



Income Tax Act 2007

2007 CHAPTER 3

PART 8

OTHER RELIEFS

CHAPTER 1

INTEREST PAYMENTS

General and supplementary

406 Effect of recovery of capital in the case of some loans

- (1) This section applies if the individual to whom a loan is made to which section 392, 396, 398 or 401 applies recovers any amount of capital from the company, partnership or co-operative concerned at any time after the loan is used.
- (2) The individual is treated for the purposes of this Chapter as having repaid that amount out of the loan at that time, whether or not such a repayment occurred.
- (3) Accordingly, only part of the interest that, apart from any such repayment, would be payable on the loan for any period after that time and eligible for relief is so eligible.
- (4) That part is so much of that interest as is attributable to the amount of the loan after the repayment.
- (5) In the case of a loan to which section 386 applies (loans partly meeting requirements), subsection (3) applies instead of section 386(3) (under which repayments are apportioned between the qualifying and non-qualifying parts of such loans).
- (6) The cases in which an individual is treated as having recovered an amount of capital for the purposes of this section are set out in section 407(1) to (3).

Status: Point in time view as at 01/01/2012.

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

407 Events counting as recovery of capital for section 406

- (1) An individual is treated as having recovered an amount of capital from a company for the purposes of section 406 if—
 - (a) the individual receives consideration of that amount or value—
 - (i) for the sale, exchange or assignment of part of the ordinary share capital of the company,
 - (ii) by way of repayment of part of that ordinary share capital, or
 - (iii) for assigning a debt due to the individual from the company, or
 - (b) the company repays that amount of a loan or advance from the individual.
- (2) An individual is treated as having recovered an amount of capital from a partnership for those purposes if—
 - (a) the individual receives consideration of that amount or value—
 - (i) for the sale, exchange or assignment of part of the individual's interest in the partnership, or
 - (ii) for assigning a debt due to the individual from the partnership, or
 - (b) the partnership repays that amount of a loan or advance from the individual, or
 - (c) the partnership returns that amount of capital to the individual.
- (3) An individual is treated as having recovered an amount of capital from a co-operative for those purposes if—
 - (a) the individual receives consideration of that amount or value—
 - (i) for the sale, exchange or assignment of part of the individual's shares in the co-operative,
 - (ii) by way of repayment of part of the individual's shares in the co-operative, or
 - (iii) for assigning a debt due to the individual from the co-operative, or
 - (b) the co-operative repays that amount of a loan or advance from the individual.
- (4) A sale or assignment that is not a bargain made at arm's length is treated for the purposes of this section as being made for a consideration of an amount equal to the market value of what is disposed of.

408 Replacement loans

- (1) This section applies to a replacement loan.
- (2) In subsection (1) “replacement loan” means a loan to which section 392, 396, 398 or 401 applies because the loan is used in repaying another loan (“the replaced loan”) to which that section applies.
- (3) This Chapter, except for sections 385 and 386, applies to the replacement loan as if that loan and the replaced loan were a single loan (subject to subsection (5)).
- (4) Accordingly, any restriction under section 406 (effect of recovery of capital in the case of some loans) which applies to the replaced loan applies to the replacement loan.
- (5) But this Chapter, except for sections 385 and 386, applies as if references to the use of the loan were references to the use of the original loan.

Status: Point in time view as at 01/01/2012.

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409 Business successions between partnerships

- (1) This section applies if—
 - (a) a loan to which section 398 applies is made to an individual,
 - (b) the partnership in question (“the old partnership”) is dissolved,
 - (c) on its dissolution another partnership of which the individual is a member (“the new partnership”) is formed to carry on the whole or part of the undertaking carried on by the old partnership, and
 - (d) interest payable on the loan for the period ending with the dissolution of the old partnership was eligible for relief (or would have been had any been payable).
- (2) This Chapter applies as if the old partnership and the new partnership were the same partnership.
- (3) Section 399(5) (salaried partners etc treated as partners) applies for the purposes of subsection (1)(c) as it applies for the purposes of section 399(2).

410 Other business successions and reorganisations

- (1) This subsection applies if—
 - (a) a loan to which one of the business loan provisions or section 398 (loan to invest in partnership) applies is made to an individual (“the original loan”),
 - (b) the company, partnership or co-operative in question is involved in a transaction as a result of which the individual acquires shares in or makes a loan to another company or a body that is a co-operative,
 - (c) interest payable on the original loan for the period ending with the time of the transaction was eligible for relief (or would have been had any been payable), and
 - (d) had the original loan been made at the time of the transaction and applied in acquiring the shares in or making the loan to the other company or the co-operative, the original loan would have fallen within one of the business loan provisions.
- (2) If subsection (1) applies, from the time of the transaction referred to in subsection (1)(b) the original loan is treated as if it had been made and applied as mentioned in subsection (1)(d).
- (3) In this section “the business loan provisions” means—
 - (a) section 392 (loan to buy interest in close company),
 - (b) section 396 (loan to buy interest in employee-controlled company), and
 - (c) section 401 (loan to invest in co-operative).

411 Ineligibility of interest where business is occupation of commercial woodlands

- (1) Interest that would be eligible for relief under this Chapter apart from this section is not eligible if—
 - (a) the interest is on a loan to which section 392, 396 or 398 applies, and
 - (b) the business carried on by the close company, employee-controlled company or partnership concerned consists of the occupation of commercial woodlands.

Status: Point in time view as at 01/01/2012.

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- (2) If only part of the business consists in such occupation, only part of the interest is ineligible for the relief.
- (3) That part is such part of the interest as it is just and reasonable to attribute to that part of the business having regard to all the relevant circumstances and, in particular, to the extent of the other part of the business.
- (4) For the purposes of this section two or more businesses carried on by a company or partnership are to be regarded as a single business.
- (5) In this section “commercial woodlands” means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

412 Information

- (1) A person (“the payer”) who claims relief under this Chapter for a payment of interest made in a tax year is entitled to request the person to whom the interest is paid to give the payer a statement in writing about that interest containing the information specified in subsection (3).
- (2) That request must be in writing.
- (3) The information is—
 - (a) the date when the debt was incurred,
 - (b) the amount of the debt when incurred,
 - (c) the interest paid in the tax year, and
 - (d) the name and address of the debtor.
- (4) The person to whom the interest is paid has a duty to comply with a request under subsection (1) and that duty is enforceable by the payer.
- (5) This section does not apply if the interest is paid to a building society or to a local authority.

Status:

Point in time view as at 01/01/2012.

Changes to legislation:

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