HM Revenue & Customs

Bank profits surcharge

Who is likely to be affected?

Banking companies and building societies within the charge to UK corporation tax.

General description of the measure

The measure imposes a surcharge of 8% on the profits of banking companies. The profits will be calculated on the same basis as for corporation tax, but with some adjustments.

Policy objective

Banks should continue to make a fair contribution in respect of the potential risks they pose to the UK financial system and wider economy.

As the banking sector recovers and profitability improves, the government believes it is now appropriate to reform how banks are taxed. The surcharge will link the contribution a bank makes to its profitability and will operate alongside the existing bank levy, a charge on banks' balance sheets. It is estimated that the revenue from the surcharge will offset Bank Levy reductions over the forecast period.

Background to the measure

This measure was announced at Summer Budget 2015.

Detailed proposal

Operative date

The surcharge will be levied on profits of banking companies in accounting periods beginning on or after 1 January 2016.

Where a company's accounting period straddles 1 January 2016, the period will be split and the surcharge will apply to the profits of the notional period commencing on 1 January 2016.

Current law

Companies are chargeable to corporation tax on their "taxable total profits" (section 4 of the Corporation Tax Act 2010; CTA 2010). The rate of corporation tax is set annually in the Finance Act.

The appropriate rate is applied to a company's profits and if applicable, certain reliefs may be applied against the amount to be charged to corporation tax (paragraph 8 of Schedule 18 to the Finance Act 1998).

<u>Controlled Foreign Companies (CFC) rules and calculation of liability to a CFC charge</u>
If a company has an overseas subsidiary with profits that are chargeable under Part 9A of the Taxation (International and Other Provisions) Act 2010 (TIOPA), it will be liable to a CFC charge based on the percentage of a CFC's profits that are apportioned to the chargeable company. The CFC charge is normally charged at the UK main rate of corporation tax (section 371BC(3) TIOPA 2010).

Proposed revisions

Legislation will be introduced in Summer Finance Bill 2015 to levy a surcharge upon the taxable profits of a banking company or building society. The surcharge will be treated as an amount chargeable as if it were CT. Double taxation relief will be allowed on the surcharge on a similar basis as for CT.

The profits for the purposes of the surcharge will be the "taxable total profits" (section 4 CTA 2010) with certain adjustments.

The adjustments required are to:

add back

- any group relief for the period from non-banking companies;
- any relief arising before 1 January 2016; and
- any capital gains transferred out to non-banking companies;

deduct

- any capital gains transferred in from non-banking companies; and
- any R&D expenditure credits.

Group relief from a non-banking company is group relief claimed from any company that does not meet the definition of a banking company. Relief arising before 1 January 2016 is relief, including losses, arising in accounting periods ending on or before 1 January 2016, or accounting periods straddling 1 January 2016 which will be notionally split so that relief arising in the notional period ending 31 December 2015 will be added back.

The legislation also contains a targeted anti-avoidance rule, applying to arrangements (whenever entered into) that seek to avoid or reduce the surcharge. The rule will negate the effect of the arrangements.

There is an annual allowance of £25 million available to groups, or, where a group has only one banking company or the banking company is not in a group, to that banking company alone. The allowance is available from 1 January 2016 and unused allowance cannot be carried forward. The allowance exempts surcharge profits or CFC profits apportioned to a banking company from liability to the surcharge.

Supplementary CFC charge
The appropriate rate to apply in charging the CFC charge for a banking company is a rate equivalent to the total of the UK main rate of corporation tax and the rate for the surcharge.

Reporting requirements
The surcharge will be paid alongside a company's liability to corporation tax. When a company makes a payment that includes, or is wholly, surcharge liability, it must notify HM Revenue & Customs of the amount of surcharge paid. This requirement is the same regardless of whether the company pays by instalments or not.

Where a company pays by instalments (Corporation Tax (Instalment Payment) Regulations SI 1998/3175), any surcharge element of an instalment due before 1 January 2016 will be treated as due at the next instalment date following 1 January 2016.

Groups will need to nominate one banking company to make a statement to HMRC of how the allowances will be used for the period. The statement should include details of the banking companies which will receive the allowance and the amount they will receive (up to a maximum of £25m for the group). Where a banking company is not in a group, it does not need to make a statement.

Summary of impacts

Exchequer impact (£m)	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
	nil	+415	+555	+365	+225	+105
	These figures are set out in Table 2.1 of Summer Budget 2015 as 'Banks: 8% CT Surcharge and changes to Bank Levy' and have been certified by the Office for Budget Responsibility. They represent the combined Exchequer impact of 'Bank CT Surcharge' and 'Bank Levy: rate reduction'. More details can be found in the policy costing's document published alongside Summer Budget 2015.					
Economic impact	This measure is not expected to have any significant long-term macroeconomic impacts. It is estimated that the revenue from the surcharge will offset bank levy reductions over the forecast period.					
Impact on individuals, households and families	This measure concerns incorporated businesses. It has no direct impact on individuals or households and is not expected to impact on family formation, stability or breakdown.					
Equalities impacts	This measure concerns the taxation of incorporated businesses. As such it is very unlikely that there will be any impact on equality.					
Impact on business including civil society organisations	This measure is expected to have a negligible impact on businesses. The measure impacts on banks and building societies within the charge to UK CT, with those banks which are profitable incurring negligible ongoing costs associated with calculating their liability and submitting an additional return. Banks are expected to incur a negligible one-off cost to become familiar with the change in legislation. This measure will have no impact on civil society organisations.					
Operational impact (£m) (HMRC or other)	It is anticipated that HMRC will have to make changes to IT systems to implement this change. Work is ongoing to estimate the likely costs involved. This measure is not expected to have any significant operational impacts.					
Other impacts	Small and micro business assessment: this measure is expected to have a negligible impact on small and micro businesses. Other impacts have been considered and none have been identified.					

Monitoring and evaluation

The measure will be subject to ongoing monitoring through receipts, information collected in tax returns, and disclosure of new anti-avoidance schemes to circumvent the measure.

Further advice

If you have any questions about this change, please contact Ursula Crosbie on 03000 589086 (email: ursula.crosbie@hmrc.gsi.gov.uk) or Anthony Fawcett on 03000 585911 (email: anthony.c.fawcett@hmrc.gsi.gov.uk).