not drop below the NMW level as a result of a salary sacrifice or flexible remuneration arrangements. There should therefore be no employees with earnings at or near the NMW affected by the measure.</p> <p>Where an ESC scheme is offered in addition to salary, it must still be made available to individuals with earnings at or near the NMW.</p>
<b>Equalities impacts</b>	As set out above, there will be little, if any, impact on individuals and households as a result of this measure. There is therefore considered to be no negative effect on the relative position of different equality groups.
<b>Impact on business including third sector</b>	This is a relieving measure. The legislation as presently set out would make many ESC schemes non-compliant and mean that employers would have to provide information on all employees who have been members of schemes past and present to HM Revenue & Customs (HMRC).
<b>Impact on public sector</b>	This measure removes potential operational and compliance costs for HMRC.
<b>Other impacts</b>	The legislation allows employers (including small employers) to provide or continue to provide ESC schemes through salary sacrifice or flexible remuneration packages. As it is a relieving measure, excluding small firms would not meet the policy objective.

### **Monitoring and evaluation**

The policy will be monitored and assessed alongside other measures in the Government's package for personal tax and benefits changes.

### **Further advice**

If you have any questions about this change, please contact Steve Gentle on 020 7147 2482 (email: [steven.m.gentle@hmrc.gsi.gov.uk](mailto:steven.m.gentle@hmrc.gsi.gov.uk)).

# Changes to Tax Reliefs for Employer-Supported Childcare

---

## Who is likely to be affected?

Employees who are higher rate or additional rate taxpayers who join employer-supported childcare (ESC) schemes providing childcare vouchers (CCVs) or directly-contracted childcare, on or after 6 April 2011.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to restrict the level of income tax relief available to higher rate and additional rate taxpayers so that it matches the amount available to basic rate taxpayers. This will be achieved by reducing the monetary value of the income tax exemption for higher rate and additional rate taxpayers. The measure only applies to individuals who join ESC schemes on or after 6 April 2011.

## Policy objective

This measure supports the Government's objective of making the tax system fairer by ensuring that all taxpayers receive the same amount of income tax relief through ESC schemes.

At present, basic rate taxpayers can receive up to £900 a year, whilst higher rate taxpayers can receive up to £1,200 of support a year through ESC. This reform will make ESC fairer, better targeted and more progressive.

## Background to this measure

- This measure was announced by the previous government in the 2009 Pre-Budget Report.
- Confirmation that this measure would be taken forward in 2011 was made in the June Budget.
- A Technical Note, *Reform of the Tax Treatment of Employer-Supported Childcare*, was published in February 2010 explaining how the policy would be delivered. Stakeholder responses to this Note have informed the development of this policy's delivery and their concerns were addressed in further guidance issued in October 2010.

## Detailed proposal

### Operative date

The measure will have effect on and after 6 April 2011.

### Current law

Sections 270A (limited exemption for qualifying childcare vouchers) and 318A (childcare: limited exemption for other care) of the Income Tax (Earnings and Pensions) Act 2003 set out the tax exempt limits of £55 per week for CCVs and directly-contracted childcare along with the qualifying conditions for the tax exemption to apply.

### Proposed revision

From April 2011, the income tax exemption for CCVs and directly-contracted childcare provided through ESC schemes will be capped at approximately the same monetary level.

This will be achieved by introducing new income tax exempt limits of £28 per week for higher rate taxpayers and £22 per week for additional rate taxpayers. This will ensure that the monetary equivalent of the tax relief entitlement for all taxpayers will be based on £11 per week.

The national insurance contributions disregard will be aligned to these levels by secondary legislation.

## Summary of impacts

<b>Exchequer impact (£m)</b>	2010-11	2011-12	2012-13	2013-14	2014-15
	+ 50	+ 50	+ 100	+ 100	+ 100
	<p>Previously this measure had included both tax and spend components which were designed to be fiscally neutral, as the intention was for the savings from reducing the tax relief on ESC to go towards a limited number free childcare places for 2 year-olds. At Spending Review 2010, decisions around free childcare places were set out and funded from alternative sources. Therefore this costing now includes only the tax component, and is based on the OBR's June Budget forecast.</p>				
<b>Economic impact</b>	<p>This measure is not expected to have significant economic impacts.</p>				
<b>Impact on individuals and households</b>	<p>It is estimated that over 600,000 taxpayers currently receive income tax relief on ESC schemes, and about 40 per cent of these are higher or additional rate taxpayers. This change only affects higher or additional rate taxpayers who join ESC schemes on or after 6 April 2011. The number of affected individuals and households will therefore build up over several years.</p> <p>The tax relief received by these taxpayers will be reduced to be the same as that received by basic rate taxpayers. The reduction in income tax relief for higher rate taxpayers will be £11 per week, and the reduction in income tax relief for additional rate taxpayers will be £16 per week.</p> <p>There are no administrative or compliance costs for individuals. These will be for employers only.</p>				
<b>Equalities impacts</b>	<p>The change applies equally to higher and additional rate taxpayers whether they are male or female. Although, it is likely that more men will be affected, as more higher rate and additional rate taxpayers are male.</p>				
<b>Impact on business including third sector</b>	<p>This measure creates an administrative burden for businesses by asking them to undertake a basic earnings assessment for employees each year. Most childcare vouchers are delivered by way of flexible benefit schemes or salary sacrifice schemes which means that for any employee who is has voucher eligibility restricted or increased the employer may need to contact the employee to agree amendment of the employment contract, revise the agreed pay for the employees pay up or down, contact the voucher provider with new details, and explain the outcomes to the employee.</p> <p>The scale of the administration will increase as the number of employees who join the schemes from 2011 increases.</p> <p>The chosen approach keeps employer contact with HMRC to a minimum.</p>				

		<b>Cost</b>	<b>Time Period (yrs)</b>
<b>Compliance Costs</b>			
One-off Costs		£ negligible	1
Average Annual Costs		£ 300,000	1
Total Costs (PV)		£ 300,000	
<b>Compliance Benefits</b>			
One-off Benefit		£ 0	1
Average Annual Benefit		£ 0	1
Total Benefit (PV)		£ 0	
<b>Net Benefit (NPV)</b>		- £ 300,000	
<b>Impact on Administrative Burden</b>			
	<b>Increase</b>	<b>Decrease</b>	<b>Net Impact</b>
	£300,000	£Nil	£300,000
<b>Impact on public sector</b>	This measure removes potential operational and compliance costs for HMRC.		
<b>Other impacts</b>	Firms with fewer than 20 employees will be included in the employers affected if they offer ESC schemes. The impact on them will be mitigated by our published guidance. Some of the stakeholders responding to the Technical Note represent both large and small employers and no distinction was drawn on the ability of smaller employers to implement the changes.		

### Monitoring and evaluation

The policy will be monitored and assessed alongside other measures in the Government's package for personal tax and benefits changes.

### Further advice

If you have any questions about this change, please contact Steve Gentle on 020 7147 2482 (email: [steven.m.gentle@hmrc.gsi.gov.uk](mailto:steven.m.gentle@hmrc.gsi.gov.uk)).

# Furnished Holiday Lettings

---

## Who is likely to be affected?

Individuals (and some companies and partnerships) who are the landlords of property businesses which involve the letting of furnished holiday accommodation.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to ensure that the tax rules for furnished holiday lettings (FHL) are made fully compliant with European law and, at the same time, continue to provide support for commercial businesses.

The changes to the tax rules cover:

- European Economic Area (EEA) properties;
- the periods for which a property must be available for let and is actually let; and
- set-off of losses.

## Policy objective

This measure supports the Government's objective of maintaining a competitive and stable tax system, and one that is compliant with European law. To this end the current legislation on FHL will be amended to:

- ensure that the tax treatment of those with FHL properties within the EEA is the same as the tax treatment of those with FHL properties within the UK;
- support the role of the tourism industry in the UK economy and the employment and enterprise it provides; and
- ensure that the tax rules for FHL are appropriately targeted, affordable and provide value for money.

## Background to this measure

- The previous government announced in 2009 that it would abolish the FHL rules from 2010-11. As an interim measure the regime was extended to properties in the EEA on a temporary non-statutory basis.
- The Government announced in the June Budget that it would not repeal the FHL rules, because of the adverse effect this would have on UK businesses and the UK tourism industry. Instead, it undertook to consult on proposals that would ensure the regime is compliant with European law in a way that is fiscally responsible.
- A formal consultation, *Furnished Holiday Lettings Consultation*, ran from 27 July 2010 to 22 October 2010. This covered the Government's proposals to change the qualifying conditions to ensure that the cost of extending the regime to the EEA is offset whilst at the same time allowing properties let as commercial businesses to continue to benefit from favourable treatment.

## Detailed proposal

### Operative date

Generally, the changes have effect on and after 1 April 2011 for companies and 6 April 2011 for individuals and partnerships. The increase in the number of days for which a property is actually let or available in order to qualify for FHL will have effect from 1 April 2012 and 6 April 2012 for companies and individuals (and partnerships) respectively.

### Current law

The existing FHL legislation applies to UK properties that are used to provide commercial furnished holiday lettings. Income from such properties is in fact income from property, but qualifies for certain specified tax treatments for trades. On 22 April 2009, it was announced that for the tax year 2009-10 the FHL rules would be extended to EEA properties (the policy intention at that time being that the rules would be repealed in full from April 2010 onwards).

The legislation is in sections 322 to 328 of the Income Tax (Trading and Other Income) Act 2005 for individuals and sections 264 to 269 of the Corporation Tax Act 2009 for companies. The legislation defines the commercial letting of furnished holiday accommodation and explains that it qualifies for certain specified tax advantages.

More specifically a UK property business which consists of or includes the commercial letting of furnished holiday accommodation is treated as a trade for the following purposes:

- capital allowances;
- loss relief;
- certain capital gains reliefs (including business asset roll-over relief, entrepreneurs' relief, relief for gifts of business assets, relief for loans to traders and exemptions for disposals of shares by companies with a substantial shareholding); and
- relevant UK earnings when calculating the maximum relief due for an individual's pension contributions.

To qualify for this tax treatment, the following conditions must be met:

- the property must be situated in the UK (or the EEA – this is not in statute);
- the business must be carried on commercially, and with a view to a profit;
- the total periods of "longer term occupation" must not exceed 155 days during the relevant period (normally the tax year). A period of "longer term occupation" is a letting to the same person for longer than 31 continuous days;
- the property must be available for commercial letting as holiday accommodation to the public for at least 140 days during the relevant period; and
- the property must be commercially let as holiday accommodation to members of the public for at least 70 days during the relevant period.

### Proposed revisions

The law will be changed by Finance Bill 2011 so that:

- FHL in both the UK and EEA will be eligible as qualifying FHL within the (revised) special tax rules. This is the current situation but is not within the legislation;

- the minimum period over which a qualifying property must be available for letting to the public in the relevant period is increased from 140 days to 210 days in a year with effect from April 2012;
- the minimum period over which a qualifying property is actually let to the public in the relevant period is increased from 70 days to 105 days in a year with effect from April 2012;
- losses made in a qualifying UK or EEA furnished holiday lettings business may only be set against income from the same UK or EEA furnished holiday lettings business; and
- a “period of grace” will be introduced to allow businesses that don’t continue to meet the “actually let” requirement for one or two years to elect to continue to qualify throughout that period.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The final costing will be subject to the Office for Budget Responsibility scrutiny and will be set out at the Budget.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	<p>It is estimated that approximately 65,000 individuals will be affected by this change. This is based on the number of individuals who reported FHL income as part of their Self Assessment (SA) returns in 2008-09. Overall, the impact on continuing, viable furnished holiday property businesses is expected to be limited.</p> <p>Those businesses that continue to qualify may pay more tax relative to the 2010-11 position, primarily because losses can no longer be offset against non-FHL income.</p> <p>Those businesses which cease to qualify are estimated on average to gain as much from wear and tear allowances as they lose from capital allowances, although those with particularly high capital expenditure relative to rental income will lose. Businesses which cease to qualify may also lose in the long term from the lack of capital gains tax reliefs, but will be better in a better position than had the rules been abolished.</p> <p>The administrative impact of this measure on those individuals affected has also been considered. There is a minimal one-off cost to individuals to familiarise themselves with the new guidance. The new requirements may also mean a small number of FHL businesses may need to undertake additional valuations and capital allowances calculations. However, this effect will to a very large extent be mitigated by the two year “period of grace” and will also be offset by the removal of the need to calculate losses against other sources of income.</p>
<b>Equalities impacts</b>	Some groups may be affected more than others, but only insofar as these characteristics are correlated with the incidence of individuals running FHL businesses.
<b>Impact on business including third sector</b>	The main impact of this change will be on the tax treatment of affected income and losses. The vast majority affected are individuals who are carrying on a FHL business and are discussed in the impact on individuals and households section. The number of companies expected to be impacted is around 500 with a similar number of partnerships. The associated administrative and compliance cost of making these changes is likely to be negligible.

<b>Impact on public sector</b>	The maximum cost to HMRC is estimated at £1.5 million and the proposals will require changes to the SA returns and calculations from April 2011. This may be reduced once the administrative requirements flowing from the new legislation are finalised.
<b>Other impacts</b>	<p><i>Small Firms Impact Test:</i> The rules will apply to businesses with fewer than 20 employees because businesses letting furnished holiday accommodation tend to be small. However, revised Tax Return guidance notes will help small firms to complete their returns of FHL income for 2011-12 and following years. The formal consultation included responses from this sector and their representatives. These have been taken into account in amending the consultation proposals.</p> <p><i>Competition:</i> The reform will not have an impact on a taxpayer's capacity to enter the property market but it will help facilitate competition by ensuring that new and existing FHLs are treated equally by removing actual or potential market distortion based on the location of the property.</p> <p><i>Rural Impacts:</i> Consultation responses indicate that the new availability and occupancy limits may mean businesses located in certain more northern and remote rural areas find it harder to qualify for FHL. For example, because it would mean letting outside the traditional local season. However, many providers of holiday accommodation in rural areas will be unaffected by this change because, taking into account the "period of grace" and the delay in threshold increases, they will be in a position to maintain their status.</p> <p>Those taxpayers that are affected will still be able to benefit from a range of reliefs available under the property income rules.</p> <p>This change is not expected to reduce the overall number of holiday accommodation bed-spaces in rural areas materially, and this change is unlikely to affect demand for holiday accommodation in rural areas. Therefore it is not anticipated that this change will have a material impact upon the wider tourism industry in these areas.</p>

### Monitoring and evaluation

The policy will be monitored through information collected from tax returns.

### Further advice

If you have any questions about this change, please contact Allana Sheil on 020 7147 2565 (email: [allana.sheil@hmrc.gsi.gov.uk](mailto:allana.sheil@hmrc.gsi.gov.uk)) or Joy Guthrie on 020 7147 2610 (email: [joy.guthrie@hmrc.gsi.gov.uk](mailto:joy.guthrie@hmrc.gsi.gov.uk)).

# Replacement of the Anti-Avoidance Legislation on Substantial Donors to Charities

---

## Who is likely to be affected?

All organisations entitled to UK charity tax reliefs and their donors, where arrangements are entered into in connection with a tax relieved donation, and an advantage is obtained by the donor or a connected person as a consequence.

Most affected organisations will be charities, but Community Amateur Sports Clubs are also potentially affected.

## General description of the measure

The anti-avoidance legislation on substantial donors to charities was introduced in 2006 to counter known abuse of the charity tax reliefs. However, charities made representations that the existing legislation creates administrative burdens, catches unintended transactions and discourages large donations to charities.

Legislation in Finance Bill 2011 will introduce new rules that deny tax relief on donations only where the donor is party to arrangements, the main purpose or one of the main purposes of which is to obtain an advantage for the donor or a connected person, directly or indirectly from the charity. HM Revenue & Customs (HMRC) has worked with the charity sector to develop these rules.

## Policy objective

The intention of the existing and new draft legislation is to deter the abuse of the charity tax reliefs in order to meet the Government's objective of a fairer tax system.

The new legislation is intended to catch only donors (or persons connected to them) who, in respect of a donation to charity, have entered into arrangements with the purpose of receiving an advantage from the charity. It is not intended to catch any "innocent" donors as there is no reason for genuinely philanthropic donors to engage in such arrangements. Neither will it catch charities unless, exceptionally, the charity was knowingly a party to the arrangements.

## Background to this measure

- Formal consultation on the existing anti-avoidance legislation was undertaken in 2008 to consider how those rules could be improved (*Substantial donors to charity*, published on 15 July 2008 on the HMRC website).
- Budget 2009 announced that further informal consultation would take place with charities, their representative bodies, large donors to charity, and charity tax professionals to develop a replacement for the existing rules. Informal consultation took place over summer 2009.
- 2009 Pre-Budget Report announced the existing rules would be replaced with new rules based on a purpose test.
- The June Budget confirmed the Government's commitment to replacing the existing rules.

- Informal consultation on draft clauses took place with a key group of stakeholders, in October/November 2010.

## Detailed proposal

### Operative date

The legislation will have effect in relation to charity donations made on or after 1 April 2011 irrespective of when the arrangements were entered into. The current legislation will cease to have effect in respect of donations received on or after 1 April 2011.

### Current law

The current law is found at sections 502 to 510 of the Corporation Tax Act 2010 (for charitable companies) and sections 549 to 557 of the Income Tax Act 2007 (for charitable trusts).

The current law imposes restrictions on the tax relief available to a charity where there are value extracting transactions between a charity and its largest donors. A substantial donor is defined as one who has made donations to a charity of at least £25,000 in a period of 12 months, or at least £150,000 during a period of six years. A substantial donor is a substantial donor for every period that these limits are exceeded, and the subsequent five chargeable periods, on a rolling basis. The rules provide a list of transactions between a substantial donor and a charity that trigger the charge to tax: the value of the “caught” transaction is deemed to be non-charitable expenditure resulting in a tax charge on the charity.

### Proposed revisions

The new rules, which will be introduced in Finance Bill 2011 will adopt a purpose test approach. It will also disapply the substantial donor rules in relation to payments made by a charity on or after 1 April 2011 in relation to certain transactions that would otherwise be caught under those rules. As there will be no thresholds on the size of a donation that must be exceeded before the new legislation can apply, the concept of a “substantial donor” has disappeared. The focus of this new legislation is to deny tax relief where the main purpose, or one of the main purposes of the donor in being party to arrangements is to receive an advantage for the donor or connected person directly or indirectly from the charity – in these circumstances the donation is deemed a “tainted donation”.

Another key change in approach is that where a donation is deemed tainted under the new rules, tax relief is denied and the donor (as opposed to the charity) is the primary target for recovery of any relief that, under these rules, should not have been given.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at the Budget. It is estimated that the new rules will reduce receipts by approximately £10 million per annum. This is due to an expected increase in the level of tax relief claimed.
<b>Economic impact</b>	The measure is not expected to have significant economic impacts.

<b>Impact on individuals and households</b>	<p>There will be a very limited impact on individuals and households as both the old and the new rules only apply to a small and specific population of donors. Donors making a donation which is not part of an arrangement will not be affected. The current deterrent effect on donors who wish to make large donations outside an arrangement will disappear.</p> <p>A small number of donors may incur costs in seeking accounting advice on whether their donation is part of an arrangement caught by this legislation.</p>																																									
<b>Equalities impacts</b>	<p>There are no identified impacts on different equality groups as a result of the introduction of these new rules.</p>																																									
<b>Impact on business including third sector</b>	<p>For the majority of corporate donors, the cost of considering the test is considered likely to be negligible. The costs shown below are based on those businesses making larger donations.</p> <p>Additional costs to charities are considered to be negligible, because the purpose test is designed to place the main burden of proof on the donor rather than the charity. Charities are expected to benefit overall from the measure as they will not be required to track donors as closely as under the current rules. During the formal consultation in 2008, HMRC requested information from charities on the likely costs of implementing the current rules. Representations made by the charity sector implied that overall costs to charities of implementing the current rules could be significant. However, the reduced costs have not been quantified as insufficient information is available to produce robust estimates.</p> <table border="1" data-bbox="467 1149 1396 1989"> <thead> <tr> <th data-bbox="467 1149 778 1200"></th> <th data-bbox="778 1149 1066 1200"><b>Cost</b></th> <th data-bbox="1066 1149 1396 1200"><b>Time Period (yrs)</b></th> </tr> </thead> <tbody> <tr> <td colspan="3" data-bbox="467 1200 1396 1252"><b>Compliance Costs</b></td> </tr> <tr> <td data-bbox="467 1252 778 1303">One-off Costs</td> <td data-bbox="778 1252 1066 1303">£Nil</td> <td data-bbox="1066 1252 1396 1303">1</td> </tr> <tr> <td data-bbox="467 1303 778 1395">Average Annual Costs</td> <td data-bbox="778 1303 1066 1395">£150,000 to £200,000</td> <td data-bbox="1066 1303 1396 1395">5</td> </tr> <tr> <td data-bbox="467 1395 778 1487">Total Costs (PV)</td> <td data-bbox="778 1395 1066 1487">£700,000 to £950,000</td> <td data-bbox="1066 1395 1396 1487">5</td> </tr> <tr> <td colspan="3" data-bbox="467 1487 1396 1538"><b>Compliance Benefits</b></td> </tr> <tr> <td data-bbox="467 1538 778 1588">One-off Benefit</td> <td data-bbox="778 1538 1066 1588">£Nil</td> <td data-bbox="1066 1538 1396 1588">1</td> </tr> <tr> <td data-bbox="467 1588 778 1680">Average Annual Benefit</td> <td data-bbox="778 1588 1066 1680">£Nil</td> <td data-bbox="1066 1588 1396 1680">5</td> </tr> <tr> <td data-bbox="467 1680 778 1729">Total Benefit (PV)</td> <td data-bbox="778 1680 1066 1729">£Nil</td> <td data-bbox="1066 1680 1396 1729">5</td> </tr> <tr> <td data-bbox="467 1729 778 1800"><b>Net Benefit (NPV)</b></td> <td data-bbox="778 1729 1066 1800">£-700,000 to £-950,000</td> <td data-bbox="1066 1729 1396 1800">5</td> </tr> <tr> <td colspan="3" data-bbox="467 1800 1396 1852"><b>Impact on Administrative Burden</b></td> </tr> <tr> <td data-bbox="467 1852 727 1901"><b>Increase</b></td> <td data-bbox="727 1852 1066 1901"><b>Decrease</b></td> <td data-bbox="1066 1852 1396 1901"><b>Net Impact</b></td> </tr> <tr> <td data-bbox="467 1901 727 1989">£150,000 to £200,000</td> <td data-bbox="727 1901 1066 1989">£Nil</td> <td data-bbox="1066 1901 1396 1989">£150,000 to £200,000</td> </tr> </tbody> </table>				<b>Cost</b>	<b>Time Period (yrs)</b>	<b>Compliance Costs</b>			One-off Costs	£Nil	1	Average Annual Costs	£150,000 to £200,000	5	Total Costs (PV)	£700,000 to £950,000	5	<b>Compliance Benefits</b>			One-off Benefit	£Nil	1	Average Annual Benefit	£Nil	5	Total Benefit (PV)	£Nil	5	<b>Net Benefit (NPV)</b>	£-700,000 to £-950,000	5	<b>Impact on Administrative Burden</b>			<b>Increase</b>	<b>Decrease</b>	<b>Net Impact</b>	£150,000 to £200,000	£Nil	£150,000 to £200,000
	<b>Cost</b>	<b>Time Period (yrs)</b>																																								
<b>Compliance Costs</b>																																										
One-off Costs	£Nil	1																																								
Average Annual Costs	£150,000 to £200,000	5																																								
Total Costs (PV)	£700,000 to £950,000	5																																								
<b>Compliance Benefits</b>																																										
One-off Benefit	£Nil	1																																								
Average Annual Benefit	£Nil	5																																								
Total Benefit (PV)	£Nil	5																																								
<b>Net Benefit (NPV)</b>	£-700,000 to £-950,000	5																																								
<b>Impact on Administrative Burden</b>																																										
<b>Increase</b>	<b>Decrease</b>	<b>Net Impact</b>																																								
£150,000 to £200,000	£Nil	£150,000 to £200,000																																								
<b>Impact on public</b>	<p>Any additional costs to HMRC associated with the new purpose based</p>																																									

<b>sector</b>	test will be negligible, being subsumed within ordinary compliance costs.
<b>Other impacts</b>	No other significant impacts have been identified. The impact on small firms has been considered. However, excluding businesses with fewer than 20 employees would not achieve the policy objective.

### **Monitoring and evaluation**

The policy will be monitored through information collected from tax returns.

### **Further advice**

If you have any questions about this change, please contact the HMRC Charities Policy team on 020 7147 0403 (email: [charitypolicy.taxteam@hmrc.gsi.gov.uk](mailto:charitypolicy.taxteam@hmrc.gsi.gov.uk)).

# Expenses Paid to MPs

---

## Who is likely to be affected?

Members of Parliament (MPs) incurring accommodation expenses.

## General description of the measure

Legislation to address the income tax consequences of the new MPs' Expenses Scheme introduced by the Independent Parliamentary Standards Authority (IPSA) at the start of the current Parliament was introduced in Finance (No.2) Act 2010. Since then IPSA has introduced a minor simplification and legislation will be introduced in Finance Bill 2011 to address this simplification.

## Policy objective

The measure will ensure that the existing tax treatment relating to exemption from tax for payments made in respect of accommodation expenses incurred in the performances of MPs' parliamentary duties will apply in all circumstances where accommodation expenses are paid by IPSA, allowing for a change in the method for paying rental charges.

## Background to this measure

- This measure has not previously been announced.
- IPSA first announced the simplification of its scheme in a press release dated 3 September 2010.

## Detailed proposal

### Operative date

The measure will have retrospective effect on and after 1 November 2010.

### Current law

Section 292 of Income Tax (Earnings and Pensions) Act 2003 (ITEPA) exempts from income tax accommodation expenses paid to MPs in respect of expenses necessarily incurred on overnight accommodation that is required for the performance of the MP's parliamentary duties in Westminster or their constituency. Schedule 4 to the Finance (No.2) Act 2010 amended section 292 of ITEPA so that, from 7 May 2010, it applies to payments of accommodation expenses by IPSA made under the MPs' Expenses Scheme introduced in accordance with the Parliamentary Standards Act 2009.

