

# **FINANCE ACT 2009**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### ***Section 67: Deductions for Employee Liabilities***

##### **Summary**

1. **Section 67** will ensure that employee liabilities will only be relieved where they are not derived from arrangements the main purpose, or one of the main purposes, of which is the avoidance of tax. It will apply to individuals who seek to use sections 346 and 555 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) to obtain tax relief using tax avoidance arrangements. It will have no impact on those using the relief who are not attempting to avoid tax. It will have effect from 12 January 2009.

##### **Details of the Section**

2. Subsection (2) inserts a new subsection (2A) into section 346 of ITEPA.
3. New subsection (2A) prevents any deduction under section 346 of ITEPA where a payment is made as part of arrangements for which tax avoidance is either the main purpose or one of the main purposes.
4. New section 556A prevents any deduction under section 555 where a payment is made as part of arrangements for which tax avoidance is either the main purpose or one of the main purposes.
5. Subsection (4) provides that the new rules in section 346(2A) and section 556A have effect for payments made on or after 12 January 2009.

##### **Background Note**

6. Section 346 of ITEPA enables employees to claim deductions from earnings for payments of employment-related liabilities and of insurance premiums to indemnify against such liabilities. Any deduction due is given against earnings from the employment for the year in which the payment is made. Section 555 of ITEPA makes like provision in respect of former employees but also provides for the deduction to be set against the former employee's general income arising in the tax year in which the payment is made.
7. This section counters avoidance involving the abusive use of deductions for employment-related liabilities and is introduced in response to arrangements that involve the creation of a contrived liability through deliberate default.
8. The changes introduced by this measure were announced on 13 January 2009 by a Written Ministerial Statement tabled by the Financial Secretary to the Treasury. A Technical Note explaining who would be affected and how was published on the HM Revenue & Customs website on 12 January 2009.