



HM TREASURY



HM Revenue
& Customs

Deferring the payment of corporate 'exit charges':

a technical consultation

December 2012



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1

Introduction

Background

1.1 The Government's aim is to provide the most competitive corporate tax system in the G20, in order to support strong and sustainable growth, and set out its plan to improve the competitiveness of the UK's corporate tax system in the Corporate Tax Road Map.¹ While tax policy plays a part in ensuring the effective functioning of the internal market of the European Union, UK policy places priority on ensuring that the Government retains maximum flexibility to shape UK tax policy to suit UK economic circumstances.

1.2 In response to recent European jurisprudence² on interpretation of the Treaty on the Functioning of the European Union (TFEU), which guarantees the right to freedom of establishment throughout the EU; the Government has announced that it will move to set up a system to permit deferral of tax payments when companies cease to be resident in the UK as a consequence of a transfer of their place of management to another European Union (EU) or European Economic Area (EEA) Member State.

1.3 The deferral will be available for payments of corporation tax charges that arise on certain unrealised profits and gains which are currently taxable on migration. These charges are commonly referred to as 'exit charges'.³ Exit charges ensure that a company is taxed on the full extent of the profits and gains that are attributable to the period that it is within the charge to national income and capital gains taxes.

Aim of the consultation

1.4 The Government has already decided that it will go ahead with changes in order to offer businesses the option to defer payment, should they so choose. The changes will be made through Finance Bill 2013, but will be available from the date of publication of this consultation document.

1.5 The Court of Justice of the European Union (CJEU) has clarified that Member States are free to levy exit charges on companies, provided there is an option to defer payment. Therefore, responses are not being sought on whether charges should continue to be levied when a company ceases to be tax resident in the UK, or on the two options to permit deferral. However, the Government would welcome views from business to ensure that the proposed legislation for exit charge payment plans works as intended, and does not create unforeseen impacts or burdens. We are particularly interested to hear views on whether the proposed treatment to determine when and how intangible assets, loan relationships, and derivative contracts are realised is proportionate.

¹ HM Treasury, Corporate Tax Road Map, 2010

² See in particular: Case C-371/10 National Grid Indus BV v Inspecteur van de Belastingdienst/kantoor Rotterdam [2011]

³ The relevant tax charges here are those found in section 185 Taxation of Chargeable Gains Tax Act 1992 and sections 333, 609 & 859 Corporation Tax Act 2009.

Policy context

1.6 In its judgment in *National Grid Indus (NGI)* in November 2011, the CJEU ruled that where a company incorporated under the law of an EU Member State wishes to transfer its place of effective management to another Member State, then the company may potentially be able to rely on its rights of establishment.⁴ While an exit charge is legitimate, requiring payment of the corporation tax at the time of the transfer went beyond what was necessary, and was therefore unlawful. Offering companies the option to defer payment would constitute a measure which would be appropriate for ensuring the balanced “allocation of powers of taxation between the Member States”; but would be “less harmful” to the freedom of establishment. As the Court made clear, the option could be between:

- immediate payment of tax on the unrealised gain at the point of exit of the fiscal jurisdiction without the burden of any administrative requirements; and
- deferral of the payment of tax combined with administrative requirements of filing annual returns to demonstrate the continued retention of the asset; and the accrual of interest in accordance with national legislation. Where there is a real risk of non-payment this may be addressed by requiring the provision of security.

1.7 It is for Member States to decide on exactly what a more proportionate measure would look like in practice. Other solutions such as staggered payments may also be appropriate and proportionate. In its recent judgment in a case brought against Portugal,⁵ the CJEU reaffirmed the ruling made in *NGI*.

Policy aims

1.8 The Government recognises that the ruling in *NGI* requires a change in policy. The judgment confirms that it is acceptable for the UK to continue to levy an exit charge; but that immediate collection of that tax is disproportionate unless there is also the option to defer. The Government intends, therefore, to put in place the mechanism to support exit charge payment plans. Where companies enter into such an arrangement, this will include interest in all cases; monitoring requirements under one of the options and, exceptionally, the provision of a bank guarantee in cases regarded as particularly high risk. The changes would only apply to companies that are nationals of an EU/EEA Member State transferring their place of management to another EU/EEA Member State.

Structure of the document

1.9 The remainder of the document is set out as follows:

- Chapter 2 explains the proposals for exit charge payment plans;
- Chapter 3 provides some examples of how the plans would work in practice;
- Chapter 4 explains the consultation process; and
- Annex A provides an impact assessment. Annex B summarises the consultation questions posed in this document.

⁴ Article 49 TFEU. The principle of freedom of establishment enables an economic operator (whether a person or a company) to carry on economic activity in a stable and continuous way in one of more Member states.

⁵ Case C-38/10 *Commission v Portugal* [2012]

Stage of consultation

1.10 The proposals in the document are at stage 3 (drafting legislation to effect the proposed change) of the Government's tax consultation framework.

How to respond

1.11 Please send comments by 6 February 2013 to: Exit Tax Consultation: Corporate Taxation Team, HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ. Email: exittaxconsultation@hmtreasury.gsi.gov.uk. Phone: 020 7270 5276 (for enquiries).

2

Proposals for deferral

2.1 This chapter provides an outline of the planned changes to permit the deferred collection of exit charges. Questions are posed about specific design characteristics and changes necessary to bring about the new system.

Scope

2.2 In its judgment in *NGI*, the CJEU made clear that Member State exit charges on companies do not generally infringe EU law provided that an alternative to immediate payment at the time of exit is offered. The Government does not therefore propose to change the current rules on the calculation and assessment of tax liabilities upon migration of a company. Instead, it will introduce the option for companies to defer payment of corporation tax related to an exit charge by entering into an exit charge payment plan. This will require the company to monitor and report on its assets after migration under one of the options.

2.3 Currently there are some limited arrangements allowing for deferral of tax in specific circumstances, though unrelated to exit charges. The most commonly encountered of these comprises HM Revenue & Custom's *Time To Pay* arrangements allowing affected persons the possibility to defer payment of tax in times of financial difficulty.

2.4 For exit charges, companies will be able to choose between two types of payment plan:

- one based either on staged payments in six annual instalments; or
- alternatively, one which allows for the deferral of the tax payment for up to ten years or, if sooner, until the asset has been realised.

2.5 The latter option will require companies to report on the retention and realisation of assets whether in full or in part throughout the period of the plan. What constitutes realisation of an asset is set out in the draft legislation, and is determined by the nature of the asset concerned.

2.6 The changes set out in this document will apply to exit charges which relate to chargeable gains; gains on intangible assets; and certain loan relationship and derivative contract profits.¹ The Government recognises, however, that for intangible assets, loan relationships, and derivative contracts it may not always be clear as to when an asset has been 'realised' in the sense of disposal, destruction or loss. This document therefore sets out the proposed treatment for these assets, and describes in Chapter 3 how exit charge payment plans will work in practice.

Question 1: Other EU/EEA Member States have either changed, or are in the process of changing, their rules to permit deferral in the area of exit charges. What experiences, if any, from your dealings with these countries do you think the UK should take into account when adopting its own arrangements?

¹ See footnote 3 for statutory references.

Proposed options for deferral of corporation tax

2.7 The Government will retain the existing rules that require UK resident companies to pay corporation tax on all the profits and gains arising in the period up to the date they cease to be resident in the UK within nine months and a day of the end of that period. However, where a company that is incorporated in the UK or another EEA territory becomes a resident of, and established in, another Member State of the EU or EEA (and the taxing rights over that company are allocated to the other Member State under the relevant DTC), it will have two further payment options to manage corporation tax charges that arise. Both of these new options, known as exit charge payment plans, would allow companies to defer the time at which they must settle some or all of the tax they are due to pay under exit charge rules. One is intended to be simple, with minimal compliance burden, whilst the other is more directly related to the economic life of assets, and can allow for longer tax deferral periods, but will carry additional burdens in terms of annual reporting to HMRC. Any tax which is deferred under either of the exit charge payment plans would be subject to interest on the balance outstanding.

2.8 The Government recognises that the exit charge payment plans need to accommodate all companies, including those who have been paying corporation tax within the quarterly instalment payments system (QIPS). Although they may already have paid some of the tax due within the nine months and a day deadline for entering into an exit charge payment plan, the scheme will not prevent them from deferring qualifying tax payments in the same way as other companies.

2.9 The full set of options for companies considering whether to apply for an exit charge payment plan will therefore be:

- **immediate payment** – calculation of the tax due at the time of exit, and payment of exit charge liabilities within nine months and one day of the end of the last accounting period, or where appropriate under the QIPS scheme;
- **standard instalment payment plan** – calculation of the tax due at the time of exit. Staged payments of the tax attributable to exit charges would then be made in six equal annual instalments starting with the first payment due within nine months and one day of the end of the accounting period; and
- **realisation method payment plan** – calculation of the tax due at the time of exit, with the tax attributable to exit charges allocated on an asset by asset basis. For chargeable gains assets (other than intangibles), tax will be deferred until there is disposal or part disposal. This will be subject to an upper limit of ten years. For fixed intangible assets and financial assets, in order to reduce complexity, the Government will require the payment of annual instalments over ten years (or over the useful life if shorter). This will be accompanied by a regular reporting requirement.

These options are described in greater detail later in this chapter.

Question 2: Which of the three options outlined above is likely to be most attractive to your business, or to businesses that you represent?

Conditions for entering into an exit charge payment plan

2.10 The Government proposes that a company must fulfil the following conditions if it is to enter into an agreement with HMRC to defer payment of exit charges:

- the company must be incorporated in the UK or another Member State of the EU/EEA, and must be resident in the UK for corporation tax purposes;

- the company must intend to cease being UK resident for corporation tax purposes, and become a resident of another Member State of the EU (or EEA);
- the taxing rights over the company's income will be allocated to that other Member State under the residence Article of the relevant DTA;
- the company must intend to establish itself on a continuing basis in that other Member State; and
- in the case of the standard instalment method, the company ceasing to be tax resident in the UK must not be part of arrangements the main purpose of which is to obtain a delay in the payment of UK corporation tax.

2.11 A company that wishes to defer payment may apply for an exit charge payment plan in writing at any time until nine months after the end of its accounting period in which it ceases to be UK resident. An application may therefore be made prior to the submission of a company tax return and self assessment for the accounting period including the date of migration. The application should set out the company's proposals for payment under the exit charge payment plan, based on either the standard instalment or realisation methods. For the standard instalment method, the company will agree with HMRC the amount of the corporation tax payment that the company wishes to defer. An application must include a statement that the arrangements are not intended primarily to secure a delay in the payment of UK corporation tax on the disposal of any asset. Where an application is for the realisation method, then the company will also need to identify (in sufficient detail) each asset in respect of which tax under any of the relevant exit charge provisions is to be deferred, and the amount of tax that is to be referred to each asset.

2.12 Any application must include a statement that the company has assumed, or intends to assume tax residence in another identified EU or EEA Member State, and that it intends to establish itself in that Member State. The application could be in respect of the whole amount, or a specified lower amount of the tax identified as available for deferral.

2.13 Any deferral of tax under an exit charge payment plan will cease from the date where there are arrangements that could lead to the winding up of the company, or where it ceases to be tax resident in an EU or EEA Member State.

Immediate payment

2.14 The Government recognises that in many instances, businesses may simply prefer to pay the full amount of tax owed through its normal corporation tax bill for the period up to departure. This may be particularly attractive to those businesses which do not want to deal with any ongoing monitoring requirements, or be subject to interest on the tax.

Exit charge payment plan – standard instalment method

2.15 This option offers a light-touch approach whereby a company would agree to pay the tax identified as appropriate for deferral in six equal annual instalments. Such an option would support those businesses that may not wish to make an immediate payment, perhaps in order to avoid creating cash-flow difficulties, but who may also benefit from not having to maintain detailed records and reporting obligations to HMRC in order to support monitoring. It also allows all assets to be taken together, without distinguishing between different classes, and without the need for them to be tracked individually after migration.

Exit charge payment plan – realisation method

Chargeable gains assets

2.16 The realisation method, as it applies for chargeable gains assets other than intangibles, could be particularly appropriate for those businesses holding assets where there is no imminent prospect of disposal and which are utilised over a long period. It would be underpinned by a regular reporting requirement, with an annual statement being sent to HMRC identifying any disposals of relevant assets in that period, with the tax becoming payable in respect of those assets. Verification would also be needed that the company continues to meet the conditions required for deferral in relation to its establishment and tax residence in another Member State, and confirmation that remaining assets are still held.

2.17 The chargeable gains regime already contains rules that determine whether and when there has been a disposal of an asset, including a part disposal, and these principles will be applied after migration of the company to identify when a deferral period ends. Thus a sale or other transfer of beneficial ownership of the asset will be a realisation, as would the loss or destruction, leasing or other occasion where a capital sum is derived from the asset. The maximum period of deferral under an exit charge payment plan is ten years, and any tax and interest still outstanding in respect of any assets held at the ten year point will need to be paid at the end of the plan.

Intangible fixed assets

2.18 The Government recognises that realisation will be less straightforward for certain assets such as intangible fixed assets. These will, by their very nature be capable of realisation either by disposal or by use in the business of the company to generate profits. For example, a UK resident company that acquired a trade mark with a useful economic life of ten years may have partly or wholly written off the expenditure to the profit and loss account at the point of migration. Where the company has continued to develop that asset internally the useful economic life may have been extended beyond the original ten year period.

2.19 The useful economic life of the asset should therefore be determined at the point of migration. For assets with a remaining useful life of less than ten years at migration, the Government expects payment to be made in annual instalments over that period. Where the remaining useful life is ten years or more, then the tax should be paid in ten equal annual instalments. Interest on the balance of tax outstanding will be payable annually as well. If there is a disposal of the asset before the end of its remaining useful life, then the asset will be fully realised on that date, and the balance of any tax and interest outstanding becomes payable.

2.20 For the purposes of determining the appropriate realisation basis method, assets which would fall under the intangible assets regime if acquired or created by the company immediately before the date when it ceases to be a resident of the UK are to be treated in the same way as other intangible assets. This applies in particular to assets which were in existence prior to commencement of the intangible assets regime on 1 April 2002.

Loan relationships and derivative contracts

2.21 The Government again proposes that under this option, a company may defer the payment of tax until value inherent in the instrument is realised in situations where the company does not account for its loan relationships or derivative contracts on a fair value basis for tax purposes. This will mirror the provision described above for intangible fixed assets, and allow the company to spread payment of the tax attributable to these financial instruments over the remaining term of the instrument. Interest on the balance of tax outstanding will again be payable annually as well. Where the company ceases to be a party to the instrument (or otherwise disposes of part

of the instrument) ahead of the expected term, then this would require a payment of the whole (or part) of the deferred tax by the next agreed payment date.

2.22 Examples of how the proposals would work in practice are set out in the next chapter.

Interest on deferred corporation tax payments

2.23 It is intended that any deferred tax payment is subject to interest. Interest will be payable at the same time as any deferred corporation tax on the balance of tax outstanding. HMRC charges interest on late payment of tax from the due date for payment of the tax in question up to the date of actual payment.

Monitoring

2.24 Even though a company may no longer be resident in the UK for tax purposes, if it was a UK registered company it remains incorporated under UK law and currently retains an obligation under existing law to provide Companies House with an annual report. There is currently no corresponding obligation to report to HMRC. Where any business makes an application to enter into an exit charge payment plan under the third option (realisation), whether it is a UK incorporated company or one that is incorporated in another Member State of the EU or EEA, then the exit charge payment plan will include a monitoring requirement whereby it must report on an annual basis to HMRC on the retention, disposal and realisation of assets.

2.25 Failure to meet obligations to provide a regular and timely report could result in a request for immediate payment of any outstanding corporation tax. The Government will consider the case for charging penalties where the company has supplied incorrect information where an exit charge payment plan is in operation.

