HM Revenue & Customs

Income tax and corporation tax: tax relief for businesses contributing to a partnership funding flood defence scheme

Who is likely to be affected?

Businesses making contributions to partnership funding schemes for Flood and Coastal Erosion Risk Management (FCERM) projects.

General description of the measure

The measure will ensure that contributions by a business of money or services to a FCERM partnership funding scheme will be deductible from the profits of the business for corporation tax or income tax purposes.

Policy objective

This measure supports the wider Government agenda to encourage private sector participation in flood and coastal defence projects.

Background to the measure

This measure was announced at Autumn Statement 2014.

Detailed proposal

Operative date

This measure will have effect for a contribution made on or after 1 January 2015.

Current law

For income tax the relevant legislation is contained within the Income Tax, Trading and Other Income Act 2005 (ITTOIA). Part 2 of ITTOIA deals with income from trades, professions or vocations, and Chapter 3 sets out the basic rules for calculation of profits, with Chapter 4 providing the rules for restricting deductions. Part 3 of ITTOIA deals with property income, and Chapter 3 sets out the rules for calculation of property business profits.

For corporation tax the relevant legislation is contained within the Corporation Tax Act (CTA) 2009. Part 3 of CTA 2009 deals with trading income, and Chapter 3 sets out the basic rules for calculation of profits, while Chapter 4 provides the rules for restricting deductions. Part 4 of CTA 2009 deals with property income, and Chapter 3 sets out the rules for calculation of property business profits. Part 16 of CTA 2009 provides the rules for deductions allowable as management expenses in the case of companies with investment business.

Proposed revisions

This measure introduces new provisions within Chapter 5 of Part 2 of ITTOIA, to allow a specific deduction for contributions to partnership funding schemes for flood defence projects. It also amends section 272 of Part 3 of ITTOIA to secure that the same treatment applies for property businesses.

The measure introduces new provisions within Chapter 5 of Part 3 of CTA 2009 to allow a specific deduction for contributions to partnership funding schemes for flood defence projects. It also amends section 210 of Part 4 of CTA 2009, and introduces new provisions within Part 16 of CTA 2009, to secure that the same treatment applies for companies with property business or investment business respectively.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	negligible	-5	-5	-5	-5	-5
	These figures are set out in Table 2.1 of Autumn Statement 2014. They have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Autumn Statement 2014.					
Economic impact	This measure is expected to support increased investment in flood resilience projects. No significant wider economic impacts are expected.					
Impact on individuals, households and families	Most contributions to partnership funding schemes to date have been made by large businesses and this trend is expected to continue. To the extent that the measure encourages investment in flood defence projects, there will be a positive impact on the individuals, households and families who benefit from these. This measure is not expected to impact on family formation, stability or breakdown.					
Equalities impacts	No specific equalities impacts have been identified.					
Impact on business including civil society organisations	There will be a positive impact on those businesses making contributions who could not previously have obtained tax relief but will now to be able to do so by virtue of this measure. Relief will be claimed through the tax computations and returns, and businesses will have calculated the relevant details as part of making their contribution to a scheme. As a result, there will be minimal additional administrative burden for those businesses claiming relief. To the extent that the measure supports funding of flood defence projects, businesses and other organisations which carry out these works may experience increased demand for their goods and services. This measure is expected to have a negligible impact on other businesses and civil society organisations.					
Operational impact (£m) (HMRC or other)	It is not anticipated that implementing this change will result in any significant additional costs or savings for HM Revenue and Customs.					
Other impacts	<u>Environmental impact</u>: to the extent that the measure supports funding of flood defence projects, there will be a positive impact on the environment. Other impacts have been considered and none have been identified.					

Monitoring and evaluation

The Department for the Environment, Food and Rural Affairs (DEFRA) and the Environment Agency (EA), will monitor the level of private sector contributions to partnership funding schemes over the lifetime of the funding commitment (2015-16 to 2020-21).

Further advice

If you have any questions about this change, please contact James Ewington on 03000 553788 (email: james.ewington@hmrc.gsi.gov.uk).

1 Relief for contributions to flood and coastal erosion risk management projects

Schedule 1 makes provision about relief for contributions to flood and coastal erosion risk management projects.

