

**1 Repaying sums paid to HMRC under agreements relating to certain loans etc**

- (1) The Commissioners for Her Majesty's Revenue and Customs ("the Commissioners") must establish a scheme under which they may on an application made to them before 1 October 2021 –
  - (a) repay the whole or part of a qualifying amount paid or treated as paid to them under a qualifying agreement, or
  - (b) waive the payment of the whole or part of a qualifying amount due to be paid to them under a qualifying agreement.
- (2) An agreement is a qualifying agreement if –
  - (a) it is an agreement with the Commissioners,
  - (b) it is made on or after 16 March 2016 and before 11 March 2020, and
  - (c) it imposes an obligation on any party to the agreement to pay an amount of income tax that is referable (directly or indirectly) to a qualifying loan or quasi-loan.
- (3) An amount paid, treated as paid or due to be paid under a qualifying agreement is a qualifying amount if –
  - (a) the amount is referable (directly or indirectly) to a qualifying loan or quasi-loan, and
  - (b) the amount is one that an officer of Revenue and Customs had no power to recover at the time the agreement was made.
- (4) But an amount that is referable (directly or indirectly) to a qualifying loan or quasi-loan made on or after 9 December 2010 is not a qualifying amount by reason of subsection (3) unless at a time when an officer of Revenue and Customs had power to recover the amount a tax return, or two or more tax returns taken together, contained a reasonable disclosure of the loan or quasi-loan.
- (5) For the purposes of subsection (4), a tax return, or two or more tax returns taken together, contained a reasonable disclosure of the loan or quasi-loan if the return or returns taken together –
  - (a) identified the qualifying loan or quasi-loan,
  - (b) identified the person to whom the qualifying loan or quasi-loan was made,
  - (c) identified any arrangements in pursuance of which, or in connection with which, the qualifying loan or quasi-loan was made, and
  - (d) provided such other information as was sufficient for it to be apparent that a reasonable case could be made that the amount concerned was payable to the Commissioners.
- (6) An amount paid, treated as paid or due to be paid under a qualifying agreement is also a qualifying amount if it is interest on another qualifying amount paid, treated as paid or due to be paid under that agreement.

- (7) A loan or quasi-loan is a qualifying loan or quasi-loan if it is made on or after 6 April 1999 and before 6 April 2016.
- (8) In this section –  
“loan” and “quasi-loan” have the meaning they have in Part 1 of Schedule 11 to F(No2)A 2017 and Schedule 12 to that Act (see paragraph 2 of each of those Schedules),  
“tax return” means a return made under section 8 of TMA 1970 and any accompanying accounts, statements or documents.
- (9) Section 2 makes further provision in connection with the scheme established under this section.

## **2 Operation of the scheme**

- (1) The scheme may make provision –  
(a) in relation to all qualifying agreements or specified descriptions of qualifying agreements only, and  
(b) in relation to all qualifying amounts or specified descriptions of qualifying amounts only.
- (2) The scheme may make provision for an amount that is not a qualifying amount by reason only of subsection (4) of section 1 to be treated in certain cases as if it were a qualifying amount.
- (3) The scheme may make provision about the making of applications under the scheme, including –  
(a) provision as to who is or is not eligible to apply,  
(b) provision as to the conditions that must be met in order to apply,  
(c) provision as to the form, manner and content of an application, and  
(d) provision as to information or evidence to be provided in support of an application.
- (4) The scheme may make provision about the determination of applications under the scheme, including –  
(a) provision in accordance with which the Commissioners must determine whether to exercise their discretion to repay or waive the payment of a qualifying amount, and  
(b) provision in accordance with which the Commissioners must determine how much of any qualifying amount to repay or waive.
- (5) The scheme may include provision authorising the Commissioners to make a repayment or waiver conditional –  
(a) on the applicant or any other person agreeing to the termination or variation of the qualifying agreement concerned,  
(b) on the applicant or any other person making a new agreement with the Commissioners, or  
(c) on the satisfaction of such other conditions as may be specified or determined by the Commissioners.
- (6) The scheme may provide that in making any determination under the scheme the Commissioners may or must take account of –  
(a) the effect the qualifying agreement concerned has had, or may have, on the applicant or any other person (for example, the effect it has had, or may have, on any liability, relief or benefit),

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- (b) the effect any repayment or waiver would have on the applicant or any other person (for example, the effect it would have on any liability, relief or benefit), and
    - (c) such other matters as may be specified.
  - (7) The scheme may provide that a repayment under the scheme of a qualifying amount of a specified description may be ignored for the purposes of determining –
    - (a) whether a person is entitled under any enactment to a payment, benefit or relief of a specified description and, if so, the amount or value of that payment, benefit or relief, or
    - (b) whether a person is subject under any enactment to a liability of a specified description and, if so, the extent of that liability.
  - (8) The scheme may make provision for or in connection with the recovery by the Commissioners of –
    - (a) any amount repaid under the scheme in circumstances where the Commissioners consider that the repayment should not have been paid, or
    - (b) any amount the payment of which has been waived under the scheme in circumstances where the Commissioners consider that the waiver should not have been granted.
  - (9) The scheme may be amended by the Commissioners from time to time.
  - (10) In this section –
    - “the scheme” means the scheme established under section 1,
    - “specified” means specified in the scheme, and
    - “the Commissioners, “qualifying amount” and “qualifying agreement” have the meaning they have in section 1.