



HM Revenue
& Customs

Income tax relief for irrecoverable peer to peer loans
Final Guidance

To be included in the Savings and Investment Manual

SAIM 12000

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SAIM 12010 Introduction

This guidance sets out the rules on how to apply Income Tax Relief for irrecoverable loans that occur on Peer to Peer (P2P) Investments under Chapter 1A of Part 8 Income Tax Act 2007. This tax relief was brought in at [Section XX Finance Act 2016].

This tax relief allows P2P loans that become irrecoverable to be relieved by the lender against interest that they receive from other P2P loans.

P2P lending is an area of Financial Technology that enables individuals and businesses to lend to each other through the intermediary of an Internet platform. The sector seeks to avoid a traditional financial middleman such as a bank by having a platform act as a conduit to arrange and manage loans made directly between the lender and the borrower.

P2P lending platforms are regulated by the Financial Conduct Authority under Part 4A of the Financial Services and Markets Act 2000.

The purpose of this relief is to ensure that people who invest in P2P loans are subject to tax on the return that they make from their lending portfolio as a whole. This will create a level playing field for the taxation of income from P2P lending when compared to the taxation of traditional forms of retail investment and bring the tax position of the peer to peer sector in line with other forms of investment products available for individuals to purchase, such as collective investment schemes (more detail in [SAIM6000](#)).

SAIM 12020 What is peer to peer lending?

The peer-to-peer lending sector (the P2P sector) enables individuals and businesses to lend to each other through the intermediary of an internet platform. It provides new opportunities for investors and new sources of finance for borrowers.

P2P platforms work by providing a connection and management service that puts lenders (the investors) in contact with borrowers; the platforms themselves are not party to the loans being made.

P2P lending generally operates on a 'many to many' lending model where the platform acts as an intermediary to arrange and manage the loans. The platforms put lenders with money in touch with borrowers. The idea is that both the lender and borrower benefit from better rates than they could get from a bank.

A borrower will borrow small amounts from many lenders to make up the full the loan that they need, and lenders will place money with the platform that is then lent out to many different borrowers in many small sub loans.

People or businesses that borrow money through P2P platforms will make repayments on their loans through the platform. These repayments will consist of return of the capital that was borrowed, and interest that is due on the loan, with additional payment of any fees charged by the platform. The platform then passes both the interest and the return of capital onto the lender.

UK Regulation of peer to peer lending

In the UK, operating a P2P lending platform is an activity regulated by the Financial Conduct Authority (FCA) as "operating an electronic system in relation to lending" under Chapter 6B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544). If the platform arranges or facilitates loans where the lender is an individual or a "relevant person" then the platform must obtain authorisation from the FCA to carry on this activity.

SAIM 12030 When is peer to peer tax relief available?

For a lender to be able to claim relief on a peer to peer (P2P) loan that becomes irrecoverable all of the following conditions must have been met:

- 1) **Assuming interest were paid on the loan that becomes irrecoverable, the lender would be the person who is subject to any income tax due on the interest.**

This means that relief will only be available for the legal lender. It will not be available for a person who holds the loan through a legal structure or tax transparent entity. The “lender” for these purposes will include a person to whom a loan is assigned.

More detail in [Who receives P2P tax relief](#).

- 2) **The loan must be made through a regulated peer to peer platform.**

The loan must be made through an operator who has permission under Part 4A of the Financial Services and Markets Act 2000 [to operate an electronic system in relation to the lending of money](#).

This condition may also be met if the loan is made through an operator who is based elsewhere in the European Economic Area and has been granted equivalent permissions under the law of that jurisdiction.

However this will only be the case where the operator has been granted a permission to undertake the activity, if the law instead states that permission is not needed to operate as a peer to peer lending platform in that jurisdiction then the condition will not be met.

- 3) **Any outstanding amount of the principal (capital) of a loan made at any time has, on or after 6 April 2015, become irrecoverable.**

More detail in [When is a peer to peer loan treated as irrecoverable](#).

