

# Bank Levy Amendments

---

## Who is likely to be affected?

Foreign banking groups operating in the UK through permanent establishments or subsidiaries and UK banks and banking sub-groups in non-banking groups.

## General description of the measure

This measure makes technical amendments to ensure that the legislation applies as intended to the liabilities of joint ventures (JVs) and that these liabilities will be aggregated with the chargeable equity and liabilities of a foreign banking group or relevant non banking group.

## Policy objective

The purpose of the Bank Levy is to ensure that the banking sector makes a fair contribution, reflecting the risks they pose to the financial system and the wider economy. The Bank Levy is also intended to encourage banks to move away from risky funding models that threaten the stability of the financial sector and the wider economy.

These changes ensure that the legislation applies consistently to both UK and foreign banking groups by ensuring that banking group operations through JVs are subject to the Bank Levy in the same way for both UK and foreign groups.

## Background to the measure

In the June 2010 Budget the Government announced the introduction of a tax (the bank levy) on liabilities of banks and banking groups for chargeable periods ending on or after 1 January 2011.

*Bank Levy: a consultation* was published on 13 July 2010. The consultation document set out proposals to address a number of operational issues around design and implementation, including possible and proposed approaches to defining taxable entities and the tax base.

A consultation response document was published on 21 October 2010, along with initial draft legislation. All documents are available on the HM Treasury and HM Revenue & Customs (HMRC) websites.

Following the introduction of the Bank Levy in Schedule 19, Finance Act 2011, officials from HMRC have engaged with banks and advisers to ensure that stakeholders understand how to apply the rules correctly. Through this engagement some banks and advisers have brought to HMRC's attention that the rules relating to joint ventures do not, in all cases, work as intended.

## Detailed proposal

### Operative date

The changes to the rules on joint ventures will have effect for chargeable periods ending on or after 1 January 2012.

## **Current law**

The current law is covered in paragraphs 43 and 44 of Schedule 19 Finance Act (FA) 2011. A JV is an entity where two or more parties (the venturers) undertake an economic activity that is subject to joint control.

International Accounting Standards allow JVs to be accounted for in two different ways, using either the equity method (where the investment in the JV is recorded at cost) or through proportional consolidation (where the balance sheet of the venturer includes its share of the assets and liabilities of the JV).

As no party has overall control of the JV the JV is not a member of a "banking group" as set out in paragraph 4 of Schedule 19. Without further provision it would instead, for the purposes of the Bank Levy, be treated as a bank or banking group in its own right and as such it may be within the scope of the Bank Levy.

Paragraph 43 of Schedule 19 confirms this treatment where a venturer uses the equity method to account for their interest in the JV; none of the JV's liabilities will be included within another group or entity's consolidated financial statements and the JV or JV's group's liabilities may only be subject to the Bank Levy where it is respectively a standalone bank or the parent of a banking group.

Where the interest in the JV is held by a member of a foreign banking group or a relevant non banking group and the venturer proportionally consolidates its interest in the JV, paragraph 43 treats a UK resident JV as if it is a UK member of the foreign banking group or relevant foreign banking group. The venturer's share of the JV liabilities is therefore aggregated along with any other bank levy chargeable equity and liabilities that may arise. This is consistent with the treatment of UK banking groups.

However, this treatment could potentially lead to a double charge of the Bank Levy. The JV could be charged to the Bank Levy in its own right and then a second time through the financial statement of the venturer, if the JV or the group it belongs to are both subject to the bank levy. Paragraph 44 therefore prevents such a double charge by allowing the JV to omit any liabilities that arise on a stand alone basis so that the JVs liabilities are only charged the Bank Levy once.

Where a venturer proportionally consolidates, these rules do allow the venturer to be treated as a part of the group to which it belongs for the purposes of the Bank Levy in certain situations. However contrary to the policy intention they do not cover all situations and the changes under this measure remedy this imbalance.

## **Proposed revisions**

Legislation will be introduced in Finance Bill 2012 to amend paragraph 43 of Schedule 19 FA 2011 so that it applies to any JV where a member of either a foreign banking group or a relevant foreign banking group holds an interest in the JV, and the members interest in the JV's liabilities are proportionally consolidated within the consolidated financial statements of the group, and where these JV liabilities are not already taken into account in calculating the chargeable equity and liabilities of that group.