### Proposed revisions

With effect from 1 November, IPSA introduced a minor simplification to the way they pay MPs' accommodation expenses in respect of rental charges on constituency and residential

properties. From that date IPSA will make payments in respect of MPs' rental charges direct to landlords where authorised to do so by the claimant MP. The existing exemption from tax for residential accommodation expenses payments only applies to payments made by IPSA directly to the MP. The measure will ensure that the income tax exemption for accommodation expenses applies to rental charges in all circumstances in which they are currently paid by IPSA.

The proposed revisions will amend section 292 of ITEPA. This section currently applies to a payment of accommodation expenses "made to a member of the House of Commons". The proposed revision will allow the exemption to apply to payments made by IPSA on behalf of MPs to another person.

The treatment of accommodation payments for the purposes of national insurance contributions (NICs) will be dealt with by separate secondary legislation.

## Summary of impacts

<b>Exchequer impact (£m)</b>	This measure is not expected to have any significant impact on receipts and will be confirmed at the Budget.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	The only individuals affected are MPs. The measure simply ensures that the existing exemption applies irrespective of the method by which MPs' accommodation expenses are paid. It creates no new costs or burdens for MPs.
<b>Equalities impacts</b>	None as the measure only affects MPs. It creates no new costs or burdens for any MP or group of MPs.
<b>Impact on business including third sector</b>	There are no compliance costs or admin burdens to business as the measure only affects MPs.
<b>Impact on public sector</b>	None as the measure only affects MPs.
<b>Other impacts</b>	None as the measure only affects MPs.

## Monitoring and evaluation

The policy will be monitored and evaluated in conjunction with any future reviews of the MPs' Expenses Scheme by IPSA.

## Further advice

If you have any questions about this change, please contact Basil Rajamanie on 020 7147 2384 (email: basil.rajamanie@hmrc.gsi.gov.uk).

# Tax Relief for Protection of Vulnerable Groups Scheme Fees Paid or Reimbursed by Employers

---

## Who is likely to be affected?

Employees involved in regulated work in Scotland who apply for registration under the Protection of Vulnerable Groups Scheme (PVGS) and where the joining fee is paid or reimbursed by their employer.

Regulated work has to include a particular type of activity, such as:

- caring for or teaching a child or protected adult; or
- work in a particular establishment, such as a school or care home, which involves contact with children or protected adults; or
- holding one of the specified positions, such as a member of a children's panel or chief social worker.

## General description of the measure

It will become an offence in Scotland for an employer to hire a person who is barred from working with children or vulnerable adults to undertake regulated work. In most cases where employers employ individuals to undertake such work this will mean that prospective and current employees are required to be registered under the PVGS.

Disclosure Scotland, which will administer the PVGS, expect the scheme to start operating in Scotland with effect from February 2011. Where an employer pays or reimburses the PVGS registration fee on an employee's behalf, a taxable benefit would normally be created. Legislation will be introduced in Finance Bill 2011 to create an income tax exemption in those circumstances. An associated disregard for national insurance contributions will be introduced by regulations.

## Policy objective

This measure supports the Government's objective of ensuring the tax system does not distort other aims. It removes the possibility of a tax charge from what is, in effect, a mandatory fee.

## Background to this measure

- This measure has not been previously announced.
- The measure was developed in consultation with officials of the Scottish Executive, the devolved authorities in Northern Ireland, and stakeholder Departments in England and Wales.

## Detailed proposal

### Operative date

The measure will have effect for 2010-11 and subsequent tax years.

## Current law

Sections 70 to 72 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) treat expenses payments or reimbursements made to an employee by reason of the employment as earnings from the employment for income tax purposes. Similarly, sections 201 to 203 of ITEPA treat benefits provided to an employee by reason of the employment as taxable earnings.

## Proposed revision

The legislation will provide relief from income tax where an employer pays or reimburses the fee for registering under the PVGS.

The law will be changed by Finance Bill 2011 and will contain provisions for an order-making power to amend this legislation for any subsequent introduction of corresponding schemes for England and Wales and Northern Ireland.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The Exchequer impact of this measure will be confirmed at the Budget and is expected to have a negligible impact on receipts.
<b>Economic impact</b>	This measure is not expected to have significant economic impact.
<b>Impact on individuals and households</b>	<p>It is expected that approximately 643,000 employees will have to pay for registration under the PVGS. Disclosure Scotland estimates that in 60 per cent of cases, the fee will be paid or reimbursed by employers. Without the action taken by this measure, payment or reimbursement of the fee by employers would result in a taxable benefit in kind on the employee.</p> <p>The legislation therefore averts this potential impact and creates no new tax, compliance or administrative burden for individuals or households.</p>
<b>Equalities impacts</b>	This policy impacts on individuals to the extent that their PVGS fees are paid or reimbursed by their employers but it is intended to put all employees on an equal footing and it is therefore considered to have no negative, and possibly a small positive, effect on the relative positions of different equality groups.
<b>Impact on business including third sector</b>	<p>This measure averts potential impact and creates no new tax, compliance or administrative burden for business which would otherwise have occurred if no tax exemption was available for these payments.</p> <p>A significant proportion of the individuals affected will work for public sector employers involved in the care and support of children and vulnerable adults.</p>
<b>Impact on public sector</b>	This measure removes potential operational and compliance costs for HM Revenue & Customs (HMRC). If there was no form of tax relief available HMRC would face costs in the region of £2 million over five years to collect the tax.
<b>Other impacts</b>	None.

### **Monitoring and evaluation**

The policy will be monitored and assessed alongside other measures in the Government's package of personal tax and benefits changes.

### **Further advice**

If you have any questions about this change, please contact Basil Rajamanie on 020 7147 2384 (email: [basil.rajamanie@hmrc.gsi.gov.uk](mailto:basil.rajamanie@hmrc.gsi.gov.uk)).

# Restricting Pensions Tax Relief

---

## Who is likely to be affected?

Members of registered pension schemes who have pension savings of more than £50,000 a year, or whose total pension savings are near to or more than £1.5 million.

Employers who contribute to registered pension schemes on behalf of their employees.

Scheme administrators of registered pension schemes and advisers with clients who are members of registered pension schemes.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to restrict pensions tax relief for individuals by reducing the annual allowance from £255,000 to £50,000 and the lifetime allowance from £1.8 million to £1.5 million.

## Policy objective

The Government's objective is a system of pensions tax relief that is fair, affordable and sustainable.

Reform of the pensions tax regime is also an integral part of the Government's deficit reduction plans. The Government aims to implement the restriction of pensions tax relief in a way that ensures that defined benefit pension schemes are treated fairly in relation to defined contribution pension schemes and personal pensions, and to introduce the new system in a way that minimises administrative burdens.

## Background to this measure

- The Government announced in the June Budget that it was considering restricting pensions tax relief through reform of the existing allowances for individual pension savers.
- A discussion document on the alternative approach, *Restriction of pensions tax relief: a discussion document* was published on 27 July 2010, with responses required by 27 August 2010.
- The Financial Secretary to the Treasury announced in a written ministerial statement on 14 October 2010 that from tax year 2011-12 the annual allowance for tax privileged pension saving will be £50,000, and that the lifetime allowance will be reduced to £1.5 million.
- A summary of responses and draft legislation covering the changes to the annual allowance were also published on 14 October 2010.
- Representations on the implementation of the reduced lifetime allowance were invited by 29 October 2010.
- *Options to meet high annual allowance charges from pension benefits – a discussion document*, was published on 30 November 2010, with responses required by 7 January 2011. All documents are available on the HM Treasury website.

## Detailed proposal

### Operative date

The reduced annual allowance will have effect for the tax year 2011-12 and subsequent tax years.

Transitional rules for the annual allowance have effect on and after 14 October 2010, the day the changes were announced.

The reduced lifetime allowance will have effect on and after 6 April 2012.

### Current law

The current pensions tax rules for registered pension schemes came into force on 6 April 2006 ("A-day") and are set out in Part 4 of the Finance Act 2004 (FA 2004).

An individual receives tax relief at their marginal income tax rate on their pension savings. Although there are no limits to how much can be saved in registered pension schemes, there is an overall limit on the total amount of an individual's tax-relieved annual pension savings, including employer contributions, known as the annual allowance (sections 228 to 238 of FA 2004). The annual allowance for the 2010-11 tax year is £255,000. Tax relief is recovered in respect of any pension savings over that allowance by the application of an annual allowance tax charge to the excess. The rate of the annual allowance charge is 40 per cent.

Pension savings for a tax year are tested against the annual allowance over a 12 month period but this does not necessarily match the tax year. The period is known as the pension input period.

There is also an overall limit on the total amount of tax relieved pension savings that an individual can have over their lifetime – for the 2010-11 tax year this is £1.8 million. Tax relief on any pension savings over that allowance is recovered by the application of the lifetime allowance tax charge to the excess. The rate of the lifetime allowance charge is 25 per cent if the excess is taken as a pension or 55 per cent if it is taken as a lump sum (sections 214 to 226 of FA 2004).

Individuals with total pension rights prior to A-day greater than £1.5 million could protect those rights, through primary protection (Schedule 36 to FA 2004). Individuals with primary protection have an uplifted lifetime allowance based on the percentage their rights exceeded the lifetime allowance on 5 April 2006 compared to the current lifetime allowance.

### Proposed revisions

#### *The annual allowance*

The annual allowance for tax years 2011-12 onwards will be reduced to £50,000. There are also a number of other changes to the annual allowance rules which will have effect on or after 6 April 2011:

- the annual allowance charge will be linked to the individual's marginal tax rate;
- any unused annual allowance can be carried forward for three years;
- the valuation factor used to calculate the value of defined benefits pension savings will increase from a factor of 10 to a factor of 16;
- the opening value of rights under defined benefit schemes will be subject to a revaluation rate;

- the annual allowance rules will normally apply in the year of taking benefits and also for those people with enhanced protection although there will be exemptions in the year of death or where the individual retires because of severe ill health;
- inflation-linked increases in expected pensions for deferred members of schemes will not count towards the annual allowance charge; and
- transitional rules apply from 14 October 2010 where individuals have pension savings relating to a pension input period that started before 14 October 2010 and which will end in the 2011-12 tax year and is therefore subject to the new annual allowance limit.

Further information on these changes can be found in the draft annual allowance guidance published on the HM Revenue & Customs (HMRC) website on 14 October 2010.

#### *The lifetime allowance*

The lifetime allowance for tax years from 2012-13 onwards will be reduced. The level for 2012-13 will be £1.5 million. Those with savings above £1.5 million or who believe the value of their pension pot will rise to above this level through investment growth without any further contributions or pension savings, will be able to apply for a new personalised lifetime allowance of £1.8 million, providing they cease accruing benefits in all registered pension schemes before 6 April 2012. Notifications in writing for this must be received on the prescribed form by HMRC by 5 April 2012.

There are also a number of other changes to the tax rules as a consequence of the changes to the lifetime allowance which will have effect from 6 April 2012.

These amendments will be made mostly through changes to FA 2004, although there will need to be some consequential amendments to existing secondary legislation.

Further information on these changes can be found in the draft lifetime allowance guidance published on the HMRC website on 9 December 2010.

## Summary of impacts

The summary of impacts set out below also reflects two policy options, currently subject to consultation, to enable individuals to meet significant tax charges from their pension benefits:

- a. when or soon after the charge falls due; and
- b. at the point when the benefit crystallises.

<b>Exchequer impact (£m)</b>	The reduced annual allowance (AA) and lifetime allowance (LTA) are expected to increase receipts by approximately £4 billion per year in the steady state.  The full costing of this measure will be set out at the Budget. It will depend on the outcome of the discussion document published on 30 November 2010 on options to help individuals manage charges by meeting them from their pension benefits.
<b>Economic impact</b>	The main impact of this measure is expected to be a reduction in pension contributions by those who are directly affected.
<b>Impact on individuals and households</b>	All estimates below are from an HMRC model which uses the following data sources: HMRC Survey of Personal Incomes (based on individuals' tax records supplemented with data from the Annual Survey of Hours

and Earnings (ASHE)); and imputed employer contributions (based on the relationship between employee and employer contributions taken from aggregate statistics).

The estimates presented here are subject to a wide margin of error.

#### *Distributional analysis*

The figures here are presented 1) before the application of any assumptions of behavioural change, such as individuals deliberately aiming off the AA to avoid exceeding it; and 2) before carry forward of unused allowances.

The overall number of pension savers who would potentially be affected by the reduced AA is estimated to be around 100,000, around 80 per cent of whom have incomes over £100,000. For the remaining 20 per cent with incomes below £100,000, carry forward of unused allowances will reduce or eliminate the charge for many of these individuals.

Around half of the individuals affected by a reduced AA would be located in London and the South East of England, but this is a reflection of the fact that around 50 per cent of those potentially affected work in financial intermediation (banking, finance and insurance), real estate and business activities (includes a range of business services), which are all focused in London and the South East. Over 80 per cent of those affected are in industries that are predominately private sector.

The individuals that will be affected to the largest degree from a decrease in the LTA are those that have accrued pension assets worth more than £1.5 million as they would need to stop contributing to their pension in order to avoid a tax charge. Estimates suggest that around 40,000 individuals have current pension assets that are worth more than £1.5 million and will be impacted in this manner (though some of these will already have protection they took out due to the changes to pension legislation in 2006).

The lower AA may also affect individuals with pension savings that are currently below the LTA but are expected to be above it at retirement. Estimating the number of individuals in this group is difficult as it depends on expectations about pension growth and future LTAs. However, around 50,000 individuals who currently have pension pots below £1.5 million and are within 10 years of retirement are expected to decrease their pension contributions to some degree in order not to exceed the LTA at retirement.

There is likely to be a significant overlap between the numbers of people whose pension savings is affected by the LTA and those whose pension savings is affected by the AA.

#### *Costs to individuals of compliance*

Under the measure pension schemes must provide their members, who have exceeded the AA, with information on their pension contributions for the relevant year. Where this occurs pension providers must also provide this information for the three previous years. Individuals will

	<p>then be required to report any excess over the AA (after utilising any unused annual allowance carried forward) on their Self Assessment (SA) tax return.</p> <p>Individuals with multiple pension arrangements will need to request the relevant information from the schemes to enable them to work out whether they have exceeded the AA.</p> <p>Individuals may need to calculate or take advice on the level of pension contributions they can make each year without facing a tax charge as well as deciding on the appropriate amount to contribute in order not to exceed the LTA when they receive benefits at retirement.</p> <p>Of the total number of people affected, it is estimated that more than two thirds have agents acting on their behalf and over three quarters file an SA tax return by internet. The majority of additional costs incurred due to this measure are associated with filing non-electronic tax returns and engaging independent financial advice. However, given that most customers now use internet filing and existing agent take up is high, the overall burden is thought to be minimal.</p>									
<b>Equalities impacts</b>	<p>It is expected that around 15 per cent of the individuals affected will be female. This distribution is a result of the general bias towards a higher proportion of males in higher income bands and with higher levels of pension wealth. It is also expected that more than 90 per cent of those affected will be aged 40 or over. In defined benefit schemes, the factor used to value pension accrual will apply to individuals of all ages and will affect all equally over the course of a lifetime.</p> <p>The model and availability of data have not allowed the total number of individuals affected to be further broken down by ethnicity, disability, caring responsibilities, religion or belief and sexual orientation. However, it is not expected that the policy would adversely or disproportionately impact on any of these equality groups.</p>									
<b>Impact on business including third sector</b>	<p>There are around 2.1 million employers in the UK, the vast majority of which are small employers with fewer than 50 employees. Around 30,000 are estimated to have employees that are affected by the lower AA. There are also around 10,000 financial advisers that may have clients affected by the measure.</p> <p><i>Compliance costs</i></p> <p>The Government has recently issued a discussion document on options for enabling individuals to meet high tax charges out of their pension benefits, rather than current income, with a view to publishing draft clauses on its preferred option by February 2011. These decisions will have an impact on the compliance and administrative costs to pension schemes. The estimates provided below are therefore provisional and will be updated and published alongside the draft clauses in February 2011.</p>									
	<table border="1"> <thead> <tr> <th data-bbox="456 1809 778 1861"></th> <th data-bbox="778 1809 1066 1861"><b>Cost</b></th> <th data-bbox="1066 1809 1402 1861"><b>Time Period (yrs)</b></th> </tr> </thead> <tbody> <tr> <td colspan="3" data-bbox="456 1861 1402 1912"><b>Compliance Costs</b></td> </tr> <tr> <td data-bbox="456 1912 778 1975">One-off Costs</td> <td data-bbox="778 1912 1066 1975">£ 580m</td> <td data-bbox="1066 1912 1402 1975">1</td> </tr> </tbody> </table>		<b>Cost</b>	<b>Time Period (yrs)</b>	<b>Compliance Costs</b>			One-off Costs	£ 580m	1
	<b>Cost</b>	<b>Time Period (yrs)</b>								
<b>Compliance Costs</b>										
One-off Costs	£ 580m	1								

Average Annual Costs	£ 60m	5
Total Costs (PV)	£ 850m	5
<b>Compliance Benefits</b>		
One-off Benefit	£ Nil	
Average Annual Benefit	£ Nil	
Total Benefit (PV)	£ Nil	
<b>Net Benefit (NPV)</b>	£ -850m	5
<b>Impact on Administrative Burden</b>		
<b>Increase</b>	<b>Decrease</b>	<b>Net Impact</b>
£40m	£Nil	£40m
<p><i>Employers</i></p> <p>The main aspects of the compliance cost for employers will be around:-</p> <p><i>Familiarisation</i>, i.e. the need for management to become familiar with the new rules. This includes seeking any advice from consultants, actuaries and lawyers.</p> <p><i>Literature and guidance</i>, i.e. employers may wish to provide targeted communications to the individuals they believe need to consider whether they could be affected by the restriction of pensions tax relief. Employers may also produce more generic communication material on pay and pensions for their employees that will require updating.</p> <p><i>Information and systems requirement</i>, the measure requires employers to provide information about employees' pensionable pay and benefits, and length of service to defined benefit schemes by 6 July following the end of the tax year. Employers provide this kind of information to schemes already, but there are generally no obligations or deadlines associated with it.</p> <p><i>Pension schemes</i></p> <p>The main aspects of the compliance cost for pension schemes will be around:-</p> <p><i>Familiarisation</i>, i.e. all schemes will need to become familiar with the new regime. The costs of doing so will vary considerably depending on scheme type, and across the public and private sector.</p> <p><i>Providing information on pension contributions</i>. Pension schemes must provide their members who have exceeded the AA in their scheme with information on their pension contributions for the relevant year. Where they do so, pension providers must also provide this information for the</p>		

	<p>three previous years. When requested by a member, pension schemes must also provide information with pension input amounts by the later of three months from the request and six months from the end of the tax year.</p> <p>The compliance cost estimates also include the cost to schemes of enabling individuals to meet the charge out of their pension benefits, rather than current income. The Government is currently consulting on how best this can be achieved, and has welcomed views on any practical or administrative issues that may arise from implementing different options. As a result the estimates included in this summary of impacts are provisional.</p> <p>Schemes will also need to respond to requests from individuals who may wish to apply for LTA protection on the total value of their pension savings.</p> <p><i>Financial Advisers</i></p> <p>Financial advisers will also incur costs in terms of becoming familiar with the new rules and undertaking one-off training to enable them to provide appropriate advice following the changes to the pension rules.</p>
<b>Impact on public sector</b>	<p>The cost for changes to HMRC IT systems for the changes to the AA are estimated to be in the range of £1.5 – 2 million depending on the final options chosen. There may be additional resource costs for processing depending on which option is chosen to help individuals manage their tax charges.</p> <p>The IT and resource costs to HMRC for the new protection regime for the reduced LTA will be in the region of £400,000 - 500,000.</p>
<b>Other impacts</b>	<p><i>Small Firms Impact Test:</i> The impact on small firms has been considered. Business has been closely consulted throughout the development process as have individuals and experts. It would not be appropriate for the policy to apply differently according to the size of firms within which the affected workers operate.</p> <p>Impacts of the policy on the following have also been considered: competition, carbon, justice, sustainable development, the wider environment, health, rural proofing, and privacy. It is believed that the policy does not impact unduly on any of these areas.</p>

### Monitoring and evaluation

HMRC is assessing the impact of the policy by monitoring pension tax relief.

### Further advice

If you have any questions about this change, please contact the pensions policy team on 020 7147 3076, 020 7147 3635, or 0115 974 2420 (email: [pensions.policy@hmrc.gsi.gov.uk](mailto:pensions.policy@hmrc.gsi.gov.uk)).

# Removing the Effective Requirement to Annuitise by Age 75

---

## Who is likely to be affected?

This measure will primarily affect individuals with some form of defined contribution (DC) pensions assets (although this may include those with defined benefit pension rights in addition to DC savings) in UK registered pension schemes, and those already in income drawdown arrangements. In the short term, changes will mostly affect those approaching or already in retirement.

It will also affect the dependants of members of registered pension schemes who are approaching retirement or are already making income withdrawals from their pension scheme.

Scheme administrators of registered pension schemes and financial advisers with clients who are members of registered pension schemes will also be affected by the intended reforms.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to remove pensions tax rules that currently create an obligation for members of registered pension schemes to secure an income, usually by buying an annuity, by age 75 from April 2011.

It will involve changes to annuitisation requirements, and pensions tax treatment and rules applying to income drawdown arrangements.

## Policy objective

This measure supports the Government's objective to make the tax system simpler by removing unnecessarily restrictive and outdated rules applying to annuities and income drawdown arrangements, and simplifying the pensions tax framework.

Within a fair and sustainable pensions tax regime, this measure provides greater flexibility for individuals over how and when they can access pension savings in retirement.

## Background to this measure

- The Government announced in the June Budget that it intended to end the rules that create an effective obligation to purchase an annuity at age 75.
- A consultation document *Removing the requirement to annuitise by age 75* was published on 15 July 2010 on the HM Treasury website.
- The Government has considered all responses received to the consultation, as detailed in the summary of responses accompanying this publication.

## Detailed proposal

### Operative date

The legislation will have effect on and after 6 April 2011, and will have the following effects:

- it will enable individuals with DC pension savings from which they have not yet taken a pension to defer a decision to take benefits from their scheme indefinitely on and after that date;
- it will enable individuals with a lifetime pension income of at least £20,000 a year to gain access to their drawdown pension funds without any cap on the withdrawals they may make on or after that date;
- the age 75 ceiling will be removed from most lump sums to which entitlement arises on or after that date;
- the tax rate on lump sum death benefits will be 55 per cent for deaths on or after that date;
- the altered withdrawal limits will have effect for all new drawdown pension arrangements made on or after that date;
- for drawdown pension arrangements made before 6 April 2011, the altered withdrawal limits will have effect for individuals whose 75<sup>th</sup> birthday is or was:
  - on or after 6 April 2011, from the start of their next reference period to begin on or after that date;
  - before 6 April 2011, from the start of the drawdown pension year in which 6 April 2011 falls (with one exception – see next bullet); and
  - from 22 June 2010 through to 5 April 2011, the changes will have effect from the start of their next drawdown pension year to begin on or after 6 April 2011.

### **Current law**

All statutory references in this note relate to Finance Act (FA) 2004 unless otherwise specified.

Scheme members with a drawdown pension fund may take an income from their pension fund up to 120 per cent of an equivalent annuity up to age 75 (Pension rule 5 in section 165). The amount of an equivalent annuity is broadly the single-life level annuity that could have been bought with the pension fund using annuity rates set by the Government Actuary Department. The scheme must review the maximum annual withdrawal at least every five years (paragraph 10 in Schedule 28).

From age 75 scheme members with DC arrangements, who have not yet purchased an annuity, must enter into a drawdown arrangement called an alternatively secured pension (ASP). ASPs are subject to strict minimum and maximum limits on withdrawals, which are reviewed annually. Transitional provisions introduced in Schedule 3 to F(No.2)A 2010 enable scheme members who reached age 75 on or after 22 June 2010 to withdraw income from their drawdown fund of between nil and 120 per cent of an equivalent annuity after reaching the age of 75 (subject to their provider offering this facility).

Lump sum death benefits relating to individuals who die before reaching age 75 and before taking a pension are tax free.

Lump sum death benefits relating to individuals who die before reaching age 75 after taking a pension are liable to tax at 35 per cent (under section 206).

No lump sums may be paid after the member has reached the age of 75. Most lump sum rules are in Schedule 29.

The current inheritance tax (IHT) rules apply IHT to unused lump sums (i.e. lump sums where an annuity has not been purchased) remaining on death where the scheme member has an

alternatively secured pension and is over age 77. That age limit was increased from age 75 to age 77 by virtue of transitional measures announced at the Budget on 22 June 2010.

### Proposed revisions

From 6 April 2011 the requirement to secure a pension income by age 75 is being removed and this will be achieved through a number of changes:

- the ASP rules are being repealed for new and existing pensioners, so removing the effective requirement for pension savers to buy an annuity by the age of 75;
- the maximum income that an individual may withdraw from most drawdown pension funds will be capped at 100 per cent of the equivalent annuity (as defined above) but will apply for as long as an individual retains the fund. The minimum annual withdrawal amount from age 75 is abolished;
- the maximum capped amount that may be withdrawn will be determined at least every three years until the end of the year in which the member reaches the age of 75, after which reviews will be carried out annually;
- individuals with drawdown pensions who have a lifetime pension income of at least £20,000 a year will be able to access the whole of their drawdown funds as pension income without a limit on annual withdrawal (subject to their provider offering flexible drawdown pensions);
- any new pension savings for an individual once a scheme has accepted an application to access the whole of their drawdown pension fund will be liable to the annual allowance charge on all pension input amounts;
- an individual making a withdrawal from a flexible drawdown pension fund during a period when they are resident outside the UK for a period of less than five full tax years will be liable for UK income tax on that withdrawal for the tax year in which they become UK resident again;
- most of the rules preventing registered pension schemes from paying lump sum benefits after the member has reached the age of 75 are being removed;
- the tax rate for all lump sum death benefits is to be set at 55 per cent, apart from death benefits for those who die before age 75 without having taken a pension, which will remain tax free; and
- unused drawdown pension funds of a member who dies with no living dependants may be donated tax free to a charity.