- 4) **The loan is defined as a “peer to peer loan” by the legislation**

For a loan to be defined as a peer to peer loan for this relief:

- the lender must be subject to UK Income Tax on their income (if any) from the loan
- the loan must be made on commercial terms, and
- the loan cannot be not part of a scheme or arrangement to obtain a tax advantage.

The loan must also meet the definition used to define peer to peer lending as an activity that is regulated by the Financial Conduct Authority.

More detail in [What is an eligible "peer to peer loan"](#).

What this means for UK individuals

If the lender is an individual subject to UK Income Tax on their income from the loan, and makes loans through a regulated UK platform, then if a loan becomes irrecoverable it should qualify for relief.

What this means for other persons subject to UK income tax

If the lender is subject to UK Income Tax on their income from the loan but is not an individual, then they will have to consider whether the loan falls within the definition in the legislation (more detail in [What is an eligible "peer to peer loan"](#)).

What this means for persons not subject to UK Income tax

If the lender is not subject to UK Income Tax on their income from the loan then the loan will not meet these conditions.

What this means for persons Subject to UK Corporation Tax

Persons subject to corporation tax will not be eligible for this relief, but may be able to claim a deduction for any losses under the Loan Relationships regime (more detail in the Corporate Finance Manual at [CFM30000](#)).

SAIM 12040 What is an eligible “peer to peer loan”?

The definition of a peer to peer loan for this tax relief is set out at section 412I Income Tax Act 2007.

This definition is based on the definition used to define peer to peer lending as an activity that is regulated by the Financial Conduct Authority (FCA) ([link to FCA website](#)).

However, for a peer to peer loan to be eligible for this relief it must also meet the following three conditions:

- 1) The lender must be subject to UK Income Tax on their income (if any) from the loan

This condition will still be met if the lender has no tax to actually pay, for instance because the amount of interest paid would not have exceeded the lender’s personal savings allowance.

This condition will not be met if the lender is not subject to tax on the income, for instance because the loan is held within an ISA.

- 2) The loan is made on commercial terms

The loan must be made at market rates and conditions and on an arm’s length basis.

- 3) The loan is not part of a scheme or arrangement to obtain a tax advantage

If the loan is

- made on commercial terms,
- is not part of a scheme to obtain a tax advantage, and
- the lender is subject to UK Income Tax on their income from the loan

then the loan will be an eligible “peer to peer loan” ***provided it also meets the following conditions:***

EITHER

- a) The lender is
 - i. an individual, OR
 - ii. a partnership consisting of 2 or 3 persons, of which at least one must not be a company, OR
 - iii. an unincorporated body of persons which is not a partnership but contains at least one person who is not a company.

OR

- b) The borrower is of the same description as in a)
 - AND
 - i. the loan is not used for the purpose of a business carried on by the borrower, OR
 - ii. the loan principal is less than £25,000.

These conditions are the same as those that define an “article 36H agreement” in [FSMA 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013](#). A platform that arranges article 36H agreements will be carrying on the regulated activity of “operating an electronic system in relation to lending” and will need to be authorised by the FCA.

What this means for UK individuals

If the lender is an individual then the loan should always fall within the definition of an article 36H agreement.

This means that for an individual who is subject to UK Income Tax on their income from the loan, who makes loans on normal market rate terms, through a regulated UK platform and does not use the loan as part of a scheme to obtain a tax advantage, then if the loan becomes irrecoverable it should qualify for this relief.

SAIM 12050 When is a peer to peer loan treated as irrecoverable?

When does a peer to peer loan *become* irrecoverable

A peer to peer loan may be accepted as having become irrecoverable when there is no reasonable prospect of the recovery of the loan. When assessing recoverability, the funds available **and potentially available** to the borrower must be considered. A claim therefore cannot be established simply because the borrower has insufficient liquidity on the date the loan had been called in.

Whether a loan has become irrecoverable should be judged on a case by case basis, however as the loan will be managed by a platform, the platform would usually be in a position to determine when a loan has become irrecoverable. The platform would then inform the lender that the loan had become irrecoverable.

