

Amendments 1 and 2 to Clause 15: Election for loan charge to be split over three tax years

Summary

1. These amendments are to Clause 15 of Finance Bill 2020: election for a loan charge to be split over three tax years. Contained within Clause 15 is the date by which such an election must be made to HM Revenue & Customs (HMRC). This is referenced twice: the first relating to individuals chargeable to tax under Schedule 11 Finance (No.2) Act 2017, and the second to individuals chargeable to tax under Schedule 12 Finance (No.2) Act 2017. These amendments allow HMRC, by regulations, to extend that date.

Details of the amendments

2. Amendment 1 inserts two additional sub-paragraphs: (11) and (12) into new paragraph 1A of Schedule 11 Finance (No.2) Act 2017, which is inserted by subsection (3) of Clause 15.
3. Sub-paragraph (11) allows HMRC, by regulations, to extend the period within which specified persons may make an election for the purpose of giving effect to paragraph 1A of Schedule 11 to Finance (No.2) Act 2017 as inserted by subsection (3) of Clause 15 (splitting liability over three years).
4. Sub-paragraph (12) provides that “specified” in sub-paragraph 11 means specified in regulations.
5. Amendment 2 adds two additional sub-paragraphs (3F) and (3G) to those inserted into paragraph 1 of Schedule 12 to Finance (No.2) Act 2017 by subsection (5)(c) of Clause 15.
6. Sub-paragraph (3F) allows HMRC, by regulations, to extend the period within which specified persons may make an election for the purpose of giving effect to sub-paragraph (3A) of Schedule 12 to Finance (No. 2) Act 2017 as inserted by subsection (5)(c) of Clause 15 (splitting liability over 3 years.)
7. Sub-paragraph (3G) provides that “specified” in sub-paragraph (3F) means specified in regulations.

Background Note

8. Clause 15 is the second of seven clauses which implement changes to the Loan Charge following Sir Amyas Morse's independent review of the policy. In September 2019 the government commissioned Sir Amyas Morse to lead an independent review into the design and implementation of the Loan Charge.
9. The Review was published on 20 December 2019 alongside the government's response which accepted all but one of the recommendations.
10. One of the Review's recommendations was that Loan Charge taxpayers should be able to split their tax liability over three years: 2018/19 -2020/21 rather than account for it as a single sum on their 2018/19 Self-Assessment return. Clause 15 provides the legislative mechanism for those taxpayers wishing to split their liability. It also sets out the date by which an election to split liability needs to be made. Clause 15 relates both to taxpayers chargeable to tax under Schedule 11 Finance (No.2) Act 2017 (employment income) and Schedule 12 Finance (No.2) Act 2017 (trading income) and consequently there are two references in Clause 15 to the date by which an election must be made.
11. Clause 15 as currently drafted enables HMRC to allow an election to be made at a date later than that set out in the Clause. The provision can, however, only be applied on a case by case basis and would be impracticable if it became necessary to agree to elections being made at a later date for a wider group of Loan Charge taxpayers.
12. HMRC recognises the potential impact of COVID-19 on some Loan Charge taxpayers. Due to the uncertainties resulting from the COVID-19 pandemic, there may be instances where some Loan Charge taxpayers will be unable to make an election before 1 October 2020. These amendments are required to enable the election deadline to be extended should HMRC decide it is necessary to do so.