HM Revenue & Customs

Reform of close company loans to participators rules

Consultation document
Publication date: 9 July 2013
Closing date for comments: 2 October 2013

Subject of this consultation:	At Budget 2013 the Government announced its intention to consult on options for reforming the rules which govern extractions of value, usually as loans or advances, from close companies (typically small companies, owned and managed by five or fewer people) by individuals who have a share or interest in those companies (participators).
Scope of this consultation:	The Government seeks views on whether to reform the rules governing the taxation of close company loans to their participators (and other related arrangements) and on options for such reform.
Who should read this:	The Government is interested in the views of businesses affected by these proposals, as well as representations by professional bodies and tax advisers and other interested parties.
Duration:	The consultation period runs from 9 July 2013 to 2 October 2013
Lead official:	Ellen Milner, HM Revenue and Customs
How to respond or enquire about this consultation:	Responses to this consultation should be sent by 2 October 2013 by email to Ellen Milner at the following email address: ellen.milner@hmrc.gsi.gov.uk Or alternatively by post to: Ellen Milner 3/63 100 Parliament Street London SW1A 2BQ
Additional ways to be involved:	HMRC intends to meet with interested parties during the consultation period.
After the consultation:	The Government will publish its response to the consultation after responses have been considered. The responses received will assist in the design of any reform of the current rules with a view, if appropriate, to legislating in Finance Bill 2014. In this case, draft legislation would be published in the Autumn for consultation.
Getting to this stage:	Finance Bill 2013 closed three perceived weaknesses in the legislation and this consultation explores the potential for updating the regime to make it fairer, less administratively burdensome and more robust against avoidance.
Previous engagement:	None.

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1. Introduction

Background

1.1 The Government announced a consultation on options for reforming the rules governing the taxation of close company loans to their participators, and other related arrangements[1], in the Budget on 20 March 2013:

'The Government will consult on options to reform the structure and operation of the tax charge on loans from close companies to make the rules fairer and simpler.'

1.2 Broadly, close companies are those controlled, directly or indirectly, by five or fewer participators or by any number of directors who are participators. A tax charge applies where value is extracted from close companies, other than by way of salary or dividend, by individuals who have shares or an interest in the company (known as "participators"). These extractions are usually loans or advances of money but can also be arrangements with an avoidance motive.

1.3 This flow of funds, usually in the form of loans, between participators and their close companies may follow on from how the owners were remunerated prior to the incorporation of their business. Owners of unincorporated businesses usually remunerate themselves with drawings from the business and pay income tax on their annual profits. And in this context there is no legal distinction between the business funds and the funds of the individual owner.

1.4 When businesses incorporate the company becomes a distinct legal entity from the owner – if owners continue to take drawings as they did prior to incorporation, then it is the company's money which they are taking rather than their own and so tax consequences arise depending on the form of the value extraction (i.e. as salary, dividends, loans or other arrangements).

1.5 In Finance Bill 2013 the Government closed down three loopholes through which close companies and their participators were attempting to avoid the charge on loans made by close companies to their participators. However, the operation of the legislation has otherwise changed little since 1965.

1.6 This consultation will be of interest to all close companies, including the vast majority of small companies which, by the nature of their ownership, are close companies, and their participators. The Government is interested in the scope and need for updating the legislation in line with its objectives for a fairer and simpler corporate tax regime, more robust against avoidance.

Policy Objectives

1.7 The primary purpose of rules governing the taxation of close company loans to their participators is to deter close companies from transferring value to their

[1] Found in Chapters 3, 3A and 3B of Part 10 of Corporation Tax Act 2010 (CTA2010)

participators in ways which are not chargeable to income tax or National Insurance Contributions as remuneration or dividends, for example, as loans.

1.8 Specifically, the Government would like the regime to be:

- an effective deterrent to the avoidance of personal income tax at which it is targeted;
- sustainable - itself robust against avoidance; and
- not inhibitive of genuine commercial transactions;

and in line with the broader Government objectives for tax policy of:

- fairness - the tax charge should reflect the advantage gained from taking the loan; and
- simplicity - the regime should be easy and non-burdensome to administer for both businesses and HMRC.

The Government considers that any reform should seek to balance these policy objectives.

1. Do you agree these are the right primary objectives for rules governing the taxation of loans from close companies to their participators? Please explain your answer.

