
1 ATAD: corporation tax exit charges

Schedule 1 –

- (a) amends provisions concerning CT exit charge payment plans,
- (b) repeals certain provisions that enable the postponement of exit charges,
and
- (c) contains amendments concerning the treatment of assets that are the
subject of EU exit charges.

SCHEDULE 1

Section 1

ATAD: CORPORATION TAX EXIT CHARGES

PART 1

CT EXIT CHARGE PAYMENT PLANS

- 1 Schedule 3ZB to TMA 1970 (CT exit charge payment plans) is amended as follows.
- 2 In paragraph 1 (circumstances in which plan may be entered into: company ceasing to be resident in UK) –
 - (a) in subparagraph (1)(b) for “another” substitute “a relevant”,
 - (b) in subparagraph (5) for “an” substitute “a relevant”,
 - (c) in subparagraph (6) for “other” substitute “relevant”, and
 - (d) in subparagraph (7) at the end insert “; “relevant EEA state” means an EEA state that is –
 - (a) a member of the European Union, or
 - (b) a party to an agreement with the United Kingdom that provides for mutual assistance equivalent to that provided for by Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes.”
- 3 (1) Paragraph 4 (circumstances in which plan may be entered into: non-UK resident companies with UK permanent establishments) is amended as follows.
 - (2) In subparagraph (4) (meaning of “PE qualifying event”) –
 - (a) omit “and” at the end of paragraph (b), and
 - (b) after paragraph (c) insert “, and
 - (d) immediately after the event –
 - (i) the asset or liability is held or owed by the company for the purposes of a permanent establishment of the company in a relevant EEA state, or
 - (ii) the asset or liability is held or owed by the company otherwise than for the purposes of a permanent establishment of the company and the company is resident in a relevant EEA state.”
 - (3) In subparagraph (6) –
 - (a) for “and” substitute “,”, and
 - (b) after ““eligible company”” insert “and “relevant EEA state””.
- 4 In paragraph 8(1) (entering into a plan) –

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- (a) in paragraph (a) for the words from “the standard” to the end substitute “paragraphs 11 to 14”, and
- (b) in paragraph (c) for “paragraphs 10 to 12” substitute “paragraph 10”.
- 5 (1) Paragraph 10 (contents of plan) is amended as follows.
- (2) In subparagraph (1)(b) before “EEA state” insert “relevant”.
- (3) After subparagraph (2) insert—
- “(2A) In either case a CT exit charge payment plan entered into by a company must specify requirements as to the ongoing provision of information by the company to Her Majesty’s Revenue and Customs in relation to the exit charge assets and liabilities.”
- (4) In subparagraph (3) for paragraph (c) substitute—
- “(c) the amount of ECPP tax attributable to each exit charge asset or liability.”
- (5) Omit subparagraphs (4) and (5).
- 6 For paragraphs 11 to 17, and the italic heading before those paragraphs, substitute—

“The payment method

- 11 (1) Where a CT exit charge payment plan is entered into the ECPP tax is due in 6 instalments of equal amounts as follows—
- (a) the first instalment is due on the first day after the period of 9 months beginning immediately after the end of the migration accounting period, and
- (b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.
- (2) But see paragraphs 12, 13 and 14 for circumstances in which all or part of the outstanding balance of the ECPP tax becomes due otherwise than by those instalments.

All of outstanding balance due

- 12 (1) Where an event mentioned in subparagraph (2) occurs, the outstanding balance of the ECPP tax is due on the date on which the next instalment of that tax would otherwise have been due.
- (2) The events are—
- (a) the company becoming insolvent or entering administration,
- (b) the appointment of a liquidator,
- (c) an event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) or (b),
- (d) the company ceasing to be resident in a relevant EEA state and, on so ceasing, not becoming resident in another relevant EEA state, or
- (e) the company failing to pay any amount of the ECPP tax for a period of 12 months after the date on which the amount becomes due.

