



HM Revenue  
& Customs

## **Simplification of HMRC debtor and creditor interest rate**

---

### **Who is likely to be affected?**

Taxpayers in litigation cases where there is a tax-related judgment debt with interest due and HMRC is either the debtor or creditor.

### **General description of the measure**

This measure provides that where HMRC is party to a tax-related debt, the rates of interest are those referred to in tax legislation whether the debt follows from court action or not.

### **Policy objective**

The measure ensures that rates of interest payable on tax-related debts to which HMRC is a party are all contained within tax legislation. It also reduces the rates of interest on tax-related judgment debts owed by or to HMRC to an appropriate level given prevailing interest rates.

### **Background to the measure**

Legislation currently provides for different interest rates to apply depending upon whether the tax-related debt follows from court action or not. For example, the repayment interest rate varies from 8% (where the debt follows from court action) to 0.5% (where the debt does not follow from court action).

## **Detailed proposal**

### **Operative date**

This measure will have effect on and after 8 July 2015.

### **Current law**

Legislation dealing with interest on court judgments is in section 17(1) Judgments Act 1838 and section 74(1) County Courts Act 1984. The rate of interest is currently 8%.

### **Proposed revisions**

Legislation will be introduced in Summer Finance Bill 2015 to disapply the interest rates in section 17(1) Judgment Act 1838 and section 74(1) County Courts Act 1984 in relation to interest accruing on or after 8 July 2015 on all judgment debts (including pre-existing judgments) relating to a taxation matter where HMRC is a party, and instead apply the late payment interest rate where HMRC is the creditor and the Bank of England base rate plus 2% (subject to future changes) where HMRC is the debtor.

## Summary of impacts

Exchequer impact (£m)	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
	Robust estimates of the Exchequer impacts are not available.					
<b>Economic impact</b>	This measure is not expected to have any economic impacts.					
<b>Impact on individuals, households and families</b>	There is no impact on individuals, households or families.					
<b>Equalities impacts</b>	There are no equality impacts arising from this measure.					
<b>Impact on business including civil society organisations</b>	Overall, this measure is expected to have a negligible impact on businesses and civil society organisations.					
<b>Operational impact (£m) (HMRC or other)</b>	This measure will have no operational impact on HMRC.					
<b>Other impacts</b>	Other impacts have been considered and none have been identified.					

## Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups.

## Further advice

If you have any questions about this change, please contact Helen Sawyer on 03000 586355 (email: [Helen.sawyer@hmrc.gsi.gov.uk](mailto:Helen.sawyer@hmrc.gsi.gov.uk))

## 1 Rate of interest applicable to judgment debts etc in taxation matters

- (1) This section applies if a sum payable to or by the Commissioners under a judgment or order given or made in any court proceedings relating to a taxation matter (a “tax-related judgment debt”) carries interest as a result of a relevant enactment.
- (2) The “relevant enactments” are—
  - (a) section 17 of the Judgments Act 1838 (judgment debts to carry interest), and
  - (b) any order under section 74 of the County Courts Act 1984 (interest on judgment debts etc).
- (3) The relevant enactment is to have effect in relation to the tax-related judgment debt as if for the rate specified in section 17(1) of the Judgments Act 1838 and any other rate specified in an order under section 74 of the County Courts Act 1984 there were substituted—
  - (a) in the case of a sum payable to the Commissioners, the late payment interest rate provided for in regulations made by the Treasury under section 103(1) of FA 2009, and
  - (b) in the case of a sum payable by the Commissioners, the special repayment rate.
- (4) Subsection (3) does not affect any power of the court under the relevant enactment to prevent any sum from carrying interest or to provide for a rate of interest which is lower than (and incapable of exceeding) that for which the subsection provides.
- (5) If section 44A of the Administration of Justice Act 1970 (interest on judgment debts expressed otherwise than in sterling), or any corresponding provision made under section 74 of the County Courts Act 1984 in relation to the county court, applies to a tax-related judgment debt—
  - (a) subsection (3) does not apply, but
  - (b) the court may not specify in an order under section 44A of the Administration of Justice Act 1970, or under any provision corresponding to that section which has effect under section 74 of the County Courts Act 1984, an interest rate which exceeds (or is capable of exceeding)—
    - (i) in the case of a sum payable to the Commissioners, the rate mentioned in subsection (3)(a), or
    - (ii) in the case of a sum payable by the Commissioners, the special repayment rate.
- (6) The “special repayment rate” is the percentage per annum given by the formula—

$$BR + 2$$

where BR is the official Bank rate determined by the Bank of England Monetary Policy Committee at the operative meeting.

- (7) “The operative meeting”, in relation to the special repayment rate applicable in respect of any day, means the most recent meeting of the Bank of England Monetary Policy Committee apart from any meeting later than the 13th working day before that day.
- (8) The Treasury may by regulations—
  - (a) repeal subsections (6) and (7), and

