

SCHEDULES

SCHEDULE 7

Section 34

CT PAYMENT PLANS FOR TAX ON CERTAIN TRANSACTIONS WITH EEA RESIDENTS

CT payment plans

1 In TMA 1970, after section 59FA insert—

“59FB CT payment plans for tax on certain transactions with EEA residents

Schedule 3ZC makes provision enabling a company that is liable to pay corporation tax arising in connection with certain transactions to defer payment of the tax by entering into a CT payment plan.”

2 After Schedule 3ZB to TMA 1970 insert—

“SCHEDULE 3ZC

Section 59FB

CT PAYMENT PLANS FOR TAX ON CERTAIN TRANSACTIONS WITH EEA RESIDENTS

Introduction

1 This Schedule makes provision enabling a company that is liable to pay qualifying corporation tax for an accounting period to defer payment of the tax by entering into a CT payment plan.

Qualifying corporation tax

2 (1) For the purposes of this Schedule a company is liable to pay qualifying corporation tax for an accounting period if CT1 is greater than CT2 where—

CT1 is the corporation tax which the company is liable to pay for the accounting period, and

CT2 is the corporation tax which the company would be liable to pay for the accounting period if any gains, credits, losses or debits arising in respect of qualifying transactions of the company were ignored.

(CT2 will be zero if the company would not be liable to pay any corporation tax for the period).

(2) The amount of qualifying corporation tax which the company is liable to pay is the difference between CT1 and CT2.

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Qualifying transactions

- 3 (1) For the purposes of this Schedule each of the following is a qualifying transaction of a company (“the company concerned”)—
- (a) a disposal within sub-paragraph (2),
 - (b) a transaction within sub-paragraph (3),
 - (c) a transaction within sub-paragraph (4), and
 - (d) a transfer within sub-paragraph (5).
- (2) A disposal is within this sub-paragraph if—
- (a) it is a disposal by the company concerned of an asset,
 - (b) it is a disposal to a company (“the transferee”) that at the time of the disposal is resident outside the United Kingdom in an EEA state, and
 - (c) it is a disposal to which section 139 or 171 of TCGA 1992 would apply were the transferee resident at the time of the disposal in the United Kingdom instead.
- (3) A transaction is within this sub-paragraph if—
- (a) it is a transaction, or the first in a series of transactions, as a result of which the company concerned is directly or indirectly replaced as a party to a loan relationship by another company (“the transferee”),
 - (b) at the time of the transaction the transferee is resident outside the United Kingdom in an EEA state, and
 - (c) it is a transaction to which section 340(3) of CTA 2009 would apply were the transferee resident at the time of the transaction in the United Kingdom instead.
- (4) A transaction is within this sub-paragraph if—
- (a) it is a transaction, or the first in a series of transactions, as a result of which the company concerned is directly or indirectly replaced as a party to a derivative contract by another company (“the transferee”),
 - (b) at the time of the transaction the transferee is resident outside the United Kingdom in an EEA state, and
 - (c) it is a transaction to which section 625(3) of CTA 2009 would apply were the transferee resident at the time of the transaction in the United Kingdom instead.
- (5) A transfer is within this sub-paragraph if—
- (a) it is a transfer from the company concerned of an intangible fixed asset,
 - (b) it is a transfer to a company (“the transferee”) that immediately after the transfer is resident outside the United Kingdom in an EEA state, and
 - (c) it is a transfer to which section 775(1) of CTA 2009 would apply were the transferee resident immediately after the transfer in the United Kingdom instead.

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- (6) In this Schedule “transferee”, in relation to a qualifying transaction of a company, means the transferee referred to in sub-paragraph (2), (3), (4) or (5) (as the case may be).

Eligibility to enter a CT payment plan

- 4 (1) A company that is liable to pay qualifying corporation tax for an accounting period may enter into a CT payment plan in respect of the tax in accordance with this Schedule.
- (2) The CT payment plan may relate to—
- (a) all of the qualifying corporation tax that the company is liable to pay for the accounting period, or
 - (b) only part of the qualifying corporation tax that the company is liable to pay for the accounting period.
- (3) In this Schedule “deferred tax”, in relation to a CT payment plan, means the qualifying corporation tax to which the plan relates.

Application to enter a CT payment plan

- 5 A company that is liable to pay qualifying corporation tax for an accounting period may enter into a CT payment plan in respect of the tax only if—
- (a) an application to enter into the plan is made to HMRC before the end of the period of 9 months beginning immediately after the accounting period, and
 - (b) the application contains details of all the matters which are required by paragraph 7 to be specified in the plan.

Entering into a CT payment plan

- 6 (1) A company enters into a CT payment plan if—
- (a) the company agrees to pay, and an officer of Revenue and Customs agrees to accept payment of, the deferred tax in accordance with paragraphs 9 to 12,
 - (b) the company agrees to pay interest on the deferred tax in accordance with paragraph 8(3) and (5), and
 - (c) the plan meets the requirements of paragraph 7 as to the matters that must be specified in it.
- (2) The CT payment plan may, in the circumstances mentioned in sub-paragraph (3), contain appropriate provision regarding security for HMRC in respect of the payment of the deferred tax.
- (3) Those circumstances are where an officer of Revenue and Customs considers that agreeing to accept payment of the deferred tax in accordance with paragraphs 9 to 12 would present a serious risk as to collection of the tax in the absence of provision regarding security in respect of its payment.
- (4) A CT payment plan is void if any information furnished by the company in connection with the plan does not fully and accurately disclose

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all facts and considerations material to the decision of the officer of Revenue and Customs to accept payment of the deferred tax in accordance with paragraphs 9 to 12.

Content of CT payment plan

- 7 (1) A CT payment plan entered into by a company must—
- (a) specify the accounting period to which the plan relates (“the accounting period concerned”),
 - (b) specify the amount of qualifying corporation tax which, in the company’s opinion, is payable by it in respect of the accounting period concerned,
 - (c) specify the amount of the deferred tax,
 - (d) identify each qualifying transaction of the company in respect of which gains or credits arose in the accounting period concerned, and
 - (e) specify in relation to each of those qualifying transactions—
 - (i) the name of the transferee,
 - (ii) the EEA state in which the transferee was resident at the time of the transaction, and
 - (iii) the amount of the deferred tax that is attributable to the transaction.
- (2) The amount of the deferred tax that is attributable to a qualifying transaction of the company in respect of which a gain or credit arose in the accounting period concerned is—

$$\frac{A}{B} \times T$$

where—

A is the gain or credit that arose in the accounting period concerned in respect of the qualifying transaction,

B is the total gains or credits that arose in the accounting period concerned in respect of all qualifying transactions of the company,

T is the amount of the deferred tax.

Effect of CT payment plan

- 8 (1) This paragraph applies where a CT payment plan is entered into by a company in accordance with this Schedule.
- (2) As regards when the deferred tax is payable—
- (a) the CT payment plan does not prevent the deferred tax becoming due and payable under section 59D or 59E, but
 - (b) the Commissioners for Her Majesty’s Revenue and Customs—
 - (i) may not seek payment of the deferred tax otherwise than in accordance with paragraphs 9 to 12;

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- (ii) may make repayments in respect of any amount of the deferred tax paid, or any amount paid on account of the deferred tax, before the CT payment plan is entered into.
- (3) As regards interest—
 - (a) the deferred tax carries interest in accordance with Part 9 as if the CT payment plan had not been entered into, and
 - (b) each time a payment is made in accordance with paragraphs 9 to 12, it is to be paid together with any interest payable on it.
 - (4) As regards penalties, the company will be liable to penalties for late payment of the deferred tax only if it fails to make payments in accordance with paragraphs 9 to 12 (see item 6ZAA of the Table at the end of paragraph 1 of Schedule 56 to the Finance Act 2009).
 - (5) Any of the deferred tax which is for the time being unpaid may be paid at any time before it becomes payable under paragraphs 9 to 12 together with interest payable on it to the date of payment.

The payment method: instalments

- 9 (1) Where a CT payment plan is entered into by a company, the deferred tax is due in 6 instalments of equal amounts as follows—
 - (a) the first instalment is due on the first day after the period of 9 months beginning immediately after the end of the accounting period to which the plan relates, and
 - (b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.
- (2) But see paragraphs 10 to 12 for circumstances in which all or part of the outstanding balance of the deferred tax becomes due otherwise than by those instalments.

The payment method: all of outstanding balance due

- 10 (1) Where at any time after a CT payment plan is entered into by a company an event mentioned in sub-paragraph (2) occurs the outstanding balance of the deferred tax is due on the date on which the next instalment of that tax would otherwise be due.
- (2) The events are—
 - (a) the company becoming insolvent or entering administration;
 - (b) the appointment of a liquidator in respect of the company;
 - (c) an event under the law of a country or territory outside the United Kingdom corresponding to an event in paragraph (a) or (b);
 - (d) the company failing to pay any amount of the deferred tax for a period of 12 months after the date on which the amount becomes due;
 - (e) the company ceasing to be within the charge to corporation tax.