If the platform does not undertake this action, then the lender may still determine that the loan has become irrecoverable. However it will be the responsibility of the lender to show that there is no reasonable prospect of the recovery of the loan and it is **NOT** simply a case of late payment.

When is a peer to peer loan *treated as* irrecoverable?

Under the legislation for income tax relief for irrecoverable peer to peer loans in certain circumstances a loan may be treated as irrecoverable for the purposes of the relief even if there may be a prospect that the lender could recover some of the amount outstanding.

This is the case for the following situations:

Loans with security

When loans are made against security, a loan may be treated as becoming irrecoverable as if the security did not exist.

Loans where legal recovery action is taken

When the borrower has entered legal recovery procedures such as liquidation, administration, receivership or bankruptcy the loan may be treated as becoming irrecoverable as if such action was not available.

Subsequent Recoveries

If a loan has been treated as irrecoverable in either of the scenarios outlined above then the relief will be given at the point where the loan becomes irrecoverable *other than for the specified recovery actions*.

If any value is then recovered, either through these actions or by any other means, then this recovery would then be taxed as additional interest received by the lender.

This is the same treatment as any other subsequent recovery of a relieved irrecoverable loans (more detail in [Subsequent recoveries](#)).

SAIM 12060 Transfers of irrecoverable loans

Assignment of irrecoverable peer to peer loans

A lender will not be entitled to this relief because they assign or sell a loan at a loss.

If the lender is able to assign or sell a loan for consideration then the assumption would be that the loan has some market value and is not irrecoverable, although it may be at risk and could have decreased substantially in value.

However in some cases a loan may become treated as irrecoverable, and the lender may then transfer the loan to a recovery agent in order for legal proceedings to be taken.

For example, the loan may be identified as becoming irrecoverable [other than by legal proceedings or by reference to security](#) whilst it is in the hands of the lender. Once the loan has been identified as irrecoverable, the lender may then assign the loan to a recovery agent to take further action.

In this case the loan would be treated as irrecoverable whilst it is in the hands of the lender, and the lender would be eligible for relief. Any recovery that the lender subsequently receives from that loan, whether through the recovery agent or from anywhere else, will be brought into charge as a [subsequent recovery](#).

Acquisition of irrecoverable peer to peer loans

If a lender assigns a loan that is already treated as being irrecoverable to another person, and the person who acquires the loan is unable to recover some or all of the principle of the loan (whether by legal proceedings, liquidation of security or any other means), then the person who has acquired the loan will **not** be able to claim this tax relief.

This is because the loan will not become irrecoverable in the hands of the purchaser. For the purposes of the legislation, the loan would have already been considered to be irrecoverable when the purchaser acquired it.

SAIM 12070 Who can receive peer to peer tax relief?

This relief is available for a person who has made a peer to peer loan through a regulated platform.

This means that the person who made the loan through the platform is entitled to the relief, unless they have assigned the right to recover the principal of the loan to another person

Assignments

If the person who made the original loan through the platform has assigned the right to recover the principal of the loan to another person in exchange for a payment, the person to whom the right has been assigned and holds that right at the point at which the loan is treated as becoming irrecoverable, would then be entitled to any relief.

However, in a case where a person has acquired the loan for consideration, the amount that they can claim is then limited to the amount that they paid for the right to recover to be assigned to them, less any amount of the principal already recovered (more detail in [Amount of peer to peer tax relief](#)).

Beneficially held loans

The legal lender of the loan is the person who will be eligible for any relief. If the beneficial owner of the loan does not hold the loan directly, and instead holds the loan through a tax transparent entity or structure (such as a fund or a partnership) then the beneficial owner will not be eligible for relief.

Bare trusts and nominees

There is an exception to the rule that this relief is only available to the legal lender in the case of loans held by a nominee or bare trustee for another person. In these cases the person for whom the loan is held will be treated as the lender and will be the person entitled to claim any tax relief.

This is only the case for loans held by nominees and bare trustees, it does not apply for any other legal structure such as discretionary or conditional trusts.

In the case of a loan held by a nominee or a bare trustee for another person it is that other person that would have to meet all other relevant conditions, such as being subject to UK Income Tax on their income from the loan.