The changes above will also apply to members of non-UK pension schemes who have received either tax relief on contributions or funds transferred from registered pension schemes.

The inheritance tax (IHT) changes proposed under this measure are as follows:

- with effect from 6 April 2011, IHT will not typically apply to drawdown pension funds remaining under a registered pension scheme, including when the individual dies after reaching the age of 75;
- with effect from 6 April 2011, IHT anti-avoidance charges that apply to registered pension schemes and Qualifying Non UK Pension (QNUP) Schemes where the scheme member omits to take their retirement entitlements (e.g. a failure to buy an annuity) will be removed;

- IHT charges that may arise where pension scheme trustees have no discretion with regards to the paying out of lump sums after the death of scheme members (i.e. where amounts must be paid to their estate) will remain subject to IHT; and
- IHT will continue to apply to all other lump sums (i.e. those in a non-Registered Pension Scheme or non-QNUP).

## Summary of impacts

<b>Exchequer impact (£m)</b>	The Exchequer impact of this measure will be confirmed at the Budget. It is estimated to have a negligible impact on receipts.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	<p>All individuals with pension assets in DC schemes will benefit from greater choice over how to use their pension assets in retirement.</p> <p>It is estimated that around 50,000 individuals currently in a drawdown arrangement could initially benefit from flexible drawdown, if they choose to demonstrate they have sufficient secured lifetime income. A broad estimate, based on existing trends, is that a further 12,000 individuals a year may be able to access flexible drawdown in a steady state. With up to 200,000 individuals currently in income drawdown arrangements, a considerably larger number of individuals could potentially benefit from not being required to purchase an annuity by the age of 75. These figures are based on Financial Services Authority data.</p> <p>As well as those already in drawdown, the measure will also affect individuals who are not yet retired, or who have not yet applied all of their funds to providing a pension, and who may now choose not to buy an annuity. Around 450,000 annuities were purchased in 2009, therefore the number of individuals who could consider entering an income drawdown product instead of purchasing an annuity could be substantial in future years.</p> <p>As stated above, it is difficult to make a precise estimate of the number of people who may be able to take advantage of flexible drawdown in future, as this depends on individual circumstances. Assuming full basic State Pension (bSP) entitlement, an individual would need to secure up to £15,000 per annum from private pension sources to meet the required income level, as well as having further pension savings which they wish to withdraw. Securing an annuity income of £15,000 would require a pension fund of over £200,000 at current rates. Less than 1 per cent of the annuities sold in 2009 were purchased with a fund of this size, though as more individuals save into a DC pension, fund sizes will become larger. An individual would also be able to meet the income requirement with a defined benefit (DB) pension income of £15,000 annually on top of the bSP. There is no firm data on the number of individuals with DB income of this level who also have additional DC savings that they could withdraw under flexible drawdown.</p> <p>Since this measure increases the options open to individuals in retirement, more individuals may opt to seek financial advice as a result.</p>

	<p>Such advice will incur a cost to the individual, although it is their choice, and many may have sought advice anyway.</p> <p>Individuals wishing to access flexible drawdown will need to provide evidence that they have a secured lifetime income of £20,000 a year. This adds a small burden on the individual in this circumstance, but again it is only <i>if</i> they wish to exercise this new choice.</p> <p>Individuals already in unsecured pension or ASP arrangements will be affected by the changes to income withdrawal limits and tax charges on lump sums left at death as outlined in the above revisions section.</p> <p>In relation to IHT, the proposed change will directly affect the 1,000 or so estates each year which currently get charged on their lump sum death benefit, as well as the pension providers and financial advisors who help people plan their pensions.</p>
<b>Equalities impacts</b>	<p>The potential equality impacts of this policy have been considered. No significant impact upon any particular group is expected as a result of this measure. This measure adds flexibility, increasing choice for individuals.</p> <p>It has also been concluded that related changes to IHT do not raise any inequality issues.</p> <p>The main equality groups considered were age, gender and marital status. As the proposals involve changes to universal pensions tax rates and rules, there is no direct discrimination towards any group, and indirect effects simply reflect existing pension savings trends.</p>
<b>Impact on business including third sector</b>	<p>There are around 45,000 occupational defined contribution scheme providers, all of which will be impacted by the reforms to differing degrees. A large portion of the costs are one-off compliance costs that will involve training of staff and the adjustment of literature for clients. This will affect all providers and schemes since they will need to reflect the fact that the tax framework no longer imposes restrictions at age 75, even if they do not choose to offer additional flexibility to their members.</p> <p>For a smaller proportion of schemes that choose to offer new products relating to the policy there will be additional costs in terms of product development, new IT processes and further training.</p> <p>The majority of the 600 personal pension providers are expected to incur similar compliance costs, while independent financial advisors will initially incur additional training costs.</p> <p>The total one-off compliance costs are expected to be around £18 million. This is based on evidence received from several industry providers as part of the consultation.</p> <p>Schemes or providers that choose to offer the flexible drawdown option will face annual recurring costs from additional administrative duties. Since the number of individuals likely to seek this option will be fairly small, and the onus will be on the member to provide evidence to the provider that they have secured pension income of at least £20,000 a year, the total recurring costs are expected to be fairly low, at around £1 million.</p>

	<p>Scheme or annuity providers may need to provide evidence at a customer's request about the amount of pensions in payment for those seeking to access flexible drawdown with another provider. However the costs should be marginal, since the number of individuals is likely to be low, and the provider cost of issuing a statement should be minimal.</p> <p>This measure is not expected to have a significant impact on competition, including on small businesses.</p> <p>Small firms and business should not be affected disproportionately by changes. Since changes concern tax rates and rules affecting individuals, there cannot be specific exemptions for smaller firms. However, the potentially more burdensome aspect of reforms, offering flexible drawdown, is optional, and so small pension providers and schemes can simply choose not to offer this product. The process for entry into flexible drawdown, as noted above, is intended to place as little burden on industry as possible, including small firms. HM Revenue &amp; Customs (HMRC) guidance will help small and large firms with queries over the detail and effect of changes.</p>																																						
	<table border="1"> <thead> <tr> <th data-bbox="467 842 778 898"><b>Compliance costs</b></th> <th data-bbox="778 842 1062 898"><b>Cost</b></th> <th data-bbox="1062 842 1398 898"><b>Time Period (yrs)</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="467 898 778 947">One-off Costs</td> <td data-bbox="778 898 1062 947">£ 18 m</td> <td data-bbox="1062 898 1398 947">1</td> </tr> <tr> <td data-bbox="467 947 778 996">Average Annual Costs</td> <td data-bbox="778 947 1062 996">£ 1 m</td> <td data-bbox="1062 947 1398 996">5</td> </tr> <tr> <td data-bbox="467 996 778 1046">Total Costs (PV)</td> <td data-bbox="778 996 1062 1046">£ 23 m</td> <td data-bbox="1062 996 1398 1046">5</td> </tr> <tr> <th data-bbox="467 1046 778 1102"><b>Compliance benefits</b></th> <th data-bbox="778 1046 1062 1102"><b>Benefit</b></th> <th data-bbox="1062 1046 1398 1102"><b>Time Period (yrs)</b></th> </tr> <tr> <td data-bbox="467 1102 778 1151">One-off Benefit</td> <td data-bbox="778 1102 1062 1151">£ Nil</td> <td data-bbox="1062 1102 1398 1151">1</td> </tr> <tr> <td data-bbox="467 1151 778 1245">Average Annual Benefit</td> <td data-bbox="778 1151 1062 1245">£ Negligible</td> <td data-bbox="1062 1151 1398 1245">5</td> </tr> <tr> <td data-bbox="467 1245 778 1294">Total Benefit (PV)</td> <td data-bbox="778 1245 1062 1294">£ Negligible</td> <td data-bbox="1062 1245 1398 1294">5</td> </tr> <tr> <td data-bbox="467 1294 778 1350"><b>Net Benefit (NPV)</b></td> <td data-bbox="778 1294 1062 1350">£ -23 m</td> <td data-bbox="1062 1294 1398 1350">5</td> </tr> <tr> <th colspan="3" data-bbox="467 1350 1398 1406"><b>Impact on Administrative Burden</b></th> </tr> <tr> <th data-bbox="467 1406 722 1462"><b>Increase</b></th> <th data-bbox="722 1406 1062 1462"><b>Decrease</b></th> <th data-bbox="1062 1406 1398 1462"><b>Net Impact</b></th> </tr> <tr> <td data-bbox="467 1462 722 1525">£ Negligible</td> <td data-bbox="722 1462 1062 1525">£ Negligible</td> <td data-bbox="1062 1462 1398 1525">£ Negligible</td> </tr> </tbody> </table>			<b>Compliance costs</b>	<b>Cost</b>	<b>Time Period (yrs)</b>	One-off Costs	£ 18 m	1	Average Annual Costs	£ 1 m	5	Total Costs (PV)	£ 23 m	5	<b>Compliance benefits</b>	<b>Benefit</b>	<b>Time Period (yrs)</b>	One-off Benefit	£ Nil	1	Average Annual Benefit	£ Negligible	5	Total Benefit (PV)	£ Negligible	5	<b>Net Benefit (NPV)</b>	£ -23 m	5	<b>Impact on Administrative Burden</b>			<b>Increase</b>	<b>Decrease</b>	<b>Net Impact</b>	£ Negligible	£ Negligible	£ Negligible
<b>Compliance costs</b>	<b>Cost</b>	<b>Time Period (yrs)</b>																																					
One-off Costs	£ 18 m	1																																					
Average Annual Costs	£ 1 m	5																																					
Total Costs (PV)	£ 23 m	5																																					
<b>Compliance benefits</b>	<b>Benefit</b>	<b>Time Period (yrs)</b>																																					
One-off Benefit	£ Nil	1																																					
Average Annual Benefit	£ Negligible	5																																					
Total Benefit (PV)	£ Negligible	5																																					
<b>Net Benefit (NPV)</b>	£ -23 m	5																																					
<b>Impact on Administrative Burden</b>																																							
<b>Increase</b>	<b>Decrease</b>	<b>Net Impact</b>																																					
£ Negligible	£ Negligible	£ Negligible																																					
<p><b>Impact on public sector</b></p>	<p>Removing the effective requirement to annuitise by age 75 builds on and adapts existing processes, and minimises the need for additional administration.</p> <p>HMRC will need to modify the Accounting for Tax systems for registered pension schemes to change the rate at which lump sum death benefits are charged and assessed.</p> <p>Changes are also needed to the existing Event Report to remove obsolete questions and to capture notifications of individuals who receive flexible drawdown payments.</p> <p>The IHT computer system will also need to be updated so that the charges which are to be removed cannot be raised after the date of change.</p>																																						

	<p>This measure is estimated to cost HMRC up to £500,000 in IT and other systems changes.</p> <p>HMRC anticipate resources will be required to communicate the reform, and handle extra queries from individuals and their advisers, and pension schemes. Staff will need to be trained to deal with such queries. Enforcing the measure will be an integral part of HMRC's ongoing compliance and monitoring activities.</p>
<b>Other impacts</b>	<p>As a tax reform measure concerning private pensions, these proposals will have no impact on wider areas, such as privacy, carbon assessment, health impact assessment, rural proofing or other environmental issues. The impacts on sustainable social and economic development are negligible, as per the evaluation above on Economic Impacts. The impacts for small businesses are covered in the evaluation above on Business Impacts.</p>

### **Monitoring and evaluation**

The policy will be monitored through information collected from pension schemes and through external financial services statistics.

### **Further advice**

For enquiries relating to the draft clauses please contact Stephen Webb on 020 7147 2872 or Peter Seedhouse on 020 7147 2529 or send via email to [pensions.policy@hmrc.gsi.gov.uk](mailto:pensions.policy@hmrc.gsi.gov.uk).

For enquiries relating to impact of the changes on inheritance tax please send an email to [ihtandtrustsconsult.car@hmrc.gsi.gov.uk](mailto:ihtandtrustsconsult.car@hmrc.gsi.gov.uk) or contact Richard Kent on 020 7147 2635.

# Enabling Retirement Savings Programme: Pensions Taxation

---

## Who is likely to be affected?

Employers, their employees (referred to as “jobholders” in the Pensions Act 2008), the National Employment Savings Trust (NEST) and its members and other qualifying pension schemes when automatic enrolment of jobholders is introduced from 2012.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to:

- remove the tax charge on borrowing linked to the cost of setting up, managing or administering NEST, subject to conditions;
- remove the tax liability on any interest payments on late pension contributions made by an employer to qualifying pension schemes; and
- provide a regulation-making power to deal with any unintended tax consequences that may emerge as a result of the implementation of NEST and the employer duty provisions as set out in the Pensions Act 2008.

## Policy objective

This measure supports the Government’s objective of ensuring the tax system does not distort other aims. It removes unintended tax charges in relation to pension schemes, allowing them to operate and encourage pension savings, particularly for low to moderate earners.

## Background to this measure

- This measure was announced at the March 2010 Budget.
- It was then confirmed in the June Budget.

## Detailed proposal

### Operative date

This measure will have effect on and after 6 April 2011 apart from the removal of the tax liability on any interest payments on late-paid pension contributions which will have effect on and after the date that Finance Bill 2011 receives Royal Assent.

## Current law

### *Unauthorised borrowing*

Under section 182 of the Finance Act (FA) 2004, a tax charge arises if schemes borrow more than a prescribed limit. This happens if the borrowing to be repaid out of scheme assets is more than half of the value of the fund.

### *Interest on late-paid contributions*

If an employer is late in paying over contributions to the pension scheme, the employer may be required to pay interest on the late payment. Under section 369 of the Income Tax (Trading and Other Income) Act 2005, the jobholder would be taxed on any interest paid by employers to a jobholder's pension account.

### *NEST and employer duty provisions*

Part 4 of FA 2004 provides the framework to ensure that tax-favoured pension saving is used to provide an income for life.

## **Proposed revisions**

Legislation in Finance Bill 2011 will allow for the following:

### *Unauthorised borrowing*

The tax charge on borrowing linked to the cost of establishing, managing or administering NEST will be removed.

### *Interest on late-paid contributions*

The tax charge on jobholders in respect of any interest an employer is required to pay to a jobholder's pension account because contributions were paid late will be removed.

### *NEST and employer duty provisions*

Regulation-making powers will be introduced to allow changes to be made through secondary legislation to deal with any future unintended tax charges that arise in respect of NEST and in respect of the employer duty provisions as they are implemented.

## **Summary of impacts**

<b>Exchequer impact (£m)</b>	The exchequer impact of this measure will be confirmed at the Budget. It is not expected to have any significant impact on receipts.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	This measure will remove a tax charge that will arise on any interest in respect of late-paid contributions payable to the pension accounts of individuals. The impact cannot be quantified as any interest will be paid at the discretion of the Pensions Regulator.
<b>Equalities impacts</b>	It is considered that there will be no negative effect on the relative position of different equality groups.
<b>Impact on business including third sector</b>	This measure will impact on UK registered pension schemes in general in relation to the employer duty provisions, and NEST in particular, as it will provide a way to remove unintended tax charges where they arise. It will not produce any significant administrative cost or savings for businesses.
<b>Impact on public sector</b>	This measure will not impact on HM Revenue & Customs or the rest of the public sector.
<b>Other impacts</b>	No additional impacts have been identified.

### **Monitoring and evaluation**

This measure will not be monitored or evaluated separately.

### **Further advice**

If you have any questions about this change, please contact Beverley Davies on 020 7147 2869 (email: [pensions.policy@hmrc.gsi.gov.uk](mailto:pensions.policy@hmrc.gsi.gov.uk)).

# Reduction in the Main Rate of Corporation Tax

---

## Who is likely to be affected?

- Incorporated businesses which have profits between £300,000 and £1.5 million who pay tax at the corporation tax (CT) main rate, reduced by marginal relief; and
- incorporated businesses with profits above £1.5 million who pay tax at the main rate.

## General description of the measure

This measure makes a series of progressive annual 1 per cent cuts in the CT main rate from 28 per cent for the financial year beginning April 2010 to 24 per cent for the financial year beginning April 2014 for all profits, apart from those arising from oil extraction and oil rights in the UK and the UK Continental Shelf (“ring fence profits”).

The main rate for “ring fence profits” will remain at 30 per cent.

Legislation will be introduced in Finance Bill 2011 to deal with the second stage in this series of reductions – cutting the CT rate from 27 to 26 per cent for the financial year beginning April 2012.

## Policy objective

The reduction of the main rate of CT is part of a major package of corporate tax reforms intended to create a competitive corporate tax system and to support enterprise and long-term economic growth.

## Background to this measure

This measure was announced in the June Budget.

## Detailed proposal

### Operative date

The reduction in the CT main rate will have effect on and after 1 April 2012.

### Current law

The current CT rate of 27 per cent for the Financial Year beginning April 2011 was set by section 1 of the Finance (No.2) Act 2010 for all non-ring fence profits.

### Proposed revisions

The main rate of CT for all non-ring fence profits will be reduced from 27 per cent to 26 per cent, from April 2012.

## Summary of impacts

<b>Exchequer impact (£m)</b>	2010-11	2011-12	2012-13	2013-14	2014-15
	-10	-400	-1,200	-2,100	-2,700
	This costing shows the fiscal impact of the full series of annual 1 per cent cuts announced at the June Budget, and is based on the Office for Budget Responsibility (OBR) June Budget forecast.				
<b>Economic impact</b>	<p>A reduction in the CT rate makes the UK more attractive (relative to other locations) as a destination to locate profits.</p> <p>This measure was part of a wider package of CT reform measures announced in the June Budget that also included changes to the small profits rate and to capital allowances. The OBR assessment of the package was that the cuts in the CT rates more than offset the reductions in investment allowances. The CT reform package will therefore promote higher levels of business investment than would otherwise have been the case.</p>				
<b>Impact on individuals and household</b>	This measure concerns incorporated businesses and has no direct impact on individuals or households.				
<b>Equalities impacts</b>	This measure concerns the taxation of the body corporate which is a non-gender/race specific entity in law. As such it is very unlikely that there will be any impact on equality.				
<b>Impact on business including third sector</b>	<p>The measure will lower the tax bill of approximately 30,000 companies that pay tax at the main rate and 40,000 companies that are taxed at the main rate but who benefit from marginal relief.</p> <p>The beneficiaries of reductions to the main rate will be companies with profits above £300,000. The reduction to the small profits rate, which was also announced in the June Budget as part of the wider package of corporate tax reform measures, will benefit businesses with profits below £300,000.</p> <p>The impact on business is negligible in terms of administrative and compliance costs.</p>				
<b>Impact on public sector</b>	None. HM Revenue & Customs (HMRC) processing systems are designed to accommodate rate changes. The rate change will not increase HMRC processing or compliance resource needs.				
<b>Other impacts</b>	The impact on competitiveness is positive.				

## Monitoring and evaluation

The policy will be monitored and assessed alongside other measures in the Government's package for corporate tax changes.

## Further advice

If you have any questions about this change, please contact Simon Moulden on 020 7147 2629 (email: [simon.moulden@hmrc.gsi.gov.uk](mailto:simon.moulden@hmrc.gsi.gov.uk)).

# Reduction in the Small Profits Rate of Corporation Tax

---

## Who is likely to be affected?

Incorporated businesses which have profits up to £300,000.

## General description of the proposal

Legislation will be introduced in Finance Bill 2011 to reduce the small profits rate (SPR) of corporation tax (CT) for all profits, apart from those arising from oil extraction and oil rights in the UK and the UK Continental Shelf ("ring fence profits"), from 21 per cent to 20 per cent, from April 2011. The SPR for "ring-fence profits" will remain at 19 per cent.

## Policy objective

The reduction of the small profits rate of CT is part of a major package of corporate tax reforms intended to create a competitive corporate tax system and to support enterprise and long-term economic growth.

## Background to this measure

The reduction in the small profits rate of CT was announced in the June Budget.

## Detailed proposal

### Operative date

The reduction in the small profits rate of CT will have effect on and after 1 April 2011.

### Current law

The current rate of 21 per cent for the financial year beginning April 2010 was set by section 18 of the Finance Act 2010 for all non-ring fence profits.

### Proposed revisions

The small profits rate of CT for all non-ring fence profits will be reduced from 21 per cent to 20 per cent, from April 2011.

## Summary of impacts

Exchequer impact (£m)	2010-11	2011-12	2012-13	2013-14	2014-15
	0	-100	- 1,000	- 1,300	- 1,400
	This costing is based on the Office for Budget Responsibility (OBR) June Budget forecast.				
<b>Economic impact</b>	This measure was part of a wider package of CT reform measures announced in the June Budget, that also included phased reductions in the main rate of CT, and changes to the small profits rate and to capital allowances. The OBR assessment of the package was that the cuts in the CT rates more than offset the reductions in investment allowances. The CT reform package will therefore promote higher levels of business investment than would otherwise have been the case. This measure is likely to increase the tax incentive to incorporate; however the impact on the number of incorporations is difficult to quantify.				
<b>Impact on individuals and household</b>	This policy measure concerns incorporated businesses and has no direct impact on individuals or households.				
<b>Equalities impacts</b>	This policy measure concerns the taxation of the body corporate which is a non-gender/race specific entity in law. As such it is very unlikely that there will be any impact on equality.				
<b>Impact on business including third sector</b>	This measure will lower the tax bills of approximately 850,000 companies, with profits up to £300,000 that pay tax at the SPR. Most of the beneficiaries will be small and medium enterprises (businesses with up to 249 employees), but large companies with profits below £300,000 will also benefit. Companies with profits above £300,000 will have their tax bill lowered by reductions to the main rate of CT, which was also announced in the June Budget. The impact on business is negligible in terms of administrative and compliance costs.				
<b>Impact on public sector</b>	HM Revenue & Customs (HMRC) processing systems are designed to accommodate rate changes. The rate change will not increase HMRC processing or compliance resource needs.				
<b>Other impacts</b>	This reduction will have a positive impact on small businesses and competitiveness.				

## Monitoring and evaluation

The policy will be monitored and assessed alongside other measures in the Government's package for corporate tax changes.

## Further advice

If you have any questions about this change, please contact Simon Moulden on 020 7147 2629 (email: [simon.moulden@hmrc.gsi.gov.uk](mailto:simon.moulden@hmrc.gsi.gov.uk)).

# Writing-Down Allowances: Reduction from April 2012

---

## Who is likely to be affected?

Businesses investing in plant and machinery.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to reduce the rate of writing-down allowance (WDA) on the main rate pool of plant and machinery expenditure from 20 per cent to 18 per cent. The rate of WDA on the special rate pool of plant and machinery expenditure will be reduced from 10 per cent to 8 per cent.

No other part of the Capital Allowances Act 2001 is affected by this measure.

## Policy objective

This measure is part of the package of corporate tax reforms announced at the June Budget, which includes the phased reduction in the main rate of corporation tax (CT), intended to create a competitive corporate tax system and to support enterprise and long-term economic growth.

Reducing the rates of WDAs will mean that businesses continue to receive full tax relief to reflect the depreciation of plant and machinery assets, but over a slightly extended timeframe. The intention is that the rates of WDAs will continue broadly to align with average rates of depreciation across the economy.

## Background to this measure

This measure was announced in the June Budget.

## Detailed proposal

### Operative date

The measure will have effect for the calculation of WDAs for chargeable periods:

- ending on or after 1 April 2012 for businesses within the charge to CT; and
- on or after 6 April 2012 for businesses within the charge to income tax.

Because the rate changes will have effect from a fixed date, those businesses whose chargeable period spans the date of the change will have a hybrid rate for the whole of that transitional chargeable period.

## Current law

Capital allowances allow businesses to write off the costs of capital assets, such as plant and machinery, against their taxable income. They take the place of commercial depreciation, which is not allowed for tax.

The main rate of plant and machinery WDA is currently 20 per cent per annum on a reducing balance basis. For special rate expenditure the rate of plant and machinery WDA is currently 10 per cent per annum on a reducing balance basis. Special rate expenditure includes expenditure on long-life assets, thermal insulation, integral features and expenditure incurred on or after 1 April 2009 on cars with CO<sub>2</sub> emissions of more than 160 grams per kilometre driven.

### Proposed revisions

The main rate of WDA will be reduced from 20 per cent to 18 per cent and the special rate from 10 per cent to 8 per cent.

Oil and gas ring fence activities will retain their existing capital allowances treatment.

#### *Hybrid rates*

For businesses whose chargeable period spans 1 April (CT) or 6 April (income tax), a hybrid rate will have effect for unrelieved expenditure in any pool, including single asset pools. There will be two hybrid rates:

- one for any expenditure that qualifies for the current 20 per cent WDA; and
- the other for any expenditure that qualifies for the current 10 per cent WDA.

The hybrid rate will be arrived at by calculating the proportion of a chargeable period falling before the change date and the corresponding proportion falling after the change date.

#### *Hybrid rates example:*

If a company's chargeable period began on 1 January 2012 and ends on 31 December 2012, about one quarter of that period would fall before the date of change (on 1 April 2012) and about three quarters would fall after that date.

The calculation of the hybrid rate for the main rate of WDAs would therefore be as follows:

$$91/366 \times 20\% = 4.97\%$$

$$\text{Plus } 275/366 \times 18\% = \underline{13.52\%}$$

$$\text{Therefore, hybrid main rate for transitional period} = \underline{18.49\%}$$

The calculation of the hybrid rate for the special rate of WDAs would be as follows:

$$91/366 \times 10\% = 2.49\%$$

$$\text{Plus } 275/366 \times 8\% = \underline{6.01\%}$$

$$\text{Therefore, hybrid special rate for transitional period} = \underline{8.50\%}$$

(Note: Consistent with the last rate change, the legislation contains an explicit rule that, where there is a figure with more than two decimal places, it is always rounded up in the taxpayer's favour.)