SCHEDULE 1

Section 1

RELIEF FOR CONTRIBUTIONS TO FLOOD AND COASTAL EROSION RISK MANAGEMENT PROJECTS

Income tax: trade profits

1 In Chapter 5 of Part 2 of ITTOIA 2005 (trade profits: rules allowing deductions), after section 86 insert—

"Contributions to flood and coastal erosion risk management projects

86A Contributions to flood and coastal erosion risk management projects

(1) This section applies if—

(a) a person carrying on a trade ("the contributor") incurs expenses in making a qualifying contribution to a qualifying flood or coastal erosion risk management project, and

(b) a deduction would not otherwise be allowable for the expenses in calculating the profits of the trade.

(2) In subsection (1)(b) "deduction" does not include a deduction giving effect to a capital allowance.

(3) In calculating the profits of the trade, a deduction is allowed under this section for the expenses.

(4) But if, in connection with the making of the contribution, the contributor or a connected person—

(a) receives a disqualifying benefit, or

(b) is entitled to receive such a benefit,

no deduction is allowed.

(5) For the purposes of subsection (4) it does not matter whether a person receives, or is entitled to receive, the benefit—

(a) from the carrying out of the project, or

(b) from any person.

(6) Subsection (7) applies if—

(a) a deduction has been made under this section in relation to the contribution, and

(b) the contributor or a connected person receives—

(i) a refund of any part of the contribution, if the contribution is a sum of money, or

(ii) compensation for any part of the contribution, if the contribution is the provision of services,

in money or money's worth.

(7) The amount of, or an amount equal to the value of, the refund or compensation (so far as not otherwise brought into account in

calculating the profits of the trade or treated as a post-cessation receipt)—

(a) is brought into account in calculating the profits of the trade, as a receipt arising on the date on which the refund or compensation is received, or

(b) if the contributor has permanently ceased to carry on the trade before that date, is treated as a post-cessation receipt (see Chapter 18).

(8) In this section "disqualifying benefit" means a benefit consisting of money or other property, but it does not include—

(a) a refund of the contribution, if the contribution is a sum of money;

(b) compensation for the contribution, if the contribution is the provision of services.

86B Interpretation of section 86A

(1) This section applies for the purposes of section 86A.

(2) A flood or coastal erosion risk management project is a qualifying project if—

(a) an English risk management authority has applied to the Environment Agency for a grant under section 16 of the Flood and Water Management Act 2010 in order to fund the project, or

(b) the Environment Agency has determined that it will carry out the project,

and the Environment Agency has allocated funding by way of grant-in-aid to the project.

(3) A contribution to a flood or coastal erosion risk management project is a qualifying contribution if the contribution is made under an agreement between—

(a) the person making the contribution, and

(b) the applicant authority or (as the case may be) the Environment Agency,

or between those two persons and other persons.

(4) References to a flood risk management project or a coastal erosion risk management project are to be interpreted in accordance with section 3 of the Flood and Water Management Act 2010.

(5) In section 86A and this section—

"contribution", in relation to a period of account, means—

(a) a sum of money paid in that period of account, or

(b) any services provided in that period of account;

"English risk management authority" has the meaning given by section 6(14) of the Flood and Water Management Act 2010."

Income tax: profits of a property business

2 In section 272 of ITTOIA 2005 (application of trading income rules), in the table in subsection (2), after the entry for sections 82 to 86 insert—

"sections 86A and 86B	contributions to flood and coastal erosion risk management projects"

Corporation tax: trading income and trade profits

3 In Chapter 5 of Part 3 of CTA 2009 (trading income and trade profits: rules allowing deductions), after section 86 insert—

"Contributions to flood and coastal erosion risk management projects

86A Contributions to flood and coastal erosion risk management projects

(1) This section applies if—

(a) a company carrying on a trade ("the contributor") incurs expenses in making a qualifying contribution to a qualifying flood or coastal erosion risk management project, and

(b) a deduction would not otherwise be allowable for the expenses in calculating the profits of the trade.

(2) In subsection (1)(b) "deduction" does not include a deduction giving effect to a capital allowance.

(3) In calculating the profits of the trade, a deduction is allowed under this section for the expenses.

(4) But if, in connection with the making of the contribution, the contributor or a connected person—

(a) receives a disqualifying benefit, or

(b) is entitled to receive such a benefit,

no deduction is allowed.

(5) For the purposes of subsection (4) it does not matter whether a person receives, or is entitled to receive, the benefit—

(a) from the carrying out of the project, or

(b) from any person.

(6) Subsection (7) applies if—

(a) a deduction has been made under this section in relation to the contribution, and

(b) the contributor or a connected person receives—

(i) a refund of any part of the contribution, if the contribution is a sum of money, or

(ii) compensation for any part of the contribution, if the contribution is the provision of services,

in money or money's worth.

