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## 5 Income tax relief for irrecoverable peer-to-peer loans

- (1) ITA 2007 is amended as follows.
- (2) After section 412 insert –

### “CHAPTER 1A

#### IRRECOVERABLE PEER-TO-PEER LOANS

##### *The relief*

#### **412A Relief for irrecoverable peer-to-peer loans**

- (1) A person (“L”) is entitled to relief under this section if –
  - (a) L has made a peer-to-peer loan (“the relevant loan”),
  - (b) the loan was made through an operator,
  - (c) L has not assigned the right to recover the principal of the loan, and
  - (d) any outstanding amount of the principal of the loan has, on or after 6 April 2015, become irrecoverable.
- (2) But if the outstanding amount became irrecoverable before 6 April 2016 L is entitled to relief under this section only on the making of a claim.
- (3) The relief is given by deducting the outstanding amount in calculating L’s net income for the tax year in which the amount became irrecoverable (see Step 2 of the calculation in section 23).
- (4) The deduction under this section is to be made only from income arising from the payment to L of interest on –
  - (a) the relevant loan, and
  - (b) any other loan within subsection (5) or (6).
- (5) A loan is within this subsection if –
  - (a) it is a peer-to-peer loan made by L, and
  - (b) it was made through the operator through whom the relevant loan was made.
- (6) A loan is within this subsection if –
  - (a) the loan was made by someone other than L,
  - (b) the right to receive interest on the loan has been assigned to L,
  - (c) the right was assigned through the operator through whom the relevant loan was made, and
  - (d) either –
    - (i) L is a person within paragraph (a), (b) or (c) of section 412H(4), or
    - (ii) the recipient of the loan is a person within one of those paragraphs and the loan is a personal or small loan.
- (7) The amount deducted under this section is limited in accordance with section 25(4) and (5).
- (8) In this section “irrecoverable” means irrecoverable other than by the exercise of any right granted by way of security for the loan.

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#### **412B Claims for additional relief: sideways relief**

- (1) A person (“L”) may make a claim for relief under this section if –
  - (a) L is entitled to relief under section 412A in respect of any outstanding amount of the principal of a loan (“the relevant loan”), but
  - (b) in the tax year in relation to which L is entitled to that relief (“the relevant year”) –
    - (i) L has no income of the kind mentioned in section 412A(4) from which to deduct the outstanding amount, or
    - (ii) L has insufficient income of that kind to enable the outstanding amount to be deducted in full under that section.
- (2) The claim is for the outstanding amount or (in a case within subsection (1)(b)(ii)) the part of the outstanding amount not capable of being deducted under section 412A to be deducted under this section in calculating L’s net income for the relevant year.
- (3) The deduction under this section is to be made only from income arising from the payment to L of interest on loans within subsection (4) or (5).
- (4) A loan is within this subsection if –
  - (a) it is a peer-to-peer loan made by L, and
  - (b) it was made through an operator who is not the operator through whom the relevant loan was made.
- (5) A loan is within this subsection if –
  - (a) the loan was made by someone other than L,
  - (b) the right to receive interest on the loan has been assigned to L,
  - (c) that right was assigned through an operator who is not the operator through whom the relevant loan was made, and
  - (d) either –
    - (i) L is a person within paragraph (a), (b) or (c) of section 412H(4), or
    - (ii) the recipient of the loan is a person within one of those paragraphs and the loan is a personal or small loan.
- (6) The amount deducted under this section is limited in accordance with section 25(4) and (5).

#### **412C Claims for additional relief: carry-forward relief**

- (1) A person (“L”) may make a claim for relief under this section if –
  - (a) L is entitled to relief under section 412A in respect of any outstanding amount of the principal of a loan (“the relevant loan”), but
  - (b) in the tax year in relation to which L is entitled to that relief (“the relevant year”) –
    - (i) L has no income of the kind mentioned in section 412A(4) or section 412B(3) from which to deduct the outstanding amount, or

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- (ii) L has insufficient income of that kind to enable the outstanding amount to be deducted in full under those sections.
- (2) The claim is for the outstanding amount or (in a case within subsection (1)(b)(ii)) the part of the outstanding amount not capable of being deducted under sections 412A and 412B to be deducted under this section in calculating L's net income for the four tax years following the relevant year.
  - (3) The deduction under this section is to be made only from income arising from the payment to L of interest on—
    - (a) the relevant loan, and
    - (b) any other loan within subsection (4) or (5).
  - (4) A loan is within this subsection if—
    - (a) it is a peer-to-peer loan made by L, and
    - (b) it was made through an operator (whether or not that operator is the operator through whom the relevant loan was made).
  - (5) A loan is within this subsection if—
    - (a) the loan was made by someone other than L,
    - (b) the right to receive interest on the loan has been assigned to L,
    - (c) that right was assigned through an operator (whether or not that operator is the operator through whom the relevant loan was made), and
    - (d) either—
      - (i) L is a person within paragraph (a), (b) or (c) of section 412H(4), or
      - (ii) the recipient of the loan is a person within one of those paragraphs and the loan is a personal or small loan.
  - (6) This section needs to be read with section 412D (how relief works).

#### **412D How carry-forward relief works**

- (1) This subsection explains how deductions are to be made under section 412C.

