HM TREASURY

HM Revenue & Customs

Delivering a cap on income tax relief:

a technical consultation

July 2012

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Foreword

Tax reliefs exist to incentivise certain activities and behaviours that benefit our economy and society, such as entrepreneurship and philanthropy. The Government is committed to the principle that people investing in businesses and donating to charity should benefit from tax reliefs.

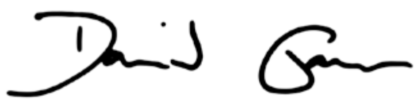
However, at a time when the Government's priority is balancing the public finances, it is particularly important to seek to ensure that taxation is as fair as possible. Budget 2012 announced a package of measures which combined, raise five times more from high earners than the cost of reducing the additional rate of income tax to 45 per cent. This document provides further detail on the cap on unlimited income tax reliefs, which plays an important part in ensuring that those on the highest incomes pay a fairer rate of tax. It consults specifically on the mechanisms for delivering the cap.

The cap will come into force next April, and will be set at £50,000 or 25 per cent of an individual's income, whichever is greater. This measure is about fairness: a tax system should provide relief to support those who take risks by investing in their business or in certain types of shares – but that support should not be without limit. Wealthy individuals should not be able to reduce their income tax bills to zero, year after year by using these income tax reliefs to excess. Unlimited relief is at the cost of the general taxpayer. Further, this policy is not designed to specifically target tax avoidance, but limiting currently uncapped reliefs will reduce the scope for those who wish to exploit these reliefs for tax avoidance purposes.

The Government is committed to fostering growth, and the cap on income tax reliefs strikes the right balance in this context. Generous tax reliefs will continue to provide a strong incentive for individuals to invest in small businesses: the Enterprise Investment Scheme (EIS) and Venture Capital Trusts (VCTs) have together supported over £11.5 billion of investment into SMEs in the UK. Since 2010, we have doubled the investment limit for EIS, widened the eligibility criteria for both schemes, and introduced a new Seed EIS to support investment in early stage companies. We have also raised the lifetime limit on capital gains tax Entrepreneurs' Relief from £2 million to £10 million. Tax relief on investment in the EIS will not be included in the cap: this relief already has in place its own, very generous, cap. The vast majority of other investment in small business supported by Government schemes is also expected to be unaffected by the cap on reliefs.

There are a variety of ways in which an individual can obtain tax relief for a loss in their business, either against their general income or against their future profits. While relief against general income will be capped, the ability to offset losses against future profits from the same business will remain unlimited.

I welcome your views on how we intend to deliver this cap.



David Gauke

Exchequer Secretary

July 2012

1 Introduction

1.1 Tax reliefs are an important part of the UK's tax landscape. They exist to support a range of policy objectives, incentivising or assisting valuable activities such as investment in businesses and philanthropy. The Government is committed to supporting these activities.

1.2 However, the Government is also committed to a fair tax system in which those with the most contribute the most. Some individuals on very high incomes can currently use unlimited reliefs (perfectly legally) to pay little or no income tax year after year. There should not be such wide scope for them to do so. Everyone should pay their fair share.

1.3 Many individuals who claim these reliefs are using them as Parliament intended, but some have exploited the reliefs through aggressive tax planning. Although this measure is not being introduced specifically to address tax avoidance, it will reduce the scope for exploiting these reliefs for tax avoidance purposes.

1.4 The Government announced at Budget 2012 the introduction of a limit on currently uncapped income tax reliefs from April 2013. Individuals will be able to claim reliefs worth up to £50,000 or 25 per cent of their income, whichever is greater. This will help to ensure the wealthy pay a fair share.

1.5 The Government stated in the Budget that the cap would not extend to those reliefs that are already limited. Specific caps have been put in place to reflect policy objectives, and the Government does not consider that these are open to excessive use. To further cap them would reduce the amount of support the tax system gives, for example, to pension savings. After extensive engagement with the charity sector following the Budget, the Chancellor has also decided to exclude charitable reliefs from the cap, to ensure that there is no impact on charitable donations.