2.26 Finally, in the case of agreed payments not being made by companies, HMRC can obtain assistance to secure payment from other Member States – either through Double Taxation Agreements, or the EU Mutual Assistance Recovery Directive (MARD). Under both types of arrangements, Member States provide each other with assistance in the recovery of tax debts and duties, which includes service of documents and exchanging information in connection with the recovery of claims.

Question 3: Do you agree that companies that choose to defer until realisation of assets should be required to provide regular information on all assets held? If there were to be a *de minimis* threshold for reporting then in your view what should that level be, and how should assets below the threshold be treated?

Question 4: What is the most appropriate form of report and annual return and what is minimum amount of information that should be required?

Provision of security

2.27 The CJEU in its judgement in NGI recognised that there was a risk with granting the option to defer that tax may not be recovered, and that the risk of non-recovery may rise the longer time goes on. The Court clarified that the risk may be taken into account by a Member State in its national legislation by measures such as the provision of a bank guarantee. In his Opinion in Commission v Portugal (Case C-38/10), the Advocate General also observed that a bank guarantee may be justified in those cases where there is a genuine and serious risk of non-recovery.

2.28 The Government does not propose to require a bank guarantee in all cases when a company emigrates and applies for an exit charge payment plan as this is likely to be disproportionate. However, where HMRC has reasonable grounds for believing that exit charges

are at risk of being unpaid, then the Government proposes that adequate security be provided in relation to the tax liability that is deferred. In most cases this would be expected to be in the form of a bank guarantee, although other security could, exceptionally, be considered.

2.29 HMRC will consider the individual circumstances of the taxpayer in arriving at the decision of whether to require a guarantee, and if so, the amount of that guarantee. Relevant circumstances for this purpose could include the taxpayer's tax payment history, the financial state at the time of migration, the business plans for the future, as well as the intentions of those individuals that will manage and control the business after migration.

Question 5: The Government is proposing a requirement to provide adequate security against non-payment of the tax liability in certain cases. Do you agree that such security should be requested in exceptional cases only or should there be a requirement to provide security in all cases?

Bringing deferral arrangements to an end

2.30 As set out above, the Government proposes that an exit charge payment plan should come to an end in certain circumstances or if conditions are not met. A company must notify HMRC if an administrator or liquidator is appointed to manage the affairs of the company, or at the start of equivalent proceedings to wind up the company in another territory, or if it ceases to be resident in the EU or EEA. In those circumstances the company would pay any outstanding amount due, including interest.

Question 6: It is envisaged that only changes necessary to permit the deferred payment of exit taxes in appropriate cases will be made. (i) What, if any, other changes to the existing exit tax regime that have not been discussed in this document do you think are required? (ii) Do you have any other comments on the scope or design of the reform?

3

Deferral: practical examples

3.1 This chapter sets out some specific examples of how the deferral process would work in practice in relation to assets within the chargeable gains regime; intangible assets; loan relationships and derivative contracts. Note that the examples exclude interest payable.

Example 1: Tangible assets within the chargeable gains regime

A UK company with a March year end is part of a group headquartered in France. It owns an apartment that is used to accommodate visiting executives from abroad, which cost £150,000 in 1995. On 31 March 2013 it migrates its residency out of the UK when the business of the company is relocated to France. At this time, the apartment is worth £1 million and the directors of the company decide to retain it as an investment. There are no other assets on which exit charges arise.

Taking account of improvement costs during the period of ownership, indexation allowance and an allowable loss brought forward, a chargeable gain of £500,000 arises. This is chargeable at the time of migration under section 185 TCGA 1992, based on the value of £1 million. The company's corporation tax return for the period to 31 March 2013 therefore will include an amount of £120,000 which is attributable to gain on the apartment (based on a tax rate of 24 per cent).

