HMRC - CTM34133 - Liabilities Arising: Deferral Of Exit Charges: Exit Charge Payment Plan: General

What tax may be deferred?

The amount of tax which a company (UK resident, or non-UK resident with a UK permanent establishment) may defer is the difference between the amount of corporation tax that the company is liable to pay for the migration accounting period (“CT1”) and the amount to which it would have been liable absent the various exit charges mentioned at CTM34130 (“CT2”). This difference is called the ECPP, exit charge payment plan, tax. Thus:

ECPP tax = CT1 - CT2

In the case of income arising on financial assets, loan relationships and derivative contracts, the tax is limited to that on the amount of profits which would not otherwise have been brought into account if the company had drawn up accounts to the date on which it migrates or, in appropriate cases, the date of the event which otherwise gives rise to the exit charge.

What is an exit charge payment plan (ECPP)?

It is an agreement between a company and HMRC which will override the usual collection and penalty provisions in TMA70 when a company does not pay the full amount of corporation tax due at the normal time. Under the agreement, the company agrees to pay the deferred tax liabilities in accordance with the plan along with interest from the normal due date for payment of the tax to the time it is actually paid. Security may be taken for the deferred payments under the plan where HMRC believe there would be a serious risk to collection of tax. This will normally take the form of a bank guarantee. Assessing the risk to collection of tax requires consideration of such factors as whether the tax could be recovered from another group company or controlling director under TCGA92/S190. See CG45970 onwards

What details need to be supplied?

The company needs to

give details of when, and to where, the company or permanent establishment is migrating

estimate, to the best of its ability, the amount of tax that qualifies for deferral

say how much of that tax it wishes to include in the plan, and

indicate the method it will use to determine when the tax is to be paid under the plan.

What methods are available?

There are two alternative methods the company may use to determine the period over which tax payments may be deferred, the instalment method and the realisation method. These are considered in CTM34134 and CTM34135. It is possible to mix and match the two methods for different assets.

Under either method outstanding tax becomes payable at the next instalment date on a ‘relevant event’ defined at TMA70/SCH3ZB/PARA 13 (4):

the company becomes insolvent, a liquidator or administrator is appointed (or similar procedures are triggered under the law of other EEA States), or

the company ceases to have residence in any EEA State.

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