1.6 The reliefs affected by the cap will include, among others, loss reliefs that can be claimed sideways against general income, and qualifying loan interest relief. The full list of affected reliefs is set out in Chapter 2.

Scope of the consultation

1.7 The reliefs that will be capped are set out in Chapter 2 for information only. Responses are invited to the consultation questions in Chapter 3, which outlines the Government's proposed approach to implementing and delivering the cap, including:

- how an individual's income will be defined and calculated for the purposes of the cap;
- when the cap will apply;
- how reliefs will be ordered; and
- the operation of the cap through Income Tax Self Assessment (ITSA).

Next steps

1.8 The Government seeks views on the proposed approach to implementation set out in Chapter 3 by 5 October 2012. Draft legislation will then be published later in the autumn.

2 Reliefs affected by the cap

2.1 This section sets out the scope of the cap, including:

- which income tax reliefs will be capped; and
- the types of reliefs that will be unaffected by the cap.

2.2 This chapter is provided for background information only, to help inform responses to the questions set out in Chapter 3.

Income tax reliefs

2.3 There are currently more than 350 special rules that can apply when calculating income tax, and the term 'relief' is used in connection with many of these. These 'reliefs' can operate in a variety of ways. Some exclude certain items from taxable income, reducing the amount of general income liable to tax; others alter the tax rate applicable; and some allow individuals to deduct amounts from certain income streams, such as expenses. The cap on reliefs will only apply to those reliefs that are used to reduce the amount of general income liable to tax.

2.4 The cap will only apply to reliefs that are:

- offset against general income (at step 2 of the income tax calculation – see paragraph 3.14 below). These reliefs are listed in section 24 of the Income Tax Act 2007 (ITA); and
- not currently capped.

Reliefs not subject to the cap

2.5 Reliefs that do not meet both the criteria set out above will not be affected by the cap. The categories of relief that will therefore not be covered by the cap are set out below.

Computational rules

2.6 Computational rules affect the calculation of individual income streams. As such, they cannot be offset against general income.[1] They include capital allowances, items with tax exempt status (for example statutory redundancy payments) and allowable expenses. These will not be affected by the cap.[2] However, to the extent that computational reliefs, such as capital allowances, create or augment a loss that may be set against general income, that loss relief will be capped.[3]

[1] Since April 2011, losses arising from furnished holiday lettings can only be offset against the future profits of the same furnished holiday letting business. As these losses cannot now be used to offset general income, they will be unaffected by the cap.
Similarly, losses arising from miscellaneous transactions can only be relieved against income from certain other miscellaneous transactions, rather than general income, and so will also not be affected by the cap.
The new business investment exemption provided in Part 2 of Schedule 12 of the 2012 Finance Act prevents income or capital gains that is remitted to the UK by non-domiciled individuals becoming liable for tax. This exempted income is not included in the UK tax calculation and is therefore not a relief and will not be affected by the cap.

[2] Similarly, an individual's relief for annual payments or patent royalties paid under deduction of tax (where exceptionally relief cannot be given against trading income) is considered as computational in nature, and will be excluded.

[3] Except in the case of Business Premises Renovation Allowances, see paragraphs 2.11.

2.7 Where rules exist allowing computational relief to be carried forward from one year to the next, these will remain. So for example, individuals will continue to be able to offset trade losses against income from the relevant trade in a later year.

Structural credits

2.8 Structural credits (such as foreign tax credit and dividend tax credit) exist to prevent or mitigate the double taxation of certain forms of income that have already been taxed prior to the calculation of income tax. These will therefore not be capped.

