

Harbour Reorganisation Schemes: Corporation Tax and Stamp Duty: Repeal of Reliefs

Who is likely to be affected?

Harbour Authorities involved in certified harbour reorganisation schemes under section 18 of the Harbours Act 1964.

General description of the measure

This measure repeals reliefs where the trade or assets of a company are transferred to a Harbour Authority under a certified harbour reorganisation scheme:

- any assets transferred from the company to the Authority are treated as being transferred for a value that creates neither a gain nor a loss for the transferor;
- any capital allowances, allowable capital losses or unused trading losses of the transferor company's trade are available to the Authority; and
- no stamp duty is chargeable on the transfer of stock or marketable securities to the Authority.

The Government believes that the future need for these reliefs is low, and they are therefore being repealed.

Policy objective

The repeals support the Government's objective to simplify the tax system and are part of a package of measures which will repeal reliefs that are no longer necessary, have not achieved their policy rationale or are distortive.

Background to the measure

Following the Office of Tax Simplification review of reliefs, the Government announced at Budget 2011 that it would repeal seven reliefs in Finance Act 2011 and confirmed its intention to abolish a further 36 reliefs in Finance Bill 2012 and beyond, subject to a period of consultation.

Consultation on the abolition of 36 tax reliefs was published on 27 May 2011 and views were requested on the Government's proposal to repeal these reliefs. The Government response was published on 6 December 2011. All documents are available on both the HM Treasury and HM Revenue & Customs websites.

Detailed proposal

Operative date

These reliefs will cease to be available for transactions on or after 1 April 2013.

Current law

- The relief from stamp duty for transfers made in connection with certified harbour reorganisation schemes is set out in section 45 of the Finance Act 1966.
- Sections 991-995 of the Corporation Tax Act 2010 disapply the corporation tax rules that apply where a person starts to carry on a trade, or ceases to carry on a trade, where

there is a transfer of a trade to a Harbour Authority under a certified harbour reorganisation scheme. They also provide the reliefs for trade losses, capital allowances and capital losses.

- Section 221 of the Taxation of Chargeable Gains Act 1992 provides relief for the transfer of assets to a Harbour Authority under a certified harbour reorganisation scheme.

Proposed revisions

Legislation will be introduced in Finance Bill 2012 to withdraw these reliefs and make consequential amendments.

Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	-	-	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	These changes have no significant economic impacts.				
Impact on individuals and households	There will be no impact on individuals or households as these changes only affect Harbour Authorities involved in certified harbour reorganisation schemes.				
Equalities impacts	Potential impacts have been considered and no different impact has been identified on people with protected characteristics.				
Impact on business including civil society organisations	These changes are not expected to have an impact on business as there is no evidence of recent or planned use of the reliefs by Harbour Authorities involved in a certified reorganisation scheme.				
Operational impact (£m) (HMRC or other)	There will be a negligible operational impact for HMRC.				
Other impacts	The potential for other impacts has been considered and none have been identified.				

Monitoring and evaluation

These changes do not require monitoring or evaluation as they remove unnecessary reliefs. Any correspondence received on the impact of the repeals will be dealt with on a case by case basis.

Further advice

Please contact Jane Ewart on 020 7147 3794 (email: jane.ewart1@hmrc.gsi.gov.uk) if you have any queries regarding the stamp duty change or contact Philip Donlan on 020 7147 2633 (email: philip.donlan@hmrc.gsi.gov.uk) for queries regarding the corporation tax changes.

1 Abolition of harbour reorganisation scheme reliefs

- (1) Section 45 of FA 1966 (stamp duty) is repealed.
- (2) Section 221 of TCGA 1992 (chargeable gains) is repealed.
- (3) Sections 991 to 995 of CTA 2010 (corporation tax, capital allowances and chargeable gains) are repealed.
- (4) In consequence of the provision made by subsection (2) –
 - (a) in section 288(3A)(a) of TCGA 1992, for “221” substitute “220”, and
 - (b) in Schedule 1 to CTA 2010, paragraph 251 is repealed.
- (5) Subsection (1) has effect in relation to instruments executed on or after 1 April 2013.
- (6) Subsections (2) to (4) have effect in relation to any transfer occurring on or after 1 April 2013.

EXPLANATORY NOTE

REPEAL OF HARBOUR REORGANISATION SCHEME RELIEFS

SUMMARY

1. This clause implements the repeal of a set of related corporation tax and stamp duty reliefs that can apply where the trade or assets of a company is transferred to a Harbour Authority under a certified harbour reorganisation scheme.

DETAILS OF THE CLAUSE

2. Subsection 1 repeals section 45 of the Finance Act 1966 which provides exemption from stamp duty for the transfer of stock or marketable securities to a Harbour Authority in connection with a certified harbour reorganisation scheme.
3. Subsection 2 repeals section 221 of the Taxation of Chargeable Gains Act 1992 (TCGA). That section provides that chargeable assets transferred from a company to a statutory Harbour Authority under a certified harbour reorganisation scheme are treated for tax purposes as transferred at the value which creates neither a gain nor a loss for the transferor.
4. The effect of the repeal on such a transfer occurring after the commencement date is that the assets will be treated as passing at market value.
5. Subsection 3 repeals sections 991 to 995 of the Corporation Tax Act 2010. These sections provide a number of corporation tax reliefs applying where the trade and assets of a company are transferred to a statutory Harbour Authority under a certified harbour reorganisation scheme. The effects of repealing these sections on such a transfer occurring after the commencement date are that:
 - the trade of the transferor will be treated as discontinued at the date of the transfer for all the purposes of the Corporation Taxes Acts, and the transferee will be treated as starting to carry on the trade at that date;
 - the transferee will not be entitled to any surplus losses of the trade incurred by the transferor
 - the transferor will be treated as having disposed of any assets used in the trade which are sold or transferred under the scheme, and

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will be subject to any allowances or charges arising in accordance with the Capital Allowances Act 2001.

- the transferee will not be entitled to corporation tax relief for any allowable capital losses that the transferor would have been entitled to claim if it had continued to carry on the trade.
6. Subsection 4 makes a number of consequential changes, removing references to section 221 of the TCGA.
 7. Subsection 5 provides for the amendments made by subsection 1 to have effect in relation to instruments executed on or after 1 April 2013.
 8. Subsection 6 provides for the amendments made by subsections 2 to 4 to be effective in relation to transfers of trade and assets under certified harbour reorganisation schemes occurring on or after 1 April 2013.

BACKGROUND NOTE

9. The Office of Tax Simplification was commissioned by the Chancellor to undertake a review of the reliefs and allowances available in the tax system. Following their review, the Government announced at Budget 2011 that it would repeal seven reliefs immediately and abolish a further 36 reliefs, subject to a period of consultation over the summer. The Government response to the consultation, published on 6 December 2011, confirmed the abolition of these reliefs.
10. If you have any questions about this change, or comments on the legislation, for stamp duty please contact Jane Ewart on 020 7147 3794 (email: jane.ewart1@hmrc.gsi.gov.uk) or for corporation tax contact Philip Donlan on 020 7147 2633 (email: philip.donlan@hmrc.gsi.gov.uk).