All of outstanding balance attributable to particular exit charge asset or liability due

- 13 (1) This paragraph applies where –
- (a) a trigger event occurs in relation to an exit charge asset or liability during the instalments period, and
 - (b) a trigger event has not previously occurred in relation to that asset or liability during that period.
- (2) A trigger event occurs in relation to a TCGA or trading stock exit charge asset or an intangible exit charge asset if the company –
- (a) disposes of the asset, or
 - (b) ceases to hold the asset for the purposes of a business carried on by the company in a relevant EEA state and, on so ceasing, does not begin to hold it for the purposes of another such business.
- (3) A trigger event occurs in relation to a financial exit charge asset or liability if the company –
- (a) ceases to be a party to the loan relationship or derivative contract in question, or
 - (b) ceases to be a party to the loan relationship or derivative contract in question for the purposes of a business carried on by the company in a relevant EEA state and, on so ceasing, does not begin to be a party to it for the purposes of another such business.
- (4) On the occurrence of the trigger event an amount of the ECPP tax is due.
- (5) The amount due is –

$$(A - B) \times \frac{O}{T}$$

Where –

- “A” is the amount of ECPP tax attributable to the exit charge asset or liability (see paragraph 10(6)),
 - “B” is the amount of ECPP tax that has previously become due under paragraph 14 by reason of a partial trigger event occurring in relation to the exit charge asset or liability,
 - “O” is the amount of ECPP tax that is outstanding at the time of the trigger event, and
 - “T” is the amount of ECPP tax.
- (6) In this paragraph and paragraph 14 “the instalments period” means the period –
- (a) beginning immediately after –
 - (i) the company ceases to be resident in the United Kingdom (in the case of a Part 1 company), or
 - (ii) the occurrence of the PE qualifying event in respects of the asset or liability concerned (in the case of a Part 2 company), and
 - (b) ending with the day on which the final instalment of the ECPP tax is due under paragraph 11.

Part of outstanding balance attributable to particular exit charge asset or liability due

- 14 (1) This paragraph applies if—
- (a) a partial trigger event occurs in relation to an exit charge asset or liability during the instalments period, and
 - (b) a trigger event has not previously occurred in relation to that asset or liability during that period.
- (2) A partial trigger event occurs in relation to a TCGA or trading stock exit charge asset if the company disposes of part (but not all) of the asset.
Section 21(2)(b) of TCGA 1992 (meaning of part disposal of an asset) applies for the purposes of this subparagraph as it applies for the purposes of that Act.
- (3) A partial trigger event occurs in relation to a financial exit charge asset or liability if there is a disposal of a right or liability under the loan relationship or derivative contract in question which amounts to a related transaction (as defined in section 304 or 596 of CTA 2009 as the case may be).
- (4) A partial trigger event occurs in relation to an intangible exit charge asset if there is a transaction which results in a reduction in the accounting value of the asset but not in the asset ceasing to be recognised in the company’s balance sheet.
- (5) On the occurrence of the partial trigger event an amount of the outstanding ECPP tax is due.
- (6) The amount due is the amount that is just and reasonable having regard to the amount that would have been due had a trigger event occurred in relation to the exit charge asset or liability instead.
- (7) In this paragraph “trigger event” has the same meaning as in paragraph 13.”
- 7 In Schedule 56 to FA 2009 (penalty for failure to make payments on time) in paragraph 4 (amount of penalty in respect of certain late payments) in subparagraph (1) for “item 5, 6 or 6ZZA” substitute “any of items 5 to 6ZA”.
- 8 The amendments made by paragraphs 1 to 6 have effect in relation to accounting periods ending on or after 1 January 2020.