Normally the corporation tax of £120,000 would either need to be paid as four equal payments through Quarterly Instalment Payments or as single payment nine months and one day after the end of the accounting period (ie. 1 January 2014). However, under the standard instalment method, the company would instead make six annual payments of £20,000 as follows:

1 January 2014	£20,000
1 January 2015	£20,000
1 January 2016	£20,000
1 January 2017	£20,000
1 January 2018	£20,000
1 January 2019	£20,000
Total	£120,000

If, on the other hand, the company made a valid application to defer tax payments using the realisation method, then it will make a report on its assets for each year ended 31 March. When the apartment is eventually sold on the open market in March 2019, the full £120,000, along with accrued interest is to be paid by 1 January 2020.

Example 2: Intangible fixed assets

A UK company with a 31 December year end migrates to Spain on 30 June 2013 when the sole Director moves there, continuing a business that was commenced some years before. The company owns a valuable patent which expires in June 2024. The tax return prepared for the six months to 30 June 2013 includes a taxable credit of £600,000 arising in respect of the six months to June 2013. However, after taking into account trading losses brought forward and other gains and losses the company's adjusted profit is £375,000. The total corporation tax liability for the period is therefore £90,000 (based on a tax rate of 24 per cent).

The company made a valid application to defer the full amount of its corporation tax payments using the realisation method before migration, and sends HMRC a report on its assets for each subsequent year ended 30 June.

The company's business continues until the Director retires in mid 2017 for reasons of ill health, at which point the company appoints a liquidator. The company still holds the patent at that date.

Under the realisation basis, the company will make equal annual payments of corporation tax of £9,000 (plus interest on the outstanding balance), and the remaining tax will be paid following the appointment of the liquidator:

1 March 2014	£9,000 ¹
1 March 2015	£9,000
1 March 2016	£9,000
1 March 2017	£9,000
1 March 2018	£54,000 ²
Total	£90,000

Had the company instead opted for the standard instalment method of deferral, the corporation tax of £90,000 would have been payable in six annual instalments of £15,000 (plus interest on the outstanding balance), due on the 1 March each year from 2014 to 2019. However, the liquidation of the company brings the option to defer to an end and the last payment becomes due by 1 March 2018 with the outstanding balance of £30,000. Any interest owing must also be paid by this date.

¹ The remaining useful life of the patent on migration exceeds ten years, so the tax due can be spread over ten annual payments (£90,000/10).

² The deferral period ceases on the company's liquidation, which occurs in the return period ended 30 June 2017, and the balance of the tax outstanding is to be paid by the next payment date anniversary, along with accrued interest.

Example 3: Loan Relationships and Derivative Contracts

A company with a 31 December year end has entered into an interest rate swap as a cash flow hedge of its borrowing costs. It is assumed that it does not bring amounts into account for tax on a fair value basis. On 31 December 2012 it migrates its residency out of the UK. At this time, the swap has a further eight years to run and interest rates have moved such that the swap is worth £10 million.

Under the current rules, a £10 million profit is brought into account on migration resulting in corporation tax of £2.45 million. Normally the corporation tax of £2.45 million would either need to be paid as four equal payments through Quarterly Instalment Payments or as single payment nine months and one day after the end of the accounting period (ie. 1 October 2013).

Under the standard instalments method, it would instead make six annual corporation tax payments of £408,333 (plus interest on the outstanding balance) as follows:

1 October 2013	£408,333
1 October 2014	£408,333
1 October 2015	£408,333
1 October 2016	£408,333
1 October 2017	£408,333
1 October 2018	£408,333
Total	£2,450,000

Under the realisation method, it would instead make eight annual corporation tax payments of £306,250 (plus interest on the outstanding balance) as follows:

1 October 2013	£306,250
1 October 2014	£306,250
1 October 2015	£306,250
1 October 2016	£306,250
1 October 2017	£306,250
1 October 2018	£306,250
1 October 2019	£306,250
1 October 2020	£306,250
Total	£2,450,000

Under both the staged payment and realisation options, if the instrument was terminated or disposed of early then the balance of tax and any interest would become due.