The amount to be deducted at any step is limited in accordance with section 25(4) and (5).

*Step 1* Deduct the outstanding amount or (in a case within section 412C(1)(b)(ii)) the part of the outstanding amount not capable of being deducted under sections 412A and 412B from the lending income for the first tax year following the relevant year.

*Step 2* Deduct from the lending income for the second tax year following the relevant year any part of the outstanding amount not previously deducted.

*Step 3* Apply Step 2 in relation to the lending income for the third and fourth tax years following the relevant year, stopping if all of the outstanding amount is deducted.
- (2) In this section—
  - “lending income” means income of a kind mentioned in section 412C(3);
  - “relevant year” has the meaning given by section 412C(1)(b).

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*Supplementary provisions*

**412E Unexpected recovery of peer-to-peer loans**

- (1) This section applies where—
  - (a) any amount of the principal of a loan has been deducted under this Chapter in calculating a person's net income for a tax year, and
  - (b) the person subsequently recovers that amount or any part of it.
- (2) The amount recovered is to be treated for the purposes of this Act as if it were interest on the loan paid to the person at the time it was recovered.
- (3) For the purposes of this section, a person is to be treated as recovering an amount if the person (or any other person at his or her direction) receives any money or money's worth—
  - (a) in satisfaction of the person's right to recover that amount, or
  - (b) in consideration of the person's assignment of the right to recover it;

and where a person assigns such a right otherwise than by way of a bargain made at arm's length the person shall be treated as receiving money or money's worth equal to the market value of the right at the time of the assignment.

**412F Assigned loans treated as made by the assignee etc**

- (1) This section applies where—
  - (a) a person ("A") is assigned the right to recover the principal of a loan,
  - (b) the right is assigned through an operator ("O"),
  - (c) A makes a payment in consideration of the assignment, and
  - (d) A does not further assign the right.
- (2) The loan is to be treated for the purposes of section 412A(1) as—
  - (a) having been made by A, and
  - (b) having been made through O.
- (3) The amount (if any) of the principal of the loan which is treated as irrecoverable may not exceed the amount which is arrived at by—
  - (a) taking the amount of the payment mentioned in subsection (1)(c), and
  - (b) deducting any amount of the principal of the loan previously recovered by A.

**412G Nominees etc**

For the purposes of this Chapter—

- (a) a loan or a payment made by or to a nominee or bare trustee for a person is treated as made by or to that person, and
- (b) a right assigned by or to a nominee or bare trustee for a person is treated as assigned by or to that person.

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*Interpretation*

**412H Meaning of “loan”, “peer-to-peer loan” and related terms**

- (1) This section applies for the purposes of this Chapter.
- (2) “Loan” means a loan of money which –
  - (a) is made on genuine commercial terms, and
  - (b) is not part of a scheme or arrangement the main purpose or one of the main purposes of which is to obtain a tax advantage.
- (3) A loan is a “peer-to-peer loan” only if it meets –
  - (a) Condition A or B, and
  - (b) Condition C.
- (4) Condition A is that the person who made the loan is –
  - (a) an individual,
  - (b) a partnership which consists of –
    - (i) two or three persons, and
    - (ii) at least one person who is not a body corporate, or
  - (c) an unincorporated body of persons which –
    - (i) is not a partnership, and
    - (ii) consists of at least one person who is not a body corporate.
- (5) Condition B is that –
  - (a) the recipient of the loan is a person within paragraph (a), (b) or (c) of subsection (4), and
  - (b) the loan is a personal or small loan.
- (6) Condition C is that, assuming interest were paid on the loan, the person who made the loan would (except for this Chapter) be liable for income tax charged on the interest.
- (7) “Personal loan” means a loan which is not used wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the recipient of the loan.
- (8) “Small loan” means a loan of £25,000 or less.

**412I Meaning of “operator” and related terms**

- (1) This section applies for the purposes of this Chapter.
- (2) “Operator” means a person who –
  - (a) has permission under Part 4A of the Financial Services and Markets Act 2000 to carry on the regulated activity specified in Article 36H(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (operating an electronic system in relation to lending), or
  - (b) has been granted equivalent permission under the law of a territory outside the United Kingdom that is within the European Economic Area.
- (3) A loan is “made through” an operator if the person who makes the loan and the recipient of the loan enter the agreement under which the loan is made at the invitation of the operator.

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- (4) A right is “assigned through” an operator if the person who assigns the right and the person to whom the right is assigned enter the agreement under which the assignment takes effect at the invitation of the operator.
  - (5) A person is not to be treated as having entered an agreement at the invitation of an operator if the operator made the invitation otherwise than in the course of carrying on the activity to which the permission mentioned in subsection (2)(a) or (b) relates.”
  - (3) In section 24(1) (list of reliefs deductible at Step 2 of the calculation of income tax liability), in paragraph (b), at the appropriate place insert –  
“Chapter 1A of Part 8 (irrecoverable peer-to-peer loans),”.
  - (4) In section 25(3) (list of provisions requiring reliefs to be deducted from particular components of income etc) at the appropriate place insert –  
“sections 412A(4), 412B(3) and 412C(3) (relief for irrecoverable peer-to-peer loans only against interest on certain loans),”.