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SAIM 12110 Amount of peer to peer tax relief available

Peer to peer (P2P) tax relief for irrecoverable P2P loans can only be set against interest received by the lender on other P2P loans. It cannot be used against any other form of income.

If the right to recover the loan still rests with the original lender

The amount of relief available is the amount originally lent, less any repayments of the principal of the loan already received.

If the right to recover the loan has been assigned

The amount of relief available is the **lower** of

- 1) The amount paid for the right to receive the principal of the loan less subsequent repayments
- 2) The amount of the principal of the loan outstanding on assignment, less subsequent repayments.

Example 1

Terry lends £20 through a P2P platform. £5 is repaid, whilst £15 becomes irrecoverable. Terry can claim relief for the £15.

Example 2

Luke lends £20 through a P2P platform. He then assigns the right to recover the remaining principal to Brenda for £15. £5 of the loan is repaid to Brenda. The remaining principal of the loan becomes irrecoverable.

The amount of relief that Brenda can claim is the **lower** of:

- 1) amount paid for the loan to be reassigned, less subsequent repayments ($£15 - £5 = £10$) and
- 2) the principal of the loan outstanding on assignment, less subsequent repayments ($£20 - £5 = £15$)

So the amount of relief Brenda can claim is £10.

Example 3

Steve lends £20 through a P2P platform. He then assigns the right to recover the remaining principal to Alice for £22. £5 of the loan is repaid to Alice. The remaining principal of the loan is written off.

The amount of relief is the **lower** of:

- 1) amount paid for the loan to be reassigned, less subsequent repayments ($£22 - £5 = £17$) and
- 2) the principal of the loan outstanding on assignment, less subsequent repayments ($£20 - £5 = £15$)

So the amount of relief that Alice can claim is £15.

SAIM 12120 Relief allowed against interest received in the same tax year: Through the same platform

The person who made the loan, or the person to whom the rights to recover the principal of the loan have been assigned, are both referred to here as simply as the Lender.

From 6 April 16 onwards

Relief for irrecoverable peer to peer (P2P) loans is given by deducting the amount of irrecoverable P2P loans from the P2P interest that the Lender receives from other P2P loans when calculating the lenders taxable income for the tax year in which the amount became irrecoverable.

From 6 April 2016 relief for irrecoverable P2P loans against income from P2P loans that are made through the same platform will be given automatically, that is without the need for the lender to make a claim in a tax return.

The amount of P2P interest that the Lender will be subject to tax on is:

- the total amount of P2P interest that they receive through each platform, less
- the principal of P2P loans made through **the same platform** that have become irrecoverable in the same tax year.

Example 1

Paul makes a series of interest bearing 5 year loans through Platform 'Zapo' in tax year 2015. In tax year 2017 one of the loans becomes irrecoverable. The amount of interest which Paul will be treated as receiving through 'Zapo' for tax purposes will be the amount of interest they received from other loans made through the 'Zapo' in the tax year 2017 less the irrecoverable amount of the loan.

6 April 15 to 5 April 16

The Lender can also claim relief on P2P loans that became irrecoverable on or after 6 April 2015 against other interest received in the same tax year from other P2P loans that were made through the same platform as the now irrecoverable loan.

This relief should be claimed in a tax return.

In order to claim relief in a tax return the lender should deduct their available relief from the P2P interest that they have received in that year before entering the figure in their tax return.

Example 2

Niall makes a series of interest bearing 5 year loans through Platform 'Zapo' in tax year 2014. In November 2015 one of the loans becomes irrecoverable. Niall can set off the irrecoverable amount of the loan against any interest received from other loans made through 'Zapo' in his tax return in the tax year 2015.

SAIM 12130 Relief allowed against interest received in the same tax year: Through different platforms

The person who made the loan, or the person to whom the rights to recover the principal of the loan have been assigned, are both referred to here as simply as the Lender.

The Lender can claim relief on an irrecoverable peer to peer (P2P) loan that became irrecoverable on or after 6 April 2015, against interest received from loans made through a different P2P platform to that of the now irrecoverable loan.

