

Relief to individuals on loans applied in acquiring interest in partnerships

Part 08-03-10

This document should be read in conjunction with section 253 of the Taxes
Consolidation Act 1997

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1. Introduction

This manual outlines the relief available under section 253 TCA 1997, which provides for unrestricted relief to be given to an individual for interest paid on money borrowed to acquire a share in a partnership or to contribute or advance money to a partnership. A condition of obtaining relief is that the individual must, throughout the period from the application of the proceeds of the loan until the interest is paid, have personally acted as a partner in the conduct of the trade or profession carried on by the partnership. There are provisions to restrict the relief on the money borrowed where the individual has recovered any capital from the partnership.

The relief is not available for interest paid on new loans made on or after 15 October 2013 and relief for all existing loans is being phased out over 2014, 2015 and 2016 with no relief available as and from 1 January 2017. The restrictions on relief and the cessation provisions do not apply where the partnership is a farming partnership as defined in section 598A TCA.

The abolition of the relief for new loans does not apply to loans which replace existing qualifying loans, provided the new loan does not exceed the balance outstanding or the term of the original loan. The phasing out of the relief equally applies to these new loans for the years 2014, 2015 and 2016.

2. Qualifying Loans

The section applies to a loan used:

- to buy a share in a partnership,
- to contribute money to a partnership by means of capital or a premium,
- in advancing money to a partnership to be used wholly and exclusively for the purposes of the partnership business, or
- to pay off another qualifying loan.

The loan must have been applied within a reasonable timeframe. Furthermore, the loan must not have been used for some other purpose before being used in connection with the partnership. However, the placing of the funds on temporary deposit, for example, with a bank or a building society, should not be regarded as an application of the loan for "some other purpose".

3. Conditions for relief

Relief is given in respect of interest paid on a qualifying loan where:

- throughout the period from the application of the borrowed money until the interest is paid the individual personally acted in the conduct of the partnership business as a partner in the partnership, and
- the individual did not recover any capital from the partnership in that period.

4. Recovery of capital

If an individual recovers an amount of capital from the partnership without using this sum to reduce the amount of the loan, the amount of the qualifying loan is regarded as being reduced by the amount of capital recovered and the interest relief due is reduced accordingly.

An individual is to be treated as recovering an amount of capital if:

- the individual receives money or money's worth for the sale of any part of the individual's interest in the partnership,
- the partnership returns any of the capital to the individual or the partnership repays any amount advanced by the individual, or
- the individual receives a consideration of that amount or value for assigning a debt due to the individual from the partnership.

If an individual disposes of any part of his/her interest in the partnership, at less than arm's length value, the individual is treated as having recovered the market value of the interest in the partnership that was disposed of.

5. Replacement Loans

Relief is also available for replacement loans and the criteria listed above in respect of the conditions for relief and the recovery of capital also apply to any replacement loans.

6. The Relief

Interest eligible for relief under this section is to be deducted from or set against the borrower's income for the year in which the interest is paid. The relief can be given by repayment if necessary. Interest eligible for relief under this section is not eligible for relief under any other provision.

7. Phasing out and cessation of the relief for all partnerships other than farming partnerships

The relief is not available for interest paid on new loans, provided they are not qualifying replacement loans, made on or after 15 October 2013. Furthermore, the relief for all existing loans is not available as and from 1 January 2017.

Relief for interest paid on loans made prior to 15 October 2013 is restricted to:

- 75% of the qualifying interest for tax year 2014,
- 50% of the qualifying interest for the tax year 2015, and
- 25% of the qualifying interest for the tax year 2016.