All of outstanding balance attributable to particular qualifying transaction due

- 11 (1) This paragraph applies where—
- (a) a CT payment plan is entered into by a company,
 - (b) during the instalments period a trigger event occurs in relation to a qualifying transaction identified in the plan, and
 - (c) a trigger event has not previously occurred in relation to that qualifying transaction during the instalments period.
- (2) A trigger event occurs in relation to a qualifying transaction if the transferee ceases to be resident in an EEA state and, on so ceasing, does not become resident another EEA state.
- (3) A trigger event occurs in relation to a qualifying transaction if the company and the transferee cease to be members of the same group as one another.
- (4) A trigger event occurs in relation to a qualifying transaction within subparagraph (2) or (5) of paragraph 3 if the transferee disposes of the asset that is the subject of the transaction.
- (5) A trigger event occurs in relation to a qualifying transaction within subparagraph (3) or (4) of paragraph 3 if the transferee ceases to be a party to the loan relationship or derivative contract concerned.
- (6) On the occurrence of the trigger event an amount of the deferred tax is due.
- (7) The amount due is—

$$(A - B) \times \frac{O}{T}$$

where—

“A” is the amount of the deferred tax that is attributable to the qualifying transaction (see paragraph 7(2)),

“B” is the amount of the deferred tax that has previously become due under paragraph 12 by reason of a partial trigger event occurring in relation to the qualifying transaction,

“O” is the amount of the deferred tax that is outstanding at the time of the trigger event, and

“T” is the amount of the deferred tax.

- (8) In this paragraph “the instalments period” means the period—
- (a) beginning with the time the CT payment plan is entered into, and
 - (b) ending with the day on which the final instalment of the deferred tax is due under paragraph 9.

Part of outstanding balance attributable to particular qualifying transaction due

- 12 (1) This paragraph applies where—
- (a) a CT payment plan is entered into by a company,
 - (b) during the instalments period a partial trigger event occurs in relation to a qualifying transaction listed in the plan, and
 - (c) a trigger event has not previously occurred in relation to that qualifying transaction during the instalments period.
- (2) A partial trigger event occurs in relation to a qualifying transaction within sub-paragraph (2) of paragraph 3 if the transferee disposes of part (but not all) of the asset that is the subject of the transaction.
- Section 21(2)(b) of TCGA 1992 (meaning of part disposal of an asset) applies for the purposes of this sub-paragraph as it applies for the purposes of that Act.
- (3) A partial trigger event occurs in relation to a qualifying transaction within sub-paragraph (3) or (4) of paragraph 3 if there is a disposal by the transferee of a right or liability under the loan relationship or derivative contract concerned which amounts to a related transaction (as defined in section 304 or 596 of CTA 2009 as the case may be).
- (4) A partial trigger event occurs in relation to a qualifying transaction within sub-paragraph (5) of paragraph 3 if the transferee enters into a subsequent transaction which results in a reduction in the accounting value of the intangible fixed asset that is the subject of the qualifying transaction but does not result in the intangible fixed asset ceasing to be recognised in the transferee's balance sheet.
- (5) In relation to an intangible fixed asset that has no balance sheet value (or no longer has a balance sheet value) sub-paragraph (4) applies as if, immediately before the subsequent transaction, it did have a balance sheet value.
- (6) On the occurrence of the partial trigger event an amount of the deferred tax is due.
- (7) The amount due is the amount that is just and reasonable having regard to the amount that would have been due had a trigger event occurred in relation to the qualifying transaction instead.
- (8) In this paragraph “the instalments period” and “trigger event” have the same meaning as in paragraph 11.”

Penalties

- 3 (1) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended as follows.
- (2) In the Table at the end of paragraph 1, after entry 6ZA insert—

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“6ZAA	Corporation tax	Amount payable under a CT payment plan entered into in accordance with Schedule 3ZC to TMA 1970	The later of— (a) the first day after the period of 12 months beginning immediately after the accounting period to which the CT payment plan relates, and (b) the date on which the amount is payable under the plan.”
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- (3) In paragraph 4 (amount of penalty in respect of certain late payments) in subparagraph (1) for “6ZA” substitute “6ZAA”.

Commencement

- 4 (1) The amendments made by this Schedule—
- (a) have effect in relation to accounting periods ending on or after 10 October 2018, and
 - (b) are to be treated as having come into force on 11 July 2019.
- (2) The condition for entering into a CT payment plan that is specified in paragraph (a) of paragraph 5 of Schedule 3ZC to TMA 1970 is to be treated as met if an application to enter into the plan is made to HMRC on or before 30 June 2020.

Power of repeal

- 5 (1) The Treasury may by regulations—
- (a) repeal section 59FB of TMA 1970,
 - (b) repeal Schedule 3ZC to TMA 1970, and
 - (c) amend Schedule 56 to FA 2009 in consequence of those repeals.
- (2) Regulations under this paragraph may contain savings and transitional provisions.
- (3) Regulations under this paragraph are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.