Reliefs subject to existing limits

2.9 Some income tax reliefs are subject to existing limits as part of the rules governing their operation. Where this is the case, the relief is presumed to have been designed with a specific policy objective in mind and the relevant cap set at the optimal level to achieve this. Therefore reliefs that have their own limits will not be affected by the cap.[4]

2.10 Relief obtained directly under the Enterprise Investment Scheme (EIS) is already capped and is therefore also excluded. It should however be noted that losses on shares purchased under such a scheme are considered as currently unlimited, and so will be included in the relief cap alongside non-EIS shares. Venture Capital Trust (VCT) and seed EIS investments are also already capped and therefore excluded.

2.11 Similarly, the cap will not apply to Business Premises Renovation Allowances (BPRA), where the relief available is limited for each qualifying project. Any loss or part of a loss directly attributable to (or augmented by) BPRA claims will not be subject to the cap that will otherwise apply to trade loss or property loss reliefs.

2.12 Other examples include relief for pension savings that have annual and lifetime limits.

Charitable reliefs

2.13 Charitable reliefs support donations to charity by providing tax relief on those donations. At the Budget, the Government was clear that it does not want donations to charity to be affected by the relief cap. Therefore, following extensive engagement with the charity sector, the Government has excluded the following from the cap:

- Gift Aid;
- Relief for gifts of land and shares;
- Payroll Giving; and
- Community Investment Tax Relief.

[4] The cap will include reliefs currently only limited in part, for example qualifying loan interest.

Reliefs subject to the cap

2.14 The following income tax reliefs will be capped to the extent that they can be relieved against general income:

1. Trade Loss Relief against general income[5] – available for losses made by an individual carrying on a trade, profession or vocation;
2. Early Trade Losses Relief[6] – available to an individual in the first four years of the trade, profession or vocation;
3. Post-cessation Trade Relief[7] – available for qualifying payments or qualifying events within seven years of the permanent cessation of the trade;
4. Property Loss Relief against general income[8] – available for property business losses arising from capital allowances or agricultural expenses;
5. Post-cessation Property Relief[9] – available for qualifying payments or qualifying events within seven years of the permanent cessation of the UK property business;
6. Employment Loss Relief[10] – available in certain circumstances where losses or liabilities arise from employment;
7. Former Employees Deduction for Liabilities[11] – available for payments made by former employees for which they are entitled to claim a deduction from their general income in the year in which the payment is made;
8. Share Loss Relief[12] – available for what would otherwise be a capital loss on the disposal (or deemed disposal) of certain qualifying shares;
9. Losses on Deeply Discounted Securities[13] – available only for losses on gilt strips and on listed securities held since at least 26 March 2003; and
10. Qualifying Loan Interest[14] – available for interest paid on certain loans. These include loans to buy an interest in certain types of company, or to buy an interest in a partnership, and loans taken out by personal representatives to pay inheritance tax.

[5] Section 64 ITA
[6] Section 72 ITA,
[7] Section 96 ITA,
[8] Section 120 ITA
[9] Section 125 ITA
[10] Section 128 ITA
[11] Section 555 Income Tax (Earnings and Pensions) Act 2003
[12] Chapter 4 Part 4 ITA
[13] Sections 446-448 and 453-456 Income Tax (Trading and Other Income) Act 2005
[14] Chapter 1 Part 8 ITA

3 Operation of the cap

3.1 This section explains how the cap will work in practice, and covers:

- how the cap will be calculated;
- when it will apply;
- how reliefs will be ordered; and
- how relief claims will be made through Income Tax Self Assessment (ITSA).

3.2 The Government welcomes views on the questions set out at the end of this chapter.

How the cap will be calculated

3.3 The cap will be set at the greater of £50,000 or 25 per cent of an individual's income. This section sets out how an individual's income will be calculated for the purposes of the cap.

3.4 The starting point for this calculation will be the same for all affected individuals: their total income liable to income tax. This figure will then be adjusted based on an individual's net pay arrangements (i.e. the arrangements they make for pension deductions and/or charitable donations), to create a level playing field between those whose deductions are made before they pay income tax, and those whose deductions are made after tax. The result – "adjusted total income" – will be the measure of income for the cap.