(7) The amount of, or an amount equal to the value of, the refund or compensation (so far as not otherwise brought into account in calculating the profits of the trade or treated as a post-cessation receipt)—

(a) is brought into account in calculating the profits of the trade, as a receipt arising in the accounting period in which the refund or compensation is received, or

(b) if the contributor has permanently ceased to carry on the trade before the refund or compensation is received, is treated as a post-cessation receipt (see Chapter 15).

(8) In this section "disqualifying benefit" means a benefit consisting of money or other property, but it does not include—

(a) a refund of the contribution, if the contribution is a sum of money;

(b) compensation for the contribution, if the contribution is the provision of services.

86B Interpretation of section 86A

(1) This section applies for the purposes of section 86A.

(2) A flood or coastal erosion risk management project is a qualifying project if—

(a) an English risk management authority has applied to the Environment Agency for a grant under section 16 of the Flood and Water Management Act 2010 in order to fund the project, or

(b) the Environment Agency has determined that it will carry out the project,

and the Environment Agency has allocated funding by way of grant-in-aid to the project.

(3) A contribution to a flood or coastal erosion risk management project is a qualifying contribution if the contribution is made under an agreement between—

(a) the company making the contribution, and

(b) the applicant authority or (as the case may be) the Environment Agency,

or between those two bodies and other persons.

(4) References to a flood risk management project or a coastal erosion risk management project are to be interpreted in accordance with section 3 of the Flood and Water Management Act 2010.

(5) In section 86A and this section—

"contribution", in relation to an accounting period, means—

(a) a sum of money paid in that accounting period, or

(b) any services provided in that accounting period;

"English risk management authority" has the meaning given by section 6(14) of the Flood and Water Management Act 2010."

Corporation tax: profits of a property business

4 In section 210 of CTA 2009 (application of trading income rules), in the table in subsection (2), after the entry for sections 82 to 86 insert—

"sections 86A and 86B	contributions to flood and coastal erosion risk management projects"

Corporation tax: investment business

5 In Chapter 2 of Part 16 of CTA 2009 (investment business: management expenses), in section 1221 (amounts treated as expenses of management), in subsection (3), after paragraph (i) insert—

"(ia) section 1244A (contributions to flood and coastal erosion risk management projects),".

6 In Chapter 3 of Part 16 of CTA 2009 (investment business: amounts treated as expenses of management), after section 1244 insert—

"Contributions to flood and coastal erosion risk management projects

1244A Contributions to flood and coastal erosion risk management projects

(1) This section applies if a company with investment business ("the contributor") incurs expenses in making a qualifying contribution to a qualifying flood or coastal erosion risk management project.

(2) The expenses are treated for the purposes of Chapter 2 as expenses of management.

(3) But if, in connection with the making of the contribution, the contributor or a connected person—

(a) receives a disqualifying benefit, or

(b) is entitled to receive such a benefit,

no deduction is allowed under section 1219.

(4) For the purposes of subsection (3) it does not matter whether a person receives, or is entitled to receive, the benefit—

(a) from the carrying out of the project, or

(b) from any person.

(5) In this section "disqualifying benefit" means a benefit consisting of money or other property, but it does not include—

(a) a refund of the contribution, if the contribution is a sum of money;

(b) compensation for the contribution, if the contribution is the provision of services.

(6) Section 86B applies for the purposes of this section as it applies for the purposes of section 86A."

7 In Chapter 5 of Part 16 of CTA 2009 (investment business: receipts), after section 1253 insert—

"1253A Contributions to flood and coastal erosion risk management projects: refunds etc

(1) This section applies if—

(a) a deduction has been made under section 1219 by virtue of section 1244A (contributions to flood and coastal erosion risk management projects: expenses of management), and

(b) the contributor or a connected person receives—

(i) a refund of any part of the contribution, if the contribution is a sum of money, or

(ii) compensation for any part of the contribution, if the contribution is the provision of services,

in money or money's worth.

(2) The contributor is to be treated as receiving, when the refund or compensation is received, an amount—

(a) which is equal to so much of the refund or compensation, or so much of the value of the refund or compensation, as is not otherwise taken into account for corporation tax purposes, and

(b) to which the charge to corporation tax on income applies."

8 In section 253 of CAA 2001 (companies with investment business), in subsection (6), after "1233" insert "or 1244A".

Commencement

9 The amendments made by this Schedule have effect in relation to contributions paid or provided on or after 1 January 2015.

EXPLANATORY NOTE

RELIEF FOR CONTRIBUTIONS TO FLOOD AND COASTAL EROSION RISK MANAGEMENT PROJECTS

SUMMARY

1. Clause [X] and Schedule [Y] introduce deductions for income tax and corporation tax purposes for business contributions to partnership funding schemes for flood defence projects. The legislation will have effect for contributions made on or after 1 January 2015.

DETAILS OF THE SCHEDULE

2. Paragraph 1 inserts new sections 86A and 86B into Chapter 5 of Part 2 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005).

3. Subsection (1) of new section 86A sets out the conditions for new section 86A to apply.

4. Subsection (2) of new section 86A ensures that this section has priority over a deduction provided for in the Capital Allowances Act 2001 (CAA 2001).

5. Subsection (3) of new section 86A provides for a deduction in calculating the profits of the trade where the conditions are met unless a deduction is denied by subsection (4) of new section 86A.

6. Subsection (5) of new section 86A clarifies the application of subsection (4) of new section 86A.

7. Subsection (6) of new section 86A sets out the conditions for subsection (7)of new section 86A to apply.

8. Subsection (7) of new section 86A ensures that a refund of, or compensation for, a contribution, will be taxable as profits of the trade or as a post-cessation receipt, where it would not otherwise be taken into account.

9. Subsection (8) of new section 86A defines “disqualifying benefit” for the purposes of new section 86A.

10. New section 86B details the circumstances in which a flood or coastal erosion risk management project is a “qualifying project”, and the meaning of a “qualifying contribution”, for the purposes of new section 86A, and provides other interpretative provisions.

11. Paragraph 2 applies new sections 86A and 86B of ITTOIA 2005 to property businesses.

12. Paragraph 3 inserts new sections 86A and 86B into Chapter 5 of Part 3 of Corporation Tax Act 2009 (CTA 2009).

13. Subsection (1) of new section 86A sets out the conditions for new section 86A to apply.

14. Subsection (2) of new section 86A ensures that this section has priority over a deduction provided for in CAA 2001.

15. Subsection (3) of new section 86A provides for a deduction in calculating the profits of the trade where the conditions are met unless a deduction is denied by subsection (4) of new section 86A.

16. Subsection (5) of new section 86A clarifies the application of subsection (4) of new section 86A.

17. Subsection (6) of new section 86A sets out the conditions for subsection (7) of new section 86A to apply.

18. Subsection (7) of new section 86A ensures that a refund of, or compensation for, a contribution, will be taxable as profits of the trade or as a post-cessation receipt, where it would not otherwise be taken into account.

19. Subsection (8) of new section 86A defines “disqualifying benefit” for the purposes of new section 86A.

20. New section 86B details the circumstances in which a flood or coastal erosion risk management project is a “qualifying project”, and the meaning of a “qualifying contribution”, for the purposes of new section 86A, and provides other interpretative provisions.

21. Paragraph 4 applies new sections 86A and 86B of CTA 2009 to property businesses.

22. Paragraph 5 amends section 1221(3) of CTA 2009 to include new section 1244A.

23. Paragraph 6 inserts new section 1244A into Chapter 3 of Part 16 of CTA 2009.

24. Subsection (1) of new section 1244A sets out the conditions under which the section applies.

25. Subsection (2) of new section 1244A provides that expenses in making a qualifying contribution are treated as management expenses of a company with investment business unless this treatment is denied by subsection (3) of new section 1244A.

26. Subsection (4) of new section 1244A provides clarification on the operation of subsection (3).

27. Subsection (5) of new section 1244A defines "disqualifying benefit" for the purposes of new section 1244A.

28. Paragraph 7 inserts new section 1253A into Chapter 5 of Part 16 of CTA 2009.

29. New section 1253A ensures that a refund of a contribution or compensation for a contribution of services, will be chargeable to corporation tax if it would not otherwise be taken into account in calculating profits for corporation tax purposes.

30. Paragraph 8 amends section 253 of CAA 2001 to include new section 1244A.

31. Paragraph 9 provides commencement rules.

BACKGROUND NOTE

32. This measure forms part of the Government's wider package of measures to maintain and strengthen flood defences across the country.

33. If you have any questions about this change, or comments on the legislation, please contact James Ewington on 03000 553788 (email: james.ewington@hmrc.gsi.gov.uk)