This relief can only be claimed if the loss resulting from the irrecoverable loan cannot be used wholly or partly against interest received through the same P2P platform as the now irrecoverable loan. This is because the irrecoverable loan must be first set off against interest received in the same tax year through the same P2P platform.

The relief should be claimed in a tax return.

In order to claim relief in a tax return the lender should deduct their available relief from the P2P interest that they have received in that year before entering the figure in their tax return.

Example

Geoffrey in tax year 2013 made 5 loans through platform 'Zapo' and 6 loans through platform 'SateRetter'.

When one loan made through Zapo became irrecoverable in tax year 2016, the irrecoverable amount was set against interest received from Zapo loans in the year. However, the irrecoverable amount exceeded the amount of interest received from the other Zapo loans in 2016.

Geoffrey then set off the remaining irrecoverable amount against interest received from SateRetter loans in tax year 2016.

SAIM 12140 Relief allowed against interest received in later tax years

The person who made the loan, or the person to whom the rights to recover the principal of the loan have been assigned, are both referred to here as simply as the Lender.

The Lender can claim relief on peer to peer (P2P) loans that became irrecoverable on or after 6 April 2015, against interest received from loans made through P2P platforms in the 4 years following the year in which the debt became irrecoverable.

This relief can only be claimed if the loss resulting from the irrecoverable loan cannot be used wholly against interest received through P2P platforms in the same year as the loan is treated as becoming irrecoverable.

If carried forward, relief for the outstanding amount of the irrecoverable loan must be used against P2P interest received in the earliest year first, up to a maximum of 4 years.

The relief should be claimed in a tax return.

In order to claim relief in a tax return the lender should deduct their available relief from the P2P interest that they have received in the relevant tax year before entering the figure in their tax return.

Example

Harold in tax year 2013 made a series of 10 year loans through platform 'Wending Lorks'. When a loan made through Wending Lorks became irrecoverable in tax year 2019, Harold's loss is set against interest arising from Wending Lorks loans in tax year 2019.

However, the amount of the irrecoverable loss in tax year 2019 exceeded the amount of interest received from Wending Lorks loans in that year. Therefore, Harold can carry forward the outstanding amount of the irrecoverable loan to be set off against any P2P interest received in tax year 2020.

If there is any amount of the irrecoverable loan outstanding after being set off against P2P interest received in tax year 2020, the outstanding amount can be carried forward against P2P interest received in tax year 2021, and so on, with the last year for set off being tax year 2023.

SAIM 12200 Subsequent recoveries of peer to peer loans

The person who made the loan, or the person to whom the rights to recover the principal of the loan have been assigned, are both referred to here as simply as the Lender.

If relief has been claimed because the principal of a loan has been treated as becoming irrecoverable, but the lender subsequently recovers any or all of the principal of the loan, then the lender should treat any amount received as peer to peer (P2P) interest received at the time of the recovery.

A lender will be treated as recovering the amount if they (or any other person at their direction) receives any form of payment or value either

- in satisfaction of the lender's right to recover the principle, or
- in consideration of the lender's assignment of that right.

Amount of recovery taxed as interest received

The amount of the principal recovery that is deemed to be a payment of interest under the subsequent recovery provisions, and is brought into tax as interest received by the lender is the **lower** of:

- 1) the amount of the outstanding principle recovered, and
- 2) the amount of relief that has been given for the irrecoverable loan.

Example 1

Bridget makes 15 identical £10 loans. 2 of these loans become irrecoverable in tax year 17 and she receives relief of £20 to set against the other P2P interest that she receives in the tax year 17. In tax year 18, one of the irrecoverable loans is partly recovered to an amount of £5. In the tax year 18 this £5 recovery is taxable as P2P interest received by Bridget.

Example 2

Craig lends £20 through a P2P platform. He then assigns the right to recover the remaining principal to Lucy for £15. £5 of the loan is repaid to Lucy. The remaining principal of the loan is written off. The amount of Lucy's tax relief is the **lower** of

- 1) amount paid for the loan to be reassigned less subsequent repayments (£15 - £5 = £10) and
- 2) the principal of the loan outstanding on assignment less subsequent repayments (£20 - £5 = £15)

So the amount of relief that Lucy receives is £10.

