

# Budget 2009



BN29

22 April 2009

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## DOUBLE TAXATION RELIEF ON DIVIDENDS

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### Who is likely to be affected?

1. UK resident companies in receipt of dividends paid by foreign companies.

### General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to ensure that the reduction in the rate of corporation tax (CT) to 28 per cent does not unjustly affect the amount of double taxation relief available to companies.

### Operative date

3. The measure will have retrospective effect from the financial year beginning 1 April 2008.

### Current law and proposed revisions

4. UK companies in receipt of foreign dividends are charged CT on those dividends. To calculate the amount of CT charged on a dividend received in an accounting period, section 834 of the Income and Corporation Taxes Act 1988 (ICTA) requires that the dividend is apportioned between financial years.
5. Companies are entitled to double taxation relief for foreign tax suffered on dividends in accordance with Double Taxation Conventions (section 788 of ICTA), or unilaterally (sections 790 and 801 of ICTA).
6. In some circumstances, a company in receipt of a foreign dividend is entitled to relief for underlying tax suffered on that dividend. A dividend suffers underlying tax where it is paid out of a company's taxed profits.
7. Section 799 of ICTA restricts the amount of relief available to companies according to a formula (the "mixer cap" formula). This formula limits the amount of relief by reference to the CT rate in force on the date on which a dividend is paid.

8. The reduction in the CT rate from 30 per cent to 28 per cent which came into effect on 1 April 2008 caused a mismatch. As foreign dividends are apportioned between financial years, unless the accounting period matches a financial year, the dividends are taxed at an average CT rate.
9. For accounting periods straddling 1 April 2008 the CT rate charged is greater than 28 per cent. However, for all dividends paid after 1 April 2008, double taxation relief is limited according to a CT rate of 28 per cent.
10. The measure will ensure that the amount of double taxation relief available is not limited by reference to the CT rate in force on the date the dividend is paid. Instead it is limited by reference to the actual blended CT rate suffered on those dividends.
11. The effect of the measure will be that the amount of double taxation relief available to companies is calculated as it has always been intended so that the amount of CT paid and double taxation relief available correctly match.

**Further advice**

12. If you have any questions about this change, please contact Stephen Denyer on 020 7147 0330 (email: [stephen.denyer@hmrc.gsi.gov.uk](mailto:stephen.denyer@hmrc.gsi.gov.uk)) or Andrew Page on 020 7147 2673 (email: [andrew.page@hmrc.gsi.gov.uk](mailto:andrew.page@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)