

Bank levy amendments

Who is likely to be affected?

UK banks, banking groups and building societies; foreign banking groups operating in the UK through permanent establishments or subsidiaries; and UK banks and banking sub-groups in non-banking groups.

General description of the measure

This measure will put beyond doubt that foreign bank levies do not qualify as a deduction for UK corporation tax (CT) purposes. It will also make clear that where a claim for Bank Levy Double Taxation Relief has yet to be made relief will not be available as a deduction against UK CT if such a claim is made.

Policy objective

These changes will ensure equal treatment of bank levies whether they are raised by the UK or another State. They also ensure that relief may either be given via credit or a deduction but not both.

Background to the measure

The Government announced the introduction of the Bank Levy at Budget 2010 to commence for chargeable periods ending on or after 1 January 2011.

Regulations concerning relief against double taxation in respect of the French and German bank levies were made on the 21 February 2012.

Detailed proposal

Operative date

The measure will have effect in relation to periods of account beginning before 1 January 2013 where claims for Bank Levy Double Taxation Relief in respect of those periods are made on or after 5 December 2012 and for periods of account beginning on or after 1 January 2013 otherwise.

Current law

A deduction for the UK Bank Levy is specifically denied by paragraph 46 Schedule 19 to the Finance Act 2011. Bank Levy Double Taxation Relief is governed by Part 7 of Schedule 19 to the Finance Act 2011.

Proposed revisions

Legislation will be introduced in Finance Bill 2013 to put beyond doubt that foreign bank levies will not be an allowable deduction for UK CT purposes. Legislation will also be introduced in Finance Bill 2013 to make clear that a deduction for UK CT purposes is not available where the expenditure relates to an equivalent foreign levy and a claim has been made for Bank Levy Double Taxation Relief in respect of that levy for the period in question.

Summary of impacts

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	nil	nil	nil	nil	nil	nil
	This measure is not expected to have an exchequer impact. This measure supports the Exchequer in its commitment to protect revenue.					
Economic impact	The measure is not expected to have any economic impacts.					
Impact on individuals and households	There is no direct impact on individuals and households. The Bank Levy is a tax on the balance sheets of banks, banking groups, and building societies.					
Equalities impacts	The measure is not expected to have an impact on any of the protected equality groups.					
Impact on business including civil society organisations	This measure is expected to have no impact on businesses or civil society organisations. The measure clarifies that foreign bank levies do not qualify as a deduction for UK corporation tax purposes and will not create an additional administrative burden.					
Operational impact (£m) (HMRC or other)	There is not expected to be any operational impact from these proposals.					
Other impacts	<p><u>Competition assessment:</u> The scope of the Bank Levy has been specifically designed to ensure a level playing field for all those affected by it in the UK.</p> <p><u>Small firms impact test:</u> The banks, building societies and banking groups affected by the Bank Levy are not considered to be small firms.</p> <p>Other impacts have been considered and none have been identified.</p>					

Monitoring and evaluation

The measure will be kept under review through regular communication with affected taxpayer groups. The Bank Levy will be reviewed in 2013 to make sure it is operating efficiently.

Further advice

If you have any questions about this change, please contact Anthony Fawcett on 020 7147 0654 (email: anthony.c.fawcett@hmrc.gsi.gov.uk) or Andrew Parkes on 020 7147 3427 (email: andrew.parkes@hmrc.gsi.gov.uk).

1 Bank levies

- (1) Schedule 19 to FA 2011 (the Bank Levy) is amended as follows.
- (2) In paragraph 46 (bank levy to be ignored for purposes of corporation tax and income tax), in paragraph (b), after “paid” insert “(directly or indirectly)”.
- (3) In Part 7 (double taxation relief), after paragraph 69 insert –
“Foreign levies to be ignored for purposes of income tax or corporation tax