## Summary of impacts

<b>Exchequer impact (£m)</b>	2010-11	2011-12	2012-13	2013-14	2014-15
	0	0	+1,000	+1,900	+1,800
	This costing is based on the Office for Budget Responsibility (OBR) June Budget forecast.				
<b>Economic impact</b>	This measure was part of a wider package of CT reform measures announced in the June Budget, that also included phased reductions in the main rate of CT, and changes to the small profits rate and the annual investment allowance (AIA). The OBR assessment of the package was that the cuts in the CT rates more than offset the reductions in investment allowances. The CT reform package will therefore promote higher levels of business investment than would otherwise have been the case.				
<b>Impact on individuals and households</b>	Capital allowances can only be claimed in the course of a business and therefore reducing the rates of WDAs is predominantly a business measure. The number of individual employees incurring qualifying expenditure is likely to be very small. It is also expected that any individual employee who does incur qualifying expenditure will have their expenditure wholly covered by the AIA of £25,000 a year from April 2012.				
<b>Equalities impacts</b>	No different impact on any equality group has been identified as a result of this measure.				
<b>Impact on business including third sector</b>	<p>These changes will only affect businesses' expenditure qualifying for capital allowances that is not covered by a valid claim for the AIA. Many businesses will therefore not be affected by the decreases in the capital allowances rates for expenditure incurred since April 2008 onwards because they will have been able to claim for all of it for the year in which it was incurred using their AIA entitlement.</p> <p>However, businesses still claiming capital allowances for expenditure incurred before April 2008 or who claim capital allowances for any expenditure incurred that is not covered by the AIA may be adversely affected by the decrease in the capital allowances rates. It is estimated that approximately 2 million businesses could see an increase in their tax liability as a direct result of this measure. However, they will benefit from related reductions in the rates of CT.</p> <p>The reductions in capital allowances rates are not expected to have significant impacts on businesses' on-going administrative costs as they will be making capital allowances calculations in the same way as before. Adapting to the new capital allowances rates is not generally expected to be burdensome for businesses as they or their agents will usually use software to help them with their calculations for their tax returns that takes the change in the capital allowances rates into account for them.</p>				
<b>Impact on public sector</b>	None. This change will not increase HMRC's processing or compliance resource needs.				

**Other impacts**

This measure applies to all sizes of businesses, but will only affect those with qualifying plant and machinery expenditure above the level of the AIA and those with historic pools of unrelieved expenditure carried forward from an earlier period. In relation to small amounts of carried forward unrelieved expenditure, the capital allowances regime includes a 'small pools allowance', which enables small balances of up to £1,000 in either or both of the main and special rate pools to be written-off immediately. As a result there is expected to be very limited impact on small firms.

**Monitoring and evaluation**

The policy will be monitored and assessed alongside other measures in the Government's package of corporate tax changes.

**Further advice**

If you have any questions about this change, please email Joy Guthrie ([joy.guthrie@hmrc.gsi.gov.uk](mailto:joy.guthrie@hmrc.gsi.gov.uk)) or Malcolm Smith ([malcolm.smith3@hmrc.gsi.gov.uk](mailto:malcolm.smith3@hmrc.gsi.gov.uk)) or telephone 020 7147 2610.

# Annual Investment Allowance: Reduction to £25,000

---

## Who is likely to be affected?

Businesses investing more than £25,000 a year in plant or machinery from April 2012.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to reduce the maximum amount of annual investment allowance (AIA) to £25,000 from April 2012. The AIA enables businesses to claim full tax relief on most plant and machinery expenditure in the year it is incurred.

No other part of the Capital Allowances Act 2001 (CAA) is affected by this measure.

## Policy objective

This measure is part of the package of corporate tax reforms announced at the June Budget, which includes the phased reduction in the main rate of corporation tax (CT), intended to create a competitive corporate tax system and to support enterprise and long-term economic growth.

The AIA is reduced from £100,000 to £25,000 to refocus the simplification and cash-flow benefits it offers on smaller businesses. Qualifying capital expenditure above this limit will continue to receive tax relief through capital allowances.

## Background to this measure

The reduction of the AIA was announced at the June Budget.

## Detailed proposal

### Operative date

The measure will have effect from 1 April 2012 for businesses within the charge to CT, and 6 April 2012 for businesses within the charge to income tax. Where a business has a chargeable period that spans the operative date of the decrease, the transitional rules outlined below will apply.

### Current law

Since 1 April 2008 (CT) and 6 April 2008 (income tax) most businesses, regardless of size, have been able to claim the AIA on up to £50,000 of their expenditure each year on plant and machinery (subject to certain conditions mentioned below). With effect from 1 April 2010 (CT) or 6 April 2010 (income tax) the maximum amount of the AIA was increased from £50,000 to £100,000 for expenditure incurred on or after those dates.

Businesses are able to claim the AIA in respect of their expenditure on both general and "special rate" plant and machinery. The AIA is effectively a 100 per cent allowance that applies to qualifying expenditure up to an annual limit or cap.

Where businesses spend more than the annual limit, any additional expenditure is dealt with in the normal capital allowances regime, entering either the main rate or the special rate pool, where it will attract writing-down allowances at the 20 per cent or 10 per cent rate respectively.

### Proposed revisions

The revision to the legislation will reduce the AIA from £100,000 to £25,000 from 1 April 2012 for businesses within the charge to CT, and 6 April 2012 for those businesses within the charge to income tax.

Those businesses that invest more than £25,000 will continue to be eligible for plant and machinery writing-down allowances (from April 2012 at the reduced rates of 18 per cent and 8 per cent) on expenditure not covered by the AIA.

Where a business has a chargeable period that spans the operative date of the decrease, the maximum allowance for that business's transitional chargeable period comprises two parts:

(a) the AIA entitlement, based on the previous £100,000 annual cap for the portion of a year falling before the relevant operative date; and

(b) the AIA entitlement, based on the new £25,000 cap for the portion of a year falling on or after the relevant operative date.

#### Example

A company with a calendar year chargeable period from 1 January 2012 to 31 December 2012 would calculate its maximum AIA entitlement based on:

(a) the proportion of a year from 1 January 2012 to 31 March 2012, that is,  $3/12 \times £100,000 = £25,000$ ; and

(b) the proportion of a year from 1 April 2012 to 31 December 2012, that is  $9/12 \times £25,000 = £18,750$ .

The company's maximum AIA for this transitional chargeable period would therefore be the total of (a) + (b) = £25,000 + £18,750 = £43,750, although in relation to (b) (the part period falling on or after 1 April 2012) no more than £18,750 of the company's actual expenditure in that part period would be covered by its transitional AIA entitlement.

The more detailed transitional rules about entitlement to an AIA (for example, in relation to companies that fall within the company law definition of a group, or when businesses under common control are regarded as "related" for AIA purposes) are based on similar time-apportionment principles as applied to the rules in section 51K of CAA (operation of the annual investment allowance where restrictions apply). Details are contained in the relevant draft legislation as published.

### Summary of impacts

Exchequer impact (£m)	2010-11	2011-12	2012-13	2013-14	2014-15
	0	0	+100	+1,200	+1,000
This costing is based on the Office for Budget Responsibility (OBR) June Budget forecast.					

<b>Economic impact</b>	This measure was part of a wider package of CT reform measures announced in the June Budget that also included phased reductions in the main rate of CT, and changes to the small profits rate and the writing-down allowances. The OBR assessment of the package was that the cuts in the CT rates more than offset the reductions in investment allowances. The CT reform package will therefore promote higher levels of business investment than would otherwise have been the case.
<b>Impact on individuals and households</b>	Capital allowances can only be claimed in the course of a business. The number of employees incurring qualifying expenditure as individuals is likely to be very small. The number of individual employees expected to be affected by the reduction in the AIA to £25,000 is negligible or more likely nil. The impacts of the reductions are set out in the impact on business section below.
<b>Equalities impacts</b>	No different impact on any equality group has been identified.
<b>Impact on business including third sector</b>	<p>Over 95 per cent of businesses are expected to be unaffected as any qualifying capital expenditure will be fully covered by the new level of AIA (£25,000).</p> <p>It is estimated that between 100,000 and 200,000 businesses will have annual capital expenditure of over £25,000, qualifying for capital allowances. In future, these businesses will not be able to claim an AIA for all of this expenditure in the year it is incurred. They will still benefit from tax relief through the capital allowances regime, but over a longer time period.</p> <p>Smaller business will be less likely to be adversely affected by the reduction in the AIA than larger businesses.</p> <p>Businesses who are affected may face higher administrative burdens due to the reduction in the AIA from £100,000 to £25,000 if they have total levels of expenditure qualifying for capital allowances in a year that is between £25,000 and £100,000. Such extra administrative burdens will arise if they now have to maintain a record of unrelieved expenditure in pools and make annual writing-down allowance calculations for expenditure above the AIA level that they would not otherwise have had to do.</p> <p>It is estimated that the number of businesses that will now be required to operate such pools will rise over time, as the number of businesses that are not currently operating pools, but will have to start operating them due to the lower AIA, will build over time.</p> <p>Estimates for the additional compliance cost on business as a result of this measure are set out below.</p> <p>The estimates for numbers of businesses that may be affected have been calculated through analysis of tax returns data for businesses with accounting periods ending in 2008-09. The extra annual administrative costs for businesses that now have to operate pools due to the lower AIA level were calculated using estimates derived from HM Revenue &amp; Customs' (HMRC) Standard Cost Model.</p>

	<b>Cost</b>	<b>Time Period (yrs)</b>
<b>Compliance costs</b>		
One-off Costs	£ Negligible	For 2012-13 when the reduction in the AIA takes effect
Average Annual Costs	£1.7m	Estimated average over the first 5 years
Total Costs (PV)	£7.3m	Over the first 5 years
<b>Compliance benefits</b>		
One-off Benefit	£ 0	N/A
Average Annual Benefit	£ 0	N/A
Total Benefit (PV)	£ 0	N/A
<b>Net Benefit (NPV)</b>	-£7.3m	Over the first 5 years
<b>Impact on Administrative Burden</b>		
<b>Increase</b>	<b>Decrease</b>	<b>Net Impact</b>
£1.7m (average over first 5 years)	£ 0	£1.7m (average over first 5 years)
<b>Impact on public sector</b>	This measure is not expected to have an impact on HMRC's operating costs.	
<b>Other impacts</b>	Precise data on the impact on small firms (those with less than 20 full-time employees) is not available as businesses are not required to give this information on tax returns. However, as the reduction in the AIA is only going to affect businesses that incur more than £25,000 of qualifying expenditure per year, most small firms will not be affected.	

### Monitoring and evaluation

The policy will be monitored and assessed alongside other measures in the Government's package of corporation tax changes.

### Further advice

If you have any questions about this change, please email Joy Guthrie (joy.guthrie@hmrc.gsi.gov.uk) or Malcolm Smith (malcolm.smith3@hmrc.gsi.gov.uk) or telephone 020 7147 2610.

# CFC Interim Improvements

---

## Who is likely to be affected?

Primarily large UK based multinationals, but any UK corporate with overseas subsidiaries may be affected.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to deliver a package of interim improvements to the controlled foreign company (CFC) rules as a first step to making the rules more competitive ahead of full reform in 2012.

## Policy objective

This measure supports the Government's objective to deliver a more competitive corporate tax system. These changes are designed to make the current CFC rules easier to operate and, where possible, to increase competitiveness.

The main objectives are to:

- modernise aspects of the rules so as to exempt commercially justified activities that both business and HM Revenue & Customs (HMRC) agree do not erode the UK tax base; and
- introduce other improvements that will help UK businesses that wish to undertake overseas acquisitions and reorganisations and non-UK businesses that want to invest or locate in the UK.

## Background to this measure

- In the June Budget, the Government announced that it would introduce CFC interim improvements in Finance Bill 2011 ahead of a fuller reform of the CFC regime in 2012.
- The Government published a note entitled the *Aim and scope of the CFC interim improvements* on 27 July 2010, which outlined the detailed objectives and informal consultation was undertaken from July to October 2010.
- The Government published detailed proposals for reform on 29 November 2010 as part of the Corporate Tax Reform document. All documents are available on the HM Treasury website.

## Detailed proposal

### Operative date

For simplicity, it is likely that the new rules will have effect for accounting periods beginning on or after 1 April 2011, but this will be subject to further consultation with business.

## Current law

The current law is in sections 747 to 756 of and Schedule 25 to the Income and Corporation Taxes Act 1988. The relevant aspects of the CFC legislation currently:

- restrict the level of intra-group transactions that qualify for exemption. There is a parallel restriction on transactions with the UK;
- exempt for up to two years certain subsidiaries acquired from third parties which have not previously been controlled from the UK;
- exempt CFCs whose UK chargeable profits would be below £50,000 per annum; and
- exempt superior and non-local holding companies under transitional rules which expire in July 2011.

## Proposed revisions

The law will be changed by Finance Bill 2011 to:

- introduce an exemption for certain intra group trading transactions where there is little connection with the UK and therefore it is unlikely that UK profits have been artificially diverted;
- introduce an exemption for CFCs with a main business of intellectual property (IP) exploitation where the IP and the CFC have minimal connection with the UK;
- introduce a statutory exemption which runs for three years for foreign subsidiaries that, as a consequence of a reorganisation or change to UK ownership, come within the scope of the CFC regime for the first time;
- amend the conditions of the current de minimis exemption, to increase the limit for large groups from £50,000 to £200,000 profits per annum, and to replace the need to calculate chargeable tax profits with an accounts based test; and
- extend the transitional rules for superior and non-local holding companies until July 2012.

## Summary of impacts

<b>Exchequer impact (£m)</b>	These five measures are expected to reduce receipts in 2011-12 by approximately £50 million, largely because of the measure to extend the transitional period for superior and non-local holding companies. From 2012-13 onwards the impact on receipts is expected to be in the low £10 millions.  The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at the Budget.
<b>Economic impact</b>	This measure is not expected to have any significant economic impacts.
<b>Impact on individuals and households</b>	This is a corporate tax measure and therefore, has no direct impact on individuals and households.
<b>Equalities impacts</b>	These proposals will affect companies, rather than individuals or households, and therefore there are not expected to be any different impacts in respect of any equality group.

<p><b>Impact on business including third sector</b></p>	<p>The Government does not hold sufficient information to provide an accurate estimate on the number of businesses likely to be affected.</p> <p>However, the CFC rules impact all large UK multinationals and other UK companies with overseas subsidiaries. The changes introduced are designed to make the current CFC rules easier to operate, more competitive internationally, and to benefit as many businesses as possible.</p> <p>This package of measures is intended to ease the compliance burden caused by the current CFC rules and provide increased certainty (e.g. introduction of new exemptions will reduce the reliance on the motive test in certain circumstances and increasing the de minimis exemption will reduce compliance requirements where applicable). In particular, the exemption of intra-group trading activities with limited UK connection means that UK multinationals will now benefit from greater organisational flexibility without the risk of a CFC charge. This flexibility will make it easier to respond to commercial pressures for increased efficiency thorough reorganisation of their overseas operations.</p> <p>The cost of making these changes will be discussed further with business during consultation on the proposals set out in draft legislation.</p>
<p><b>Impact on public sector</b></p>	<p>There will be no significant impact on HMRC.</p>
<p><b>Other impacts</b></p>	<p>No significant other impacts have been identified. In particular, this measure should have minimal impact on small firms.</p>

### **Monitoring and evaluation**

The reforms will be monitored once they are implemented, as part of a wider programme of evaluation. This will involve collecting statistics on applications for different types of exemptions.

### **Further advice**

If you have any questions about this change, please contact Mark Bryan on 020 7147 2684 (email: [mark.bryan@hmrc.gsi.gov.uk](mailto:mark.bryan@hmrc.gsi.gov.uk)).

# Taxation of Foreign Branches

---

## Who is likely to be affected?

UK businesses operating outside the UK through foreign branches. Those businesses that do this tend to be large companies involved in oil and gas exploration, insurance or banking.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to exempt the profits of foreign branches of UK resident companies from corporation tax (CT), precluding the need for credit relief to prevent double taxation. Companies will be able to opt into this exemption regime. Any such election will be irrevocable.

## Policy objective

This measure supports the Government's objective to deliver a more competitive corporate tax system, in line with its aims to move towards a more territorial corporate tax system. A further objective is to achieve greater consistency of tax treatment between foreign branches and subsidiaries of UK companies, which will also help create a level playing field across different business operating models

## Background to this measure

- In the June Budget, the Government announced that it would reform the rules on foreign branch taxation in Finance Bill 2011.
- The Government published *Foreign branch taxation: a discussion document* on 27 July 2010.
- The Government published detailed proposals for reform on 29 November 2010 as part of the Corporate Tax Reform document. All documents are available on the HM Treasury website.

## Detailed proposal

### Operative date

The proposal will have effect for accounting periods commencing on or after a specified date in 2011.

### Current law

Section 5(1) of the Corporation Tax Act 2009 charges UK resident companies to corporation tax (CT) on all their profits wherever arising, including those of any foreign branches. Credit relief is given against that CT for the foreign tax paid on the profits of foreign branches. That occurs when a claim is made under a double taxation arrangement, normally based on Article 23B of the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention. When there is no such convention unilateral relief is given.

Provisions authorising the UK's current double taxation arrangements, provisions relating to those arrangements and the unilateral credit relief regime are contained in Part 2 of the Taxation (International and Other Provisions) Act 2010 (TIOPA). Section 42 of TIOPA restricts the amount of credit available against CT in respect of foreign tax paid on any profits to the amount of CT payable on the same (UK measure of) profits.

### Proposed revisions

The legislation will be included in Finance Bill 2011 and will allow a company to make an irrevocable election for all its foreign branches, located anywhere in the world, to be exempt from UK CT on their profits. Where a treaty with a non-discrimination article is in place, the exempt income will be the UK measure of the profits of the permanent establishment that are taxable by the other state in accordance with the relevant treaty. Otherwise the measure will be based on the OECD Model Tax Convention. Exempt profits will include any capital gains attributable to the foreign branch and taxable under the treaty. No relief will be available for foreign branch losses.

Certain restrictions will prevent abuse whereby profits that would otherwise remain within the charge to CT are diverted to an exempt foreign branch. There will also be a transitional rule to defer exemption for branches that have generated more losses than profits in the last six years (except in the case of very large losses, which will remain in the scope of the transitional rule indefinitely).

Foreign branch exemption will not extend to international air transport and shipping, to the extent that these activities may not be taxed by the foreign jurisdiction due to a specific treaty restriction.

The draft legislation does not currently apply to the life insurance sector. The life insurance tax regime is undergoing extensive changes to bring it in line with Solvency II. The Government will consult closely with industry on potential reform of foreign branch taxation in respect of life insurance companies and on when any such reform would be implemented.

### Summary of impacts

<b>Exchequer impact (£m)</b>	This measure is expected to have a steady state cost of £100 million a year by the end of the scorecard period (2014-15). The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at the Budget.
<b>Economic impact</b>	<p>The primary benefit of this proposal will arise in two sectors: banking, which currently makes greatest use of foreign branches and general insurance where we expect use to increase.</p> <p>UK multinational groups in the banking sector currently favour a branch structure when setting up businesses offshore. Regulatory changes will allow the insurance sector to do the same. This allows groups in these sectors to make most efficient use of capital held in the UK.</p> <p>The exemption regime will improve alignment in tax treatment of foreign branches and subsidiaries. The largest benefits will fall to UK owned multinational corporate groups in these sectors.</p> <p>The proposal is also expected to have a marginal (beneficial) economic impact on oil and gas, which is the other sector operating a significant number of foreign branches.</p>

<b>Impact on individuals and households</b>	The proposal is for CT, and does not impact on individuals or households.
<b>Equalities impacts</b>	This proposal will affect companies, not individuals, and is therefore not expected to have any different impact in respect of any equality group.
<b>Impact on business including third sector</b>	<p>Based on current corporate structures, the proposal should impact on no more than 150 companies owned by large UK multinational groups, plus a small number of companies owned by non-UK multinational groups that have established foreign branches from the UK.</p> <p>Companies opting into the exemption will benefit from a reduction in tax, where the profits of their foreign branches would otherwise be subject to UK tax for the difference between the tax paid in overseas territories and the UK CT. This will achieve greater consistency of tax treatment with overseas subsidiaries.</p> <p>The Government expects large financial services companies to make the greatest use of the exemption regime. Any company not opting into the exemption will be unaffected.</p> <p>The availability of a branch exemption regime to all UK-resident companies should not impact on competition. The administrative and compliance cost of making the change is expected to be negligible.</p>
<b>Impact on public sector</b>	There will be no significant impact on HM Revenue & Customs' running costs and, since this proposal only affects companies, there should be no impact on the wider public sector.
<b>Other impacts</b>	The branch exemption regime will be available for any company to choose to opt in to. The impact on small firms has been considered, however companies with fewer than 20 full time equivalent employees do not tend to have foreign branches and discussions with businesses have indicated they are unlikely to be affected in practice.

### Monitoring and evaluation

The policy will be kept under review through regular communication with the business sectors affected, and through information collected from tax returns.

### Further advice

If you have any questions about this change, please contact Andrew Page on 020 7147 2673 (email: [andrew.page@hmrc.gsi.gov.co.uk](mailto:andrew.page@hmrc.gsi.gov.co.uk)), Bob Fisher on 020 7147 2198 (email: [bob.fisher1@hmrc.gsi.gov.uk](mailto:bob.fisher1@hmrc.gsi.gov.uk)) for financial sector and chargeable gains matters or Mike Hogan on 020 7147 2655 (email: [mike.hogan@hmrc.gsi.gov.uk](mailto:mike.hogan@hmrc.gsi.gov.uk)) for non-financial, capital allowances and intellectual property matters.

# Bank Levy

---

## Who is likely to be affected?

- UK banks, banking groups and building societies;
- foreign banking groups operating in the UK through permanent establishments or subsidiaries; and
- UK banks and banking sub-groups in non-banking groups.

## General description of the measure

Legislation in Finance Bill 2011 will introduce the Bank Levy (“the Levy”). This will be a charge based upon the total chargeable equity and liabilities as reported in the relevant balance sheets of affected banks, banking and building society groups at the end of a chargeable period.

The design of the Levy is based broadly on the proposal in the International Monetary Fund Report to the G20, *A Fair and Substantial Contribution by the Financial Sector*, for a broad balance sheet charge. It is designed to encourage less risky funding, and complements the wider agenda to improve regulatory standards and enhance financial stability.

## Policy objective

The purpose of the Levy is to ensure that the banking sector makes a fair contribution, reflecting the risks they pose to the financial system and the wider economy. The Levy is also intended to encourage banks to move away from risky funding models that threaten the stability of the financial sector and the wider economy.

## Background to this measure

- The Government announced the introduction of a Bank Levy from 1 January 2011 in the June Budget.
- *Bank Levy: a consultation* was published on 13 July 2010. The consultation set out proposals to address a number of operational issues around design and implementation, including possible and proposed approaches to defining taxable entities and the tax base.
- A consultation response document was published on 21 October 2010, along with initial draft legislation. All documents are available on the HM Treasury and HM Revenue & Customs (HMRC) websites.

## Detailed proposal

### Operative date

The measure will have effect in relation to periods of account ending on or after 1 January 2011.

Payment of the Bank Levy will be through the existing corporation tax Quarterly Instalment Payments (QIPs) system. In 2011 payment will be required only on QIPs payment dates on or after the date that Finance Bill 2011 receives Royal Assent.

## Proposed changes

The Bank Levy will apply to:

- the global consolidated balance sheet of UK banking groups and building societies;
- the aggregated UK-group and UK subsidiary balance sheets, together with a proportion (determined in accordance with these provisions) of the balance sheets of foreign banks operating in the UK through permanent establishments (branches) which are members of foreign banking groups;
- the balance sheets of UK banks and banking sub-groups in non-banking groups; and
- the balance sheets of UK banks that are not members of groups.

The Bank Levy will be based upon the total chargeable equity and liabilities as reported in the relevant balance sheets as set out above at the end of a chargeable period.

In determining the chargeable equity and liabilities the following amounts can be excluded:

- Tier 1 capital (insofar as it constitutes equity or liabilities);
- certain “protected deposits” (deposits covered by depositor protection schemes including, where greater, deposits by reference to which premiums on such schemes are paid, and deposits covered by explicit Government guarantees);
- liabilities that arise from certain insurance business within banking groups;
- liabilities in respect of currency notes in circulation;
- Financial Services Compensation Scheme (FSCS) liabilities;
- liabilities representing segregated client money; and
- deferred tax liabilities, current tax liabilities, liabilities in respect of the Bank Levy, revaluation of property liabilities, liabilities representing the revaluation of business premises and defined benefit retirement liabilities.

It will also be permitted in specified circumstances to reduce certain liabilities by:

- netting against them certain assets;
- offsetting assets on the relevant balance sheets that would qualify as high quality liquid assets (in accordance with the FSA definition); and
- repo liabilities secured against sovereign and supranational debt.

The reduction for high quality liquid assets applies first to long term liabilities with any balance applying to short-term liabilities.

The Levy will be set at a rate of 0.075 per cent from 2012 with an initial rate of 0.05 per cent in 2011.

Certain liabilities will be subject to only a half rate, namely:

- any deposits not otherwise excluded (except for those from financial institutions and financial traders); and
- liabilities with a maturity greater than one year at the balance sheet date.

The Levy will not be charged on the first £20 billion of chargeable liabilities. This first £20 billion of liabilities not charged to the Bank Levy will be apportioned between long and short maturity liabilities in accordance to the proportions of each within the total chargeable equity and liabilities for a chargeable period.