PART 2

REPEAL OF CERTAIN POSTPONEMENT PROVISIONS

- 9 (1) Section 187 of TCGA 1992 (postponement of charge on deemed disposal under section 185) is repealed.
- (2) The following amendments have effect in consequence of that repeal.
- (3) In section 185(1) of TCGA 1992 (deemed disposal of assets on company ceasing to be resident in UK) for “and section 187 apply” substitute “applies”.
- (4) In Schedule 3ZB to TMA 1970 (CT exit charge payment plans)—

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- (a) in paragraph 2(3) (meaning of “exit charge provisions” in Part 1) omit paragraph (b), and
 - (b) in paragraph 3 (interpretation: exit charge assets and liabilities) –
 - (i) in subparagraph (2)(a) omit “, (b)”, and
 - (ii) in subparagraph (2)(c)(ii) omit “or (b)”.
- (5) The amendments made by this paragraph have effect in relation to a company in a case where section 185 of TCGA 1992 applies to the company by reason of its ceasing to be resident in the United Kingdom on or after 1 January 2020.
- 10 (1) Sections 860 to 862 of CTA 2009 (postponement of gain on deemed realisation under section 859) are repealed.
- (2) The following amendments have effect in consequence of that repeal.
- (3) In section 859 of CTA 2009 (asset ceasing to be chargeable intangible asset: deemed realisation at market value) omit subsection (3).
- (4) In Schedule 3ZB to TMA 1970 (CT exit charge payment plans) –
 - (a) in paragraph 2(3) (meaning of “exit charge provisions” in Part 1) –
 - (i) at the end of paragraph (e) insert “and”, and
 - (ii) omit paragraph (g) and the “and” immediately before it, and
 - (b) in paragraph 3 (interpretation: exit charge assets and liabilities) in subparagraph (2)(c)(i) omit “or (g)”.
- (5) The amendments made by this paragraph have effect in relation to a company in a case where section 859 of CTA 2009 applies to the company by reason of its ceasing to be resident in the United Kingdom on or after 1 January 2020.

PART 3

TREATMENT OF ASSETS SUBJECT TO EU EXIT CHARGES

- 11 (1) After section 184I of TCGA 1992 insert –

“Assets subject to EU exit charges

184J Asset subject to EU exit charge on becoming chargeable asset

- (1) This section applies if –
 - (a) an asset becomes a chargeable asset in relation to a company by reason of an event specified in subsection (2), and
 - (b) on the occurrence of that event the company becomes subject to an EU exit charge in relation to the asset.
- (2) The events are –
 - (a) the company becoming resident in the United Kingdom, and
 - (b) in the case of a company that is not resident in the United Kingdom, the asset beginning to be held for the purposes of a trade carried on by the company in the United Kingdom through a permanent establishment.

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- (3) The company is to be treated for the purposes of this Act as if it had acquired the asset for its market value at the time it became a chargeable asset in relation to the company.
 - (4) For the purposes of this section an asset is a “chargeable asset” in relation to a company at any time if any gain on its disposal by the company at that time would be chargeable to corporation tax.
 - (5) “EU exit charge” means a charge to tax under the law of a member State in accordance with Article 5(1) of Directive (EU) 2016/1164 of the European Parliament and of the Council of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market.”
- (2) The amendment made by this paragraph has effect in relation to assets that become chargeable assets on or after 1 January 2020.
- 12 (1) Part 8 of CTA 2009 (intangible fixed assets) is amended as follows.
- (2) In section 863 (asset becoming chargeable intangible asset) after subsection (2) insert –
 - “(3) But subsection (2)(b) is subject to section 863A.”
 - (3) After section 863 insert –

“863A Asset becoming chargeable intangible asset: EU exit charge

 - (1) This section applies if –
 - (a) an asset becomes a chargeable intangible asset in relation to a company by reason of an event specified in section 863(1)(a) or (b), and
 - (b) on the occurrence of that event the company becomes subject to an EU exit charge in respect of the asset.
 - (2) This Part applies as if the company had acquired the asset for its market value at the time it became a chargeable intangible asset in relation to the company.
 - (3) “EU exit charge” means a charge to tax under the law of a member State in accordance with Article 5(1) of Directive (EU) 2016/1164 of the European Parliament and of the Council of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market.”
- (4) The amendments made by this paragraph have effect in relation to assets that become chargeable intangible assets on or after 1 January 2020.