The amendment achieves this by ensuring that the JV is treated as a member of the relevant group when determining the group's chargeable equity and liabilities. This means that the chargeable equity and liabilities of all group members, including the JV (and any branches or subsidiaries it holds) along with all other group members are calculated on the basis that the assets and liabilities of the JV belong partly to the group.

The assets and liabilities of the JV brought within the group are limited to the proportion of the liabilities and assets that relate to the group's relevant interest in the JV. In addition the

amendment ensures that the JV is not charged again to the Bank Levy on the same liabilities as an entity or banking group in its own right.

### Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	The measure is expected to increase receipts by approximately £10 million per annum. The final costing will be subject to scrutiny by the Office for Budget Responsibility, and will be set out at Budget 2012.				
<b>Economic impact</b>	The Bank Levy complements wider regulatory reforms aimed at improving financial stability, including higher capital and liquidity standards. The changes to the legislation proposed here are expected to have no significant economic impacts.				
<b>Impact on individuals and households</b>	There is no direct impact on individuals and households. The Bank Levy is a corporate tax on the balance sheets of banks, banking groups, and building societies.				
<b>Equalities impacts</b>	The amendment is not expected to have a direct or disproportionate impact on any groups with protected characteristics.				
<b>Impact on business including civil society organisations</b>	The impact of the amendment in respect of joint ventures is expected to be negligible. The Bank Levy currently affects only in the region of 30 banks, building societies and banking groups in total. Only a small number of these banks have joint ventures that are impacted by the proposed changes to the legislation.				
<b>Operational impact (£m) (HMRC or other)</b>	The Bank Levy is being delivered through existing systems thereby minimising costs to HMRC.				
<b>Other impacts</b>	<p><u>Competition assessment:</u> The scope of the bank levy has been specifically designed to ensure a level playing field for all those affected by it in the UK. The changes proposed ensure that the bank levy rules correctly reflect this in regard to the treatment of joint venture companies.</p> <p><u>Small firms impact test:</u> None of the banks, building societies and banking groups affected by the bank levy are considered to be small firms.</p>				

### Monitoring and evaluation

The bank levy will be reviewed in 2013 to make sure it is operating efficiently. Receipts from the bank levy are being monitored from 2011.

### Further advice

If you have any questions about this change, please contact: Anthony Fawcett on 020 7147 0654 (email: [anthony.c.fawcett@hmrc.gsi.gov.uk](mailto:anthony.c.fawcett@hmrc.gsi.gov.uk)).

## Bank Levy: Rate Change

---

### Who is likely to be affected?

UK banks, banking groups and building societies; foreign banking groups operating in the UK through permanent establishments or subsidiaries, and UK banks and banking sub-groups in non-banking groups.

### General description of the measure

As set out in Budget 2011, the Government intends that the Bank Levy should raise at least £2½ billion each year. To offset the forecast shortfall in receipts for 2011 and restore expected yield for future years above £2½ billion, the full rate of the Bank Levy will be increased to 0.088 per cent from 1 January 2012. A similar increase will be made to the half rate for chargeable equity and long term chargeable liabilities.

### Policy objective

These changes will help to ensure that the banking sector makes a fair contribution through the Bank Levy reflecting the risks they pose to the financial system and the wider economy. These changes ensure that the value of the contribution from the Bank Levy remains in line with previous expectations while ensuring the UK remains a competitive location for international financial services.

### Background to the measure

The Government announced the introduction of the levy at Budget 2010 to commence for chargeable periods ending on or after 1 January 2011. The Government has made clear that the Bank Levy is expected to raise at least £2½ billion each year.

An increase in the rate of the Bank Levy from 1 January 2012 was announced at Budget 2011 to offset for the reduction in corporation tax that would benefit most banks subject to the Bank Levy.

Expectations for Bank Levy revenues at the rates announced at Budget 2011 have been revised down. The November 2011 forecasts published by the Office for Budget Responsibility (OBR) imply that receipts in respect of 2011 are expected to fall short of £2½ billion. Additionally, without amendment to the rate from 1 January 2012, the OBR's autumn 2011 forecast is that yield for future years will also be below that expected at Budget 2011.

## Detailed proposal

The measure increases the rates of the Bank Levy from 1 January 2012 to 0.088 per cent for the full rate and 0.044 per cent for the half rate.