3.5 The principle is that individuals are treated equally by taking account of:

- the different ways that people make tax-relievable pension and retirement annuity payments and charitable donations;
- the impact the above payments can have on the amount of their income for the purposes of income tax; and
- how they receive tax relief at their highest rate of tax on those payments.

Pension contributions and charitable donations

3.6 People receive tax relief for pension contributions in a number of different ways, as illustrated in Table 3.A below. Payments to an occupational pension scheme are commonly deducted from salary before tax through Pay As You Earn (a "net pay" arrangement). This reduces the individual's income liable to tax, automatically providing tax relief at source at their highest rate of tax. These contributions are not registered by HMRC and do not form part of total income.

3.7 Other individuals make payments to their pension schemes out of their net income and receive tax relief at the basic rate (a "relief at source" arrangement). Higher and additional rate tax relief is provided to these individuals by adjusting their basic and higher rate bands. People can also make tax relievable payments to retirement annuity schemes from their gross incomes that receive no tax relief at source ("relief by way of a claim"). Under existing arrangements, these payments are deducted from the individual's income when calculating their income tax liability.

Table 3.A: Individuals with an income of £500,000 who pay £50,000 into a pension annually

Person (a) pays through net pay arrangements, person (b) has a personal pension with basic rate relief at source[1] and person (c) makes a gross contribution to a retirement annuity			
	(a) net pay	(b) relief at source	(c) gross contribution
"Total income" for the purpose of calculating tax	£450,000	£500,000	£500,000

3.8 There are similar differences between individuals who make charitable donations through a Payroll Giving scheme, and those who make donations through Gift Aid or make gifts of land and shares. Donations through Payroll Giving are deducted from salary before tax (similar to pension net pay arrangements), and automatically receive relief at the donor's highest rate. Conversely, donations using Gift Aid are made from taxed income. Basic rate tax relief for donations through Gift Aid are reclaimed by the charity, with any applicable higher and additional rate relief given by extending the donor's basic rate band. These differences are illustrated in Table 3.B. below.

Table 3.B: Individuals with an income of £500,000 who make £50,000 of charitable donations

Person (a) donates through Payroll Giving, person (b) makes a gift aid donation and person (c)'s donation is in the form of land or shares			
	(a) Payroll Giving	(b) Gift Aid	(c) Gift of land and/or shares
"Total income" for the purpose of calculating tax	£450,000	£500,000	£500,000

3.9 The first step in calculating an individual's income tax liability for the purposes of the cap is to bring together all the amounts of income on which an individual is liable to income tax. This is their "total income".[2]

3.10 Pension contributions made under relief at source arrangements or paid into a retirement annuity will then be deducted. This will seek to ensure that people are treated equally regardless of the arrangements they have for making pension contributions. The deferral of tax for pension contributions recognises that they are effectively deferring income to be paid back at a later stage, as pensions. This treatment also ensures that sums paid into pensions are not "double-counted". Adjusted income will therefore be a figure net of any pension contributions.

3.11 Individuals will have the opportunity on the Self Assessment form to declare donations made through Payroll Giving. For individuals who choose to do so, payments made under Payroll Giving arrangements will then be added back to their total income figure. This will ensure that people are treated equally regardless of the arrangements they have for making charitable donations.

3.12 The result will be the individual's "adjusted total income". Using the examples set out in Tables A and B, the adjusted income for the purpose of calculating the cap in each of these situations will be as set out in Table 3.C. and Table 3.D.

[1] The contribution is gross of the basic rate relief claimed by the pension scheme: the individual contributes £40,000, with the pension scheme claiming an additional £10,000.

[2] The legislation for the calculation of an individual's income tax liability is section 23 Income Tax Act 2007. This takes a seven-step approach. Step 1 identifies an individual's "total income".

