



Income Tax Act 2007

2007 CHAPTER 3

PART 8

OTHER RELIEFS

CHAPTER 1

INTEREST PAYMENTS

The relief: introduction

383 Relief for interest payments

- (1) A person who pays interest in a tax year is entitled to relief for the tax year for the interest if—
 - (a) the loan on which the interest is payable is a loan to which a provision specified in subsection (2) applies,
 - (b) the interest is eligible for relief in accordance with this Chapter, and
 - (c) the person makes a claim.
- (2) The provisions are—
 - (a) section 388 (loan to buy plant or machinery for partnership use),
 - (b) section 390 (loan to buy plant or machinery for employment use),
 - (c) section 392 (loan to buy interest in close company),
 - (d) section 396 (loan to buy interest in employee-controlled company),
 - (e) section 398 (loan to invest in partnership),
 - (f) section 401 (loan to invest in co-operative), and
 - (g) section 403 (loan to pay inheritance tax).
- (3) The amount of the relief given under subsection (1) is equal to the amount of the interest eligible for relief.

Status: Point in time view as at 19/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Cross Heading: The relief: introduction. (See end of Document for details)

- (4) The relief is given by deducting that amount in calculating the person's net income for the tax year in which the interest is paid (see Step 2 of the calculation in section 23).
- (5) This section is subject to—
- (a) section 384 (general restrictions on relief under this Chapter),
 - (b) section 385 (general provisions about loans),
 - (c) section 386 (loans partly meeting requirements),
 - (d) section 387 (exclusion of double relief etc), and
 - (e) section 405 (carry back and forward of relief for interest on loans within section 403).
- (6) See also [^{F1}section 564O] (under which this Chapter applies as if arrangements [^{F2}to which section 564C applies] were loans and alternative finance return were interest).

Textual Amendments

- F1** Words in s. 383(6) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 221\(a\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F2** Words in s. 383(6) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 221\(b\)](#) (with [Sch. 9 paras. 1-9, 22](#))

384 General restrictions on relief under Chapter

- (1) Relief is not to be given under this Chapter for interest on a debt incurred—
- (a) by overdrawing an account, or
 - (b) by debiting the account of any person as the holder of a credit card or under similar arrangements.
- (2) If [^{F3}the interest paid on a loan in a tax year exceeds a reasonable commercial amount of interest on the loan for the relevant period], relief is not to be given under this Chapter for so much of the interest as represents the excess.
- [^{F4}(3) The relevant period is the tax year or, if the loan exists for part only of the tax year, the part of the tax year for which the loan exists.
- (4) A reasonable commercial amount of interest on the loan for the relevant period is an amount which, together with any interest paid before that period (other than unrelieved interest), represents a reasonable commercial rate of interest on the loan from the date it was made to the end of that period.
- (5) “Unrelieved interest” means interest which because of subsection (2) is not eligible for relief under this Chapter.]

Textual Amendments

- F3** Words in s. 384(2) substituted (21.7.2008 with effect in accordance with Sch. 22 para. 21(4) of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 22 para. 21\(2\)](#)
- F4** S. 384(3)-(5) inserted (21.7.2008 with effect in accordance with Sch. 22 para. 21(4) of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 22 para. 21\(3\)](#)

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[^{F5}384A Restriction on relief where arrangements minimise risk to borrower

- (1) Relief is not to be given under this Chapter for interest paid by a person on a loan if—
 - (a) the loan is made to the person (“the borrower”) as part of arrangements which appear very likely to produce a post-tax advantage, and
 - (b) the arrangements seem to have been designed to reduce any income tax or capital gains tax to which the borrower (or any person whose circumstances are like those of the borrower) would be liable apart from the arrangements.
- (2) Arrangements “appear very likely” to produce a post-tax advantage if (and only if) it would be reasonable to assume from either or both of—
 - (a) the likely effect of the arrangements, and
 - (b) the circumstances in which the arrangements, or any parts of the arrangements, are entered into or effected,that there is no risk, or only an insignificant risk, that they will not produce a post-tax advantage.
- (3) “Produce a post-tax advantage” means give rise to a sum or sums—
 - (a) payable to the borrower or a person connected with the borrower, or
 - (b) payable to any other person for the benefit of the borrower or a person connected with the borrower,of an amount (or aggregate amount) which, after making the appropriate tax adjustments, is equal to or greater than the relevant amount.
- (4) “The relevant amount” is the aggregate of—
 - (a) the amount required to meet the borrower's obligations in respect of the loan, and
 - (b) any amount which is used by the borrower in the same way as that which entitles the borrower to relief under this Chapter in respect of the loan and is not money lent to the borrower under any loan.
- (5) If, with a view to securing that the condition in subsection (1)(a) is not met, the arrangements make provision for securing that, in all or any circumstances in which they do not produce a post-tax advantage, they will produce a broadly compensatory amount, the arrangements are to be regarded for the purposes of subsection (2) as making provision for securing the production of a post-tax advantage in those circumstances.
- (6) “Produce a broadly compensatory amount” means give rise to a sum or sums payable as mentioned in subsection (3) of an amount (or aggregate amount) which, after making the appropriate tax adjustments, is not significantly less than the relevant amount.
- (7) For the purposes of subsections (3) and (6) causing the value of an asset to be obtainable, directly or indirectly, by a person is to be treated as equivalent to giving rise to a sum payable to the person of an amount equal to that value.
- (8) To make the appropriate tax adjustments for the purpose of subsection (3) or (6)—
 - (a) if A exceeds B, deduct the amount of the excess from the amount (or aggregate amount), and
 - (b) if B exceeds A, add the amount of the excess to the amount (or aggregate amount).
- (9) For the purposes of subsection (8)—

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A is the amount of any income tax, any capital gains tax and any tax under the law of a territory outside the United Kingdom to which the borrower is liable in consequence of the arrangements, and

B is the amount by which the borrower's liability to income tax and capital gains tax is (or apart from subsection (1) would be) reduced in consequence of the arrangements.

- (10) Arrangements seem to have been designed to reduce any income tax or capital gains tax to which the borrower (or any person whose circumstances are like those of the borrower) would be liable apart from the arrangements if (and only if) it would be reasonable to assume from either or both of—
- (a) the likely effect of the arrangements, and
 - (b) the circumstances in which the arrangements, or any parts of the arrangements, are entered into or effected,
- that the arrangements, or any parts of the arrangements, are designed to do so.
- (11) In this section “arrangements” means arrangements consisting of any number of agreements, understandings, schemes, transactions or other arrangements (whether or not legally enforceable); but in subsections (1)(a), (2), (5) and (9) the references to arrangements also include any related transactions.
- (12) In subsection (11) “related transactions” means transactions in the case of which it is reasonable to assume from either or both of—
- (a) the likely effect of the transactions, and
 - (b) the circumstances in which the transactions are entered into or effected,
- that the transactions would not have been entered into or effected independently of the arrangements.
- (13) Transactions are not prevented from being related transactions just because the transactions—
- (a) are not between the same parties, or
 - (b) are not between parties to the arrangements.]

Textual Amendments

- F5** S. 384A inserted (with effect in accordance with Sch. 30 para. 1(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 30 para. 1\(1\)](#)

385 General provisions about loans

- (1) References in this Chapter to a loan being used or used in any way—
- (a) are references to the money lent being applied or, as the case may be, applied in that way, and
 - (b) except in section 403 include references to a loan being used to meet expenditure already incurred or, as the case may be, already incurred on such a use.
- (2) Sections 392, 396, 398, 401 and 403 apply to a loan only if it is made—
- (a) in connection with the use of money, and
 - (b) on the occasion of its use or within what is in the circumstances a reasonable time from its use.

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- (3) Those sections apply to a loan only if the loan is used as mentioned in those sections without first having been used for another purpose.
- (4) For the purposes of this Chapter the giving of credit for any money due from the purchaser under a sale is treated as the making of a loan used by the purchaser in making the purchase.

386 Loans partly meeting requirements

- (1) If, at the time a loan (“the mixed loan”) is used, only part of the mixed loan is a loan to which any of the provisions specified in section 383(2) apply, for the purposes of this Chapter that part (“the qualifying part”) is treated as a loan to which the provision in question applies.
- (2) Accordingly, the corresponding proportion of the interest on the mixed loan is eligible for relief.
- (3) If a mixed loan is partly repaid, for the purposes of this Chapter the corresponding proportion of the repayment is treated as repaying the qualifying part (but see section 406(5)).
- (4) In this section “the corresponding proportion” means the proportion that the qualifying part bears to the whole of the mixed loan at the time the mixed loan is used.

387 Exclusion of double relief etc

- (1) Interest for which relief is given under this Chapter is not allowable as a deduction for any other income tax purposes.
- (2) No relief is given under this Chapter for any tax year for the payment of any interest taken into account in calculating the profits of—
 - (a) any trade, profession or vocation,
 - (b) any UK property business, or
 - (c) any overseas property business.
- (3) If interest is so taken into account, no relief is given under this Chapter for any relevant tax year for other interest on the same debt or liability.
- (4) A tax year is a relevant one if the interest has been taken into account in calculating the profits of the trade, profession, vocation or business of the tax year.
- (5) For the purposes of subsection (3) all interest which—
 - (a) is capable of being taken into account in calculating the profits of a trade, profession, vocation or business, and
 - (b) is payable by the same person on money advanced to the person on current account,is treated as interest on the same debt.
- (6) It does not matter whether the money is advanced—
 - (a) on one or more accounts, or
 - (b) by the same or separate banks or other persons.

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- (7) The reference in subsections (2) to (4) to interest taken into account is a reference to interest allowed as a deduction in an assessment which can no longer be varied (whether on appeal or otherwise).

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