2. What, if any, other objectives do you think any reform should seek to address?

2. The current close company rules

Background and key features of the close company rules

2.1 Close companies make up a significant proportion of the companies in the UK. Nearly 70 per cent of directors indicated in their 2011/12 self-assessment returns that they were directors of close companies and close companies account for the vast majority of incorporated businesses.

2.2 It is common practice for directors and shareholders to take loans from their close companies – and as long as these are paid back within a short period of time, there will be no tax charge under the loans to participators rules.

2.3 Historically, these rules were intended to deter participators from permanently extracting value from close companies without that value being charged as remuneration or dividends, which are chargeable to income tax (and in the case of remuneration, National Insurance Contributions). The close company rules are intended to remove the tax advantage of making a loan rather than a chargeable distribution, remuneration or dividend and, as such, are targeted on a particular form of tax avoidance.

2.4 The rules are focused on close companies because of the control that the few participators have over the close company's affairs. Some participators blur the distinction between company funds and their own personal affairs, especially because they are rarely answerable to wider shareholders. These rules therefore seek to level the playing field between different forms of value extraction from close companies by their participators.

The charge

2.5 Subject to limited exceptions, a tax charge of 25 per cent is payable by a close company on any loan or advance made to a participator during a close company's accounting period, which is still outstanding more than nine months after the end of that accounting period.

2.6 The charge is found at section 455 of Corporation Tax Act 2010 (CTA10) and is therefore known as "section 455 tax" (it is also commonly known as "section 419 tax" which refers to its pre-2010 legislative reference).

2.7 There are various exceptions from the charge to reflect commercial practice. For example: loans made in the ordinary course of a close company's money lending business; certain trade debts incurred on normal credit terms; and loans made to certain directors and employees which do not exceed £15,000.

2.8 Section 464A of CTA10 imposes a very similar charge on value which leaves a close company which is not chargeable under section 455 where there are avoidance arrangements and a benefit is conferred on a participator. This charge was introduced by Finance Bill 2013 – the Finance Bill 2013 changes are considered in more detail below.

The repayment system

2.9 If a loan is repaid to the close company within nine months of the end of the accounting period (that is, before the due and payable date for the tax), relief operates automatically and no tax ever becomes due.

2.10 However, if the tax charge is paid and the loan amount is subsequently repaid to the close company after the due and payable date, the close company can still claim for the section 455 tax to be repaid to the company. But the company must wait for nine months after the end of the accounting period in which the repayment of the loan was made before the tax is repaid.

Updates to the regime since 1965

2.11 The regime has not undergone any significant structural change since its introduction in 1965. However some amendments were made to maintain its functionality. In 1976 new rules were introduced to bring loans which were otherwise not chargeable within the charge, including:

- treating certain loans as made to participators; and
- treating certain loans as made by close companies.

2.12 In 1994 the due and payable date and repayment rules were updated and aligned with the due and payable date for corporation tax under corporation tax self-assessment.

2.13 Relief from the section 455 charge was originally only available where loans were repaid. However, in 1999 the rules were changed to also allow relief where a loan was released or written off rather than repaid.

2.14 Finance Bill 2013 introduced further amendments to close three loopholes used to attempt to avoid the tax charge as follows:

A. Finance Bill 2013 amended section 455 to specifically charge loans and advances from close companies to partnerships and trusts where, broadly, an individual who is a participator in the close company is also a partner in the partnership or a trustee or beneficiary in the trust. This change puts loans to all relevant partnerships on an equal footing by removing an anomaly in the legislation.

B. Finance Bill 2013 also introduced an anti-avoidance provision which imposes a tax charge equivalent to the section 455 charge if, under tax avoidance arrangements to which a close company is a party, a benefit is conferred on a participator. The rules are therefore no longer limited to loans and advances but can apply to other forms of value extraction where there is an avoidance purpose. The new rules include repayment provisions mirroring those which apply when a loan is repaid where value is returned to the company.

C. Thirdly, an anti-avoidance provision now prevents companies and participators benefitting from the provisions which give relief for repayments where the repayment to the close company is not genuine and enduring.

2.15 These changes did not address the key questions of this review, that is, the effectiveness of the regime as a whole. The Finance Bill 2013 changes focused on addressing specific targeted tax avoidance and removing anomalies in tax treatment where loans were made to certain partnerships and trusts.