Table 3.C: Individuals with an income of £500,000 who pay £50,000 into a pension annually

Person (a) pays through net pay arrangements, person (b) has a personal pension with basic rate relief at source and person (c) makes a gross contribution to a retirement annuity			
	(a) net pay	(b) relief at source	(c) gross contribution
Total income for the purpose of calculating tax	£450,000	£500,000	£500,000
Adjustment to total income	0	-£50,000	-£50,000
Adjusted total income for calculation of the cap	£450,000	£450,000	£450,000

Table 3.D: Individuals with an income of £500,000 who make £50,000 of charitable donations

Person (a) donates through Payroll Giving, person (b) makes a gift aid donation and person (c)'s donation is in the form of land or shares			
	(a) Payroll Giving	(b) Gift Aid	(c) Gift of land and/or shares
Total income for the purpose of calculating tax	£450,000	£500,000	£500,000
Adjustment to total income	+£50,000	0	0
Adjusted total income for calculation of the cap	£500,000	£500,000	£500,000

When the cap will apply

3.13 Claims for income tax relief are made in respect of the year in which the relevant event occurs (e.g. a loss arising or loan interest being paid). The cap will apply to the year of the claim and any other earlier or later year in which the relief claimed is allocated. This means that in instances where for example losses have been carried back, the cap will be calculated to apply in each year that a calculation is made. The following examples illustrate how this will work in practice.

Box 3.A: Example 1 – Jenny

In 2013-14 Jenny's income is £650,000 from employment and £100,000 share of profit from a partnership. She has losses from a property rental business in 2013-14 of £250,000 for which she makes a claim for loss relief against her general income for 2013-14.

Her individual relief cap in 2013-14 is £187,500 (25 per cent of £750,000, as this is greater than £50,000).

Jenny can relieve £187,500 of her property losses in 2013-14, leaving £62,500 unrelieved. As the provisions for property loss relief enable claims in the same or next tax year, she is able to offset – subject to how much 2014-15 cap she utilises – the remaining 2013-14 loss relief of £62,500 against her 2014-15 income.

In 2014-15 her income is £675,000 from employment and £75,000 from a partnership. She has losses from her property business in 2014-15 of £100,000 for which she claims loss relief against her 2014-15 income.

Her cap in 2014-15 is £187,500 (25 per cent of £750,000). She can fully claim 2014-15 loss relief of £100,000, plus 2013-14 losses carried forward of £62,500 against her general income, as together these total less than 25 per cent of her income in that year.

Box 3.B: Example 2 – Raj

In October 2014 Raj is made redundant and decides to set up his own business. In 2014-15 his earnings (including the taxable portion of his redundancy payment) are £150,000. Because of high start up costs, his business makes a loss in 2014-15 of £100,000.

Raj's 2014-15 cap is £50,000 (as £50,000 is greater than 25 per cent of his income). He claims trade loss relief of £100,000 and can utilise up to his cap of £50,000 against his employment income for the loss making year. The provisions for trade loss relief allow claims against general income for the year of the loss, the previous or both years (with additional provisions for losses made in the early years of a trade – not needed in this example).

He can set the balance of the loss as relief against his 2013-14 general income. In this year his earnings were £75,000 and he has not used any of his reliefs allowance. He can therefore claim carry back trade loss relief of £50,000 (his total cap) against 2013-14 general income. The resulting 2013-14 overpayment is given effect in his 2014-15 self assessment.

3.14 The existing processes for claiming reliefs will not change – a claim for relief must be for the full amount of a loss made and not already utilised.[3] So in first example, given that her losses are greater than her relief allowance, Jenny would not be able to claim relief for less than her cap in 2013-14. Similarly, she could not claim less than her actual losses of £100,000 arising in 2014-15, and choose to carry some of these forward. This will limit the extent to which reliefs can be spread across years to circumvent the cap.

How reliefs will be ordered

3.15 As set out in the previous section, some tax reliefs reduce the amount of the individual's income *before* the calculation of their income tax liability starts. Examples are pension net pay arrangements and Payroll Giving where relief is given by reducing the amount of the individual's gross pay brought into their tax calculation. Other tax reliefs are given effect as a deduction *after* calculating the individual's total income. Below is the statutory structure[4] for calculating the amount of an individual's income which is liable to income tax.

1. Step 1 determines the individual's "total income" by bringing together all the amounts of income (components) on which the individual is liable to income tax.
2. Step 2 deducts those reliefs (other than personal allowances) that are given effect against the individual's income. These may be reliefs that reduce total income or a component of total income. The general rule is that the order in which such reliefs are given is that which results in the greatest reduction in the individual's income tax liability. The result after step 2 is the individual's net income for the year.
3. Step 3 deducts the personal allowance and blind person's allowance (where applicable) from net income.
4. Step 4 applies the rates of tax to the amounts of components remaining after step 3. It is at this step that any extension to an individual's basic rate limit or higher rate limit is given effect to provide higher rate relief or additional rate relief on Gift Aid donations or personal pension contributions that have had basic rate relief at source.
5. Step 5 adds together the amounts of tax calculated on each component.

[3] The case of Butt v Haxby (1982) 56TC547 determined that partial claims are not permitted

[4] As set out in section 23 of ITA 2007.

6 Step 6 deducts 'tax reducers'. These include, for example, relief in respect of subscriptions for shares qualifying under the Enterprise Investment Scheme where, from 6 April 2011, tax relief is available at 30 per cent of the cost of the shares.

7 Finally, Step 7 then adds any other amounts of income tax to which the individual is liable. This could be, for example, to recover excess relief for Gift Aid or pension scheme provisions.

3.16 The result is the individual's tax liability for the tax year.

3.17 The reliefs that will be limited by the cap all take effect at step 2 of the income tax calculation. Where an individual has more than one step 2 relief, they will still be able decide[5] which reliefs they wish to use in a tax year, and therefore the extent to which those separate reliefs contribute to their relief allowance for the year.

Delivery through Income Tax Self Assessment (ITSA)

3.18 Income tax reliefs will continue to be claimed in the normal way by individuals on their ITSA tax returns. There will continue to be some exceptions where claims may be made outside a return (for example, claims made before a notice to file a tax return is issued or made after the time limit has passed for amending the tax return for the relevant year). In the main, these arrangements will not be disturbed by the introduction of the cap. However, if an individual wants to claim relief of more than £50,000 before they receive the ITSA notice to file, they will need to calculate their cap in advance of the return.

3.19 The amounts currently reported on ITSA returns for total income, relief at source and gross pension contributions will be used to calculate an individual's adjusted income for the purpose of the cap. The total income figure will not include any amounts donated through Payroll Giving. The Self Assessment (SA) return will be revised to include a box in which individuals may enter sums donated via Payroll Giving, so these can be included in the calculation of adjusted income for the purposes of the cap.

3.20 Only those affected by the cap and who donate via Payroll Giving – a small number of individuals – will need to provide this information, which they will find on their payslips. HMRC guidance on the relief cap will remind its customers that they will need to retain this information for their SA returns if they might fit into this category.

Transitional years

3.21 While the cap will apply to reliefs in 2013-14 and later years, some people will elect to carry trading losses arising in 2013-14 and later back to years prior to this. In these instances, the claim for relief will still be made after the introduction of the cap, notwithstanding the calculation of the individual's tax liability by reference to a year prior to the cap's introduction. As such, the cap will be applied in these 'pre-cap year' calculations.

[5] Subject to conditions set out in Section 25 ITA 2007.