- 
- (b) provide that the “special repayment rate” for the purposes of this section is the rate provided for in the regulations.
- (9) Regulations under subsection (8) may –
- (a) make different provision for different purposes,
  - (b) may either themselves specify a rate of interest or make provision for such a rate to be determined (and to change from time to time) by reference to such rate, or the average of such rates, as may be referred to in the regulations,
  - (c) may provide for rates to be reduced below, or increased above, what they would otherwise be by specified amounts or by reference to specified formulae,
  - (d) may provide for rates arrived at by reference to averages to be rounded up or down,
  - (e) may provide for circumstances in which the alteration of a rate of interest is or is not to take place, and
  - (f) may provide that alterations of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations (“the effective date”) regardless of –
    - (i) the date of the judgment or order in question, and
    - (ii) whether interest begins to run on or after the effective date, or began to run before that date.
- (10) A statutory instrument containing regulations under subsection (8) is subject to annulment in pursuance of a resolution of the House of Commons.
- (11) To the extent that a tax-related judgment debt consists of an award of costs to or against the Commissioners, the reference in section 24(2) of the Crown Proceedings Act 1947 (which relates to interest on costs awarded to or against the Crown) to the rate at which interest is payable upon judgment debts due from or to the Crown is to be read as a reference to the rate at which interest is payable upon tax-related judgment debts.
- (12) This section has effect in relation to interest for periods beginning on or after 8 July 2015, regardless of –
- (a) the date of the judgment or order in question, and
  - (b) whether interest begins to run on or after 8 July 2015, or began to run before that date.
- (13) Subsection (14) applies where, at any time during the period beginning with 8 July 2015 and ending immediately before the day on which this Act is passed (“the relevant period”) –
- (a) a payment is made in satisfaction of a tax-related judgment debt, and
  - (b) the payment includes interest under a relevant enactment in respect of any part of the relevant period.
- (14) The court by which the judgment or order in question was given or made must, on an application made to it under this subsection by the person who made the payment, order the repayment of the amount by which the interest paid under the relevant enactment in respect of days falling within the relevant period exceeds the interest payable under the relevant enactment in respect of those days in accordance with the provisions of this section.
- (15) In this section –

---

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“taxation matter” means anything, other than national insurance contributions, the collection and management of which is the responsibility of the Commissioners (or was the responsibility of the Commissioners of Inland Revenue or Commissioners of Customs and Excise);

“working day” means any day other than a non-business day as defined in section 92 of the Bills of Exchange Act 1882.

(16) This section extends to England and Wales only.

## Explanatory Note

### Clause: Rate of interest applicable to judgment debts etc in taxation matters

#### Summary

1. This clause provides that where HM Revenue & Customs (HMRC) is party to a tax-related judgment debt, the rates of interest are those referred to in tax legislation, whether the debt follows from court action or not. The clause sets the rates of interest on tax-related judgment debts owed by or to HMRC to appropriate levels given prevailing interest rates. It also introduces a special repayment rate of interest on tax-related judgment debts owed by HMRC. The new special repayment rate of interest will apply prospectively from 8 July 2015 and apply to existing as well as new judgment debts.

#### Details of the clause

2. Subsections (1) & (2) set out that the provision relates only to sums payable by or to HMRC under an order or judgment of the High Court or County Court, and in respect of interest only.
3. Subsection (3) provides that the late payment rate of interest in accordance with section 103(1) Finance Act 2009 applies to tax-related judgment debts where HMRC is the creditor, and a new special repayment rate of interest applies to tax-related judgment debts where HMRC is the debtor.
4. Subsection (4) sets out that subsection (3) does not affect a court's power to award interest at a rate lower than the late repayment rate or the special repayment rate. It also provides that a lower rate set out in such an award cannot be capable of exceeding at a later date the late repayment rate or the special repayment rate.
5. Subsection (5) provides that where a judgment debt is not in sterling, and judgment interest is awarded under the Administration of Justice Act 1970 or corresponding County Courts Act 1984 provisions, the rate of any interest awarded cannot be higher, and cannot be capable of ever being higher, than the late payment rate (where HMRC is the creditor) or the special repayment rate (where HMRC is the debtor).
6. Subsection (6) provides the formula by which the special repayment rate of interest is calculated: Bank of England Base Rate plus 2%
7. Subsection (7) provides for the day on which the special repayment rate changes following a meeting of the Bank of England Monetary Policy Committee.
8. Subsection (8) provides that HM Treasury may, by regulation, repeal subsections (6) & (7) in favour of setting out the special repayment rate and operative date in regulations.

9. Subsection (9) sets out the scope of the regulations made under subsection (8).
10. Subsection (10) provides that a Statutory Instrument made under subsection (8) is subject to annulment by resolution of the House of Commons.
11. Subsection (11) provides that where a tax-related judgment debt is awarded to or against HMRC under the Crown Proceedings Act 1947, the rate of interest awarded is that specified in subsection (3), that is, either late payment interest or special repayment interest.
12. Subsection (12) provides that the new rates of interest apply from 8 July 2015 on existing as well as new judgments, and whether or not judgment interest has already accrued prior to 8 July 2015.
13. Subsections (13) & (14) provide for a situation where a payment of judgment interest, at a rate higher than the special repayment rate, is made by HMRC prior to Royal Assent of the Finance (No. 2) Bill 2015 relating to a period commencing on or after 8 July 2015. The subsections provide for the awarding court to order repayment of the difference between the interest paid and that due under the special repayment rate.
14. Subsection (15) defines Commissioners as being the Commissioners for Her Majesty's Revenue & Customs, taxation matter being anything (other than National Insurance contributions) which are the responsibility of HMRC (or previously the Inland Revenue or HM Customs & Excise), and working day by reference to the Bills of Exchange Act 1882.
15. Subsection (16) clarifies that the section applies only to England and Wales.

## Background note

16. The government wishes to ensure that where HMRC is party to a tax-related debt, the rates of interest are those contained in tax legislation, whether the debt follows from court action or not. It is appropriate for interest rates on judgment debts relating to tax matters to be determined in tax legislation rather than the Judgments Act 1838 or County Courts Act 1984, which are the responsibility of other government departments such as the Ministry of Justice.
17. This change in rates applies to cases both where HMRC receives judgment interest where it has won a case, and where it pays judgment interest where it has lost a case.
18. The government is making this change for two reasons. First, to ensure that where HMRC is party to a tax-related debt, the rates of interest are those contained in tax legislation, whether the debt follows from court action or not. This will provide consistency in how the law applies. Second, to ensure that the rates of interest on such debts are set at an appropriate level.