### Current law

The Bank Levy rates are set out in paragraphs 6 and 7 of Schedule 19 Finance Act 2011.

## Proposed revisions

Legislation will be introduced in Finance Bill 2012 to amend the rates of Bank Levy.

For periods falling wholly or partly after 1 January 2012 the rate applying to chargeable equity and long term chargeable liabilities will be increased from 0.039 per cent to 0.044 per cent and the rate for short term chargeable liabilities will be increased from 0.078 per cent to 0.088 per cent.

The legislation will include a provision that will require the amount of Bank Levy liability arising from the rate increase to be due and payable in the Quarterly Instalment Payments (QIPs) following Royal Assent to the Finance Bill 2012. Where there are no QIPs after Royal Assent for a relevant chargeable period the extra liability will be due and payable 30 days after Royal Assent.

## Summary of impacts

<b>Exchequer impact (£m)</b>	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
	nil	+280	+310	+310	+315	+325
	These figures are set out in Table 2.1 of the Autumn Statement and have been certified by the OBR. More detail can be found in the policy costings document published alongside the Autumn Statement.					
<b>Economic impact</b>	The Bank Levy complements wider regulatory reforms aimed at improving financial stability, including higher capital and liquidity standards. The changes proposed here are expected to have no additional economic impacts than those already set out in the Tax Information and Impact Note (TIIN) published alongside Budget 2011.					
<b>Impact on individuals and households</b>	There is no direct impact on individuals and households. The Bank Levy is a tax on the balance sheets of banks, banking groups, and building societies.					
<b>Equalities impacts</b>	The amendment is not expected to have a direct or disproportionate impact on any of the protected equality groups.					
<b>Impact on business including civil society organisations</b>	This rate change means that the total Bank Levy revenues expected over this Parliament are broadly in line with those forecast at Budget 2011. As such it will have no additional impact on business beyond that already recorded in the TIIN published alongside Budget 2011.					
<b>Operational impact (£m) (HMRC or other)</b>	The Bank Levy is being delivered through the existing corporation tax Quarterly Instalment Payments system thereby minimising costs to HMRC. The changes proposed here add no additional costs.					
<b>Other impacts</b>	<p><u>Competition assessment:</u> The scope of the Bank Levy has been specifically designed to ensure a level playing field for all those affected by it in the UK.</p> <p><u>Small firms impact test:</u> None of the banks, building societies and banking groups affected by the Bank Levy are considered to be small firms.</p>					

## Monitoring and evaluation

The bank levy will be reviewed in 2013 to make sure it is operating efficiently. Receipts from the bank levy are being monitored from 2011.

**Further advice**

If you have any questions about this change, please contact Malcolm White on 020 7147 0565 (email: [malcolm.white@hmrc.gsi.gov.uk](mailto:malcolm.white@hmrc.gsi.gov.uk)).

**1 The bank levy**

Schedule 1 contains provision about the bank levy.

## SCHEDULE 1

Section 1

## BANK LEVY

*Introductory*

- 1 Schedule 19 to FA 2011 (bank levy) is amended as follows.

*Rates*

- 2 In paragraph 6 (steps for determining the amount of the bank levy), in sub-paragraph (2) –
- (a) for “0.039%” substitute “0.044%”, and
  - (b) for “0.078%” substitute “0.088%”.
- 3 In paragraph 7 (special provision for chargeable periods falling wholly or partly before 1 January 2012), in sub-paragraph (2) –
- (a) for “0.039%” substitute “0.044%”, and
  - (b) for “0.078%” substitute “0.088%”.
- 4 The amendments made by paragraphs 2 and 3 are treated as having come into force on 1 January 2012.