3. Assessment of the current regime

3.1 This Chapter considers the strengths and weaknesses of the current regime measured against the objectives outlined in Chapter 1 which are whether the regime is:

- an effective deterrent to the employment income avoidance behaviour at which it is targeted;
- sustainable - itself robust against avoidance;
- not inhibitive of genuine commercial transactions;
- fair; and
- simple (and not administratively burdensome for business or HMRC).

Effective deterrent to employment income avoidance?

3.2 The close company loans to participators rules are an anti-avoidance provision.

3.3 Their purpose is to deter close companies from transferring value to their participators in ways which are not chargeable to income tax or National Insurance Contributions as remuneration or dividends, for example, as loans.

3.4 If the loans are repaid within a short period of time, the participator does not have a lasting use of the money and the funds loaned are unlikely to be a substitute for permanent income of the participator.

3.5 In 2011, loans outstanding from close companies to their participators amounted to over £1 billion. This may indicate that the current rules are not effective as a deterrent.

3.6 Furthermore, the rate of 25 per cent together with the mechanistic repayment rules can result in a lower overall tax bill for the participator, especially as the company can claim back any section 455 tax paid when the loan is repaid. This means that there is still likely to be an incentive in certain cases to take a loan rather than remuneration or a dividend where tax rates are higher.

Sustainability - is the charge itself robust against avoidance?

3.7 As well as being anti-avoidance provisions themselves, the rules impose their own tax charge so it is necessary to ensure that this charge is not itself susceptible to avoidance.

3.8 Robustness of the regime can be measured by whether companies and participators are simply and effectively circumventing the section 455 tax charge and by assessing the resulting cost to the Exchequer.

3.9 Finance Bill 2013 strengthened the regime by addressing three perceived weaknesses in the legislation. These changes will protect £45 million of revenue over the next five years and bring in yield of £270m.

3.10 However, the fact that these new avoidance rules are needed highlights that section 455 tax is itself a target for avoidance behaviour. Section 455 tax is intended to act as the backstop where a company is used as a vehicle to avoid income tax i.e. making it difficult for the participator to withdraw the money from the company without a tax charge. So, where section 455 tax is ineffective, an avenue may open to extract money through structures designed for avoidance.

Not inhibitive of genuine commercial transactions

3.11 The Government recognises that there may be commercial reasons for transferring value between close companies and their participators on a temporary or contingent basis, for example, following a decision to delay the declaration of a dividend until the company's performance for the year is known. Representations on the Finance Bill 2013 reforms highlighted this as a common and efficient practice which does not amount to tax avoidance by the participator because income tax is paid on the dividend.

3.12 The current rules already provide for this. Currently, a charge only becomes due if the amount extracted is still outstanding more than nine months after the end of that accounting period. This window gives at least nine months for repayment so the charge never affects the vast majority of companies whose participators repay, or withdraw as remuneration or a dividend, amounts drawn during the year.

3.13 Moreover, any section 455 tax paid on such extractions is repaid if the value is repaid to the company. The Government views it as entirely appropriate that extractions available to the participators for use over extended periods should be subject to a tax charge - loans which are still outstanding after this period are more analogous with permanent extractions.

Fairness

3.14 The Government is committed to a fair tax system. The tax charge on loans to participators is itself aimed at levelling the playing field between participators taking remuneration and dividends and those extracting value in other ways.

3.15 The rules operate by imposing a tax charge in the first year in which a loan is made and the tax is repayable if the loan is repaid to the company.

3.16 Under the current regime, the amount of section 455 tax due in no way reflects the length of time the participator has the use of the company's money. For example, a participator borrowing £10,000 means the company pays £2,500 in section 455 tax whether the participator borrows it for one year or for twenty years. The only benefits to the close company of the participator paying it back earlier are that it can reclaim the tax sooner and pay less interest.

3.17 Arguably a fairer system would reflect both the amount and how long the participator has use of the company's money.

Simplification and reduction of administrative burdens

3.18 Under the current regime, companies must claim a repayment of any tax paid on amounts extracted which are subsequently repaid to the company. HMRC must then process each claim.

3.19 Administrative burdens on customers of claiming repayments of section 455 tax currently amount to approximately £1m per year. HMRC must also process these claims manually which is costly and time consuming.

