

Explanatory Note

Clauses 73, 74 and 75: Rate of interest applicable to judgment debts etc: Scotland, Northern Ireland, England and Wales.

Summary

1. The first two of these three related clauses provide that in Scotland and Northern Ireland, where HM Revenue & Customs (HMRC) is party to a tax-related judgment debt (court proceedings in a taxation matter), the rates of interest are those referred to in tax legislation. This ensures that interest payable by or to HMRC, whether or not a debt follows from court action, is that prescribed in tax legislation. The Scotland and Northern Ireland clauses also set the rates of interest on tax-related judgment debts owed by or to HMRC to appropriate levels given prevailing interest rates and harmonises the rates UK-wide.
2. The third related clause removes the exclusion of National Insurance contributions from the definition of taxation matter in section 52 Finance (No2) Act 2015 in order that the definition of taxation matter is harmonised UK-wide.
3. The new rates of interest will apply to new and existing judgment debts in Scotland and Northern Ireland from the date of Royal Assent of Finance Act 2016. Any interest already accrued under an existing judgment debt will be unaffected.

Details of the clauses

Clause 73: Rate of interest applicable to judgment debts etc: Scotland

4. Subsection (1) sets out that the provision relates only to sums payable by or to HMRC under a decree or extract of the court, and in respect of interest only.
5. Subsections (2) and (3) provide that the late payment rate of interest in accordance with section 103(1) Finance Act 2009 applies to tax-related judgment debts where HMRC is the creditor, and a new special repayment rate of interest applies to tax-related judgment debts where HMRC is the debtor. Subsection (2) sets out that where the rate of interest in relation to the tax-related judgment debt is stated in the decree or extract, the rate stated in relation to the debt may not exceed the late repayment rate where HMRC is the creditor, or the special repayment rate where HMRC is the debtor.
6. Subsection (4) provides that the new rates of interest apply from Royal Assent of Finance Act 2016 on existing as well as new judgments and whether or not judgment interest has already accrued prior to this date. However, interest that has already accrued up to and including the day before Royal Assent is not affected by this section.

Clause 74: Rate of interest applicable to judgment debts etc: Northern Ireland

7. Subsection (1) sets out that the provision relates only to sums payable by or to HMRC under a judgment or order of the court, and in respect of interest only.
8. Subsections (2) and (3) provide that the late payment rate of interest in accordance with section 103(1) Finance Act 2009 applies to tax-related judgment debts where HMRC is the creditor, and a new special repayment rate of interest applies to tax-related judgment debts where HMRC is the debtor. Subsection (2) sets out that where the rate of interest in relation to the tax-related judgment debt is stated in the judgment or order, the rate stated in relation to the debt may not exceed the late repayment rate where HMRC is the creditor, or the special repayment rate where HMRC is the debtor.
9. Subsection (4) provides that the new rates of interest apply from Royal Assent of Finance Act 2016 on existing as well as new judgments and whether or not judgment interest has already accrued prior to this date. However, interest that has already accrued up to and including the day before Royal Assent is not affected by this section.

Clause 75: Rate of interest applicable to judgment debts etc: England and Wales

10. The clause for National Insurance contributions removes the exclusion of National Insurance contributions from the definition of taxation matter in the England and Wales judgment debt interest provision contained in section 52 Finance (No2) Act 2015. This ensures a consistent definition of taxation matter UK-wide.

Background note

11. The government introduced section 52 Finance (No2) Act 2015 for England and Wales, which requires that where HMRC is party to a tax-related debt, the rates of interest are those contained in tax legislation. This ensures that interest payable by or to HMRC, whether or not a debt follows from court action, is that prescribed in tax legislation. It is appropriate for interest rates on judgment debts relating to taxation matters to be determined in tax legislation rather than the Judgments Act, County Courts Act, or Scottish or Northern Irish equivalents, which are the responsibility of government departments other than HMRC. This measure is to extend the same principle to Scotland, Northern Ireland and to include National Insurance contributions within the definition of taxation matter.
12. This change in rates applies to cases both where HMRC receives judgment interest where it has won a case, and where it pays judgment interest where it has lost a case.
13. The government is making this change to ensure a consistent UK-wide position that where HMRC is party to a tax-related debt, the rates of interest are those contained in tax legislation. The change also ensures that the rates of interest on such debts are set at an appropriate level.
14. If you have any questions about this change, or comments on the legislation, please contact Helen Sawyer on 03000 568355 (email: helen.sawyer@hmrc.gsi.gov.uk).