



HM Revenue
& Customs

Corporation Tax: Restitution Interest

Who is likely to be affected?

Companies within the scope of Corporation Tax who have made Common Law claims in relation to tax paid "under a mistake of law" where the Commissioners for Her Majesty's Revenue and Customs ("HMRC") are the defendants.

General description of the measure

If a restitution award is made, whether as a result of a judgment or an agreement, the interest element of the award (i.e. the element which represents compensation for the time value of money) will be chargeable to corporation tax ("CT") at a special rate of 45% instead of the normal rate of CT (currently 20%). This interest is defined as restitution interest. The clause does not apply to any element of the award that represents the repayment of overpaid tax. The clause does not apply to interest payments made by HMRC under its statutory provisions.

Policy objective

The interest element of any restitution award to a company is liable to Corporation Tax. That means that the interest would be taxed at the current historic low rate of Corporation Tax. This measure ensures that the rate of Corporation Tax applicable to payments of restitution interest made by HMRC reflects both the rates of Corporation Tax over the period to which typical awards relate, and the effect of compounding interest not taxed in the year to which it relates. This is a unique set of circumstances and this measure ensures that recipients of such restitution interest payments do not enjoy an unfair tax advantage at the expense of the public purse.

Background to the measure

The measure is to be introduced as an amendment to the Finance Bill 2015.

Detailed proposal

Operative date

The measure will have effect on or after 21 October 2015. The withholding obligation will have effect from 26 October 2015.

Current law

Current law is included in Chapter 2 of Part 6 of the Corporation Tax Act 2009 (CTA2009).

Proposed revisions

The new clause provides that a special rate of Corporation Tax on income is to be applied to restitution interest. That rate will be 45%.

The clause also imposes an obligation on HMRC to withhold tax on any payments of restitution interest.

Anti-avoidance rules will apply to prevent companies avoiding this charge for example by transferring the right to the claim to a person not chargeable to Corporation Tax.

Summary of impacts

Exchequer impact (£m)

2015-16	2016-17	2017-18	2018-19	2019-20	2020-21

This measure is expected to reduce losses from litigation if HMRC were to be unsuccessful. The final costing will be subject to scrutiny by the Office for Budget Responsibility, and will be published at Autumn Statement 2015.

Economic impact

This measure is not expected to have any significant macroeconomic impacts.

Impact on individuals, households and families

The measure is not expected to impact on family formation, stability or breakdown.

Equalities impacts

This measure will affect companies or entities deemed to be companies. It does not affect individuals.

Impact on business including civil society organisations

This measure only affects businesses who have made a claim for a mistake of law, where there is final judicial decision or final settlement in their favour and the claim for restitution is not limited to statutory interest available under the Tax Acts. These businesses will face negligible one-off costs in applying the new rate of 45% to their restitution interest rather than the current Corporation Tax rate.

Operational impact (£m) (HMRC or other)

There will be no significant operational impact.

Other impacts

Other impacts have been considered and none have been identified.

Monitoring and evaluation

The policy will be monitored through information collected from the relevant claims.

If you have any questions about this change, please contact Susan Gardner on 03000 563815 email: susan.m.gardner@hmrc.gsi.gov.uk.