

## Written Ministerial Statement

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### Finance Bill 2009: Anti-avoidance measure

**The Financial Secretary to the Treasury (Mr Stephen Timms):** An avoidance scheme has been notified to HM Revenue and Customs' (HMRC) that exploits the fact that Corporation Tax (CT) rules provide that losses, arising in a trade in the 12 months prior to its cessation, may be carried back and set off against profits made in the previous 3 years ('Terminal Loss Relief').

The scheme works by artificially engineering a deemed cessation of trading. The deemed cessation of trading means that the company gains access to relief for the losses much earlier than Parliament intended and undermines Clause 23 in the current Bill.

HMRC believe that the scheme is capable of being used by a large number of companies with the consequent risk of a significant loss of revenue. Therefore, in order to protect the Exchequer, the Government will introduce legislation by Government Amendment to Finance Bill 2009, to stop companies exploiting these rules for the purposes of tax avoidance. The legislation, which will be effective in relation to reorganisations taking place on or after today, is today being published on HMRC's website.

The new clause will address situations where there has not been, in any real sense, a cessation of the trade but it is claimed that a cessation occurs as a result of the trade being transferred to a person or persons outside the scope of CT and it can be established that this is part of a scheme or arrangement, one of the main purposes of which is to access 'terminal loss relief'.

In such circumstances 'terminal loss relief' will not be available to the transferring entity. As a consequence of the scheme, carried forward losses relating to the trade will not be transferred to the receiving person(s) for set off against future profits.

***HM Treasury***  
**21 May 2009**