*Joint ventures*

- 5 (1) Paragraph 43 (calculation of chargeable equity and liabilities where relevant group has an interest in a joint venture) is amended as follows.
- (2) In sub-paragraph (1), for paragraphs (d) and (e) substitute “, and
- (d) in the absence of this paragraph, none of the liabilities taken into account in determining the amount of the chargeable equity and liabilities of the relevant group would include the JV liabilities.”
- (3) For sub-paragraph (2) substitute –
- “(2) For the purposes of determining the chargeable equity and liabilities of the relevant group under paragraph 17 or 19 (as the case may be) the joint venture is to be treated as if –
    - (a) it were a member of the group in relation to –
      - (i) the liabilities of the joint venture which consist of the JV liabilities, and
      - (ii) the assets of the joint venture so far as determined by the relevant interest, and    - (b) it were not a member of the group in relation to the remaining liabilities and assets of the joint venture.”
- 6 In paragraph 44 (chargeable equity and liabilities of joint venture: prevention of double charge), in sub-paragraph (7)(b), for the words from “liabilities for” to “27(2)(a)” substitute “taken into account in calculating the



chargeable equity and liabilities of V (or where sub-paragraph (6) applies, A)”. ”

- 7 The amendments made by paragraphs 5 and 6 have effect in relation to chargeable periods ending on or after 1 January 2012.

*Double taxation relief*

- 8 (1) In paragraph 66 (double taxation arrangements), after sub-paragraph (9) insert –

“(9A) If arrangements specified in an order under this paragraph provide for relief from the bank levy for periods before the order is made, regulations under this paragraph which are made on the same day as the order, and come into force on the same day as the order, may make provision in relation to those periods.”

- (2) After paragraph 67 insert –

*“Disclosure of information to foreign tax authorities etc*

- 67A (1) If the Treasury by order declares that –

- (a) international tax enforcement arrangements which are specified in the order have been made in relation to any territory or territories outside the United Kingdom in association with double taxation arrangements specified under paragraph 66 in the same or a previous order, and
- (b) it is expedient that those international tax enforcement arrangements have effect,

those arrangements have effect, and do so in spite of anything in any enactment or instrument.

- (2) “International tax enforcement arrangements” means arrangements which relate to one or both of the following –

- (a) the exchange of information foreseeably relevant to the administration, enforcement or recovery of the bank levy or any equivalent foreign levy to which the double taxation arrangements relate;
- (b) the service of documents relating to the bank levy or any such equivalent foreign levy.

- (3) An order under this paragraph revoking an earlier order may contain transitional provisions that appear to the Treasury to be necessary or expedient.

- (4) Subsections (4) and (5) of section 173 of FA 2006 (international tax enforcement arrangements: disclosure of information) apply to arrangements which have effect under this paragraph as they apply to arrangements which have effect under that section.

- (5) Orders under this paragraph are to be made by statutory instrument.

- (6) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.”

- (3) Accordingly, the italic heading before paragraph 68 is omitted.

*Transitional provision*

- 9 (1) This paragraph applies where—
- (a) an amount of the bank levy is treated as if it were an amount of corporation tax chargeable on an entity (“E”) for an accounting period of E,
  - (b) the chargeable period in respect of which the amount of the bank levy is charged falls (or partly falls) on or after 1 January 2012, and
  - (c) under the Instalment Payment Regulations, one or more instalment payments, in respect of the total liability of E for the accounting period, were treated as becoming due and payable before the commencement date (“pre-commencement instalment payments”).
- (2) Paragraphs 2 to 7 are to be ignored for the purpose of determining the amount of any pre-commencement instalment payment.
- (3) If there is at least one instalment payment, in respect of the total liability of E for the accounting period, which under the Instalment Payment Regulations is treated as becoming due and payable on or after the commencement date (“post-commencement instalment payments”), the amount of that instalment payment, or the first of them, is to be increased by the adjustment amount.
- (4) If there are no post-commencement instalment payments, a further instalment payment, in respect of the total liability of E for the accounting period, of an amount equal to the adjustment amount is to be treated as becoming due and payable at the end of the period of 30 days beginning with the commencement date.
- (5) “The adjustment amount” is the difference between—
- (a) the aggregate amount of the pre-commencement instalments determined in accordance with sub-paragraph (2), and
  - (b) the aggregate amount of those instalment payments determined ignoring sub-paragraph (2) (and so taking account of paragraphs 2 to 7).
- (6) In the Instalment Payment Regulations—
- (a) in regulations 6(1)(a), 7(2), 8(1)(a) and (2)(a), 9(5), 10(1), 11(1) and 13, references to regulation 4A, 4B, 4C, 4D, 5, 5A or 5B of those Regulations are to be read as including a reference to sub-paragraphs (1) to (5) (and in regulation 7(2) “the regulation in question”, and in regulation 8(2) “that regulation”, are to be read accordingly), and
  - (b) in regulation 9(3), the reference to those Regulations is to be read as including a reference to sub-paragraphs (1) to (5).
- (7) In section 59D of TMA 1970 (general rule as to when corporation tax is due and payable), in subsection (5), the reference to section 59E is to be read as including a reference to this paragraph.
- (8) In this paragraph—
- “the chargeable period” is to be construed in accordance with paragraph 4 or (as the case may be) 5 of Schedule 19 to FA 2011;
  - “the commencement date” means the day on which this Act is passed;

“the Instalment Payment Regulations” means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175);  
and references to the total liability of E for an accounting period are to be construed in accordance with regulation 2(3) of the Instalment Payment Regulations.

**EXPLANATORY NOTE**

**BANK LEVY AMENDMENTS**

**SUMMARY**

1. This Schedule makes a number of amendments to Schedule 19 to the Finance Act 2011.
2. The Schedule amends the rates at which the bank levy is charged from 1 January 2012 onwards.
3. It also makes amendments to paragraphs 43 and 44 of Schedule 19, Finance Act 2011 which deal with joint ventures. The changes to paragraph 43 ensure that joint ventures are treated consistently across different types of banking groups and relevant non banking groups. The changes to paragraph 44 ensure that no double taxation of joint ventures arises under the bank levy.
4. The Schedule also introduces two new provisions that relate to the relief from double taxation for equivalent foreign levies. Paragraphs 66(9A) which ensures that HM Revenue and Customs has the ability to restrict double taxation relief from the day it is given under a double taxation arrangement where excessive relief is given in respect of the equivalent foreign levy of another jurisdiction and paragraph 67A which allows for the exchange of information where an international tax enforcement arrangement has been entered into in respect of the bank levy.

**DETAILS OF THE CLAUSE**

Rates

5. Paragraph 2 replaces the rates that are used in the steps for determining the levy (paragraph 6, Schedule 19).
6. Paragraph 3 replaces the rates that are used to determine the bank levy where paragraph 7, Schedule 19 applies (where periods fall partly before 1 January 2012). It changes the rates due on the proportion of short term liabilities and on the proportion of equity and long term liabilities for the part of the chargeable period that falls after 1 January 2012.
7. Paragraph 4 provides that the rate changes come into force on 1 January 2012.

*Joint ventures*

8. Paragraphs 5 to 7 amend paragraphs 43 and 44 of Schedule 19, which relate to the calculation of chargeable equity and liabilities where a relevant group has an interest in a joint venture.
9. Paragraph 5(1) introduces the changes that are being made.
10. Paragraph 5(2) replaces paragraph 43(1)(d) and (e) with a new paragraph 43(1)(d). The changes mean that paragraph 43 will now apply to both UK resident and non resident joint ventures, and will only apply where the liabilities of the joint venture have not already been taken into account when calculating the chargeable equity and liabilities of the relevant group.
11. Paragraph 5(3) substitutes a new paragraph 43(2). New paragraph 43(2)(a) requires the relevant group to determine its chargeable equity and liabilities on the basis that the joint venture is a member of the group, but only to the extent of the group's interest in the joint venture's assets and liabilities. New paragraph 43(2)(b) ensures that the joint venture is treated as if it were not a member of the group in relation to the remaining liabilities and assets.
12. Paragraph 6 amends paragraph 44(7)(b) to ensure that when calculating the chargeable equity and liabilities of a joint venture in its own right, any amounts that are already charged in the venturer's banking group under paragraph 43, are not charged for a second time.
13. Paragraph 7 explains that the amendment made by paragraphs 5 and 6 have effect for all chargeable periods ending on or after 1 January 2012.

*Double taxation relief*

14. Paragraph 8 of the Schedule adds a new paragraph and a subparagraph into Part 7 of Schedule 19 to the Finance Act 2011.
15. Paragraph 8(1) inserts new sub-paragraph 9A into Paragraph 66 Schedule 19.
16. New paragraph 66(9A) provides that where double taxation relief is allowed via arrangements entered into by the United Kingdom and another territory regarding relief from double taxation in respect of the bank levy and an equivalent foreign levy then regulations may be made that take effect from the same date that relief is allowed under the arrangements. However regulations under this sub-paragraph will only have this effect if they are made and come into force at the same time as the order giving effect to the arrangements.