Box 3.C: Consultation questions

1. Do you agree that a new definition of adjusted total income for the purposes of the cap is required?
2. Do you consider that the definition of adjusted total income for the purposes of the cap – set out in paragraphs 3.6 to 3.11 – achieves the required parity between different pension arrangements? Please explain your answer.
3. Do you consider that the proposed mechanism for allowing relief obtained via Payroll Giving to be included in the definition of income is satisfactory? Please explain your answer.
4. Do you see any opportunity for errors or misunderstanding in the application of the cap? If yes, please suggest how you believe HMRC guidance or processes could help manage this.
5. Do you have any further comments on the practicalities of calculating or applying the cap?

4 How to respond to this consultation

4.1 The Government welcomes responses to the questions raised in this consultation; these are summarised in Annex B. Respondents are encouraged to add any additional information they feel is relevant to the practicalities of delivering the cap on unlimited income tax reliefs.

4.2 Responses to this consultation should be sent by 5 October to:

Carolyn Howes
HM Revenue & Customs 1E/08
100 Parliament Street
London SW1A 2BQ

Alternatively, please send responses by e-mail to carolyn.howes@hmrc.gsi.gov.uk.

4.3 Queries or questions about the details in this consultation document should also be directed to Carolyn Howes at HM Revenue and Customs.

Consultation process

4.4 This consultation is being run in accordance with the Code of Practice on Consultation (see Annex C). The consultation will run for 12 weeks. The closing date has been set to allow time to take full account of the responses before publishing draft legislation in the autumn.

4.5 To ensure that people are able to contribute as fully as possible to this consultation, HM Treasury and HM Revenue and Customs will be holding a series of meetings with interested parties during the consultation period. To register interest in attending, please email carolyn.howes@hmrc.gsi.gov.uk by 31 August.

Stage of consultation

4.6 This consultation is being conducted in line with the Tax Consultation Framework. There are five stages to tax policy development:

- Stage 1 Setting out objectives and identifying options;
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design;
- Stage 3 Drafting legislation to effect the proposed change;
- Stage 4 Implementing and monitoring the change; and
- Stage 5 Reviewing and evaluating the change.

4.7 This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

Confidentiality

4.8 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

4.9 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, among other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury or HM Revenue and Customs (HMRC).

4.10 HM Treasury and HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

A Tax impact assessment

Who is likely to be affected?

A.1 Individuals claiming in total more than £50,000 or more than 25 per cent of their income (whichever is greater) in affected reliefs.

General description of the measure

A.2 For 2013-14, legislation in Finance Bill 2013 will introduce a cap on all currently unlimited income tax reliefs (apart from relief for charitable donations). The cap will be set at £50,000 or 25 per cent of income, whichever is greater. The primary reliefs affected will be loss reliefs that can be used against general income and qualifying loan interest relief. A small number of other reliefs will also be affected.

Operative date

A.3 The measure will take effect on and after 6 April 2013.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2012-13</td><td>2013-14</td><td>2014-15</td><td>2015-16</td><td>2016-17</td></tr>
<tr><td>0</td><td>Negligible</td><td>+490</td><td>+240</td><td>+300</td></tr>
<tr><td colspan="5">These costings were set out in Table 2.1 of Budget 2012 and have been certified by the Office for Budget Responsibility.

Changes to the policy to exclude charitable reliefs from the cap are expected to decrease receipts, from the above, by approximately £50-80 million per annum. The final costing for the policy change will be subject to scrutiny by the Office for Budget Responsibility and will be set out at Autumn Statement 2012.</td></tr>
<tr><td>Economic impact</td><td colspan="5">The measure is expected to have no significant economic impacts.</td></tr>
<tr><td>Impact on individuals and households</td><td colspan="5">The cap on unlimited tax relief will only affect individuals with incomes over £50,000, claiming specified reliefs totalling in excess of £50,000. Following the removal of charitable reliefs from the cap, it is estimated that around 8,000 individuals each year will be affected due to use of unlimited tax relief in excess of both £50,000 and 25 per cent of their income.

Those impacted are likely to have high incomes, with over 90 per cent of the static yield attributable to individuals with incomes over £150,000, with a median loss of £20,000 per person. Some individuals with very high gross incomes will be impacted significantly more.