4

The consultation process: how to respond

4.1 This consultation is being conducted in line with the Tax Consultation Framework. There are five stages to tax policy development:

- Stage 1 Setting out objectives and identifying options;
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design;
- Stage 3 Drafting legislation to effect the proposed change;
- Stage 4 Implementing and monitoring the change; and
- Stage 5 Reviewing and evaluating the change.

4.2 This consultation is taking place during stage 3 of the process. The purpose of the consultation is to seek views on draft legislation in order to confirm, as far as possible, that it will achieve the intended policy effect with no unintended effects.

How to respond

4.3 A summary of the questions in this consultation is included in Annex B.

4.4 Responses should be sent by 6 February 2013 by e-mail to exittaxconsultation@hmtreasury.gsi.gov.uk or by post to:

Exit Tax Consultation
Corporate Taxation Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

4.5 Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from the HMRC website at <http://www.hmrc.gov.uk/consultations/index.htm> and the HM Treasury website at <http://www.hmtreasury.gov.uk>.

4.6 All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations. When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

4.7 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

4.8 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

4.9 HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

4.10 This consultation is being run in accordance with the Government's Consultation Principles.

4.11 The Consultation Principles are available on the Cabinet Office website:
<http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

4.12 If you have any comments or complaints about the consultation process please contact:

Amy Burgess, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

4.13 Please do not send responses to the consultation to this address.

A

Tax impact assessment

Evaluation and monitoring

A.1 This chapter summarises the expected impacts from the deferred payment of exit taxes. The Government would welcome any comments on the assessment of the impacts. Information received during the consultation will be used to refine the analysis of the impacts.

Exchequer impact (£m)	This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2013.
Economic impact	This measure is not expected to have a significant economic impact.
Impact on individuals and households	This measure will have no impact on individuals or households.
Equalities impacts	This measure is not expected to have an equality impact on people with any protected characteristics.
Impact on business including civil society organisations	<p>This measure is expected to have a negligible impact on businesses or civil society organisations. It will provide migrating companies with an option to elect to defer the payment of certain corporate tax charges, without prejudice to any of their existing rights. The number of companies affected by this measure is expected to be very small; this may be revised after consultation.</p> <p>The impacts on businesses' one-off compliance costs are expected to be negligible as a very small number of businesses will need to familiarise themselves with the change. The impacts on businesses' on-going administrative burdens are also expected to be negligible as a very small number of businesses will be affected. If affected they will either have to make an annual report to HMRC or take advantage of an option to use a simplified method that would greatly reduce these burdens. There will be no impact on companies that do not opt to defer payment.</p>
Operational impact (£m) (HMRC or other)	The operational impact of this measure is expected to be negligible.
Other impacts	Other impacts have been considered and none have been identified.

B

Summary of consultation questions

Chapter 2: Proposals for deferral

Question 1: Other EU/EEA Member States have either changed, or are in the process of changing, their rules to permit deferral in the area of exit taxes. What experiences, if any, from your dealings with these countries do you think the UK should take into account when adopting its own arrangements?

Question 2: Which of the three options outlined is likely to be most attractive to your business, or to businesses that you represent?

Question 3: Do you agree that companies that chose to defer until realisation of assets should be required to provide regular information on all assets held? If there were to be a *de minimis* threshold for reporting then in your view what should that level be, and how should assets below the threshold be treated?

Question 4: What is the most appropriate form of report and annual return and what is minimum amount of information that should be required?

Question 5: The Government is proposing a requirement to provide adequate security against non-payment of the tax liability in certain cases. Do you agree that such security should be requested in exceptional cases only or should there be a requirement to provide security in all cases?

Question 6: It is envisaged that only changes necessary to permit the deferred payment of exit taxes in appropriate cases will be made. (i) What, if any, other changes to the existing exit tax regime that have not been discussed in this document do you think are required? (ii) Do you have any other comments on the scope or design of the reform?

HM Treasury contacts

This document can be found in full on our website: <http://www.hm-treasury.gov.uk>

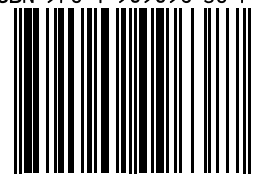
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