

EXPLANATORY NOTE

REMOVAL OF EXTENDED TIME LIMIT RESTRICTION FOR EU CASES

SUMMARY

1. This measure removes the direct tax restriction on extended time limits for actions for relief from the consequences of a mistake of law if the tax was charged contrary to European Union (EU) law.

DETAILS OF THE CLAUSE

2. Subsection (1) inserts two new subsections into section 107 of FA 2007 (removal of extended time limits for mistakes of law in taxation matters).
3. New subsection (5A) disapplies the claims restriction in section 107 where tax has been charged contrary to EU law.
4. New subsection (5B) defines tax charged contrary to EU law.
5. Subsection (2) treats the amendment as having always had effect.

BACKGROUND NOTE

7. Section 107 of FA 2007 was introduced to ensure the time limit for direct tax recoverable by reason of a mistake of law was six years from the date of payment for all actions brought before 8th September 2003 which were not subject to a judgment of the House of Lords before December 2006. S.32(1)(c) of the Limitation Act 1980 was disapplied in respect of such actions.
8. The Supreme Court held in *Franked Investment Income Group Litigation v CIR [2012] UKSC 19* that s.107 FA 2007 was incompatible with EU law and cannot apply to actions to recover tax paid contrary to EU law.
9. This provision amends s.107 FA 2007 to reflect the Supreme Court's decision so that the restriction does not apply to actions to recover tax paid contrary to EU law. The amendment is retrospective so that s.107 will be treated as always having been subject to this exception.

If you have any questions about this change, or comments on the legislation, please contact Nick Mosley on 03000 572490 (email: nick.mosley@hmrc.gsi.gov.uk).