

## EXPLANATORY NOTE

### MISCELLANEOUS LOSS RELIEF

#### SUMMARY

1. Clause [X] counters avoidance of income tax involving losses from miscellaneous transactions and limits the miscellaneous income against which a miscellaneous loss can be relieved.

#### DETAILS OF THE CLAUSE

2. Subsection (2) amends section 152 of the Income Tax Act 2007 (ITA 2007). The effect of these amendments is to limit the miscellaneous income against which loss relief under section 152 of ITA 2007 can be deducted to a person's "relevant miscellaneous income" instead of a person's "miscellaneous income", as previously defined in section 152(5) of ITA 2007. A person's "relevant miscellaneous income" is so much of the person's total income as is income or gains arising from transactions and income on which income tax is charged under, or by virtue of, the same provision in section 1016 of ITA 2007 as a profit or other income arising from the relevant loss-making transaction would have been charged, if the loss on the transaction had been profits or income.

3. Subsection (3) makes consequential changes to section 153 of ITA 2007.

4. Subsection (4) makes consequential changes to section 154 of ITA 2007.

5. Subsection (5) inserts new section 154A into Chapter 7 of Part 4 of ITA 2007.

6. Subsections (1) and (2) of new section 154A provide that loss relief is not to be given to a person under section 152 of ITA 2007 where a loss arises as a result of relevant tax avoidance arrangements.

7. Subsections (3) and (4) of new section 154A provide that a person is not to be given loss relief against income under section 152 of ITA 2007 where the income arises as a result of relevant tax avoidance arrangements.

8. Subsections (5) and (6) of new section 154A define "relevant tax avoidance arrangements" and "arrangements".

9. Subsection (6) makes consequential changes to section 155 of ITA 2007.

10. Subsections (8) to (11) provide for commencement. New section 154A of ITA 2007 has effect in relation to losses and income arising on or after 3 December 2014. The rules

providing that loss relief under section 152 of ITA 2007 may only be deducted from “relevant miscellaneous income” have effect for tax year 2015-16 and subsequent years.

**BACKGROUND NOTE**

11. The Government is aware of avoidance activity that seeks to exploit income tax relief for losses from miscellaneous transactions. This avoidance activity puts at risk substantial amounts of revenue.

12. It was announced on 3 December 2014 that the Government would legislate to counter avoidance of income tax involving losses from miscellaneous transactions. The changes denying loss relief where a miscellaneous loss, or miscellaneous income, arises from relevant tax avoidance arrangements will have effect from 3 December 2014. The changes limiting relief to “relevant miscellaneous income” will have effect for tax year 2015-16 and subsequent years.

13. If you have any questions about this change, or comments on the legislation, please contact Mark Anderson on 03000 585604 (email: [mark.anderson@hmrc.gsi.gov.uk](mailto:mark.anderson@hmrc.gsi.gov.uk)).