PHASE CREDITS – WORKED EXAMPLE

Introduction

The following example illustrates how phase credits can be created in a pre-CIL phased development and can be applied, if appropriate, to offset the levy liability of other phases of the development resulting from a section 73 planning permission.

The general principle is that CIL should not be charged on development that is already permitted through the pre-CIL permission, but any additional liability that is created through the in-CIL permission should be subject to the levy. The calculations are explained in Schedule 1 paragraphs 7 and 8.

Where (P) is a pre-CIL permission, the amount of CIL payable in respect of the development granted by (B) is the chargeable amount for the development minus the relief amount where—

(a) the chargeable amount for the development is—

$$(X - Y)$$

(b) the relief amount is—

$$(Rx - NRy)$$

Where:

X = the chargeable amount for the development for which (B) was granted, calculated in accordance with paragraph 1;

Rx = the amount of any applicable relief in relation to the development for which (B) was granted under Part 6 of these Regulations;

Y = the amount that would have been the chargeable amount for the development for which (P) was granted, calculated in accordance with paragraph 1 (but as if P first permitted development on the same day as (B) – i.e. the index I_P for (P) were the index figure for the calendar year in which (B) was granted and the relevant charging schedule was the one in effect at the time that (B) first permits development);

NRy = the amount of any notional relief in relation to the development for which (P) was granted, determined in accordance with sub-paragraph (5) but with the same modifications that apply to Y above.

To simplify the calculations so the focus is on the creation and application of phase credits, the example does not involve any relief. For an explanation of how relief is taken into account when a planning permission is amended through section 73, see example 6 in the 'Calculating CIL liability – section 73 permissions' worked examples.

For the purposes of this example, which involves three phases of residential development, the following figures have been used:

Pre-CIL planning permission (P)	
Phase 1 - gross internal area (square metres)	1000
Phase 2 - gross internal area (square metres)	800
Phase 3 - gross internal area (square metres)	600
Index for year planning permission (P) was granted (I_p)	N/A
Index for year charging schedule was adopted (I_c)	N/A
Residential rate (R_1) (£ per square metre)	N/A

In-CIL amended permission (B)	
Phase 1 - gross internal area (square metres)	800
Phase 2 - gross internal area (square metres)	900
Phase 3 - gross internal area (square metres)	800
Index for year planning permission (B) was granted (I_p)	140
Index for year charging schedule was adopted (I_c)	100
Residential rate (R_1) (£ per square metre)	£200

Phase 1

$$X = \frac{R \times A \times Ip}{Ic} = \frac{200 \times 800 \times 140}{100} = \textbf{£224,000}$$

$$X = \frac{R \times A \times Ip}{Ic} = \frac{200 \times 1000 \times 140}{100} = \textbf{£280,000}$$

$$(X - Y) = £224{,}000 - £280{,}000 = \mathbf{-£56{,}000}$$

Prior to the 2019 Regulations coming into force, this figure would have reverted to zero. Now, as the figure is negative, a phase credit is created from this phase (‘the donating phase’). All or part of this phase credit can be applied to reduce the amount of CIL in respect of another phase (a ‘receiving phase’).

Phase 2

$$X = \frac{R \times A \times Ip}{Ic} = \frac{200 \times 900 \times 140}{100} = \textbf{£252,000}$$

$$Y = \frac{R \times A \times Ip}{Ic} = \frac{200 \times 800 \times 140}{100} = \textbf{£224,000}$$

$$(X - Y) = £252{,}000 - £224{,}000 = +£\mathbf{28{,}000}$$

The chargeable amount for Phase 2 is therefore £28,000. However, as there is a phase credit from Phase 1, the phase credit can be applied to Phase 2. In this case as the phase credit exceeds the chargeable amount – the excess sum, having donated £28,000 to Phase 2 (i.e. £28,000) is available to be applied to a further phase (in this case Phase 3).

<u>Phase 3</u>

$$X = \frac{R \times A \times Ip}{Ic} = \frac{200 \times 800 \times 140}{100} = \mathbf{£224{,}000}$$

$$Y = \frac{R \times A \times Ip}{Ic} = \frac{200 \times 600 \times 140}{100} = \mathbf{£168{,}000}$$

$$(X - Y) = £224{,}000 - £168{,}000 = +£\mathbf{56{,}000}$$

The chargeable amount for Phase 3 is therefore £56,000. However, as there is remaining phase credit from Phase 1 (£28,000), the phase credit can also be applied to Phase 3. In this case as the remaining phase credit is less than the chargeable amount – the chargeable amount payable is:

£56,000- £28,000 = £28,000.

For all or part of a phase credit to be applied to reduce the amount of CIL due, the development in relation to the donating phase must have commenced and the developer must have applied to the collecting authority on Form 14 (see Schedule 1 paragraph 8 (3)(c)).

If, at completion of the development, the amount of phase credit exceeds the total chargeable amount across receiving phases, the excess credit reverts to zero and no refund is applicable.