## Summary of impacts

<b>Exchequer impact (£m)</b>	2010-11	2011-12	2012-13	2013-14	2014-15
	0	+1,300	+2,300	+2,600	+2,600
	<p>The Levy is based on banks' periods of account and will raise £2.6 billion in the year to 31 December 2012. The figures above are based on receipts in a fiscal year and are in-line with those scored in the June Budget. Payment of the Levy will be through the existing corporation tax Quarterly Instalment Payments system.</p>				
<b>Economic impact</b>	<p>The Levy will strengthen incentives for banks to increase their Tier 1 capital, longer-term funding, retail deposits and liquid assets. The Levy therefore complements wider regulatory reforms aimed at improving financial stability, including higher capital and liquidity standards. In the forecast period we expect any incremental improvements in banks' funding profiles as a result of the Levy to be small but to be rising toward the end of the forecast period. This reflects the current regulatory pressures banks already face to increase their capital, the challenging conditions in funding markets and competitive pressures for banks to increase their share of retail deposits. These factors are also reflected in the lower initial rate for 2011.</p>				
<b>Impact on individuals and households</b>	<p>There is no direct impact on individuals and households. The Levy is a corporate tax on the balance sheets of banks, banking groups, and building societies. Although the extent to which the cost of the Levy is not absorbed by shareholders may result in additional costs for individual customers.</p>				
<b>Equalities impacts</b>	<p>The Levy is not expected to have a direct or disproportionate impact on any of the defined equality groups.</p>				
<b>Impact on business including third sector</b>	<p>The Levy will affect between 30 and 40 banks, building societies and banking groups. The Levy has been specifically designed to ensure a level playing field; the Levy applies to the aggregated liabilities of the UK business and subsidiaries of foreign bank groups to ensure that a fair measure of the UK's exposure to that group can be determined and to provide a consistent basis with UK banks.</p> <p>The compliance costs to businesses vary proportionally depending on both the size and the current internal systems of the relevant business. In establishing most liabilities to the Levy, banks should be able use a combination of existing process and controls and certain other reporting processes to generate and validate the appropriate information needed to calculate the Levy.</p> <p>The Levy design, insofar as possible, draws on existing regulatory processes which will also help to minimise costs. However in many cases information will need to be gathered from around the world to calculate the levy. For example, it will be necessary to extend work done to capture protected deposits in the UK under FSCS to all equivalent deposit systems and protection schemes where the group operates.</p> <p>Banks are currently evaluating how to collect data on high quality liquid assets as this data is not currently collected from all subsidiaries, with similar work ongoing on establishing the scope for netting liabilities. Here adjustments may not be identical to regulatory netting data given the different regulatory balance sheet as the starting point for the Levy calculation.</p>				

	<p>Where processes are not already in place banks will also need to put in place appropriate governance to ensure that any necessary new controls or systems are adequately designed and effectively implemented.</p> <p>Banks will have to invest a degree of management time to explain the composition, drivers and impacts of the Levy across the businesses and the recognition of the costs across the Group where appropriate.</p> <p>The costs associated will vary from bank to bank. Provisional estimates of the one off compliance cost provided by banks during the consultation varied from £500,000 to below £700,000 with annual ongoing compliance figures of approximately £500,000.</p> <p>The Levy will be formally reviewed in 2013 to make sure it is operating efficiently. As part of this, the actual costs and benefits to business will be established once further information is available.</p>
<b>Impact on public sector</b>	<p>The Levy is being delivered through existing systems thereby minimising costs to HMRC.</p> <p>There will be some additional costs for HMRC in the first year of implementation arising from giving advice to customers, producing guidance and establishing reports on the Levy for management purposes, particularly given the recent progress made by HMRC on the need provide and publish unit costs of tax collection. However, the additional costs are expected to be negligible; there are only 30 to 40 bank and building society groups affected.</p>
<b>Other impacts</b>	<p>A number of additional impacts have also been considered.</p> <p><i>Competition assessment:</i> The scope of the Levy has been specifically designed to ensure a level playing field for all those affected by it in the UK. Certain building societies and banks will not breach the £20 billion allowance therefore they will not pay the Levy. This could create a small competitive distortion where these businesses compete in the same markets as those that will be liable for the Levy. However, the £20 billion allowance ensures that the Levy is proportionate and balances the probability that the failure of a bank could pose a systemic risk against the relative burden imposed in order to gather additional revenue at the margin.</p> <p><i>Small Firms Impact Test:</i> None of the 30 to 40 banks, building societies and banking groups affected by the Levy are considered to be small firms.</p>

### Monitoring and evaluation

The Bank Levy will be formally reviewed in 2013 to make sure it is operating efficiently. Receipts from the Bank Levy will be monitored from 2011.

### Further advice

If you have any questions about this change, please contact Malcolm White on 020 7147 0565 (email: [malcolm.white@hmrc.gsi.gov.uk](mailto:malcolm.white@hmrc.gsi.gov.uk)).

# Corporate Capital Gains: Capital Losses after a Change of Ownership (Simplification)

---

## Who is likely to be affected?

Groups of companies.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to simplify rules for the treatment of capital losses after a company that is or has been a member of group changes ownership.

It will remove rules that restrict relief for certain capital losses realised after the change of ownership. It will maintain restrictions on relief for capital losses realised before the change of ownership.

## Policy objective

This measure supports competitiveness and growth. It will make it easier for a group to integrate an acquired business into its existing operations without losing relief for any capital losses incurred by the acquired business. The changes are also intended to reduce the overlap with an anti-avoidance rule that prevents capital loss buying.

## Background to this measure

- The previous government announced an intention to simplify some of the tax rules for related companies at the 2007 Pre-Budget Report.
- Business identified the rules on capital losses after a company changes ownership as a priority for reform. HM Revenue & Customs (HMRC) and HM Treasury met business and professional representatives regularly throughout 2008 and early 2009 to consider options for reform.
- A discussion document outlining proposals for the reform of three main areas, of which this is one, was issued by HMRC and HM Treasury on 17 June 2009.
- A consultation document with initial draft legislation for the lead proposals followed on 22 February 2010. Documents are available on the HM Treasury website.
- The draft legislation has been amended to take account of a number of points raised in consultation. A response to consultation was published on the 9 December 2010, alongside revised draft legislation.

## Detailed proposal

### Operative date

The measure will have effect in relation to the deduction of a pre-entry capital loss on and after the date that Finance Bill 2011 receives Royal Assent.

## Current law

The loss-buying rules contained in Schedule 7A to the Taxation of Chargeable Gains Act 1992 (TCGA) restrict the use of capital losses when a company undergoes a change of ownership through a takeover or merger. Capital losses arising on the disposal of an asset the company had before the change can only be set against capital gains arising on pre-entry assets (i.e. those owned before the change by that company or its fellow group members), or on newly acquired assets that are used in a continuing trade of the company.

Consequently this streaming of losses can prevent a group obtaining full tax relief for capital losses even on disposals of assets years after a wholly commercial merger.

## Proposed revisions

Changes will be made by Finance Bill 2011 to Schedule 7A to TCGA to remove its current restrictions on the use of capital losses realised after a change in ownership, made unnecessary by section 184A of TCGA.

A restriction will continue to apply to losses that have been realised before the company has a change of ownership, which can continue to be set against gains on pre-entry assets. However, such losses will also be allowable against any capital gains from assets that are used in the same business the company carried on before the change of ownership, removing the limitation that applied this rule only where the company carries on a trade. A wider reform removing these restrictions entirely would not have been affordable.

A further change removes the restriction on the use of losses unless the same company carries on the business after the change of ownership. It will be sufficient that the business continues somewhere within the new group.

## Summary of impacts

<b>Exchequer impact (£m)</b>	This measure is expected to reduce receipts by tens of millions a year over the scorecard period. The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at the Budget.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	There is no direct impact on individuals and households as this measure concerns companies that are or were part of a group.
<b>Equalities impacts</b>	This is a corporation tax measure and is therefore unlikely to have any different impact on any equality group.
<b>Impact on business including third sector</b>	<p>This measure is expected to benefit, on average, 5 to 10 large groups each year who are acquiring or merging with other groups or companies that have historic capital losses in their structure. The changes will allow earlier tax relief for some capital losses which a company realises after joining a new group, than was permitted under the previous rules.</p> <p>Under the new rules, it will also be easier for an acquired business to be integrated into the new owner's group without losing relief for any acquired capital losses.</p> <p>The change will have a significant tax effect on some companies but the associated administrative or compliance cost will be negligible.</p>

<b>Impact on public sector</b>	There will be a negligible reduction in the costs to HMRC.
<b>Other impacts</b>	The impact on small firms (with fewer than 20 employees) has been considered. However, this measure applies to groups of companies, and in practice is expected to benefit large corporate groups. It is unlikely that any firms with fewer than 20 employees will be affected. However, as this is a beneficial change, it would not be fair to exclude them.

### **Monitoring and evaluation**

The policy will be monitored through information collected from tax returns.

### **Further advice**

If you have any questions about this change, please contact Philip Donlan on 020 7147 2633 (email: [philip.donlan@hmrc.gsi.gov.uk](mailto:philip.donlan@hmrc.gsi.gov.uk)).

# Corporate Capital Gains: Value Shifting (Simplification)

---

## Who is likely to be affected?

Groups of companies.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to simplify anti-avoidance rules applying to the computation of corporate capital gains and losses.

Value shifting provisions increase the consideration used to compute a gain or loss on the disposal of an asset if a scheme has reduced the asset's value and confers a tax advantage.

The legislation will replace existing value shifting provisions with a new targeted anti-avoidance rule. It will also only require a loss computation on a company share disposal for the effect of depreciatory transactions if it takes place less than six years before the sale.

## Policy objective

The measure is intended to make the UK tax system simpler and more certain by providing a shorter and clearer value shifting rule, and restricting the scope of the rule to instances where companies have entered into tax-motivated arrangements intended to secure a reduction in a charge to corporation tax on chargeable gains. It will also eliminate the need for companies to retain records of depreciatory transactions beyond six years.

## Background to this measure

- The previous government announced its intention to simplify some of the tax rules for related companies at the 2007 Pre-Budget Report.
- Business identified the value shifting rules as one of the most complex and burdensome aspects of the capital gains rules affecting corporate groups. HM Revenue & Customs (HMRC) and HM Treasury met business and professional representatives regularly throughout 2008 and early 2009 to consider options for reform.
- A discussion document outlining proposals for the reform of three main areas, of which this is one, was issued by HMRC and HM Treasury on 17 June 2009.
- A consultation document with initial draft legislation for the lead proposals followed on 22 February 2010. Documents are available on the HM Treasury website.
- The draft legislation has been amended to take account of a number of points raised in consultation. A response to the consultation was published on 9 December 2010, alongside revised draft legislation.

## Detailed proposal

### Operative date

The measure will have effect where companies dispose of shares or securities on or after the date that Finance Bill 2011 receives Royal Assent.

## Current law

Section 30 of the Taxation of Chargeable Gains Act 1992 (TCGA) counters value shifting tax avoidance schemes where a company disposing of an asset has reduced the value of that asset, but ensured it will receive additional value in a tax-free form.

This rule is subject to the modifications set out in sections 31-34 of TCGA where the value reduction results from a transaction within a group of companies. Then the rule operates where a reduction in value can be attributed to the distribution of specified profits or the transfer of an asset at under value, subject to additional conditions.

Section 176 of TCGA reduces or eliminates a loss to the extent it is attributable to a depreciatory transaction when shares are disposed of after the value of a company has been reduced by a transaction conferring a benefit on another group company.

## Proposed revisions

Finance Bill 2011 will repeal sections 31 to 34 of TCGA, and replace them with a new targeted anti-avoidance rule that explicitly targets tax driven arrangements intended to reduce the value of a company before a share sale and obtain an advantage through a reduction in a charge to corporation tax on chargeable gains. The new rule replaces detailed rules and exceptions with a much shorter, purpose-based rule. There is a specific exclusion for reductions in value attributable to the payment of an exempt distribution of profits.

A related change will introduce a six year time limit between the time of the depreciatory transaction and the subsequent disposal of the shares or securities by the company, beyond which no adjustment will be made to any loss incurred.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The Exchequer impact of this measure will be confirmed at the Budget. It is expected to be negligible.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	This measure has no impact on individuals as it applies only to companies that are or were part of a group.
<b>Equalities impacts</b>	This measure has no equality impacts as it applies only to corporation tax and will not have any different effects on different equality groups.
<b>Impact on business including third sector</b>	<p>The measure does not change the amount of tax charged on commercial profits.</p> <p>Companies will continue to be prevented from structuring arrangements to reduce the value of taxable sales proceeds from a share disposal for tax avoidance.</p> <p>These changes are expected to have a minor overall effect in reducing both compliance costs and administrative burdens.</p> <p>Making the value shifting rule purpose-based will result in a significant administrative saving for a few groups each year, primarily when they are making an acquisition or disposal of a company. It will no longer be necessary to investigate the effect of wholly commercial transactions</p>

	<p>undertaken in the past on the value of shares being sold.</p> <p>The introduction of a time limit within which losses can be restricted as a result of a depreciable transaction will also reduce the need for companies to maintain records of normal commercial transactions beyond six years.</p> <p>There will be negligible impact on competition, no identified sectoral impact, or impact on specific markets or businesses of different sizes, except that companies which are not part of a group will be unaffected by the changes.</p>
<b>Impact on public sector</b>	This measure will have a negligible reduction in the cost to HMRC, through a reduction in the number and complexity of compliance enquiries into potential value-shifting transactions.
<b>Other impacts</b>	This measure applies to groups of companies, and in practice is expected to benefit large corporate groups. It is unlikely that any firms with fewer than 20 full time equivalent employees will be affected.

### **Monitoring and evaluation**

The policy will be subject to ongoing monitoring based on information received from company tax returns, tax avoidance disclosures and through contacts with taxpayers and their advisers.

### **Further advice**

If you have any questions about this change, please contact Philip Donlan on 020 7147 2633 (email: [philip.donlan@hmrc.gsi.gov.uk](mailto:philip.donlan@hmrc.gsi.gov.uk)).

# Corporate Capital Gains: Degrouping Charges (Simplification)

---

## Who is likely to be affected?

Groups of companies.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to simplify the rules for the calculation of chargeable gains degrouping charges for companies. Where a company leaves a group as a result of a disposal of its shares, any degrouping charge will be treated as additional consideration for the disposal. This ensures that shareholder reliefs, such as the substantial shareholdings exemption (SSE), will also apply to the degrouping charge.

There will be a new facility for claims to reduce the amount of a degrouping charge where tax is charged on the same economic gain both through the degrouping charge and through a chargeable gain on the shares.

## Policy objective

This measure seeks to provide greater certainty to companies planning acquisitions and disposals, and ensure alignment of economic and tax outcomes. The objective is to remove a potential degrouping charge where a gain on the disposal of the company is otherwise exempt from tax. It also aims to reduce the potential for double taxation of the same gain.

This measure also supports the Government's objective for a simpler tax system. Business have identified the degrouping charge rules as one of the most complex and burdensome aspects of the capital gains rules affecting corporate groups

## Background to this measure

- The previous government announced its intention to simplify some of the tax rules for related companies at the 2007 Pre-Budget Report.
- HM Revenue & Customs (HMRC) and HM Treasury met business and professional representatives regularly throughout 2008 and early 2009 to consider options for reform.
- A discussion document outlining proposals for the reform of three main areas, of which this is one, was issued by HMRC and HM Treasury on 17 June 2009.
- A consultation document with initial draft legislation for the lead proposals followed on 22 February 2010. Documents are available on the HM Treasury website.
- The draft legislation has been amended to take account of a number of points raised in consultation. A response to the consultation was published on 9 December 2010, alongside revised draft legislation.

## Detailed proposal

### Operative date

The measure will have effect where companies leave a group on and after the date that Finance Bill 2011 receives Royal Assent.

### Current law

Section 179 of the Taxation of Chargeable Gains Act 1992 (TCGA) provides that if a company leaves a group holding an asset acquired from a fellow group member within the previous six years, any gain or loss that had been deferred under section 171 of TCGA on that asset acquisition is reinstated as a chargeable gain or loss (a degrouping charge) separate to any gain or loss incurred on the disposal of the shares in the company.

A degrouping charge may arise in respect of a trade asset owned by a trading company, even though any gain or loss on the share sale that gives rise to the degrouping charge is exempt from corporation tax under the SSE rules at Schedule 7A to TCGA.

The charge is subject to an exception where both the transferee and transferor companies leave the group together, and they are 'associated companies' (part of the same sub-group) both at the time of the transfer and when they leave the original group.

Section 179B of and Schedule 7AB to TCGA provide for roll-over relief to apply to the chargeable gain created by a degrouping charge where the group makes investments in other business assets.

### Proposed revisions

Finance Bill 2011 will make changes to the way that most degrouping charges are computed in section 179 of TCGA. Where a company leaves a group as a result of a disposal of shares by a group company, any degrouping charge will be made by way of an adjustment to the consideration taken into account for calculating the gain or loss on the disposal of shares. A consequence of this is that any exemption or relief that may apply to the share disposal, such as the SSE, will also apply to the degrouping charge.

A related change will be made to the SSE rules to allow the exemption to apply when trading activities are transferred to a newly incorporated group company which is then sold out of a trading group.

A new provision will be introduced to allow a reduction in the amount of a degrouping charge where it is just and reasonable to do so, taking into account the amount of share capital of the companies being sold, and the circumstances under which the company leaving the group acquired the asset which gives rise to the charge.

Changes will be made to clarify the circumstances when the associated companies' exception applies. The revised exception will ensure no chargeable gains degrouping charge is made in respect of an asset that has been transferred between two companies belonging to the same sub-group if those companies leave the group together. An equivalent change will be made to the similar rules in the intangible fixed assets regime in section 783 in Part 8 of the Corporation Tax Act 2009.

The facility to roll-over a degrouping charge on the acquisition of a replacement asset under section 179B of, and Schedule 7AB to, TCGA will be repealed.

The proposals will also include the repeal of section 179A of TCGA, which allows a degrouping charge to be transferred between group companies. To replace this, a minor amendment will be made to section 171A of TCGA so that it can also apply to a stand-alone degrouping gain or loss.

## Summary of impacts

<b>Exchequer Impact (£m)</b>	This measure is expected to increase receipts by approximately £10 million each year. The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at the Budget.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	There is no direct impact on individuals and households as this measure concerns companies that are or were part of a group.
<b>Equalities impacts</b>	This is a corporation tax measure and is therefore unlikely to have any different impact on any equality group.
<b>Impact on business including third sector</b>	<p>Discussions with stakeholders have indicated that one of the main benefits of this measure will be to remove the need for complex tax planning when restructuring a trade. The proposal will also provide greater certainty to companies and ensure alignment of economic and tax outcomes.</p> <p>The changes in the way that degrouping charges interact with the SSE will particularly benefit groups that have various trading activities conducted within a single company where they wish to dispose of only part of their overall activities.</p> <p>The expected tax yield will come from a reduction in the allowable tax losses arising to a small number of companies. Again this is because the SSE will apply to both the share sale and the degrouping charge.</p> <p>It is expected that there will be a modest reduction in administrative and compliance costs to some businesses where they are making a corporate acquisition or disposal. Businesses replying to the consultation expected this to arise through a reduction in the amount of tax due diligence work required to identify any potential degrouping charges, and in ensuring that appropriate actions are taken to qualify for any relief or exception that might apply. The reductions are not quantified but expected to be small.</p> <p>Many groups rely on the associated companies exception to prevent a degrouping charge when they dispose of a company. The changes will reduce the costs that can be incurred in doing this, for example in maintaining dormant companies where this is solely to ensure that the associated company requirements are met at the time of the sale.</p>
<b>Impact on public sector</b>	There will be a negligible reduction in the costs to HMRC.
<b>Other impacts</b>	The impact on small firms has also been considered. This measure applies to groups of companies, and in practice is expected to benefit large corporate groups. It is unlikely that any firms with fewer than 20 full time equivalent employees will be affected.

### **Monitoring and evaluation**

The policy will be monitored through information received from company tax returns and tax administrative data and through regular communication with the business sectors affected by the measure.

### **Further advice**

If you have any questions about this change, please contact Philip Donlan on 020 7147 2633 (email: [philip.donlan@hmrc.gsi.gov.uk](mailto:philip.donlan@hmrc.gsi.gov.uk)).

# Reform of Associated Company Rules as they apply to the Small Profits Rate of Corporation Tax

---

## Who is likely to be affected?

Incorporated businesses that are currently under common control solely by virtue of rights held by one person being attributed to another associated person.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to simplify the corporation tax small profits rate (SPR) legislation. The measure will ensure that companies are not held to be associated, thus lowering the profit threshold at which they fall within the main rate of corporation tax, by mere accident of circumstance but only where the level of commercial interdependence between companies makes it appropriate to do so.

## Policy objective

This measure places the treatment currently afforded by a longstanding Extra Statutory Concession on to a statutory footing and extends it. The measure simplifies the tax system by ensuring that companies are only treated as under common control and thus associated where substantial commercial interdependence exists between them.

## Background to this measure

- A consultation document entitled *Simplification review: the associated company rules as they apply to the small companies' rate of corporation tax* was published on 28 October 2009 – 17 responses were received.
- March 2010 Budget announced the introduction of reforms of the rules to take effect from 1 April 2011.
- The June Budget confirmed that the reforms would go ahead as previously announced.
- In July 2010 the summary of responses to the consultation were published along with draft legislation and guidance. All documents are available on the HM Treasury website.

## Detailed proposal

### Operative date

These proposals will have effect for company accounting periods ending on or after 1 April 2011.

### Current law

In establishing who controls a company and whether two companies are under common control and thus associated, the law (sections 450 and 451 of the Corporation Tax Act 2010) currently automatically attributes to an individual all the rights and powers held by his or her associates.

However, HM Revenue & Customs (HMRC) ESC C9 limits such attribution between relatives (apart from spouses and minor children) solely to circumstances where substantial commercial interdependence exists between the companies.

### Proposed revisions

The proposed revision places the treatment currently afforded by longstanding ESC C9 (as described above) on to a statutory footing and extends it to all relatives and partners.

### Summary of impacts

<b>Exchequer impact (£m)</b>	The Exchequer impact of this measure will be confirmed at the Budget. It is expected to have a negligible impact on receipts.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	This policy measure concerns incorporated businesses and has no direct impact on individuals or households.
<b>Equalities impacts</b>	<p>Although this policy measure concerns the taxation of the body corporate which is a non-gender/race specific entity in law, it is anticipated that many of the beneficiaries of this reform may be companies separately owned by husbands and wives.</p> <p>Current rules automatically treat the companies of husbands and wives as under common control. This proposal replaces the current test of the relationship between individuals with a new rule based solely on the relationship between companies. In these cases, equality is improved because husbands and wives will now be treated as separate individuals whose rights are only attributed in the same circumstances as other types of associated persons – where the companies in question are substantially commercially interdependent.</p>
<b>Impact on business including third sector</b>	<p>It is estimated that this measure is likely to benefit around 3,000 companies. These companies will no longer be deemed associated. These companies will instead pay a lower rate of tax as a result of being able to individually access the SPR or marginal relief from the main rate of corporation tax.</p> <p>The administrative cost of making this change is negligible as it affects a small population of companies and is likely to be familiar to them as it legislates to put an existing concessionary practice beyond doubt.</p>
<b>Impact on public sector</b>	This measure does not have an impact on HMRC's operating costs.
<b>Other impacts</b>	<p>A number of other impacts have also been considered.</p> <p><i>Competition:</i> This measure will remove a possible barrier to entry in the form of a tax disincentive to small companies to enter the market as a result of the personal relationships of the owners.</p> <p><i>Small Firms:</i> This measure is beneficial to small companies (20 or fewer employees) as these are more likely to be the small companies owned separately by associates (particularly husbands and wives).</p>

### **Monitoring and evaluation**

The policy will be monitored through information collected from tax returns and receipts.

### **Further advice**

If you have any questions about this change, please contact Simon Moulden on 020 7147 2629 (email: [simon.moulden@hmrc.gsi.gov.uk](mailto:simon.moulden@hmrc.gsi.gov.uk)).

# Modernisation of the Tax Rules for Investment Trust Companies

---

## Who is likely to be affected?

Investment companies currently approved by HM Revenue & Customs (HMRC) as investment trusts (commonly referred to as “investment trust companies” or ITCs), and other investment companies that may meet the conditions for approval under the reform of the rules set out in this measure.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to introduce a new, simpler tax framework for ITCs that:

- removes unnecessary restrictions on their commercial activities;
- provides increased certainty for investors;
- reduces costs to business; and
- provides a more flexible framework that prevents unintended tax advantages being gained through investing in an ITC while ensuring a proportionate approach for minor inadvertent breaches.

Changes will also be made to modernise company law rules on investment companies which will be consistent with the proposed tax changes.

## Policy objective

This measure supports the Government’s objective of making the UK a more competitive domicile for ITCs while ensuring that UK investors continue to choose their investments for commercial rather than tax reasons.

The measure aims to deliver a modernised tax regime for ITCs by introducing rules that facilitate modern investment practices and a wider range of investment strategies.

## Background to this measure

- This measure was announced in the June Budget.
- A consultation document, *Modernisation of the tax rules for investment trust companies and Modernisation of company law rules on distributions by investment companies*, was published on 27 July 2010, together with an impact assessment. The document is available on the HM Treasury website.
- The Government’s response to the consultation was published on 9 December 2010, alongside the draft legislation.

## Detailed proposal

### Operative Date

Secondary legislation (regulations) will set out the conditions that ITCs must meet in order to be approved by HMRC, as well as the detailed operational rules of the new regime. Regulations will be published in draft form for comment in early 2011. As the regulations will be subject to the affirmative process, and therefore require full Parliamentary scrutiny, it is not possible to provide a commencement date at present.

### Current law

In order to be approved by HMRC as an ITC, a company must meet certain criteria set out in primary tax legislation at sections 1158 to 1162 of the Corporation Tax Act (CTA) 2010 throughout its accounting period, and apply for approval annually to HMRC.

Specifically, a company must not be “close” and it must meet the conditions for approval set out at section 1159. These include a requirement that an ITC must derive at least 70 per cent of its income from shares and securities (the “income test”) and must not at any time in its accounting period have a holding in another company that represents more than 15 per cent by value of its total investments (the “investment test”).

A company that is approved as an ITC benefits from exemption from corporation tax on its chargeable gains (section 100(2) of the Taxation of Chargeable Gains Act 1992). This is to reflect the fact that investors in ITCs will be chargeable to capital gains tax or corporation tax on disposal of their holdings and the rules therefore prevent a double layer of taxation.

The requirement that companies are not close and the conditions at section 1159 are intended to ensure that ITCs are genuinely pooled investment vehicles that invest with a view to spreading risk.

### Proposed revisions

There will be a new legislative definition of an investment trust. In addition, a power will be introduced to enable HM Treasury to make secondary legislation that will contain revised conditions and rules relating to a new once-only, advance approval process. An ITC will then continue to enjoy “approved” status as part of the normal self-assessment process. The details will be set out in secondary legislation, which will be published in draft in early 2011

As is the case with the current rules, a combination of the proposed definition of an investment trust and the effect of the conditions will ensure that only genuinely pooled investment vehicles may be approved as ITCs.

Revisions to the conditions for approval (that are currently contained in section 1159 of CTA 2010) will remove barriers to normal commercial investment activity by adopting a more purposive approach and removing red lines in the legislation, such as the 15 per cent investment test. The conditions will be contained within regulations so that they can be amended more readily should market developments make that necessary. It is intended that the regulations will contain provisions that prevent an ITC from losing its approved status in circumstances where minor inadvertent breaches of the rules are rectified without unreasonable delay and do not regularly recur.

The regulations will incorporate changes to the tax rules for investment trusts that were introduced in secondary legislation by Statutory Instrument 2009/2034 with effect from

1 September 2009. Those regulations themselves provided an optional tax efficient way for investment trusts to invest in interest bearing assets so that tax does not “stick” in the fund.

It is also proposed that the new regulations will contain provisions that ensure that income “reported” to investment trusts by offshore reporting funds under regulation 90 of the Offshore Fund (Tax) Regulations 2009 (S.I. 2009/3001) is included within the minimum amount that an investment trust is required to distribute to its investors, in line with the requirements for authorised UK funds.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The Exchequer impact of this measure will be confirmed at the Budget. It is expected to have a negligible impact on receipts.
<b>Economic impact</b>	This measure is not expected to have any significant economic impact.
<b>Impact on individuals and households</b>	This measure affects only investment trusts and there is therefore no direct impact on individuals and households. Where individuals are investors in such vehicles the measure is expected to have a minor positive impact as a result of a reduction in investment trusts’ costs of complying with the revised tax rules.
<b>Equalities impacts</b>	The measure only affects investment trusts and not individuals and households (except to the minor extent noted above) and so is not considered to have any different impact on any equality group.
<b>Impact on business including third sector</b>	<p>This is a deregulatory measure, involving the removal of the annual approval obligation for around 200 ITCs and the streamlining of in-year compliance. There are not estimated to be any new ongoing compliance costs. There may however be some one-off costs to industry in familiarising themselves with the new legislation but these are estimated to be negligible.</p> <p>Whilst there are negligible one-off savings there are tangible annual benefits from administrative savings in relation to the need for less auditing, monitoring, reporting and in the seeking of professional advice. The industry estimate this will save around £2 million a year on an on-going basis split roughly £0.4 million/£1.6 million between the removal of the annual approval obligation and the reduction in in-year compliance monitoring.</p> <p>There are also non-monetised benefits in terms of enabling ITCs to compete on a more equal footing with other collective investment vehicles, but which have not been quantified.</p> <p>ITCs are large/medium-sized companies and the administrative savings will be spread evenly across the sector without benefiting any one particular group or distorting competition. In many cases the costs will be shared by single administrators covering multiple ITCs.</p> <p>The measure is expected to enhance competition in the market for asset management by removing barriers to normal commercial activity. Increased competition should also improve choice for investors.</p>

		Cost	Time Period (yrs)
	<b>Compliance Costs</b>		
	One-off Costs	£ Neg	
	Average Annual Costs	£ 0	10
	Total Costs (PV)	£ Neg	10
	<b>Compliance Benefits</b>		
	One-off Benefit	£ Neg	
	Average Annual Benefit	£ 2 million	Ongoing
	Total Benefit (PV)	£ 17 million	10
	<b>Net Benefit (NPV)</b>	£ 17 million	10
	<b>Impact on Administrative Burden</b>		
	<b>Increase</b>	<b>Decrease</b>	<b>Net Impact</b>
	£ Neg	£ 2 million	£ - 2 million
<b>Impact on public sector</b>	<p>There may be some additional costs for HMRC in the first year of implementation arising from giving advice to customers and processing up-front approvals. However, the additional costs are expected to be negligible.</p> <p>There will be small savings for HMRC going forward due to the removal of the annual approval process and simplification of the rules.</p>		
<b>Other impacts</b>	<p>The impact on Small Firms (with fewer than 20 employees) has been considered. This measure is a beneficial measure and excluding companies with fewer than 20 employees would not achieve the policy objective.</p>		

### Monitoring and evaluation

The impact will be assessed through monitoring receipts and information collected on tax returns and approval applications to ensure that the proposed legislation is working in the way intended. HMRC and HM Treasury will also continue to liaise with industry from time to time to discuss the implementation of the proposed new rules as part of ongoing engagement with industry.

### Further advice

If you have any questions about this change, please contact Wayne Strangwood on 020 147 2545 (email: [wayne.a.strangwood@hmrc.gsi.gov.uk](mailto:wayne.a.strangwood@hmrc.gsi.gov.uk)).

# Reform of Stamp Duty Reserve Tax on Collective Investment Schemes

---

## Who is likely to be affected?

Managers of collective investment schemes that hold interests in underlying schemes.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to extend the situations in which fund managers can treat an interest in an underlying scheme as an exempt investment. It will also make a minor consequential change to when an interest in a collective investment scheme is classed as a chargeable security for the principal stamp duty reserve tax (SDRT) charge.

This change affects the calculation of the SDRT (as per Schedule 19 to the Finance Act 1999 due from fund managers).

## Policy objective

This measure supports the Government's objective of making the tax system more competitive by making the UK more attractive as a domicile for certain collective investment schemes.

The aim of this measure is to bring the SDRT regime for collective investment schemes (known as "Schedule 19") into closer alignment with the principal SDRT charge. It extends the circumstances in which investments in underlying schemes are exempt.

## Background to this measure

- Formal consultation on the reform of Schedule 19 was launched in November 2007.
- It was agreed that major reform of Schedule 19 should not proceed but informal consultation on the details of the Schedule 19 regime continued. This change arises from that work.

## Detailed proposal

### Operative date

The change will have effect on and after the first Sunday following the date that Finance Bill 2011 receives Royal Assent.

### Current law

The exemption is currently limited to underlying schemes which, amongst other things, can and do only invest in bonds.

The current rules can be found at section 99(5B)(b) of Finance Act 1986.

## Proposed revisions

Finance Bill 2011 will replace the current definition of when an interest in a collective investment scheme is classed as an “exempt investment”. The new definition is wider. Following the change, interests held by fund managers in underlying schemes will qualify as exempt investments for Schedule 19 purposes if:

- the underlying scheme is a Collective Investment Scheme as defined by section 235 of the Financial Services and Markets Act 2000; and
- no more than 20 per cent of the property subject to the underlying scheme is invested in non-exempt investments.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The Exchequer impacts of this measure will be confirmed at the Budget. This measure is not expected to have any significant impact on receipts.
<b>Economic impact</b>	This measure is likely to make the UK more attractive as a domicile for collective investment schemes that invest in underlying schemes which primarily do not hold UK shares.
<b>Impact on individuals and households</b>	There will be no significant impact on individuals and households. This measure affects directly only the managers of collective investment schemes. There will be a very small indirect effect on individuals who invest in such schemes.
<b>Equalities impacts</b>	As set out above, the impact on any individual is likely to be very small. No equality group will be impacted differently by this measure except to the extent that they invested in affected schemes.
<b>Impact on business including third sector</b>	There are around 180 fund managers in the UK. Fund managers controlled around 30,000 schemes liable to SDRT under Schedule 19 in 2009-10, and an unknown number not liable to SDRT in that year. All schemes that hold investments in other schemes may be affected by this change. Schemes that are affected will pay less tax under the new rules.  Compliance costs for the change are expected to be negligible.
<b>Impact on public sector</b>	This measure will have negligible cost to HM Revenue & Customs.
<b>Other impacts</b>	Other impacts have been considered and none have been identified. Small Firms have not been excluded from this measure as it is beneficial. HMRC will issue guidance on how the new exemption will work in practice.

## Monitoring and evaluation

Receipts from stamp taxes on shares are monitored as a matter of course. The impact of the measure on the location of collective investment schemes will be monitored through regular communication with taxpayer groups affected by the measure.

## Further advice

If you have any questions about this change, please contact Jeremy Schryber on 020 7147 2788 (email: [jeremy.schryber@hmrc.gsi.gov.uk](mailto:jeremy.schryber@hmrc.gsi.gov.uk)).

# Oil and Gas minor measures

---

## Who is likely to be affected?

Oil and gas companies that operate in the UK or on the UK Continental Shelf (UKCS).

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to make minor changes to the legislation applying to the field allowance and the swap of oil licences, and governing whether assets have been decommissioned. The measure also extends the scope of the chargeable gains ring fence reinvestment relief.

## Policy objective

This measure supports the Government's objectives of making the tax system more sustainable, more competitive, and encouraging enterprise and growth. The intended outcome is to encourage further investment in new and existing oil and gas fields.

## Background to this measure

- The June Budget announced the extension of the field allowance to investment in fields that have previously been decommissioned, the extension of the chargeable gains oil licence swaps legislation and the extension of the scope of ring fence reinvestment relief.
- The draft legislation in respect of the changes announced at the June Budget reflects consultation with industry.
- The change concerning the time at which the field allowance is first held and the correction of a defect in the legislation that governs whether assets have been decommissioned have not previously been announced, and have arisen as a result of consultation with industry.

## Detailed proposal

### Operative date

- The extension of the scope of field allowance and the change to the time at which the field allowance is first held will have effect with retrospective application to fields whose development is authorised on or after 22 April 2009.
- The extension of the chargeable gains swaps legislation will have effect for disposals made on or after 23 March 2011.
- The extension of the scope of ring fence reinvestment relief will have effect with retrospective application to disposals made on or after 24 March 2010.
- The correction of a defect in the existing petroleum revenue tax (PRT) legislation governing whether assets have been decommissioned will have effect for chargeable periods commencing after 30 June 2009.

## Current law

### *Field allowance*

The field allowance at sections 333 to 357 of the Corporation Tax Act 2010 provides an incentive to invest in certain types of new fields by removing some income from the scope of the Supplementary Charge.

### *Chargeable gains*

The oil licence swaps legislation at sections 195A to 195E of the Taxation of Chargeable Gains Act 1992 (TCGA) provides that no chargeable gain arises on the swap of UK/UKCS licences in some circumstances.

The ring fence reinvestment legislation at sections 198A to 198G of TCGA provides that no chargeable gain arises in some circumstances where disposal proceeds are reinvested in new oil trade assets and the disposal and acquisition qualify for rollover relief.

### *Decommissioned assets*

Legislation in Schedule 1 to the Oil Taxation Act 1975 governs whether assets have been decommissioned for PRT purposes, and part of this legislation is defective.

## Proposed revisions

All changes will be made in Finance Bill 2011.

### *Field allowance*

The legislation will extend the scope of the field allowance to certain types of fields that have previously been decommissioned but are being redeveloped and will change the time at which the field allowance is first held.

### *Chargeable gains*

The oil licence swaps clause will remove some non-licence consideration from the scope of taxation on chargeable gains.

The ring fence reinvestment clause will treat expenditure incurred on exploration and development as the acquisition of assets that fulfil certain conditions for ring fence reinvestment purposes.

### *Decommissioned assets*

The proposed legislation corrects a defect in the existing legislation.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The exchequer impact of this measure will be confirmed at the Budget. It is expected to have a negligible impact on receipts.
<b>Economic impact</b>	The changes are likely to foster continued investment in the UKCS and should help facilitate the exploitation of economically recoverable reserves, although they are unlikely in themselves to have a measurable impact on the wider economy.
<b>Impact on individuals and households</b>	There is no impact on individuals as the changes apply only to companies involved in the UK or UKCS oil and gas industry.

<b>Equalities impacts</b>	This measure applies only to companies involved in the oil and gas industry in the UK or UKCS and is considered to have no differential impact on any equality groups.
<b>Impact on business including third sector</b>	There are around 350 companies involved in the UK or UKCS oil and gas industry. Each of the various changes is expected to impact on a small number of those companies. The changes have been sought by the industry and are intended to increase activity in the UKCS.  The administrative cost from this measure is expected to be negligible.
<b>Impact on public sector</b>	This measure will have no impact on HM Revenue and Customs' operating costs.
<b>Other impacts</b>	<i>Carbon:</i> Oil and gas production installations produce carbon emissions. However, oil and gas installations are within the scope of the EU Emissions Trading System.  <i>Sustainable development, wider environment and health:</i> The changes could increase activity and therefore risk but the industry is heavily regulated to seek to ensure its activities do not lead to pollution or disturbance to habitat or wildlife, and to seek to ensure the health and wellbeing of its workers.  <i>Small Firms Impact Test:</i> The measures will impact small firms involved in the oil and gas sector in the UK or UKCS. The impact of four of the changes will be beneficial as they are entirely relieving. The fifth change applies to all companies that decommission oil and gas assets.  <i>Competition:</i> None of the changes has a negative effect on competition.

### Monitoring and evaluation

The policy will be kept under review through regular communication with the business sector affected by the measure.

### Further advice

If you have any questions about these changes, please contact Hugh Hedges on 020 7438 6576 (email: [hugh.hedges@hmrc.gsi.gov.uk](mailto:hugh.hedges@hmrc.gsi.gov.uk)) or Paul Philip on 020 7438 6993 (email: [paul.philip@hmrc.gsi.gov.uk](mailto:paul.philip@hmrc.gsi.gov.uk)).

# Leasing into Tonnage Tax

---

## Who is likely to be affected?

Financial institutions leasing ships to companies that have elected for their corporation tax profits to be calculated under the rules of the UK Tonnage Tax regime.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to equalise the capital writing down allowances for ships leased into UK Tonnage Tax with assets held outside Tonnage Tax.

## Policy objective

This measure is a consequential adjustment following changes to the wider capital allowance regime which operates outside UK Tonnage Tax. The measure aligns the treatment of the first £40 million of expenditure with that for ships in general.

## Background to this measure

- This measure has not been previously announced.

## Detailed proposal

### Operative date

The measure will have effect for expenditure incurred on and after 1 January 2011.

### Current law

Under current legislation (paragraph 94 of Schedule 22 to the Finance Act 2000) a lessor leasing a ship to a company in Tonnage Tax can claim annual writing down allowances at 20 per cent, on a reducing balance basis, of the first £40 million of expenditure on a ship and at 10 per cent, on a reducing balance basis, on the second £40 million.

### Proposed revisions

The legislation will be amended in Finance Bill 2011 so that, for expenditure incurred on or after 1 January 2011, a lessor will be able to claim writing down allowances at the applicable rate (most likely to be 10 per cent as ordinarily ships would be assessed as long life assets), on the first £40 million of expenditure, and at 10 per cent on the second £40 million of expenditure.

## Summary of impacts

<b>Exchequer impact (£m)</b>	There is no additional impact on Exchequer revenues to that originally envisaged for the end of the temporary long life asset rate exemption for shipping companies.
------------------------------	--

<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	The measure will not affect individuals or households.
<b>Equalities impacts</b>	This measure will not affect individuals or households and therefore does not have any different effect on any equality group.
<b>Impact on business including third sector</b>	The measure will affect fewer than a dozen companies who will continue to get full relief but over a longer time. This measure is expected to have a negligible impact on total administrative burdens and compliance costs.
<b>Impact on public sector</b>	There will no impact on HMRC's operating costs as a result of this measure
<b>Other impacts</b>	<i>Small Firms Impact Test:</i> None of the affected companies is a small firm within the meaning of this test (fewer than 20 employees).

### Monitoring and evaluation

The measure will be considered as part of wider Tonnage Tax policy.

### Further advice

If you have any questions about this change, please contact Brian Stokes on 020 7147 2546 (email: [brian.stokes@hmrc.gsi.gov.uk](mailto:brian.stokes@hmrc.gsi.gov.uk)).

# OECD Transfer Pricing Guidelines

---

## Who is likely to be affected?

Businesses subject to the transfer pricing rules in respect of a transaction (or series of transactions) with a connected party.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to update the definition of “transfer pricing guidelines” to refer to the Organisation for Economic Co-operation and Development (OECD) *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* approved by OECD for publication in July 2010.

## Policy objective

The change to the definition means that UK legislation will reflect the recently updated version of the internationally agreed OECD guidelines. This provides certainty for business and ensures any potential for double taxation is minimised.

## Background to this measure

- The OECD approved for publication the 2010 version of the transfer pricing guidelines in July 2010.
- Publication followed an extensive period of consultation at the OECD.

## Detailed proposal

### Operative date

The measure will have effect for accounting periods beginning on or after 1 April 2011 and, for income tax purposes, for the tax year 2011-12 and subsequent years.

### Current law

UK transfer pricing rules are found within Schedule 28AA to the Income and Corporation Taxes Act 1988 (for accounting periods ending on or after 1 July 1999 and, for the purposes of income tax, any year of assessment ending on or after 1 July 1999) and Part 4 of the Taxation (International and Other Provisions) Act 2010 (for accounting periods ending on or after 1 April 2010 and, for the purposes of income tax, the tax year 2010-11 and subsequent years).

UK transfer pricing rules are to be interpreted consistently with OECD principles, in accordance with the transfer pricing guidelines which are defined as “all documents published by the Organisation for Economic Co-operation and Development, at any time before 1 May 1998, as part of their Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations”.

Current legislation allows for OECD documents published after 1 May 1998 to be included in the definition of “transfer pricing guidelines” by way of secondary legislation. But this existing power does not allow for the removal and replacement of the reference to the existing OECD guidelines.

## Proposed revisions

In July 2010, the OECD approved for publication a revised version of the *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*, incorporating revisions to Chapters I-III on profit methods and comparability and introducing a new chapter, Chapter IX, on transfer pricing aspects of business restructurings.

Finance Bill 2011 will make clear that, for accounting periods beginning on or after 1 April 2011 (and, for income tax, for the tax year 2011-2012 and subsequent years) the version of the OECD guidelines to be referred to is the version approved by the OECD in July 2010.

The amended power will also allow changes to the definition of “transfer pricing guidelines”, whether supplementing or replacing the 2010 Guidelines, to be made by secondary legislation.

## Summary of impacts

<b>Exchequer impact (£m)</b>	This measure is not expected to have any significant impact on receipts, and will be confirmed at the Budget.
<b>Economic impact</b>	This measure is not expected to have significant economic impact.
<b>Impact on individuals and households</b>	There is no impact on individuals and households.
<b>Equalities impacts</b>	Individuals and households are not subject to transfer pricing guidelines and the main impact of this measure is on multinational companies. It is not therefore likely that the measure will have any different impact on different equality groups
<b>Impact on business including third sector</b>	The new guidelines provide greater certainty for business subject to transfer pricing rules. There are no additional compliance costs associated with the change to the definition. Transfer pricing legislation will not apply to the majority of small business transactions as they will be covered by specified exemptions; where they are not exempt, the new guidelines will apply.
<b>Impact on public sector</b>	Costs to HM Revenue & Customs associated with the change to the definition are negligible.
<b>Other impacts</b>	There is no impact on competition because all businesses continue to use the same definition.

## Monitoring and evaluation

The policy will be kept under review through regular communication with the business sectors affected by the measure.

## Further advice

If you have any questions about this change, please contact Maura Parsons on 020 7147 2679 (email: [maura.parsons@hmrc.gsi.gov.uk](mailto:maura.parsons@hmrc.gsi.gov.uk)).

# Changes to Accounting Standards for Leases

---

## Who is likely to be affected?

Businesses which are lessees or lessors of assets and account for lease transactions using a leasing accounting standard which changes on or after 1 January 2011.

## General description of the measure

Current accounting standards are International Accounting Standards (IAS) and UK Generally Accepted Accounting Practice (UK GAAP). Changes to the IAS lease accounting standard are expected during 2011, and changes to UK GAAP might follow in 2013.

Legislation will be introduced in Finance Bill 2011 to ensure continuity of tax treatment for lease transactions for businesses which begin to account for the transactions under new accounting standards, expected to be introduced from 2011.

The measure will require tax profits and losses to continue to be calculated as if the changes to lease accounting standards had not taken place.

## Policy objective

The measure will ensure that existing tax rules that rely on accounting classifications of leases as operating or finance leases, and the accounting treatment of lease transactions, continue to operate in the way they currently do. The objectives are to:

- ensure that lessors and lessees will be neither disadvantaged nor advantaged by the proposed accounting changes;
- remove uncertainty for businesses about the future tax treatment of leasing contracts, arising from uncertainty about future lease accounting standards and their interaction with current tax rules; and
- protect the Exchequer.

## Background to this measure

- This measure has not been previously announced.
- Limited informal consultations with some representatives from industry, accountancy and legal bodies have taken place since April 2010.

## Detailed proposal

### Operative date

The measure will have effect where a business accounts for lease transactions using a lease accounting standard that is newly issued or is changed on or after 1 January 2011.

The measure will be effective for any period where early adoption is permitted by the accounting standards.

## Current law

Current tax rules differentiate between finance leases and operating leases. Apart from capital allowances, accounting entries normally govern what amounts are taxed and allowed as deductions (and their timing).

The main exception to the broad principle above is the rules relating to long funding leases. The long funding lease rules treat a lease as if the lessor had disposed of the asset to the lessee with the purchase price left outstanding as a loan from the lessor to the lessee. Again, with the exception of capital allowances, accounting entries normally govern what amounts are taxed and allowed as deductions (and their timing).

Current law also includes a number of anti-avoidance measures (for example, the sale of lessors legislation in Chapters 3 and 4 of Part 9 of the Corporation Tax Act 2010) intended to protect the Exchequer. The correct operation of some of these tax rules is dependent on aspects of the current accounting treatment.

## Proposed revisions

Legislation will be introduced in Finance Bill 2011 to ensure that any business that accounts for lease transactions using a leasing accounting standard that is newly issued or changed on or after 1 January 2011 continues to apply all tax rules as if the changes to leasing accounting standards had not taken place.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The exchequer impact of this measure will be confirmed at the Budget. It is not expected to have any significant impact on receipts.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	The measure affects businesses only and as such is not expected to have any impact on individuals and households.
<b>Equalities impacts</b>	This measure is specific to those businesses engaging in leasing transactions. The measure will ensure that the current tax rules for leasing transactions will continue to operate as planned irrespective of changes to lease accounting. As a result there have been no ways identified in which it could impact unfairly on any equality group.
<b>Impact on business including third sector</b>	<p>This measure is not intended to change the current tax treatment of leases. However, it is likely that there will be an administrative impact from this measure. This will depend on accounting standards that businesses adopt now and in the future.</p> <p>Businesses will be impacted:</p> <ul style="list-style-type: none"><li>• during 2011, if they use IAS and voluntarily adopt the IAS new form of lease accounting expected to be issued;</li><li>• for other businesses using IAS, from the date the IAS new form of lease accounting becomes mandatory. This date is unknown and may be from 1 January 2012 or 2013; and</li></ul>

- for businesses using UK GAAP only if the UK GAAP lease accounting standard also changes. This may be as early as 2013 but could be delayed to 2015 and may not happen.

It is therefore not possible to estimate how many businesses may be affected. However, assuming 1 million businesses are affected, HM Revenue and Customs (HMRC) estimates that, without this measure, businesses could incur extra one-off administrative costs totalling approximately £200 million and extra on-going administrative costs of around £100 million per year.

As a result of this measure, it is anticipated that businesses will incur substantially lower extra administrative costs estimated at one-off administrative costs of around £100 million and the extra on-going administrative costs of around £50 million per year.

In the short term, before adoption of new accounting standards become compulsory, the administrative costs will be much lower. Assuming that 1,000 businesses voluntarily adopt the new IAS lease accounting standards early, the estimated combined initial one-off set up administrative costs for them in 2011 will be around £170,000 with combined recurring annual extra administrative costs around £80,000.

HMRC also estimates that the legislation will avoid the need for some businesses to obtain clearances from HMRC on aspects of the application of existing tax rules under the new accounting standards, avoiding administration costs for each clearance of around £250 on average.

	Cost	Time Period (yrs)
<b>Compliance costs</b>		
One-off Costs	£ 100m	When changes to lease accounting standards take effect
Average Annual Costs	£ 50m	Ongoing
Total Costs (PV)		
<b>Compliance benefits</b>		
One-off Benefit	£ 0	N/A
Average Annual Benefit	£ 0	N/A
Total Benefit (PV)		
<b>Net Benefit (NPV)</b>		The present value (PV) of total costs is dependent on when changes to lease accounting standards take effect.
<b>Impact on Administrative Burden</b>		
<b>Increase</b>	<b>Decrease</b>	<b>Net Impact</b>
£ 50m	£ 0	£ 50m

<b>Impact on public sector</b>	The measure will maintain the current tax rules for leasing and as such no impacts are expected.
<b>Other impacts</b>	<i>Small Firms Impact Test:</i> the measure is not expected to have a disproportionate affect on small firms and excluding firms/companies with fewer than 20 employees would not achieve the policy objective.

### **Monitoring and evaluation**

The policy will be kept under review through regular communication with the business sectors affected by the measure.

### **Further advice**

If you have any questions about this change, please contact Alison Bull on 020 7147 2595 (email: [alison.bull@hmrc.gsi.gov.uk](mailto:alison.bull@hmrc.gsi.gov.uk)) or Paul Hindley on 020 7147 0429 (email: [paul.hindley@hmrc.gsi.gov.uk](mailto:paul.hindley@hmrc.gsi.gov.uk)).

# Life Insurance Apportionment Rules

---

## Who is likely to be affected?

All life insurance companies carrying on more than one category of long-term business.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to amend the current apportionment rules to modify their operation in certain circumstances.

## Policy objective

The measure supports the Government's objective of a fair tax system by addressing an unintended tax change. It ensures that the apportionment rules for life insurers operate fairly, and as expected, in all circumstances.

## Background to this measure

- This measure has not been previously announced.
- The need to modify the legislation was identified during informal consultation with the insurance industry.

## Detailed proposal

### Operative date

The measure will have effect for periods of account beginning on or after 1 January 2011.

### Current law

Section 432C of the Income and Corporation Taxes Act 1988 defines the relevant fraction which is used to determine which part of any items brought into account in a non-participating fund is referable to gross roll-up business.

### Proposed revisions

Finance Bill 2011 will amend section 432C(9). The definition of "D" in the relevant fraction will be amended so that the mean liabilities of a category of business are reduced (but not below zero) by the mean value of assets linked to that category of business.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The exchequer impact of this measure will be confirmed at the Budget. It is estimated to have a negligible impact on receipts.
<b>Economic impact</b>	This measure is not expected to have significant economic impact.

