



Loan relationships: release of debts: financial institutions in resolution

Who is likely to be affected?

A bank or other financial institution subject to the application of any of the stabilisation powers under Part 1 of the Banking Act 2009.

General description of the measure

This measure will amend the corporation tax rules on loan relationships that apply to cases where credits are not required to be brought into account on the release of debts. It will include the case where a debt is released as a result of the application of any of the stabilisation powers under Part 1 of the Banking Act 2009.

Policy objective

The existing rules ensure that a debtor company that is released from a debt as part of an insolvency arrangement is not taxed on the profit arising from the release. This change will support fairness in the tax system by ensuring that resolution by the Bank of England, which is a form of such arrangements, is treated in the same way.

Background to the measure

This measure was announced by the Commercial Secretary to the Treasury on 26 November 2013.

Detailed proposal

Operative date

The amended legislation applies with effect from the 26 November 2013.

Current law

Section 322 of the Corporation Tax Act 2009 (CTA) exempts a company that is party as debtor to a loan relationship from a credit on the profit arising on the release of that debt in certain circumstances where one of three conditions is met. The conditions are that the release is part of a statutory insolvency arrangement, in consideration of shares (or any entitlement to such shares) or the debtor meets one of the insolvency conditions. These currently include insolvent liquidation, administration and administrative receivership, the appointment of a provisional liquidator, and equivalent procedures outside the UK.

Proposed revisions

Legislation will be introduced in Finance Bill 2014 to amend section 322 CTA and to insert a new condition that the release takes place in consequence of the exercise of a stabilisation power under Part 1 of the Banking Act 2009.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	nil	nil	nil	nil	nil	nil
	This measure is not expected to have an Exchequer impact.					
Economic impact	This measure is not expected to have any significant economic impacts.					
Impact on individuals and households	This measure only applies to companies and will not have any impact on individuals and households.					
Equalities impacts	This measure only applies to companies and is not expected to impact on any equality group.					
Impact on business including civil society organisations	This measure is expected to have a negligible impact on businesses or civil society organisations. There will be no extra reporting requirements as a result of the legislation.					
Operational impact (£m) (HMRC or other)	HM Revenue & Customs will not incur any additional operational costs implementing this measure.					
Other impacts	Other impacts have been considered and none have been identified.					

Monitoring and evaluation

The measure will be monitored through information collected from corporate tax returns to ensure the legislation operates as intended.

Further advice

If you have any questions about this change, please contact Fiona Hay on 03000 585882 (email: fiona.hay@hmrc.gsi.gov.uk) or contact Mark Lafone on 03000 585613 (email: mark.lafone@hmrc.gsi.gov.uk).

1 Release of debts: stabilisation powers under Banking Act 2009

- (1) Section 322 of CTA 2009 (release of debts: cases where credits not required to be brought into account) is amended as follows.
- (2) In subsection (2), for “condition A, B or C” substitute “any of conditions A to D”.
- (3) After subsection (5) insert—
“(5A) Condition D is that the liability is released in consequence of the exercise of a stabilisation power under Part 1 of the Banking Act 2009.”
- (4) The amendments made by this section have effect in relation to releases of liabilities on or after 26 November 2013.

EXPLANATORY NOTE

RELEASE OF DEBTS: STABILISATION POWERS UNDER BANKING ACT 2009

SUMMARY

1. Clause X modifies the corporation tax rules on loan relationships that apply to cases where credits are not required to be brought into account on the release of debts. The clause adds a further case where a debt is released as a result of the application of any of the stabilisation powers under Part 1 of the Banking Act 2009

DETAILS OF THE CLAUSE

2. Subsections (1) to (3) provide for the loan relationship rules in section 322 of CTA to be amended. Section 322 specifies cases where a debtor company does not have to bring credits into account when a liability to pay an amount under a debtor relationship is released.

3. Subsection (4) provides that this amendment will come into force on 26 November 2013.

BACKGROUND NOTE

4. The rules that apply to loan relationships work on the principle that amounts taxed and relieved as credits and debits under those rules are the profits and losses arising in amounts drawn up in accordance with generally accepted accounting practice. When a debtor company is released from a debt it owes, its profit will be taxable as a loan relationship credit.

5. Section 322 of the Corporation Tax Act 2009 (CTA) exempts a company that is party as debtor to a loan relationship from a credit on the profit arising on the release of that debt if: the debt is accounted for on an amortised cost basis of accounting, the release is not a release of relevant rights, and one of three conditions A, B or C are met. The conditions are that the release is part of a statutory insolvency arrangement, in consideration of shares (or any entitlement to such shares) or the debtor meets one of the insolvency conditions in subsection (6).

6. Section 322 ensures that companies and creditors releasing debt to avoid or manage insolvency are not doubly punished with a tax charge. Resolution by the Bank of England is a new form of such measures. It would be unwise to try and enable the rescue of financial institutions through the exercise of stabilisation powers and then undermine this rescue by levying a tax charge which could, in extreme cases, cause the institution to fail - resulting in the loss of all future possible tax revenues - and pose a threat to wider financial stability.

7. This change was announced during the passage of Financial Services (Banking Reform) Bill on 26 November 2013. It will be applied retrospectively to that date.

8. If you have any questions about this change, or comments on the legislation, please contact Fiona Hay on 03000 585882 (email: fiona.hay@hmrc.gsi.gov.uk) or Mark Lafone on 03000 585613 (email: mark.lafone@hmrc.gsi.gov.uk).