HM Revenue & Customs

Single Payment Scheme and Capital Gains Tax Roll-Over Relief

Who is likely to be affected?

Farmers, including companies carrying on a farming business, who dispose of or acquire entitlements under the EU Single Payment Scheme (SPS).

General description of the measure

The measure will preserve the availability of roll-over relief in relation to rights to SPS payments following changes to the EU scheme.

Policy objective

Roll-over relief allows businesses to defer capital gains tax (CGT) where proceeds from the disposal of certain classes of qualifying asset are reinvested into new qualifying assets. This helps businesses modernise and expand by deferring the CGT due.

The objective of the measure is to ensure farmers are not disadvantaged by losing their existing right to claim roll-over relief when they dispose of or acquire entitlements to SPS payments.

Background to the measure

Entitlements to payments under the SPS – the principal agricultural subsidy scheme in the European Union – have been included in the classes of assets eligible for CGT roll-over relief since 22 March 2005.

The EU directive under which SPS entitlements previously arose was repealed on 1 January 2009 and replaced with a similar directive.

SPS entitlements under the new directive do not qualify for roll-over relief, because the roll-over relief legislation defines SPS entitlements in terms of the original 2003 EU directive. The effect of this is that disposals and acquisitions of entitlements under the current SPS are no longer included under the classes of assets that are eligible for roll-over relief.

This measure was announced at Budget 2011.

Detailed proposal

Operative date

The revisions in this measure will be retrospective and have effect on or after 1 January 2009.

Current law

Roll-over relief is provided for in sections 152 to 159 of the Taxation of Chargeable Gains Act 1992 (TCGA). The classes of qualifying assets are listed in section 155. SPS entitlements are in Class 7A.

Proposed revisions

Legislative changes will be made in Finance Bill 2012 so that that the availability of roll-over relief in respect of entitlements to SPS payments is preserved by making appropriate amendments to the classes of qualifying assets in section 155 TCGA.

It will also allow for any future changes of this sort to be dealt with through secondary legislation. Existing powers that allow for additions to the classes of assets eligible for roll-over relief to be made by Treasury Order will be amended to ensure that existing classes can be maintained in a similar way.

Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	negligible	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2012.				
Economic impact	No additional impact is envisaged.				
Impact on individuals and households	The impact on individuals and households is negligible. There are only around 7,000 transfers of entitlement to payments under SPS a year and the measure is expected to have no impact on the numbers, amounts or cost of claims involved.				
Equalities impacts	The gender split for CGT payers is relatively stable over time, with around 60 per cent of filers male and 40 per cent female. It is not known how this pattern might change for farmers but we do not expect this measure to create a disproportionate impact on a particular group of people.				
Impact on business including civil society organisations	This measure has a negligible impact on business and administrative burdens as the main impact is to ensure the continuation of an existing relief. There is no impact on civil society organisations.				
Operational impact (£m) (HMRC or other)	No additional impact is envisaged.				
Other impacts	No additional impact on competition, small firms or rural proofing is expected as this measure ensures the continuation of an existing relief for a small number of payments under an EU agricultural scheme.				

Monitoring and evaluation

This measure will be kept under review through communication with relevant taxpayer groups.

Further advice

If you have any questions about this change, please contact Craig Griffith on 020 7147 3395 (email: craig.griffith@hmrc.gsi.gov.uk).

1 Roll-over relief

(1) In section 155 of TCGA 1992 (roll-over relief: relevant classes of assets), in the entry for Class 7A, for "Council Regulation (EC) No. 1782/2003" substitute "Council Regulation (EC) No 73/2009".

(2) In section 86 of FA 1993, for subsection (2) (power to add to classes specified in section 155 of TCGA 1992) substitute—

"(2) The Treasury may by order made by statutory instrument amend section 155 of the Taxation of Chargeable Gains Act 1992 (roll-over relief: relevant classes of assets) so as to add to or amend the classes of assets specified in that section.

(2A) But an order under subsection (2) may not restrict the assets which fall within a class listed in that section (whether by virtue of subsection (2) or otherwise).

(2B) An order under subsection (2) may make such consequential amendments of section 156ZB of, or Schedule 7AB to, the Taxation of Chargeable Gains Act 1992 as appear to the Treasury to be appropriate."

(3) Accordingly, section 43(3) of FA 2002 is repealed.

(4) The amendment made by subsection (1) has effect where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) is on or after 1 January 2009.

EXPLANATORY NOTE

ROLL-OVER RELIEF

SUMMARY

1. This clause preserves the availability of capital gains roll-over relief in relation to farmers' payment entitlements under the European Union (EU) Single Payment Scheme following changes to the Scheme in 2009.

2. The clause also allows for future changes to the relevant classes of assets in roll-over relief to be made by secondary legislation.

DETAILS OF THE CLAUSE

3. Subsection (1) amends class of assets 7A (payment entitlements under the single payment scheme) in section 155 of the Taxation of Chargeable Gains Act 1992 ('TCGA 1992') to reflect a change in the EU Regulations governing the scheme.

4. Subsection (2) replaces section 86(2) of Finance Act 1993 and inserts subsections 2A and 2B. The new subsection (2) allows the Treasury to amend section 155 of TCGA 1992 by statutory instrument so as to add classes of assets or amend existing classes. New subsection (2A) prevents any order being made under the power in subsection (2) which limits classes of assets qualifying for roll-over relief. New subsection (2B) allows for reasonable consequential amendments to be made to section 156ZB (interaction with corporation tax roll-over relief in cases of realisation and reinvestment) of, or Schedule 7AB (roll-over of degrouping charge on business assets) to, TCGA 1992 in line with those changes made through new subsection (2).

5. Subsection (3) repeals an earlier amendment to section 86(2) of Finance Act 1993, which is superseded by subsection (2) above.

6. Subsection (4) applies the change in subsection (1) retrospectively to the time of the change in the EU Regulations in 2009 providing for a continuous availability of capital gains tax roll-over relief for single payment scheme payment entitlements.

BACKGROUND NOTE

7. Roll-over relief (as the reliefs at sections 152-159 of TCGA 1992 are commonly referred to) permits the deferral of some or all of a chargeable gain on the disposal of a qualifying business asset where

the consideration received for that business asset is wholly or partly applied in acquiring replacement qualifying business assets.

8. Qualifying business assets are listed in section 155 TCGA 1992. Class 7A refers to the single payment scheme and, more specifically, the EU Regulation under which payments were previously made (Regulation (EC) 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers).

9. Regulation (EC) 1782/2003 was withdrawn from 1 January 2009 and replaced by Regulation (EC) 73/2009. This meant that without an amendment to class 7A, as listed in section 155 of TCGA 1992, payments made through the single payment scheme would no longer qualify for roll-over relief.

10. Subsection 86(2) of Finance Act 1993 provides a power for new classes of assets to be added to the list of those qualifying for roll-over relief by Treasury Order; an amendment to an existing asset requires primary legislation through the Finance Bill.

11. If you have any questions about this change, or comments on the legislation, please contact Craig Griffith on 020 7147 3395 (email: capitalgains.taxteam@hmrc.gsi.gov.uk).