17. Paragraph 8(2) inserts new paragraph 67A into Part 7 of Schedule 19. This paragraph allows for the exchange of information where international tax enforcement arrangements have been entered into in association with arrangements regarding relief from double taxation in respect of the bank levy.
18. New paragraph 67A(1) gives effect to arrangements that have been made with any territory or territories outside the UK relating to tax enforcement where the Treasury makes an Order in respect of those arrangements.
19. New paragraph 67A(2) explains that arrangements relating to international tax enforcement may include provisions on the exchange of information and the service of documents in relation to the United Kingdom bank levy or an equivalent foreign levy.
20. New paragraph 67A(3) provides that any Treasury Order that replaces an existing Order made under this Schedule may include appropriate transitional provisions.
21. New paragraph 67A(4) ensures that sections 173(4) and (5) of Finance Act 2006 apply to arrangements which have effect under this paragraph and these in turn allow any Minister or officer in another Government department to disclose any information to the Commissioners for HM Revenue and Customs that may be disclosed to another territory under the arrangements. It also allows the Commissioners or any authorised Revenue and Customs official to disclose such information to the authorised officer of any territory or territories with whom arrangements have been made. Section 173(5) Finance Act 2006 provides that the Commissioners or any authorised Revenue and Customs official may not disclose any information to another territory under the arrangements unless first satisfied that the confidentiality rules applied in the other territory are no less strict than those applying in the UK.
22. New paragraphs 67A(5) & 67A(6) provides the rules regarding the making of the secondary legislation to give effect to the international tax enforcement arrangements.

Transitional provisions

23. Paragraph 9 provides transitional provisions for collecting the additional amounts of bank levy that arise from the amendments relating to the increase of the rate of the bank levy and to the paragraphs concerning joint ventures.
24. Paragraph 9(1) ensures that paragraph 9 applies where certain conditions are met. The conditions require that an entity (“E”) is charged to the bank levy for an accounting period in respect of a

chargeable period that falls wholly or partly after 1 January 2012 and one, or more, of the instalment payments for the accounting period in question are treated as becoming due and payable before Royal Assent.

25. Paragraph 9(2) provides that the effect of the rate changes and joint venture amendments are to be ignored when determining the amount of any instalment payment that is due before Royal Assent (“pre-commencement instalment payments”).
26. Paragraph 9(3) provides that where there is at least one instalment payment for the accounting period of E which is due and payable on or after Royal Assent (“post-commencement instalment payments”), the amount of the first such instalment payment is increased by the adjustment amount.
27. Paragraph 9(4) provides that where E does not have any post-commencement instalment payments, the adjustment amount will be due and payable 30 days after Royal Assent.
28. Paragraph 9(5) explains how to determine the “adjustment amount” for the purposes of sub-paragraphs (3) and (4). The adjustment amount is the difference between the pre-commencement instalment payments calculated firstly on the basis that the effects of the rate change and joint venture amendments do apply and then again on the basis that the effects of the rate change and joint venture amendments are ignored.
29. Paragraph 9(6) ensures that references within the provisions of Corporation Tax (Instalment Payment) Regulations 1998 (S.I. 1998/3175) to regulations 4A to 4D, 5, 5A or 5B of those Regulations are to be read as including references to paragraphs 9(1) to (6).
30. Paragraph 9(7) ensures that section 59D of the Taxes Management Act 1970, which provides the general rule for the collection of corporation tax, is also subject to paragraphs 9(1) to (5).
31. Paragraph 9(8) provides definitions of terms used in this Schedule.

**BACKGROUND NOTE**

Rates

32. The Chancellor of the Exchequer announced in the June 2010 Budget the introduction of a bank levy to apply to all UK banks and building society groups, foreign banks and banking groups operating in the UK and UK banks in non-banking groups from 1 January 2011 onwards.
33. Following a period of consultation, draft legislation was published on 23 March 2011 and the bank levy entered into law when Finance Bill 2012 received Royal Assent and can be found at Schedule 19, Finance Act 2011.
34. The bank levy is an annual balance sheet charge based upon the chargeable equities and liabilities of relevant banking groups. Paragraph 6, Schedule 19 sets out the steps that are to be taken when determining the bank levy and sets out the rates that are charged upon long term chargeable equity and liabilities and short term liabilities.
35. Paragraph 7, Schedule 19 supplements the steps for determining the amount of the bank levy and provides rules for a group whose chargeable period falls partly before 1 January 2012.