<b>Impact on individuals and households</b>	This change only affects companies involved in life insurance and therefore there is no impact on individuals and households.
<b>Equalities impacts</b>	The change does not have a different impact on different equality groups.
<b>Impact on business including third sector</b>	The change will have a small effect on the basis on which companies carrying on life insurance business complete their tax returns, but there is no significant increase in the administrative burden.
<b>Impact on public sector</b>	This measure will have no impact on HMRC's operating costs.
<b>Other impacts</b>	Some life insurance companies have fewer than 20 employees and are therefore considered "small" for the purposes of the Small Firms Impact Test. However, the change is designed to make the rules operate fairly in all circumstances and therefore to exclude small firms would not achieve the policy objective.

### **Monitoring and evaluation**

The policy will be kept under review through regular communication with the business sector affected by the measure.

### **Further advice**

If you have any questions about this change, please contact Carol Johnson on 020 7147 0517 (email: [carol.johnson@hmrc.gsi.gov.uk](mailto:carol.johnson@hmrc.gsi.gov.uk)).

# Duty on High and Low Strength Beers

---

## Who is likely to be affected?

Manufacturers, importers, distributors and consumers of beer with a strength exceeding 7.5 per cent alcohol by volume (abv) and at or below 2.8 per cent abv.

## General description of the measures

Legislation will be introduced in Finance Bill 2011 providing for a new duty on beers exceeding 7.5 per cent abv that are produced in or imported into the UK. The new duty is to be levied in addition to the existing general duty on beer.

The legislation will also change the taxation of low strength beers by introducing a reduced rate of general beer duty at or below 2.8 per cent abv.

Small Brewery Beer relief will still be available on general beer duty payable on beers above 7.5 per cent abv. Small Brewery Beer relief will not apply to the new high strength beer duty. The relief will also not apply to beers at or below 2.8 per cent abv qualifying for the new reduced rate.

Beer brewed for home consumption will continue to be exempt from both general beer duty and the new high strength beer duty.

## Policy objective

The purpose of the measure is to tackle problem drinking by encouraging industry to produce, and drinkers to consume, lower strength beers.

The new high strength beer duty is intended to impact on those “super strength” lagers associated with problem drinking. The reduced rate for lower strength beer will help to give responsible drinkers a wider choice of products.

## Background to this measure

- The June Budget announced that the Government would review alcohol taxation to tackle problem drinking without unfairly penalising responsible drinkers, pubs or local industry.
- The findings of this review were announced on 30 November as part of a Government-wide package of measures to help tackle problem drinking. The Economic Secretary to the Treasury announced the changes to the duty on high and low strength beer in a written ministerial statement
- Further discussion with industry will take place on the draft clauses ahead of their introduction in Finance Bill 2011.

## Detailed proposal

### Operative date

The introduction of high strength beer duty, the reduction of duty on low strength beers, and the changes to the eligibility to Small Brewery Beer relief are intended to take effect in

autumn 2011. The exact date of implementation and applicable rates of duty will be announced following further discussions with the industry.

### Current law

The charge to excise duty on beer is contained in section 36(1) of the Alcoholic Liquor Duties Act 1979 (ALDA). Beer duty is charged according to alcoholic strength, in particular by the number of hectolitres/degrees of alcoholic strength by volume.

### Proposed revisions

Finance Bill 2011 will amend ALDA, providing for a new duty charge on high strength beer. It will also amend ALDA, providing for a separate rate of duty on beer at or below 2.8 per cent abv. Secondary legislation will follow to make consequential amendments to regulate the administration and collection of the new duty.

### Summary of impacts

<b>Exchequer impact (£m)</b>	The exchequer impact of this measure will be confirmed at Budget. This measure is expected to have a small or negligible impact on receipts.
<b>Economic impact</b>	The measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	Consumption of products over 7.5 per cent abv is dominated by males over 35 and in lower socio-economic groups. 84 per cent of consumption is by males; 75 per cent by over 35s (male and female); and around half by individuals in the lowest socio-economic groups.
<b>Equalities impacts</b>	It is considered that these proposals have no different impacts on any equality group.
<b>Impact on business including third sector</b>	The measures will impose a negligible additional administrative burden and one-off cost to business.  It is envisaged that current procedures for declaring and paying general beer duty will apply to the new high strength beer duty.
<b>Impact on public sector</b>	HM Revenue & Customs (HMRC) will incur costs for this measure of approximately £300,000 to pay for necessary system changes to account for the new tax.
<b>Other impacts</b>	The reduction in consumption of high strength beer resulting from these measures is likely to have a health benefit.  Small breweries will not be significantly impacted upon, as beers over 7.5 per cent abv represent only 2 per cent of their total production.

### **Monitoring and evaluation**

The effectiveness of the measures will be assessed by monitoring the price and range of products available to consumers at a strength of over 7.5 per cent abv and at or below 2.8 per cent abv. Revenue receipts from beer products will also be monitored to show any move from the consumption of high to low strength beers.

### **Further advice**

If you have any questions about this measure, please contact Ian Bebbington on 0161 827 0803 (email: [ian.bebbington@hmrc.gsi.gov.uk](mailto:ian.bebbington@hmrc.gsi.gov.uk)) or Paul Manson on 0161 827 0357 (email: [paul.manson@hmrc.gsi.gov.uk](mailto:paul.manson@hmrc.gsi.gov.uk)).

# Exceptional Rates of Vehicle Excise Duty for certain Heavy Goods Vehicles

---

## Who is likely to be affected?

The owners and operators of any heavy goods vehicle (HGV) for which the existing rate of vehicle excise duty (VED) does not reach the mandatory EU minimum tax rate.

## General description of the proposal

Legislation will be introduced in Finance Bill 2011 to apply higher exceptional rates of VED solely to the categories of HGV for which an existing rate is below the mandatory EU minimum tax rate.

## Policy objective

This measure is required to ensure that the UK VED rates remain consistent with EU regulations on minimum rates of taxation. The objective is to affect the least number of HGVs necessary to maintain compliance. The intended outcome is that HGV owners should see a highly transparent application of higher rates, limited to the categories of HGV for which existing UK rates are too low.

## Development of this measure

- This measure was first announced in the 2009 Pre-Budget Report.
- Design work was built upon discussions with industry associations.
- This measure was confirmed in the June Budget.

## Detailed proposal

### Operative date

The measure will have effect on and after 1 April 2011.

From this date, vehicle licences for the categories of HGV where existing UK VED rates are too low will have a higher exceptional rate applied to the taking out of a licence.

### Current law

Part 8 of Schedule 1 to the Vehicle Excise and Registration Act 1994 (VERA) specifies the annual rates of VED that are applied to goods vehicles on the taking out of a vehicle licence under section 1 of that Act.

## Proposed revisions

It is proposed that Part 8 of Schedule 1 to VERA be amended in Finance Bill 2011 to specify the conditions under which exceptional rates of VED will apply to the following categories of HGV:

Vehicle type	Weight	Scope
2-axled rigid HGV	15,000kg	Standard and reduced pollution HGVs
3-axled rigid HGV	21,000kg	Reduced pollution HGVs only
	23,000 - 25,999kg	
4 or more axled rigid HGV	27,000kg	
2-axled articulated HGV with 1 or more axled semi-trailer	25,000kg	Standard and reduced pollution HGVs
	25,001-27,999kg	Reduced pollution HGVs only
2-axled articulated HGV with 2 or more axled semi-trailer	28,000kg	Standard and reduced pollution HGVs
	31,000kg	Reduced pollution HGVs only
3-axled articulated HGV with 2 or more axled semi-trailer	36,000kg	
3-axled combined transport HGV with 3 or more axled semi-trailer	41,001-43,999kg	

## Summary of impacts

Exchequer impact (£m)	2010-11	2011-12	2012-13	2013-14	2014-15
	Negligible	Negligible	Negligible	Negligible	Negligible
	This costing is based on the Office for Budget Responsibility's June Budget forecast.				
<b>Economic impact</b>	The measure is not expected to have significant economic impacts.				
<b>Impact on individuals and households</b>	This measure affects tax rates paid by businesses, rather than individuals and households. HGVs in private ownership which are not put to commercial use are treated for VED under the £165 Private HGV tax class. The Private HGV tax class is not affected by exceptional rates of VED.				
<b>Equalities impacts</b>	It is assessed that there are no equalities impacts. All affected HGV owners have equal opportunity to avoid a higher exceptional rate by choosing to forego some of their HGV's payload capability.				

<b>Impact on business including third sector</b>	<p>The introduction of higher exceptional rates of VED for HGVs is expected to affect no more than 12,000 vehicles operated by haulage businesses.</p> <p>The actual number will be less than this, based on limiting the application of exceptional rates to HGVs that do not feature road-friendly suspension. Current data does not disaggregate between suspension types.</p> <p>The majority of HGVs (around 10,700) will see increases of no more than £38.</p>
<b>Impact on public sector</b>	<p>The Driver and Vehicle Licensing Agency is bearing the cost of the systems changes, of up to £3 million, required to introduce the required new VED rate bandings.</p>
<b>Other impacts</b>	<p>No other impacts have been identified.</p>

### **Monitoring and evaluation**

HGV owners can elect to reduce the legal maximum weight their vehicle can carry. This is called downplating and is used to reduce the amount of VED that is payable on a HGV. This procedure is available to the owners of HGVs in the exceptional rates categories detailed above.

The vehicle licensing record will be monitored for the total number of HGVs treated for exceptional rates in 2011.

### **Further advice**

If you have any questions about this change, please contact Gary Baker on 01792 788587 (email: [gary.baker@dvla.gsi.gov.uk](mailto:gary.baker@dvla.gsi.gov.uk)).

# Refunding Irrecoverable VAT Costs Incurred by Academies

---

## Who is likely to be affected?

This measure affects the following types of academy schools:

- any school that is an existing academy;
- any school currently maintained by the local authority that elects to become an academy;
- any newly formed academy school which is not under local authority control; or
- any independent school that elects to become an academy.

An academy school is one which has entered into an agreement with the Secretary of State under section 482 of the Education Act 1996 or into Academy arrangements with the Secretary of State under section 1 of the Academies Act 2010.

## General description of the measure

Legislation will be introduced in Finance Bill 2011. It will allow academies to recover VAT incurred on purchases made to support their non-business activities (principally the provision of free education) which would have ordinarily been recovered by the local authority.

## Policy objective

This proposal supports the Government's objective of a fairer tax system by ensuring that academies can recover the VAT paid on purchases made to support their non-business activities, just as schools run by local authorities can.

## Background to this measure

- The Government announced in the June Budget that it wanted to encourage the expansion of academies.
- The draft legislation has been discussed with the Department for Education.
- This proposal was announced by the Minister for Schools on 22 November 2010.

## Detailed proposal

### Operative date

The measure will have effect for supplies made, and acquisitions and importations taking place, on or after 1 April 2011.

## Current law

Local authorities can recover VAT on their non-business activities such as running schools through the special refund scheme in section 33 of the VAT Act 1994 (VATA).

Under VAT law there is no entitlement to recover, through the normal VAT system, VAT incurred on purchases made to support non-business activities. VAT is only recoverable on purchases made to support taxable business activities. But the section 33 special refund scheme, which is a public expenditure mechanism, was introduced to ensure that VAT costs are not an additional burden on local taxpayers.

Academies are not local authority controlled schools and consequently they do not fall within the special refund scheme.

## Proposed revisions

Finance Bill 2011 will change the law by creating a new section 33B of VATA. Section 33B will provide for a new, self-contained VAT refund scheme for academies.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The Exchequer impact of this measure will be confirmed at the Budget and is expected to be fiscally neutral.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	The beneficiaries of the measure are academies and consequently it will not have any direct impact on individuals or households.
<b>Equalities impacts</b>	The measure is available for all academies and as such it does not impact on any equality group. The extent to which any one school over another might become an academy is not something that will be influenced by the measure.
<b>Impact on business including third sector</b>	The proposal is designed to be tax neutral, putting academies in the same position as schools under local authority control. Most academies will be VAT registered and will submit VAT returns, through which the refund will be claimed. This should have a minimal impact on the current record-keeping requirements imposed on maintained schools if they chose to convert to academies. A claims mechanism for academies that are not VAT registered will be introduced along the lines of the existing scheme for parish councils.
<b>Impact on public sector</b>	<p>The cost to HM Revenue &amp; Customs (HMRC) will be minimal. The majority of VAT refunds will be made via the normal VAT return procedures.</p> <p>Both the initial VAT registration of academies and the subsequent processing of their VAT returns will be carried out in HMRC's usual centres which are already in place.</p>

<b>Other impacts</b>	<p>Academies are unlikely to employ less than 20 people and are not categorised as small firms. The measure is designed to put academies on a broadly equal funding basis as maintained schools and so they will not incur any material disadvantage from becoming academies.</p> <p>The introduction of this measure should not limit the number or range of suppliers to academies and so the ability of suppliers to compete should not be affected, and will allow academies and other schools to continue to compete with each other on equal terms.</p>
----------------------	---

### **Monitoring and evaluation**

Once in place, the refund scheme will be monitored through routine checks on VAT return information.

### **Further advice**

If you have any questions about this change, please contact the VAT Helpline on 0845 010 9000. For queries on policy please contact Graham Spencer on 020 7147 0578 (email: [graham.spencer@hmrc.gsi.gov.uk](mailto:graham.spencer@hmrc.gsi.gov.uk)).

# VAT: Change of Treatment of Business Samples

---

## Who is likely to be affected?

Any business which provides a person or another business with a succession of identical, or not significantly different, free samples of its products for marketing purposes.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to ensure that where businesses provide samples of their products free of charge to individuals for marketing purposes, none of the samples are liable to VAT. Previous policy was only to allow VAT relief for the first sample, and to require the supplier to account for VAT on the second and subsequent identical samples given to any one individual.

## Policy objective

The policy objective is to ensure compliance with European tax law, following a decision of the European Court of Justice (ECJ). The intended outcome of the clause is to relieve from VAT any product samples which are provided by businesses free of charge.

## Background to this measure

- The ECJ delivered its decision in the EMI case (C-581/08) on 30 September 2010, which made clear that the UK's restriction of relief to the first sample given away was not compatible with the Principal VAT Directive.

## Detailed proposal

### Operative date

The legislation will amend the VAT Act 1994 on the date that Finance Bill 2011 receives Royal Assent. However, prior to that date, taxpayers are able to rely on the direct effect of the Directive whose interpretation has been clarified by the European Court. HMRC has invited claims from affected businesses, subject to the normal rules about capping.

### Current law

Section 5(1) of the VAT Act 1994 and paragraph 5 of Schedule 4 to that Act mean that where identical samples are given to the same individual only the first sample is not liable to VAT.

### Proposed revisions

Finance Bill 2011 will remove the restriction of the VAT relief to the first sample given to an individual.

## Summary of impacts

<b>Exchequer impact (£m)</b>	This measure ensures compliance with EU law and the fiscal impact will be taken account of in the Office for Budget Responsibility's Budget forecast.
<b>Economic impact</b>	This measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	There will be no direct impact on individuals and households as the samples affected by this measure are given away free. The impact of the VAT saving will fall entirely on the businesses who give away multiple samples to the same individuals.
<b>Equalities impacts</b>	The effect of the measure is restricted to VAT registered businesses and has no direct impact on individuals, so no different impact on any equality group.
<b>Impact on business including third sector</b>	All firms can, in theory, benefit from this change in law and policy. In practice it will only be those whose business model includes the use of samples to help promote their products and where they give more than one such sample to a particular individual.
<b>Impact on public sector</b>	The costs to HMRC will be negligible.
<b>Other impacts</b>	Small firms (those with fewer than 20 employees) will be affected if their business model includes provision of free samples, but to exclude such firms would not achieve the policy objective.

## Monitoring and evaluation

No particular monitoring of the policy is proposed beyond HMRC's Customer Relationship Managers discussing the impact with the large businesses which are likely to benefit from the change of policy.

## Further advice

If you have any questions about this change, please contact Jack Fletcher on 020 7147 0252 (email: [jack.fletcher@hmrc.gsi.gov.uk](mailto:jack.fletcher@hmrc.gsi.gov.uk)) or Mark Warwick on 020 7147 0634 (email: [mark.warwick@hmrc.gsi.gov.uk](mailto:mark.warwick@hmrc.gsi.gov.uk)).

# Corporation Tax Loan Relationships and Derivative Contracts: Anti-Avoidance: Group Mismatches

---

## Who is likely to be affected?

Large companies involved in corporation tax avoidance through asymmetrical tax treatment of intra-group loans or derivatives (group mismatches).

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to prevent tax losses from newly disclosed schemes, with effect from 6 December 2010 (interim measure).

Principles-based group mismatch legislation will be introduced in Finance Bill 2011 to become effective from the date of Royal Assent (generic measure).

## Policy objective

The generic measure contributes to the Government's objective of building sustainable defences to avoidance. It will ensure that groups of companies cannot use loan relationships or derivative contracts to gain a tax advantage by generating profits purely as a result of asymmetries in the way the group members bring amounts into account under Part 5 or 7 of the Corporation Tax Act (CTA) 2009.

The interim measure is intended to address an immediate and significant avoidance risk by providing revenue protection against some specific schemes in the period up to the introduction of the generic measure.

## Background to this measure

- Specific group mismatch schemes have been closed down in almost every Finance Act since the introduction of rules requiring disclosure of tax avoidance schemes in 2004.
- HM Revenue & Customs (HMRC) published a discussion document *Financial Products Avoidance: Group Mismatches* on generic legislation to tackle group mismatches on 24 March 2010. An open day was held in July to discuss group mismatch schemes and how they could be countered.
- The draft clauses published on 6 December 2010 relating to the generic measure take account of comments received in response to the discussion document and the open day. All documents are available on the HMRC website.
- There has been no prior consultation on the interim measure because of the risk of tax loss.

## Detailed proposal

### Operative date

The interim measure will have effect in respect of debits and credits arising on or after the date of the publication of draft clauses on 6 December 2010.

It is proposed that the generic measure will have effect in relation to arrangements to which a company is party on or after the date that Finance Bill 2011 receives Royal Assent.

### Current law

There are a number of existing targeted measures that tackle group mismatch schemes. For instance, sections 418, 419 and 453 of CTA 2009.

These rules aim to ensure symmetry of tax treatment where one company within a group is able to obtain a tax deduction under the rules in Part 5 of CTA 2009 in relation to an intragroup loan.

### Proposed revisions

The interim measure is intended to ensure that these existing targeted rules cannot be avoided by means of arrangements whereby one of the two companies that is party to a loan is a controlled foreign company, or whereby benefits under the loan are received by a company connected with the creditor.

Full details on the interim measure are set out in the draft legislation and explanatory note.

The generic measure will impose symmetrical tax treatment for intragroup loans or derivatives in any case where obtaining a tax advantage from their asymmetrical treatment was certain from the start or where one of the main purposes of any group company was to obtain the chance of securing such an advantage.

Full details of the generic measure are set out in the HMRC Technical Note on Group Mismatches.

## Summary of impacts

<b>Exchequer impact (£m)</b>	This measure will prevent the future use of such corporation tax avoidance arrangements.
<b>Economic impact</b>	The measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	This measure affects only companies involved in corporation tax avoidance schemes. Therefore there is no impact on individuals and households:
<b>Equalities impacts</b>	This change is directed at companies involved in corporation tax avoidance schemes using group mismatch arrangements, and not at individuals. It is therefore not expected that there will be any different impact on any equality group.

<p><b>Impact on business including third sector</b></p>	<p>The measure affects only a small number of entities (fewer than 60) involved in tax avoidance schemes using group mismatch arrangements. These are usually large groups of companies.</p> <p>The avoidance schemes are not limited to any particular sector. However, removing access to such schemes may have a small beneficial effect on the ability of other companies not avoiding tax to compete in the same markets. The rules will not apply differently to small firms as the number of employees is not a decisive factor in whether or not companies engage in such avoidance.</p> <p>The administrative and compliance costs to businesses, either annual or one-off, are expected to be negligible.</p>
<p><b>Impact on public sector</b></p>	<p>There are negligible costs to HMRC from this measure.</p>
<p><b>Other impacts</b></p>	<p>This measure affects only companies involved in corporation tax avoidance schemes using group mismatch arrangements and there are no other specific impacts.</p>

### **Monitoring and evaluation**

The effect of the measure will be monitored through notifications of avoidance schemes made to HMRC through the Disclosure of Tax Avoidance Schemes arrangements, and through information collected from tax returns.

### **Further advice**

If you have any questions about this change, please contact Richard Rogers on 020 7147 2625 (email: [richard.rogers@hmrc.gsi.gov.uk](mailto:richard.rogers@hmrc.gsi.gov.uk)) or Judith Diamond on 020 7147 3422 (email: [judith.diamond@hmrc.gsi.gov.uk](mailto:judith.diamond@hmrc.gsi.gov.uk)).

# Anti-Avoidance: Derecognition of Corporation Tax Loan Relationships

---

## Who is likely to be affected?

Large companies involved in corporation tax (CT) avoidance arising from the derecognition of loan relationships and derivative contracts.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to amend existing CT rules that address avoidance schemes under which profits are said to fall out of account, or losses are claimed, for tax purposes, as a result of the derecognition of a financial asset that is a loan relationship or derivative contract.

## Policy objective

This measure supports the Government's objective of a fair tax system by reducing the scope for tax avoidance.

The aim of the measure is to simplify existing anti-avoidance rules on the taxation of loan relationships and derivative contracts so that they operate wherever avoidance schemes involving derecognition are used by companies. The existing rules only apply in particular instances of derecognition.

## Background to this measure

- Finance (No.2) Act 2010 extended the existing rules on derecognition, to address new schemes that had recently been notified to HM Revenue & Customs (HMRC) under the avoidance scheme disclosure rules. At the same time an announcement was made that a Technical Note would be issued setting out proposals for generic anti-avoidance legislation directed at derecognition.
- A Technical Note was published on 6 July 2010 on the HMRC website setting out the proposals for amendments to the existing legislation, together with draft clauses.
- This measure was announced by the Exchequer Secretary to the Treasury in a written ministerial statement on 6 December 2010.
- The draft clauses published on 6 December 2010, take account of comments received in response to the Technical Note.

## Detailed proposal

### Operative date

The legislation will have effect in respect of debits and credits arising on or after the date of the publication of draft clauses on 6 December 2010.

## Current law

The current law is set out in sections 311 and 312 of the Corporation Tax Act (CTA) 2009 in relation to loan relationships, and sections 599A and 599B of CTA 2009 in relation to derivative contracts.

The legislation applies in certain circumstances where, in accordance with generally accepted accounting practice, amounts are not fully recognised in a company's accounts in respect of an asset that is a loan relationship or derivative contract. These circumstances are where the cashflows on the asset are matched with other specified financial instruments, as a result of which the cashflows on both the asset and the other instrument are not fully recognised in the accounts. In such cases, the legislation requires credits and debits to be brought into account for tax purposes as if the amounts in question had been fully recognised.

## Proposed revisions

Finance Bill 2011 will amend the current rules. The amended legislation will apply wherever amounts are not fully recognised in a company's accounts in respect of its loan relationships and derivative contracts as a result of tax avoidance arrangements to which it is party. In such cases, a company's credits and debits must, as with the current rules, be brought into account for tax purposes as if the amounts in question had been fully recognised in the accounts.

In addition, a company will be denied a debit in respect of the derecognition of an asset that is a loan relationship or a derivative contract where this occurs as a result of tax avoidance arrangements to which it is party.

## Summary of impacts

<b>Exchequer impact (£m)</b>	This measure will prevent the future use of these CT avoidance schemes which present a significant risk to the Exchequer. The impact on receipts will be confirmed at the Budget.
<b>Economic impact</b>	The measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	There is no impact on individuals and households because this measure affects only companies involved in CT avoidance schemes using accounting derecognition.
<b>Equalities impacts</b>	There will not be any different impact on any equality group because the change is directed at companies involved in CT avoidance schemes using accounting derecognition of financial assets, and not at individuals.
<b>Impact on business including third sector</b>	The measure affects only a small number of entities (fewer than 20) involved in tax avoidance arrangements using accounting derecognition. These are usually large groups of companies. There are no impacts on specific sectors or markets, no specific impacts on businesses of different sizes, no competition impacts and no impacts on small firms.  The administrative and compliance costs to businesses, either annual or one-off, are expected to be negligible.
<b>Impact on public sector</b>	This measure will not have an impact on HMRC's running costs.
<b>Other impacts</b>	None

### **Monitoring and evaluation**

The effect of the measure will be monitored through notifications of avoidance schemes made to HMRC through the Disclosure of Tax Avoidance Schemes arrangements, and through information collected from tax returns.

### **Further advice**

If you have any questions about this change, please contact Tony Sadler on 020 7147 2608 (email: [tony.sadler@hmrc.gsi.gov.uk](mailto:tony.sadler@hmrc.gsi.gov.uk)) or Richard Rogers on 020 7147 2625 (email: [richard.rogers@hmrc.gsi.gov.uk](mailto:richard.rogers@hmrc.gsi.gov.uk)).

# Disguised Remuneration

---

## Who is likely to be affected?

Employers, directors, and employees who use arrangements involving trusts and other vehicles to avoid, reduce, or defer liabilities to income tax on rewards of an employment or to avoid restrictions on pensions tax relief.

## General description of the measure

In many cases, these third party arrangements allow an employee to enjoy the full benefit of a sum of money paid or assets provided while arguing that, because of the structure of the arrangements, there is no legal right to the money or assets. This argument is used to support a proposition that income tax and national insurance contributions (NICs) are due (if at all) only on the use of the money or assets during the period of the employee's employment and not on their full value.

Legislation will be introduced in Finance Bill 2011 to ensure that where a third party makes provision for what is in substance a reward or recognition or loan in connection with the employee's employment, an income tax charge arises. This will be based on:

- a sum of money made available; or
- on the higher of the cost or market value where an asset is used to deliver the reward or recognition. For example, where the asset in question is transferred or otherwise made available for an employee's use and benefit as if the employee owned the asset.

The amount concerned will count as a payment of employment income and the employer will be required to account for PAYE accordingly.

## Policy objective

The measure supports the Government's objective of a fairer tax system by ensuring that:

- income tax and NICs on employment income are not avoided or deferred; and
- contributions to unregistered pension schemes do not benefit from tax advantages on pension savings beyond the annual and lifetime allowances available in registered pensions schemes.