69A (1) In calculating profits or losses for the purposes of income tax or corporation tax –
 - (a) no deduction is allowed in respect of any tax which is imposed by the law of a territory outside the United Kingdom and corresponds to the bank levy, and
 - (b) no account is to be taken of any amount which is paid (directly or indirectly) by a member of a group to another member for the purposes of meeting or reimbursing the cost of such a tax charged in relation to the group.
 - (2) Paragraph 66(3) applies for the purposes of sub-paragraph (1) as it applies for the purposes of paragraph 66(2).”
- (4) Accordingly –
 - (a) in paragraph 3, after “double taxation relief” insert “and with the deduction of foreign levies for the purposes of corporation tax and income tax”, and
 - (b) in the heading for Part 7, after “RELIEF” insert “ETC”
- (5) The amendments made by this section have effect in relation to any period of account beginning on or after 1 January 2013.
- (6) The amendments made by subsections (3) and (4) also have effect in relation to any period of account beginning before that date, but only if, and to the extent that, the tax is the subject of a claim for relief under paragraph 66 or 67 of Schedule 19 to FA 2011 (bank levy: double taxation relief) made on or after 5 December 2012.
- (7) For the purposes of subsections (5) and (6), a period of account beginning before, and ending on or after 1 January 2013 is to be treated as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate periods of account.

EXPLANATORY NOTE

FOREIGN BANK LEVIES

SUMMARY

1. This clause makes a number of amendments to Schedule 19 to the Finance Act 2011 (FA 2011). It puts beyond doubt that recharges of the Bank Levy are not an allowable deduction for the purposes of income tax and corporation tax whether recharged directly or via a third party. It also provides that foreign bank levies are not an allowable deduction for the purposes of income tax or corporation tax.

DETAILS OF THE CLAUSE

2. Subsection (2) amends paragraph 46, Schedule 19 of FA 2011 to make it clear that an indirect recharge of the Bank Levy is also not an allowable deduction for the purposes of income tax and corporation tax.
3. Subsection (3) inserts new paragraph 69A into Part 7, Schedule 19 of FA 2011.
4. New paragraph 69A(1) provides that no deduction will be allowed for the purposes of income tax or corporation tax where a foreign bank levy corresponds to the Bank Levy. It also provides that any amounts paid or received in respect of meeting or reimbursing a corresponding foreign bank levy are not taken into account in determining the profit or loss for income tax or corporation tax purposes of any member of the relevant group.
5. New paragraph 69A(2) makes it clear that the same criteria are used to determine whether foreign bank levy corresponds to the Bank Levy as are used for double taxation relief.
6. Subsection (4) makes consequential amendments to paragraph 3, Schedule 19 and to the title of Chapter 7, Schedule 19 of FA 2011 following the extension of the scope of Chapter 7.
7. Subsection (5) provides that the provisions introduced by the clause will have effect for any periods of account commencing on or after 1 January 2013.
8. Subsection (6) provides that subsections (3) and (4) will apply to periods beginning before 1 January 2013 in respect of any

corresponding foreign bank levy that is the subject of a claim for double taxation relief made on or after 5 December 2012.

9. Subsection (7) provides that where a company has a period of account straddling the 1 January 2013 then it will be treated as if it had two periods of account. One for a period ending on 31 December 2012 and one for a period beginning on 1 January 2013.

BACKGROUND NOTE

10. Part 7 of Schedule 19 to FA 2011 provides for double taxation relief to be given where a bank or banking group is doubly charged to the UK bank levy and an equivalent foreign levy.
11. There is a general prohibition which applies to income tax, corporation tax or capital gains tax preventing further relief by way of a deduction against profits or gains where credit relief is given to alleviate double taxation. This clause aligns the treatment of amounts paid either directly or indirectly in respect of foreign bank levies with this general prohibition.
12. The clause also extends the principle that a bank levy is not an allowable deduction to foreign bank levies by putting beyond doubt that such levies, whether paid directly or by way of a recharge, are not an allowable deduction for the purposes of income tax and corporation tax.
13. If you have any questions about this change, or comments on the draft legislation, please contact Anthony Fawcett on 020 7147 0654 (email anthony.c.fawcett@hmrc.gsi.gov.uk or Andrew Parkes on 020 7147 3427 (email andrew.parkes@hmrc.gsi.gov.uk).