Joint ventures

36. A joint venture is an entity where two or more parties (“the venturers”) undertake an economic activity that is subject to joint control. International accounting standards currently allow joint ventures to be accounted for in two different ways, using either the equity method (where the investment in the joint venture is recorded at cost) or proportional consolidation where the consolidated balance sheet of the venturer includes its share of the assets and liabilities of the joint venture.
37. As no party has overall control of the joint venture, it does not meet the accounting definition of a subsidiary and, as a result, cannot be a member of a banking group (as defined within paragraph 4, Schedule 19). Instead where appropriate a joint venture is treated as a bank or banking group in its own right.
38. A UK banking group will calculate its chargeable equity and liabilities based upon the amounts recognised within its consolidated financial statements. So where the joint venture is proportionally consolidated then the liabilities of the joint venture will form part of the liabilities upon which the UK banking group calculates its chargeable equity and liabilities.



39. Where the joint venture is proportionally consolidated within a foreign banking group or a relevant non banking group the position may be different, as the joint venture's liabilities may not be consolidated into the balance sheet of any group member within the ambit of the bank levy and thus the groups' share of its liabilities would not be chargeable liabilities in determining the group's bank levy charge. Paragraph 43 removes this inconsistency in most cases to ensure that the joint venture is treated as if it were a member of the foreign banking group or relevant non banking group in relation to its interest in the joint venture's assets and liabilities. The amendments made by this clause ensure that paragraph 43 achieves this policy objective in all cases.
40. Paragraph 44 ensures that where paragraph 43 applies, a double charge to the levy is avoided as the chargeable equities and liabilities of the joint venture could be taxed once as part of the bank levy group and then again on the joint venture in its own right. Paragraph 44 allows the joint venture to leave out these liabilities when it calculates its own bank levy charge.

*Double taxation relief*

41. Part 7 of Schedule 19 to the Finance Act 2011 provides for double taxation relief to be given where a bank or banking group is doubly charged to the UK bank levy and an equivalent foreign levy. Relief is given either under paragraph 66 in accordance with arrangements affording double taxation relief in respect of the bank levy or under regulations made in accordance with paragraph 67. The above change ensures that the two methods are equivalent so that the proper amount of relief is given from the same day and if necessary in the same amount no matter which of the two methods is used to provide relief.
42. Information regarding taxes is often exchanged by the United Kingdom with other territories using Exchange of Information articles in arrangements regarding Income Tax, Corporation Tax and Capital Gains Tax. However where such arrangements do not provide for Exchange of Information in respect of taxes of all kinds or the other territory does not consider their levy to be a tax then those arrangements cannot be used to exchange information relating to the bank levies.
43. Paragraph 68 of Schedule 19 to the Finance Act 2011 allows information to be exchanged where the question of double taxation relief arises but not in other circumstances. The exchange of information article often used in international tax enforcement arrangements also covers information needed for the administration, enforcement or recovery of taxes and this provision allows information to be exchanged for those purposes where the arrangement is in respect of the bank levy. The new provision is

modelled on the legislation that enacts similar international tax enforcement arrangements for Income Tax, Corporation Tax and Capital Gains Tax.

*Transitional provisions*

44. Bank levy is treated as if it is corporation tax, and the relevant entity or, in the case of a banking group, the “the responsible member” (see paragraph 54, Schedule 19) is required to both make a return of the bank levy (as part of its company tax return) and to pay the bank levy.
45. Entities that pay the bank levy are required under the provisions of The Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175) as amended by The Corporation Tax (Instalment Payments) (Amendment) Regulations 2011 (SI 2011/1785) to do so by instalments.
46. If you have any questions about this change, or comments on the draft legislation, please contact Anthony Fawcett on 020 7147 0654 (email [anthony.c.fawcett@hmrc.gsi.gov.uk](mailto:anthony.c.fawcett@hmrc.gsi.gov.uk) regarding rate changes and joint ventures or Andrew Parkes on 020 7147 3427 (email [andrew.parkes@hmrc.gsi.gov.uk](mailto:andrew.parkes@hmrc.gsi.gov.uk)) regarding double taxation.