3.20 These burdens are attributable to the system of repayment of the tax when the loan is repaid. This suggests that there is scope to reduce these burdens if this area of the regime is reformed to create a simpler system.

4. Options for reform

Summary of options

4.1 The Government has identified four potential options for reforming the close company rules to better deliver the policy objectives underlying the regime (see Chapter 1).

4.2 The four broad options are as follows:

1. **Maintain the current regime**
2. **Increase the tax rate** but retain the structure and operation of the regime
3. Replace the current repayable charging system with a lower rated but **permanent charge which arises annually** on amounts outstanding at the end of each accounting period until the extraction is repaid to the close company
4. Replace the current repayable charging system with a lower rated but **permanent charge which arises annually on average amounts outstanding** during the accounting period

Option 1: Maintain the current regime

4.3 This current regime was analysed in detail in Chapter 3.

Option 2: Increase the rate but retain the structure and operation of the regime

4.4 For this option the system would operate in exactly the same way as the current regime but with a higher rate which is more reflective of the tax which may be payable if the amount is taken other than as a loan, for example, 40 per cent.

4.5 <u>Consideration of option against policy objectives:</u>

Effective deterrent to employment income avoidance: A higher rate would be a greater deterrent to taking loans and not repaying them before the tax became due and payable. The rate could be set such that any tax advantage from taking a loan rather than remuneration or dividends would be removed.

Sustainability - itself robust against avoidance of the tax charge it imposes: The Finance Bill 2013 changes have strengthened the regime against avoidance. This option is no more or less susceptible to avoidance than the current regime, although a higher rate may increase the incentive to attempt to avoid the section 455 tax charge.

Not inhibitive of genuine commercial transactions: The vast majority of companies continuing to operate business as usual would be unaffected by the changes. If any amounts extracted during the accounting period are repaid before the charge becomes due nine months after the end of the accounting period, the close company will have no section 455 tax to pay on the temporary extraction.

The charge will only bite on participators who persist in using company funds for their own purposes for extended periods of time.

Fairness*:* As a more effective deterrent this would level the playing field with participators taking dividends and remuneration by removing any advantage of taking loans. However, the higher tax charge itself may also be seen as unfair and this option would not take into account the length of time the loan is held.

Simplicity (and not administratively burdensome): This option will not simplify the regime as the repayment system would remain unchanged. However, the more effective deterrent of a higher rate could result in a change in behaviour – fewer chargeable loans could take many companies outside of the close company charge. Therefore there may be fewer administrative burdens as fewer claims for relief are made and processed.

Option 3: Permanent annual charge on amounts outstanding at the year end

4.6 This option is a permanent charge on loan amounts outstanding at each year end. At the end of each year the close company would consider the loan position with the participator and a charge would arise on the balance of any outstanding loans. If the loans were repaid during the nine month period before the tax was due, relief could be given for the charge which had arisen on the portion repaid[2].

4.7 This process would repeat at the end of each accounting period until the loan was repaid. To reflect that each loan could be charged in multiple accounting periods, the rate of the charge could be set at a lower level, for example, 5 per cent.

4.8 The tax would not be repayable to the company when the loan was repaid. For short accounting periods, the tax charge could be reduced in proportion with the number of days in the accounting period.

4.9 <u>Consideration of option against policy objectives:</u>

Effective deterrent to employment income avoidance: The permanence of the charge would be a greater deterrent to taking loans and not repaying them before the tax became due and payable.

Sustainability - itself robust against avoidance of the tax charge it imposes: The Finance Bill 2013 changes have strengthened the regime against avoidance. This option is no more or less susceptible to avoidance than the current regime, although the greater deterrent may increase the incentive to attempt to avoid the section 455 tax charge.

Not inhibitive of genuine commercial transactions: The vast majority of companies continuing to operate business as usual would be unaffected by the changes. If any amounts extracted during the accounting period are repaid before

[2] Subject to the Finance Bill 2013 rules at section 464C CTA2010 which requires there to be a genuine and enduring payment

the charge becomes due nine months after the end of the accounting period, the close company will have no tax to pay on the temporary extraction. The charge will only bite on participators who persist in using company funds for their own purposes for extended periods of time.

