

Budget 2009



BN38

22 April 2009

ANTI-AVOIDANCE: INTEREST RELIEF

Who is likely to be affected?

1. Individuals who claim relief for interest payments on loans used to invest in partnerships or small ("close") companies when this is done for the purpose of tax avoidance.

General description of the measure

2. As announced by the Financial Secretary to the Treasury on 19 March 2009, legislation will be introduced in Finance Bill 2009 to block schemes notified to HM Revenue & Customs (HMRC) whereby provisions that allow individuals to claim relief for interest payments are used in avoidance arrangements that guarantee that the borrower will be able to make a profit as a result of the availability of the relief.

Operative date

3. The measure has effect for interest payments made on or after 19 March 2009.

Current law and proposed revisions

4. Under current law, interest paid by individuals on loans used to invest in certain small businesses (close companies or partnerships) may qualify for income tax relief against the individuals' other income.
5. Schemes have been notified to HMRC that exploit these provisions by means of arrangements that eliminate any investment risk. This guarantees that the investor will be in a profitable position by virtue of the interest being eligible for relief.
6. The new measure will deny relief for interest if the interest is paid as part of an arrangement that is certain (ignoring insignificant risk) to allow the investor to exit the arrangement with more money than was originally invested where the investor's main purpose in being party to the arrangements is to secure that result.

Further advice

7. This measure was announced on 19 March 2009 by a Written Ministerial Statement. Draft legislation was published on the HMRC website on 20 March 2009. The draft legislation has been amended since then to ensure that normal commercial transactions are not affected.
8. If you have any questions about this change, please contact Richard Rogers on 020 7147 2625 (email: richard.rogers@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk