

# Budget 2009



BN19

22 April 2009

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## FOREIGN DENOMINATED LOSSES

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### Who is likely to be affected?

1. Companies that compute their profits and losses in a currency other than sterling and have losses that are carried forward or back to other accounting periods. It will also affect companies that have losses originating in an accounting period computed in one currency that are then offset against profits computed for a different accounting period in a different currency.

### General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to ensure that, where a company incurs a tax loss computed in a currency other than sterling and then offsets that loss (or part of that loss) against profits in a different accounting period, then the exchange rate for conversion of the losses into sterling will be the same rate as that used for conversion of those profits.
3. When a company changes its functional currency, losses carried forward or backwards into periods across the change in the functional currency will be converted into that other functional currency at the spot exchange rate for the date of change. These losses will then be translated into sterling on the basis set out in paragraph 2 above.

### Operative date

4. These changes, first announced on 18 December 2008, will apply to all accounting periods commencing on or after 29 December 2007 unless an election is made to defer the commencement date for these provisions to the first accounting period beginning on or after the date that Finance Bill 2009 receives Royal Assent.

## **Current law and proposed revisions**

5. Section 92 of the Finance Act (FA) 1993 sets out the basic rule that profits and losses for the purposes of corporation tax must be calculated in sterling. Sections 92A, 92B and 92C of FA 1993 contain further provisions relating to the currency in which profits or losses are to be computed for corporation tax purposes and the conversion of those profits and losses into sterling.
6. A consequence of those provisions is that, where losses have been computed in a currency other than sterling they are translated into sterling at the exchange rate for the period in which they arose even if not being used in that period. Therefore, where those losses are carried forward or back, they are offset against profits of other accounting periods which have been translated into sterling at the exchange rate for the later or earlier period in question.
7. The exchange rate at which the profits are translated into sterling is therefore likely to be different than the exchange rate at which the losses were translated. The value of those losses will therefore vary from one accounting period to another unless, by chance, exchange rates remain unchanged.
8. The same problem applies where a company changes its functional currency between the accounting period in which a loss arises and the accounting period in which the loss is relieved. As all losses are converted into sterling in the accounting period in which the loss arises, the value of that loss will normally be different in the accounting period in which the tax loss is relieved.
9. Changes to FA 1993 will ensure that where there are losses in one accounting period that have been computed in a currency other than sterling, the exchange rate for conversion of those losses into sterling will be the same as the rate used for conversion of the profits against which the losses are offset. Where a company changes its functional currency, losses carried forward or back into periods across the change in functional currency will be converted into that other functional currency at the spot exchange rate for the date of change.

## **Further advice**

10. The changes introduced by this measure were announced by the Financial Secretary to the Treasury in a Written Ministerial Statement on 18 December 2008.
11. If you have any questions about this change, please contact Aidan Reilly on 020 7147 2575 (email: [aidan.reilly@hmrc.gsi.gov.uk](mailto:aidan.reilly@hmrc.gsi.gov.uk)) or Paul Gilham on 020 7147 2619 (email: [paul.gilham@hmrc.gsi.gov.uk](mailto:paul.gilham@hmrc.gsi.gov.uk)). Information about Budget measures is available on the HM Revenue & Customs website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk)