HM Revenue & Customs

Corporation tax: bank loss-relief restriction

Who is likely to be affected?

Banks and building societies within the charge to UK corporation tax.

General description of the measure

The measure will restrict the proportion of banks' annual taxable profit that can be offset by carried-forward losses to 50 per cent. The restriction will apply to carried-forward:

- trading losses;
- non-trading loan relationship deficits; and
- management expenses.

The restriction will take effect from 1 April 2015 and will only apply to reliefs accruing prior to this date.

Policy objective

Significant losses have been accumulated in the banking sector, a consequence of banks' performance during the financial crisis and the costs associated with subsequent misconduct and misselling scandals.

The Government considers it inequitable that these losses can now be used to eliminate tax on recovering profits.

It will therefore restrict the rate at which these losses can be offset against taxable profit, increasing banks' corporation tax payments during this period of fiscal consolidation.

Background to the measure

The measure was announced at Autumn Statement 2014 and will be legislated in Finance Bill 2015.

Detailed proposal

Operative date

This measure will have effect for accounting periods beginning on or after 1 April 2015.

Any profits of a company with an accounting period straddling 1 April 2015 will be allocated into notional periods falling before and after that date, on either a time apportioned or just and reasonable basis.

The targeted anti-avoidance rule which forms part of the measure will apply to arrangements entered into on or after 3 December 2014.

Current law

If a company makes a trading loss, which is not relieved against other income or surrendered to another group member, this loss is carried-forward and offset against profits of the same trade arising in that company in future periods (section 45 of Corporation Tax Act 2010).

Non-trading loan relationship deficits work on the same basis, but are carried forward against non-trading income (section 457 of Corporation Tax Act 2009; CTA 09).

Excess management expenses of an accounting period can be carried forward by the company (section 1223 of CTA 09). They are then treated as management expenses of the later period and are set automatically against total profits (section 1219 CTA 09).

Current law applies no restriction on the proportion of a company's profit which can be offset each year by these carried-forward reliefs.

These carried forward amounts are referred to below as "relevant reliefs".

Proposed revisions

Legislation will be introduced in Finance Bill 2015, applying to banking companies and overlaying the current rules by restricting the proportion of their profits that can be covered by relevant reliefs to 50 percent.

For the purpose of the measure, a "banking company" is an authorised person under the Financial Services and Markets Act 2000 that also carries out certain regulated activities and is liable to UK corporation tax or a building society.

The restriction will apply:

- To relevant reliefs accrued in any financial year preceding 2015-16;
- By reference to profit remaining after the offset of non-relevant carried-forward reliefs and in-year reliefs against total profits; and
- Separately to trading and non-trading profits.

There is an exemption for losses arising in a start-up period.

The legislation also contains a targeted anti-avoidance rule, applying to arrangements that create profits in companies with relevant reliefs and have a greater expected tax benefit than commercial.

This rule will have the effect of preventing companies from offsetting any relevant reliefs against profit received from such arrangements.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2014-15</td><td>2015-16</td><td>2016-17</td><td>2017-18</td><td>2018-19</td><td>2019-20</td></tr>
<tr><td>-</td><td>+695</td><td>+765</td><td>+705</td><td>+695</td><td>+625</td></tr>
<tr><td colspan="6">These figures are set out in Table 2.1 of Autumn Statement 2014 and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Autumn Statement 2014.</td></tr>
<tr><td>Economic impact</td><td colspan="6">This measure will change the profile of banks' taxable profit and loss over time, but is not expected to have any significant wider economic impacts.</td></tr>
<tr><td>Impact on individuals, households and families</td><td colspan="6">This measure concerns incorporated businesses. It has no direct impact on individuals or households and is not expected to impact on family formation, stability or breakdown.</td></tr>
<tr><td>Equalities impacts</td><td colspan="6">This measure concerns the taxation of incorporated businesses, which have no protected characteristics in law. As such it is very unlikely that there will be any impact on equality.</td></tr>
</table>

Impact on business including civil society organisations	The measure impacts on banks and building societies within the charge to UK corporation tax, which have carried-forward losses relating to financial years preceding 2015-16. The measure will accelerate these businesses' corporation tax payments, negatively impacting on their cash-flow. The measure is expected to have a negligible impact on administrative burdens and no impact on civil society organisations.
Operational impact (£m) (HMRC or other)	This measure is not expected to have any significant operational impacts.
Other impacts	<u>Banking competition</u>: The restriction will not apply to losses incurred by companies in the first five years of their group carrying out banking activity. This recognises that losses are inevitable in new-entrant banks, which incur high up-front costs during periods of low income generation. <u>Financial stability</u>: The measure only increases the tax payments of banks making profit; it should not exacerbate banks' cash-flow in periods of stress. Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will be subject to ongoing monitoring through receipts, information collected in tax returns and disclosure of new anti-avoidance schemes to circumvent the measure.

Further advice

If you have any questions about this change, please contact James Konya on 03000 544525 (email: james.konya@hmrc.gsi.gov.uk) for technical questions, or Nicola Rass on 03000 522083 (email: nicola.rass@hmrc.gsi.gov.uk) for banking queries.

Declaration

Andrea Leadsom MP, Economic Secretary to the Treasury, has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.