Fairness*:* A more effective deterrent would level the playing field with participators taking dividends and remuneration by removing any advantage of taking loans. This system is arguably fairer as the tax charge would reflect both the amount of the loan (i.e. it is a percentage of the loan amount) and the amount of time the participator has use of the funds (because the charge arises at the end of every year rather than just in the first year).

Simplicity (and not administratively burdensome): The close company rules are unusual in allowing the tax to be reclaimed. Removing the possibility of claiming relief after the due date simplifies the regime and reduces administrative burdens for both companies and HMRC.

Option 4: Permanent annual charge on average amounts outstanding during the accounting period

4.10 The key difference between this option and Option 3 is the amount of the loan on which the tax is chargeable. For this, close companies would have to establish the average amount of loan which was outstanding on a daily basis throughout the accounting period and the charge would apply to this amount, arising at the end of each accounting period.

4.11 All close companies which make loans at any point during the accounting period, regardless of whether these loans are repaid, would be subject to the charge. This would be a significant departure from the current rules where only those close companies which make loans to their participators which are not repaid within nine months of the end of the accounting period must pay any tax.

4.12 <u>Consideration of option against policy objectives:</u>

Effective deterrent to employment income avoidance: The permanence of the charge would be a greater deterrent to taking loans and not repaying them before the tax became due and payable. There is also an increased incentive to repay the loan as soon as possible as each day it is outstanding will contribute to the amount chargeable at the year end.

Sustainability - itself robust against avoidance of the tax charge it imposes: The Finance Bill 2013 changes have strengthened the regime against avoidance. However, this option also makes some of the Finance Bill 2013 changes relating to repayments redundant – because the charge applies regardless of whether the loan is outstanding at the year end or is repaid before the due and payable date, there is no advantage and so no incentive to repaying and then very quickly redrawing a loan (i.e. the behaviour known as “bed and breakfasting”).

Not inhibitive of genuine commercial transactions: The tax charge would apply regardless of whether the loan was repaid shortly after the end of the accounting period and before the due and payable date and therefore may deter the use of loans for legitimate reasons.

Fairness*:* A more effective deterrent would level the playing field with participators taking dividends and remuneration by removing any advantage of taking loans. As such this option is arguably the fairest as it ties the amount of tax directly to the amount of the loan and the length of time it is outstanding.

Simplicity (and not administratively burdensome): Companies will need to keep sufficiently detailed records to enable them to determine when loans were drawn and repaid, so as to calculate the average amount outstanding. If this is not done currently then administrative burdens are likely to be increased. Against that removing the relief system may reduce some burdens.

3. **For each of the options, including the current regime as outlined in Chapter 3, please consider the following questions:**

    a. **Would the option be an appropriate and effective deterrent to extractions of value by participators from close companies? Please explain your reasoning.**

    b. **Is the option itself robust against avoidance? Please explain your answer.**

    c. **Does the option inhibit genuine commercial practice? Please provide any real-life examples you have as to why the option could create difficulties.**

    d. **What do you think presents the fairest option, and why?**

    e. **How do you think the option affects administrative burdens for business? Would the administrative burdens be proportionate?**

    f. **How could the option better meet the policy objectives or be improved?**

    g. **Do you think the suggested rates of tax are appropriate? Why (not)?**

    h. **Please identify and explain what you consider to be the strengths and weaknesses of the option.**

4. The options do not form an exhaustive list **– we would welcome alternative proposals or suggestions as to how the options or current regime could be improved. Are there any other options that may be more appropriate? In setting out your answer please make reference to the points above.**

5. Other considerations

Interaction with other parts of the tax system

5.1 Whatever option for reform is eventually chosen we will need to consider the interaction of the new rules with other parts of the tax system:

- **Employment Income Regime**, in particular
  - The income tax charge on beneficial loans and beneficial loan write-offs (sections 175 and 188 ITEPA2003)
  - The legislation on 'Employment Income Provided Through Third Parties' (disguised remuneration) (Part 7A ITEPA 2003)
- Other Income Tax Aspects
  - Taxation of partners/partnerships
  - Taxation of trusts/trustees
- Corporation Tax
  - Loan Relationship regime, in particular corporation tax deductions for loan write-offs/releases
  - Corporation Tax Self Assessment
  - Distributions legislation (section 1064 CTA2010)

5. Are there any other interactions which HMRC should be considering; in particular are there any specific interactions which would render any of the options ineffective or inappropriate?