A year later, the whole of the principal of the loan that was written off is recovered. Lucy therefore gets a recovery for the full amount (£15), but only the amount of relief she has claimed (£10) is treated as P2P interest received under the Subsequent recovery provision.

The additional £5 that Lucy receives above what she paid for the loan is taxed in the same way as it would have been had the loan been repaid in full and on time.

SAIM 12210 Interaction of peer to peer tax relief with Capital Gains Tax

A small proportion of peer to peer (P2P) loans have been historically eligible for relief as a capital loss under Taxation of Chargeable Gains Act (TCGA 1992).

This may be the case for peer to peer loans that have been assigned to another person (more details in the Capital gains manual at [CG53480](#)), or for 'loans to a trader' (more details at [CG65900](#)).

This has especially applied for lenders using P2P platforms which specialise in loans to businesses.

Loans that become irrecoverable on or after 6 April 2016

An irrecoverable loan that would have been eligible for capital gains relief as a capital loss under TCGA 1992 will no longer be eligible for that relief.

This is because Section 2(3) of TCGA 1992 specifically gives priority to income tax reliefs.

Loans that become irrecoverable between 6 April 2015 and 5 April 2016

An irrecoverable loan that would have been eligible for relief as a capital loss under TCGA 1992 may still be eligible for Capital Gains relief, but only if no claim is made for P2P income tax relief for the loss on the loan.

SAIM 12220 Peer to Peer tax relief for irrecoverable loans: Example

Tony S makes 10 identical loans of £10 at 10% interest per year on 6 April 2013 through platform 'Zapo'. Tony S also makes 2 loans of £30 at 10% interest per year on 6 April 2014 through platform 'Sateretter'. All these loans are interest only loans repayable in 5 years.

On 25th November 2015, Sateretter contact Tony S to inform him that one of the loans has gone bad and is now irrecoverable.

On 31st July 2017 Sateretter informs Tony S that £25 of the loan has been recovered.

What is the tax effect?

2013/14 year: In this year Tony S receives £10 in interest from his Zapo loans, which he suffers income tax on.

2014/15 year: in this year Tony S receives £10 in interest from his Zapo loans and £6 in interest from his Sateretter loans, both of which he suffers income tax on

2015/16 year: In this year Tony S's income is £10 in interest from Zapo loans, and £3 from the Sateretter loan which has not become irrecoverable. One loan of £30 has become irrecoverable as the creditor has entered into financial difficulties.

He can set this £30 off first against the interest received from the other Sateretter loan (£30-£3 = £27).

He can then set the remainder of it off against other P2P interest received in the same year from loans made through Zapo (£27-£10 = £17). The remaining £17 can be carried forward.

Tony S has no taxable P2P income left and therefore does not suffer the related income tax charge. Tony S has used £13 of the available £30 relief.

2016/17 year: In this year Tony S's income is £10 in interest from Zapo loans, and £3 from the remaining Pacesetter loan.

He can use his carried forward relief against this income, taking his taxable P2P income to £0.

The remaining relief of £4 (£17-£13 = £4) can be carried forward. Tony S has used £26 of relief.

2017/2018 year: In this year Tony S's P2P income is again £13. He also makes a recovery of £25 as a result of the liquidation of the former creditor who was deemed to not be able to repay the loan in 15/16. The full amount of the recovery is treated as interest received in 16/17 (as Tony S has already been given £26 of relief on that loan). The £25 is treated as P2P interest received in the year 2016/17 taking Tony S's P2P income to £13+£25 = £38.

Tony S uses his carried forward relief of £4 against this income, reducing his taxable P2P income to £34.

Tony S also receives his principal back on the 5 Zapo loans on 5 April 2018. None of these loans have been treated as irrecoverable at any point, so none of the repayment of principal is taxed as interest.

2018/19 year: In this year Tony S's P2P income is the interest from the remaining Sateretter loan of £3, which he suffers income tax on.