Those affected are within the Self Assessment population. The relief cap will be operated via automated calculations using information already reported as part of the Self Assessment process. This should not</td></tr>
</table>

	significantly increase the administrative or compliance burden on individuals. Some individuals making charitable donations through Payroll Giving (and wishing for these to be taken into account when calculating their adjusted income for the purpose of the cap) will need to add up their annual contributions from their payslips, as this figure is not reported on the annual certificate of pay and tax, P60. This will be voluntary, but will increase the level of relief available to an individual.
Equalities impacts	Income tax changes apply regardless of personal circumstances such as race, gender or disability. Analysis of Self Assessment data shows some distribution of those impacted: • Around 10 per cent of those expected to be impacted are female; • Approximately 70 per cent are aged between 40 and 65; • The majority of the yield is associated with urban areas in England. The available Self Assessment data does not allow the total number of individuals affected to be broken down by ethnicity, disability, caring responsibilities, religion, belief or sexual orientation. However, it is not expected that the policy would adversely or disproportionately impact on any of these groups.
Impact on business including civil society organisations	There will be no significant impact on the compliance cost or administrative burden of employers. The relief cap with be operated via automated calculations using information already reported as part of Self Assessment. There may be some behavioural change as individuals rearrange their affairs to limit the effect of the relief cap. Charitable income tax reliefs[1] have been excluded from the cap, therefore there is no expected impact on charities.
Operational impact (£m) (HMRC or other)	Implementation will require modest changes to HMRC's Self-Assessment system and processes. The costs of these are currently estimated to be less than £1 million.
Other impacts	The cap is likely to have some limited impacts on small businesses, as it will restrict relief for losses against other income of the same year. However, losses can still be carried forward against profits of the same trade to an unlimited extent; therefore in most cases the losses can still be eventually relieved. Delaying loss relief reduces the net present value of investment projects and therefore may impact on investment decisions and start-ups. However as the minimum cap is set at £50,000, for most small business this is likely to allow losses to be relieved without delay and therefore without impact on investment decisions.

[1] Including Gift Aid, relief for gifts of land and shares, and Payroll Giving.

Box 4.A: Consultation question

6 Are there any other impacts not set out in the assessment above?

B Summary of questions

B.1 The Government welcomes views on the following:

Operation of the cap

B.2 Do you agree that a new definition of adjusted total income for the purposes of the cap is required?

B.3 Do you consider that the definition of adjusted total income for the purposes of the cap – set out in paragraphs 3.6 to 3.11 – achieves the required parity between different pension arrangements? Please explain your answer.

B.4 Do you consider the proposed mechanism for allowing relief obtained via Payroll Giving to be included in the definition of income satisfactory? Please explain your answer.

B.5 Do you see any opportunity for errors or misunderstanding in the application of the cap? If yes, please suggest how you believe HMRC guidance or processes could help manage this.

B.6 Do you have any further comments on the practicalities of calculating or applying the cap?

Tax impact assessment

B.7 Are there any other impacts not set out in Annex A?

C The Code of Practice on Consultation

About the consultation process

C.1 This consultation is being conducted in accordance with the Code of Practice on Consultation.

The consultation criteria

1. When to consult – Formal consultation should take place at a stage when there is scope to influence the policy outcome.

2. Duration of consultation exercises – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

3. Clarity of scope and impact – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

4. Accessibility of consultation exercise – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

5. The burden of consultation – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

6. Responsiveness of consultation exercises – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

7. Capacity to consult – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

C.2 If you feel that this consultation does not satisfy these criteria, or if you have any complaints or comments about the process, please contact:

Amy Burgess, Consultation Coordinator, HM Revenue & Customs, Room 1/73, 100 Parliament Street, London, SW1A 2BQ

E-mail: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

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This document can be found in full on our website: http://www.hm-treasury.gov.uk

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