Transition between regimes

5.2 The Government intends that any reform to the regime would apply to relevant extractions in value which occur from April 2014. Subject to appropriate transitional provisions, any loans, advances or arrangements which exist before the new regime has effect would continue to be treated under the current regime.

6. Assessment of Impacts

Summary of Impacts

6.1 If, following the consultation, a decision is taken to legislate for reform in Finance Bill 2014 the Government will set out the following impacts for the option which has emerged as the lead option:

- impact on the Exchequer
- impact on the economy
- impact on individuals and households
- equalities impact
- impact on business including Civil Society Organisations (CSOs)
- operational impact for HMRC or others
- any other impacts

If appropriate, this information will be published in a Tax Impact and Information Note at Autumn Statement 2013.

6.2 At this stage, we can assess that all close companies would be affected by any reform although depending on the option chosen, there may be little change in practice for the majority of companies who do not have loans outstanding more than nine months after the end of the accounting period.

6. **Do you think any of the reform options impact upon individuals or households? Please explain your answer.**

7. **Do you think any of the reform options raise questions about equality? Please explain your answer.**

8. **How effective is each of the options at reducing administrative burdens for business? How much time and/or cost would be saved or increased? Please explain your answer.**

9. **What other (positive or negative) impacts do you think each of the reforms may have? Please explain your answer?**

7. Summary of Consultation Questions

Chapter 1

1. Do you agree these are the right primary objectives for rules governing the taxation of loans from close companies to their participators? Please explain your answer.

2. What, if any, other objectives do you think any reform should seek to address?

Chapter 4

3. For each of the options, including the current regime as outlined in Chapter 3, please consider the following questions:
    a. Would the option be an appropriate and effective deterrent to extractions of value by participators from close companies? Please explain your reasoning.
    b. Is the option itself robust against avoidance? Please explain your answer.
    c. Does the option inhibit genuine commercial practice? Please provide any real-life examples you have as to why the option could create difficulties.
    d. What do you think presents the fairest option, and why?
    e. How do you think the option affects administrative burdens for business? Would the administrative burdens be proportionate?
    f. How could the option better meet the policy objectives or be improved?
    g. Do you think the suggested rates of tax are appropriate? Why (not)?
    h. Please identify and explain what you consider to be the strengths and weaknesses of the option.

4. The options do not form an exhaustive list – we would welcome alternative proposals or suggestions as to how the options or current regime could be improved. Are there any other options that may be more appropriate? In setting out your answer please make reference to the points above.

Chapter 5

5. Are there any other interactions which HMRC should be considering, in particular are there any specific interactions which would render any of the options ineffective or inappropriate?

Chapter 6

6. Do you think any of the reform options impact upon individuals or households? Please explain your answer.

7. Do you think any of the reform options raise questions about equality? Please explain your answer.

8. How effective is each of the options at reducing administrative burdens for business? How much time and/or cost would be saved or increased? Please explain your answer.

9. What other (positive or negative) impacts do you think each of the reforms may have? Please explain your answer?

8. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 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.

Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 1 of the process. The purpose of the consultation is to seek views on the policy design and any suitable possible alternatives, before consulting later on a specific proposal for reform.

How to respond

A summary of the questions in this consultation is included at Chapter 7.

Responses should be sent by 2 October 2013, by e-mail to ellen.milner@hmrc.gsi.gov.uk or by post to:

Ellen Milner
Room 3/63,100 Parliament Street, London. SW1A 2BQ

Or by fax to 020 7147 2641.

Telephone enquiries: 020 7147 3961 (from text phone prefix this number with 18001)

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 HMRC Inside Government. 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

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.

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 confidentially 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).

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

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

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

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

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

Annex A: Relevant (current) Government Legislation

1. Part 10 of Corporation Tax Act 2010 (as amended by Finance Bill 2013)
2. Sections 175 and 188 and Part 7A Income Tax, Earnings and Pensions Act 2003 (ITEPA2003)
3. Part 4, Chapter 6 Income Tax (Trading and Other Income) Act 2005 (as amended by Finance Bill 2013)
4. Section 185G Taxation of Chargeable Gains Act 1992
5. Sections 441-442 of Corporation Tax Act 2009
6. Section 1064 of Corporation Tax Act 2010