## Background to this measure

- The June Budget announced that legislation would be introduced from April 2011 to tackle arrangements using trusts and other vehicles to reward employees which seek to avoid, defer or reduce tax liabilities.
- The Government also confirmed that the scope of the legislation would include Employer Financed Retirement Benefit Schemes (EFRBS), in order to protect revenues and in keeping with the restriction of pensions tax relief through the reduced annual and lifetime allowances announced on 14 October 2010.

## Detailed proposal

### Operative date

The legislation will have effect on and after 6 April 2011 and apply to rewards which are earmarked for an individual employee or otherwise made available on and after that date.

In addition, anti-forestalling provisions apply to the payment of sums and the provision of readily convertible assets for the purposes of securing the payment of sums (including loans) where the sum is paid or the asset is provided between 9 December 2010 and 5 April 2011 where, if paid or provided on or after 6 April 2011, they would be caught by the legislation.

The anti-forestalling charge will arise on 6 April 2012 if sums paid have not been repaid, or readily convertible assets used to secure the payment of a sum have not been returned before that date, or not otherwise charged to tax under section 62 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). Any sum paid to which these anti-forestalling provisions apply, less a deduction for any amount which has been repaid, will count as employment income. The employer will be required to account for income tax under PAYE as if the amount concerned was a payment made on 6 April 2012. The value of any readily convertible asset provided (to which the anti-forestalling provisions apply) will also count as employment income. The employer will be required to operate PAYE, as if the amount concerned was a payment made on 6 April 2012.

### Current law

The measure is mostly concerned with Parts 2 to 7 of ITEPA. Part 11 of ITEPA, which provides for the operation of PAYE, is also affected. Section 6(1) of ITEPA provides that the charge to tax on employment income is a charge to tax on "general earnings" and "specific employment income". Specific employment income means any amount that counts as employment income, which is explained in section 7(4) and (6) of ITEPA.

#### *Existing casework and litigation*

Some of the types of transaction which will be chargeable to tax under this measure (including the earmarking of funds held in a discretionary trust) are not accepted by HM Revenue & Customs (HMRC) as effective in avoiding tax under the present law. HMRC will continue to challenge such transactions under the present law, including in litigation where necessary.

### Proposed revisions

Where trusts and other intermediate vehicles are used in arrangements aimed at providing value to an individual for what is in substance a reward or recognition in connection with the individual's employment, or loan in connection with the employee's employment, a new Part 7A of ITEPA will provide for a new employment income charge to apply in the following ways:

- sums or assets that are earmarked for employees by trusts or other intermediaries will be treated as though the amount of the sum or the value of the asset concerned is a payment of PAYE income provided by the employee's employer to the employee;
- loans provided to employees by trusts and other intermediaries will be treated as though the value of the loan provided is a payment of PAYE income provided by the employee's employer to the employee; and

- assets provided to employees by trusts and other intermediaries will be regarded for tax purposes as a payment of PAYE income by the employer where certain conditions specified in new Part 7A are met.

#### *National Insurance Contributions*

Regulations will be brought forward to apply NICs to amounts chargeable to tax to under this measure.

### Summary of impacts

<b>Exchequer impact (£m)</b>	This measure is expected to increase receipts by up to £500 million per year. The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at the Budget. This measure will also prevent the future use of such tax avoidance arrangements, protecting tax from the pensions allowance changes being introduced in April 2011.
<b>Economic impact</b>	The measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	<p>In relation to the arrangements known to HMRC, there are approximately 5,000 employers who are currently using these schemes, with an estimated 50,000 employees thought to be indirectly benefiting. The take up is likely to be wider than this as there has been extensive marketing and widening accessibility of these arrangements over the last few years. Given the nature and complexity of the arrangements that this measure seeks to address, it is expected that most employees affected will be higher rate or additional rate tax payers.</p> <p>This legislation will mean that employees benefiting from such schemes will have to pay more tax and NICs – in line with those employees for whom these arrangements have not been implemented. However, we do not expect there to be any significant administrative or compliance cost to individuals and households from this change because the income tax charge will be collected through PAYE via their employers.</p>
<b>Equalities impacts</b>	The measure targets tax avoidance behaviours rather than particular types of individual or business. The Government has no evidence to suggest that the measure will have any adverse equalities impacts.
<b>Impact on business including third sector</b>	<p>The objective of this legislation is to prevent the avoidance or deferral of income tax and NICs on employment income. It will impact on employers and intermediaries who use trusts or loans to reward employees with a view to avoiding or deferring paying tax and NICs.</p> <p>The data which HMRC has on known arrangements suggests that there is a broad range of employers who have implemented these arrangements – around 5,000. The type of businesses thought to be involved ranges from large employers in the financial services industry to single-employee limited companies. We believe that only a minority of employers have implemented these arrangements and although the legislation creates a new income tax charge it is not expected to have a material impact on the tax obligations of the vast majority of compliant businesses. The administrative burden of the measure is therefore thought to be negligible.</p> <p>Some small businesses will be affected by the proposal if they are using these remuneration arrangements to reward employees. To exclude small</p>

	<p>businesses from the legislation would create unfairness and further opportunities for tax avoidance.</p> <p>On the assumption that most businesses will discontinue the use of these arrangements, compliance costs to business overall are thought to be insignificant.</p> <p>There will be some compliance costs for those currently operating, and planning to operate, EFRBS pension arrangements. The cost will be in terms of the legal fees for the transfer of policies and the dissemination and familiarisation costs of the rule changes. These costs will of course vary across businesses, depending on the historical nature of the arrangement. It is estimated that there are only relatively small numbers of such schemes in operation. However, changes to pension tax relief being introduced in April 2011 would have been likely to trigger some increased take-up.</p> <p>There will be some further impacts on intermediaries and professional pension specialists who advise on these schemes, as with any rule change of this kind. This may cause further cost to businesses through consultation, seeking advice and reorganisation of their pension and remuneration arrangements under the new rules.</p>
<b>Impact on public sector</b>	<p>It is expected that over time the measure will reduce the cost of the resource HMRC currently uses to intervene in similar schemes. However, there will be resource implications in producing guidance for customers and for HMRC employees along with any necessary staff awareness or training in connection with the new measure.</p>
<b>Other impacts</b>	<p>No significant additional impacts to those discussed above have been identified.</p>

### **Monitoring and evaluation**

The impact of the policy will principally be monitored via the Disclosure of Tax Avoidance Schemes process, tax gap analysis, revenues from income tax and other forms of intelligence.

The policy will be reviewed on an ongoing basis. The Government is committed to focusing available resources into tackling tax avoidance.

### **Further advice**

If you have any questions about this change, please contact Peter Robinson on 020 7147 2423 (email: [peter.w.robinson@hmrc.gsi.gov.uk](mailto:peter.w.robinson@hmrc.gsi.gov.uk)) or David McDowell on 020 7147 0175 (email: [david.mcdowell@hmrc.gsi.gov.uk](mailto:david.mcdowell@hmrc.gsi.gov.uk)).

# Functional Currency: Investment Companies

---

## Who is likely to be affected?

Multinational groups with investment companies.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to counter avoidance involving changes in the functional currency of an investment company. The legislation will also provide for investment companies to elect, prospectively, for a different functional currency for tax purposes than the currency used in the accounts.

## Policy objective

This measure will support the Government's objective of making the tax system fairer by ensuring that some companies cannot enter into schemes that abuse the current rules relating to foreign exchange in order to avoid tax. It will prevent companies from retrospectively choosing their functional currency to gain a tax advantage.

At the same time, this measure will make the tax system simpler for some investment companies that make overseas debt investments by allowing them to elect for a functional currency for tax purposes that reduces their compliance burden.

## Background to this measure

This measure was announced by the Exchequer Secretary to the Treasury in a written ministerial statement on 6 December 2010.

## Detailed proposal

### Operative date

This measure will have effect for periods of account beginning on and after 1 April 2011.

### Current law

The tax rules relating to foreign currency accounting are at Chapter 4 of Part 2 of the Corporation Tax Act 2010. The basic rule is that income and chargeable gains are to be calculated and expressed in Pounds sterling. However, the starting point is the accounts, expressed in the functional currency of the company. Where a company uses a currency for accounting purposes that is not sterling, the profits and losses are still computed and adjusted in the currency of the accounts and are then translated into sterling for tax purposes, at an appropriate rate of exchange.

## Proposed revisions

Finance Bill 2011 will make two significant changes:

- when an investment company changes the currency in which the accounts are drawn up, no foreign exchange gains or losses arising from loan relationships or derivative contracts will be brought into account for tax purposes in the first period of account under the new functional currency; and
- all investment companies will be able to make a prospective election for a functional currency, for tax purposes, other than the functional currency of the accounts. Any elected currency will only be acceptable on the basis that there is a reasonable basis for the elected currency.

## Summary of impacts

<b>Exchequer impact (£m)</b>	This measure is expected to increase receipts by around £50 million for each full year that it is effective. The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at the Budget. This measure will also prevent the future use of such corporation tax avoidance arrangements.
<b>Economic impact</b>	The measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	This measure will not have any impact on individuals and households. This measure only affects a small number of large corporate groups.
<b>Equalities impacts</b>	This measure affects large corporate groups and not individuals so is not expected to have any different impact on different equality groups
<b>Impact on business including third sector</b>	<p>This measure could impact any multinational group operating in the UK that holds an investment company. However, HM Revenue and Customs (HMRC) estimate that the number of groups impacted in any year is likely to be fewer than 20.</p> <p>The administrative and compliance cost of this change is likely to be negligible.</p>
<b>Impact on public sector</b>	There is no impact on the public sector.
<b>Other impacts</b>	Small firms which are not members of multinational groups will not be affected by the measure. Excluding firms with fewer than 20 employees would not meet the policy objective and could provide opportunities for further avoidance.

### **Monitoring and evaluation**

The policy will be monitored through information collected from tax administrative data and through regular communication with the business sectors affected by the measure.

### **Further advice**

If you have any questions about this change, please contact Aidan Reilly on 020 7147 2575 (email: [aidan.reilly@hmrc.gsi.gov.uk](mailto:aidan.reilly@hmrc.gsi.gov.uk)).

# VAT Zero-Rating: Splitting of Supplies

---

## Who is likely to be affected?

Businesses that supply services and additionally make arrangements for supplies of printed matter that are connected to those services to be made by different suppliers.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to withdraw zero-rating from printed matter where the printed matter is ancillary to a differently rated service, and where, if the service and printed matter had been supplied by a single company, the two supplies would have been treated as a single standard rated, reduced rated or exempt supply.

## Policy objective

This measure supports the Government's objective of making the tax system fairer by closing a VAT avoidance scheme that is being used to reduce the amount of VAT due where a business supplies a service together with printed matter that is ancillary to that service.

It will also ensure that there is a level playing field by preventing the small number of users of this scheme from gaining an unintended financial advantage.

## Background to this measure

This measure was announced by the Exchequer Secretary to the Treasury in a written ministerial statement on 6 December 2010.

## Detailed proposal

### Operative date

This measure will have effect on and after the date that Finance Bill 2011 receives Royal Assent.

### Current law

Group 3 of Schedule 8 to the VAT Act 1994 (VATA) – "Books, etc" provides for the supply of specified printed or similar matter to be taxed for VAT purposes at the zero-rate.

### Proposed revisions

This measure covers, for example, the following situations:

- where the consumer is contractually obliged to purchase the printed matter from one company in order to obtain the service from another; and
- where the price of the printed matter is discounted against the price of the service but if the customer chooses not to take the printed matter they are charged the undiscounted price for the service.

This type of arrangement is entered into to mitigate the effect of the decision of the European Court of Justice (ECJ) in the case of Card Protection Plan. The ECJ found that there is a single supply where one or more elements are to be regarded as constituting the principal service, while one or more elements are to be regarded as ancillary services which share the tax treatment of the principal service. It indicated that a service must be regarded as ancillary to a principal service if it does not constitute for customers an aim in itself, but a means of better enjoying the principal service.

The law will be changed so that Group 3 of Schedule 8 to VATA will not have effect where:

- the supply of printed matter is connected with a supply of services; and
- the supplies referred to are made by different suppliers.

For the purposes of the legislation, a supply of printed matter will be defined to be connected with a supply of services if it is ancillary to that supply, such that, had they been made by the same supplier, the two supplies would have been treated as a single standard rated, reduced rated or exempt supply.

## Summary of impacts

<b>Exchequer impact (£m)</b>	This measure is expected to increase receipts by up to £100 million each year. The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at the Budget.  This measure will also prevent the future use of such avoidance activity.
<b>Economic impact</b>	This measure is not expected to have a significant economic impact.
<b>Impact on individuals and households</b>	This measure is not expected to have any direct impact on individuals or households. There may be an indirect effect on the customers of those businesses currently benefiting from this avoidance scheme. However, HM Revenue & Customs (HMRC) has no information or evidence on the extent to which this tax advantage is being passed onto customers.
<b>Equalities impacts</b>	No equality groups have been identified as being impacted differently from this change.
<b>Impact on business including third sector</b>	This measure will only impact on the small number of businesses taking part in this VAT avoidance scheme. Aside from the change in the amount of VAT payable itself, the administrative and compliance cost to them of making this change will be negligible.
<b>Impact on public sector</b>	The change is not expected to have any cost impact to HMRC or the public sector.
<b>Other impacts</b>	A number of additional impacts have been considered.  <i>Small Firms Impact Test:</i> Businesses with fewer than 20 employees will be impacted by this measure if they are users of the avoidance scheme, but it will not impact differently on smaller or larger businesses; it will simply prevent all businesses from using this avoidance scheme. To exempt small firms would not achieve the policy objective.  <i>Competition:</i> This measure may have a small positive effect on competition by preventing the small number of users of this scheme from gaining an unintended financial advantage.

### **Monitoring and evaluation**

This policy will be monitored as part of HMRC's normal compliance activity.

### **Further advice**

If you have any questions about this change, please contact Alec Tasker on 020 7147 0651 (email: [alec.tasker@hmrc.gsi.gov.uk](mailto:alec.tasker@hmrc.gsi.gov.uk)).

# Review of HMRC Powers, Deterrents and Safeguards: Security for PAYE & National Insurance Contributions

---

## Who is likely to be affected?

Employers who choose not to pay amounts deducted from employees via PAYE to HM Revenue & Customs (HMRC).

Those who are meeting their obligations under time to pay arrangements will not be affected by this measure, nor will those who only employ personal employees or carers.

## General description of the measure

Legislation in Finance Bill 2011 will introduce a power to allow HMRC to make regulations enabling them to require a security from employers for PAYE that is seriously at risk. The measure will also introduce a criminal offence for non-payment of a security. Once the new power is in place, HMRC will use existing powers to make equivalent provision in respect of national insurance contributions (NICs).

A facility to require a security exists for most of the indirect taxes, but it is most commonly used for VAT where it is also underpinned by a criminal sanction for trading without providing a security where one is required. The most common form of security is a cash deposit held by HMRC or paid into a joint HMRC/taxpayer interest bearing banking facility. A security can also be a third party guarantee provided by an approved financial institution, normally a bank.

## Policy objective

This measure supports the Government's priority of a fairer tax system by deterring non-payment of PAYE and NICs. Employers who fail to pay PAYE and NICs to HMRC have a significant financial and business advantage over those employers who do pay. HMRC want to tackle this unfair advantage more effectively.

## Background to this measure

- Security proposals were previously considered in a consultation published on 24 November 2008 (*Payments, Repayments and Debt: The Next Stage*).
- The measure was originally announced by the previous government at the March 2010 Budget.
- Legislation was published as part of the first Finance Bill 2010, but was not enacted at that time.
- HMRC published a consultation document, *Security for PAYE and NICs*, on 9 December 2010 alongside the draft legislation.

## Detailed proposal

### Operative date

Subject to consultation responses the aim is to implement the policy on and after 6 April 2012.

### Current law

There is no legislation at this time which covers the requirement for a security against PAYE and NICs. However there is legislation for VAT in Schedule 11 to the VAT Act 1994.

### Proposed revisions

Legislation in Finance Bill 2011 will amend the existing power to make regulations about the operation of PAYE (section 684 of the Income Tax (Earnings and Pensions) Act 2003) so that the provision allowing a security to be required can be added to the Income Tax (Pay As You Earn) Regulations 2003. Such a power would permit separate regulations to be made for NICs (which would be made on the same basis as the PAYE regulations under paragraph 6 of Schedule 1 to the Social Security Contributions and Benefits Act 1992).

The clause allows for the details of HMRC's power to require a security to be included in regulations. It provides that a person may be required, by regulations, to give a security for PAYE due to HMRC. The second part of the clause states that failure to provide a security when required would be an offence, which would be penalised by a fine.

## Summary of impacts

Exchequer impact (£m)	2010-11	2011-12	2012-13	2013-14	2014-15
	0	neg	+5	+5	+5
	In the year to March 2010 the value of VAT protected by securities was over £150 million. This includes sums that would otherwise have been paid late or paid following recovery action by HMRC. It is anticipated that a similar value of PAYE could be protected by a security requirement, which would lead to a yield of £5 million per year which could not have been recovered by any other methods.				
Economic impact	This measure is not expected to have significant economic impacts.				
Impact on individuals and households	The policy excludes the majority of individuals who are employers, but who are not in business.				
Equalities impacts	The policy is directed at employers, so does not have a different impact on different equality groups.				
Impact on business including third sector	There may be one-off implementation costs for some employers and agents as they learn about the changes. The cost is likely to be small as the proposed changes are limited and affect a small population.  There would be no additional impact on compliant employers since the requirement for a security would only be used for employers who are determined rule breakers, or those employers who pose the most serious risks.				

	<p>There are unlikely to be any benefits for compliant employers in the first year of policy implementation. As the impact of the policy on non-compliant employers develops, compliant employers may benefit from fairer competition with those employers who choose not to pay taxes that are due. These benefits are not quantifiable.</p>
<b>Impact on public sector</b>	<p>Some cost saving to HMRC is anticipated as requiring a security can be cheaper than alternative debt enforcement measures, such as distraint, county court and insolvency proceedings. Whilst criminal investigation is costly, the number of cases where an offence is put forward for prosecution is, in the experience of VAT, likely to be very small with most taxpayers responding to initial warning letters or the requirement to provide the security.</p> <p>Changes to IT and accounting systems are expected to be negligible.</p>
<b>Other impacts</b>	<p>A number of other impacts have also been considered.</p> <p><i>Competition Assessment:</i> Employers who have no intention of paying amounts deducted from employees to HMRC have a substantial financial and business advantage over those employers who do pay. HMRC want to tackle this unfair advantage more effectively.</p> <p>This policy would target the minority of rule breakers and others who pose the most serious risks, who would as a result be substantially affected by the obligation to provide a security.</p> <p>This policy would also address insolvency related losses (remissions and write-offs) in PAYE and NICs which have been running at between £600 million and £800 million per annum between 2005-06 and 2008-09.</p> <p><i>Sustainable Development:</i> These proposals are in accordance with the principles of sustainable development. An increased ability to tackle the “Phoenix” market supports the principles of a sustainable economy.</p> <p>Enhanced powers to tackle employers who are determined to break the rules can also be seen to contribute to ensuring a just society and a sustainable economy. If HMRC can better tackle those involved in rule breaking it supports the principle of a just society and good governance.</p> <p><i>Small Firms Impact Test:</i> Extending security will apply to small firms (those with fewer than 20 full time employees) where those small firms pose a significant risk of failing to pay their PAYE and or NICs to the Exchequer. To exclude them would not meet the policy objective.</p>

### Monitoring and evaluation

The policy will be monitored through information collected from tax administrative data.

### Further advice

If you have any questions about this change, please contact Sarah Wells on 020 7147 2259 (email: sarah.wells@hmrc.gsi.gov.uk).

# Review of HMRC Powers, Deterrents and Safeguards: Data-Gathering Powers

---

## Who is likely to be affected?

A person holding certain types of data which HM Revenue & Customs (HMRC) requires for use in risk assessment and other purposes. The types of data are listed in the legislation.

## General description of the measure

Legislation will be introduced in Finance Bill 2011 to modernise HMRC's information powers by updating the legislation for:

- bulk information powers that are used by HMRC to gather specific pieces of information about a group of taxpayers, for use in risk analysis; and
- specialist "unnamed taxpayer" powers that are narrowly defined in law to be used in very specific circumstances during a compliance check, for example where it is not clear who the taxpayer is.

The legislation will also:

- allow HMRC to apply to the tribunal for increased daily penalties where data is not supplied;
- cover data about certain foreign taxes;
- update Schedule 36 to Finance Act (FA) 2008 to mirror these two provisions; and
- amend Schedule 36 to FA 2008 to provide a penalty if a person is aware of an inaccuracy when providing information or documents and to correct a minor error in the legislation.

## Policy objective

This measure modernises and simplifies HMRC's information gathering powers. It will improve data-gathering to support more effective risk assessment to enable compliance interventions to be better targeted on those who are underpaying tax, and ensure compliant taxpayers are less likely to be subject to enquiry by HMRC.

## Background to this measure

- Legislation in FA 2008 and FA 2009 introduced a new framework for HMRC's powers including the information and inspection powers that HMRC can use in carrying out a check of a taxpayer's tax position.
- *Modernising Powers, Deterrents and Safeguards: Bulk and specialist information powers*, a consultation document was published on 9 July 2009 and the response document to that consultation was published on 9 December 2009. Both documents are available on the HMRC website.
- HMRC published a consultation document, *Data-gathering powers*, on 9 December 2010, alongside the draft legislation.

## Detailed proposal

### Operative date

Subject to consultation responses the aim is that the new powers will be available to HMRC with effect on and after 6 April 2012.

### Current law

The powers being replaced by this measure are spread throughout the Taxes Management Act 1970 (especially sections 13 to 19 and 21 to 27) and various other taxes Acts.

Each provision has its own rules and many are archaic, unnecessarily complex or do not provide for the data to be sent in a form that HMRC can process.

### Proposed revisions

- The legislation introduces a single set of general rules covering the form of a Notice, how it may be complied with and what penalties may apply for failure to comply. In particular, HMRC will be able to specify the format in which data is to be provided so that it may be more easily processed.
- The legislation provides a right of appeal for the first time.
- There are minor changes in the scope of the existing legislation to cover gaps in the data that HMRC can access.
- A range of old information powers exist but some are no longer fit for purpose or have been overtaken by other changes. These old powers, each of which has its own rules will be repealed and replaced with a new single power. In total, 25 existing powers will be repealed.

The legislation will contain a single set of general provisions which will:

- identify each group of data-holders who hold information that HMRC could need – there are no significant changes from the groups already covered by the existing powers; and
- specify in regulations the data that may be required from each group – in some cases the descriptions of data will be wider to ensure that there is no impediment to HMRC getting the data it needs.

Information may be sought for the purpose of any of the taxes which HMRC administers. This will include foreign tax so that the UK can meet its international obligations to exchange information.

In many cases the data that would be required under a Notice would be information that a business should have as part of its ordinary tax records. The Notice will give details of how it is to be complied with and what penalties are due if a person fails to comply. The penalties are being strengthened but a new appeal right is provided.

In circumstances where a number of appeals against Notices issued to a particular category of data-holder are anticipated, HMRC would obtain advance approval from the tribunal in a single composite application for the Notice to be approved in advance. If approval is granted then the appeal right is removed.

These proposals should mean that HMRC's third party information is of better quality and in a form that can be used. The result would be more accurately targeted compliance checking, and

that checks themselves can focus on the areas of highest risk. This would mean higher yield from checks that require less time.

The proposed increase in maximum daily penalties (both in the legislation and in Schedule 36) reflects the importance of data-holders providing correct data in timely fashion and helps protect the Exchequer.

## Summary of impacts

<b>Exchequer impact (£m)</b>	The final costing of this measure will be set out at the Budget.
<b>Economic impact</b>	The measure is not expected to have significant economic impacts.
<b>Impact on individuals and households</b>	There is no impact on individuals or households as HMRC already collects this information through various existing powers. As a result of this measure, the powers under which the information is collected will be simpler and clearer.
<b>Equalities impacts</b>	No equality groups have been identified as being impacted differently from this change.
<b>Impact on business including third sector</b>	The impact on business from this measure will be negligible. Most data holders already provide information in a spreadsheet format and no change will be required. A small number may now have to begin to use spreadsheets for this purpose but this is unlikely to involve purchase of new software. The use of spreadsheet format may, once bedded in, reduce costs for both business and HMRC but this cannot be quantified. Overall the cost is not expected to be significant.
<b>Impact on public sector</b>	HMRC expect this measure to result in some very small staff savings from better data handling.
<b>Other impacts</b>	<p>A number of other impacts have also been considered.</p> <p><i>Small Firms Impact Test:</i> HMRC's data gathering powers apply equally to small firms as to larger firms. This is necessary so that HMRC gains a complete picture of risks of underpaid tax. It is important that fraudsters cannot evade having information about them shared with HMRC by using a smaller firm.</p> <p><i>Sustainable development:</i> These proposals are in accordance with the principles of sustainable development. In particular, more effective finance arrangements across taxes promote good governance and a sustainable economy.</p> <p><i>Privacy Impact:</i> A privacy impact screening has been carried out against this policy and no adverse impacts have been identified. However this proposal will allow HMRC to specify a place to which data must be sent, that need not be to an officer of HMRC. This will mean data can be sent directly to HMRC's IT partners who are part of HMRCs approved Third Party Gateway.</p>

### **Monitoring and evaluation**

Implementation of this measure will be led by a project team within HMRC. An implementation oversight forum, with a majority of external members, was established to consider the changes brought about following the Review of Powers, Deterrents and Safeguards. They assess whether the changes are in line with the undertaking given to Parliament and will consider changes brought about by this measure.

### **Further advice**

If you have any questions about this change, please contact Richard Davey on 020 7147 2391 (email: [powers.review-of-hmrc@hmrc.gsi.gov.uk](mailto:powers.review-of-hmrc@hmrc.gsi.gov.uk)).



### HM Treasury contacts

This document can be found in full on our website at:  
[hm-treasury.gov.uk](http://hm-treasury.gov.uk)

If you require this information in another language, format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

Tel: 020 7270 4558

Fax: 020 7270 4861

E-mail: [public.enquiries@hm-treasury.gov.uk](mailto:public.enquiries@hm-treasury.gov.uk)

ISBN 978-1-84532-812-2



9 781845 328122 >