Payment of the deferred 2019 income tax liability

The transition to Current-Year Basis (CYB) income tax

Guidance notes

v1.0
6 April 2022

Table of Contents

1. Introduction

1.1 Background

On 4 November 2020 the States Assembly agreed to move all personal taxpayers to a current year basis (CYB) of paying income tax. As part of the transition, the obligation to pay the 2019 income tax liability was deferred, avoiding taxpayers from having to pay their income tax liability for 2019 and 2020 in the same year. States Members later agreed the Income Tax (Payment of 2019 Liability) (Jersey) Regulations 2021, which govern how and when the 2019 liability needs to be paid.

1.2 Purpose of guidance notes

The purpose of this document is to supplement the information on the Government website regarding the payment of the 2019 income tax liability for former prior year basis (PYB) taxpayers.

These guidance notes will be reviewed from time to time and may be modified to reflect feedback and emerging practices.

1.3 Operation of guidance notes

These guidance notes are for the use of Revenue Jersey officers and for taxpayers (and their advisers). The information is provided as a guide only. It is not comprehensive and may not cover every situation under which the legislation applies.

1.4 Deferral of 2019 liability

The law governing the deferral of the 2019 liability and the transfer of payments from the 2019 year of assessment to the 2020 year of assessment is found in Schedule 5, paragraphs 23 and 24 of the Income Tax (Jersey) Law 1961.

1.5 Feedback

Revenue Jersey welcomes comments and feedback on this guidance. Please send comments to taxpolicy@gov.je.

2. Paying over a fixed period

- **The first main option for paying the 2019 liability is to pay it over a fixed period**
- **Payments must start no later than 2025**
- **The full liability must be paid off by the end of 2041**

2.1 Paying in instalments

References to a 20-year payment period are references to the years 2021, the year in which the Regulations came into force, to 2041. Every taxpayer must have discharged their 2019 liability by the end of this payment period.

However, there is no requirement to make a payment until 2025, which is why the Regulations describe a fraction of 1/17th (i.e., covering 17 years from the beginning of 2025 to the end of 2041).

Taxpayers can choose to make equal payments each year over the period, or they can 'front load' payments to pay less in future years. The requirement to pay 1/17th of the 2019 liability is therefore cumulative.

Example 1 in Appendix 1 explains what is and is not permitted.

Taxpayers can choose to pay monthly, quarterly or annually, and can also pay over a shorter period.

2.2 Paying over a shorter period

Taxpayers can pay over a shorter period, so that they discharge their 2019 liability before the end of 2041.

For example, taxpayers who have 12 years until retirement might choose to pay in 12 instalments rather than 17. Other taxpayers may simply wish not to have the liability having hang over them and prefer to discharge their liability over a shorter term which is manageable in their particular circumstances.

Taxpayers who have chosen to pay over a shorter period of time may adjust these payments if their circumstances change. However, they are still required to have paid the liability in full by 31 December 2041.

2.3 Paying in full

If they can afford to, some taxpayers might want to pay in full straight away. Payment of the deferred 2019 liability will be accepted at any time.

2.4 Registering the payment plan

Taxpayers must register their payment plan by 30 September 2024. There will be an option to register online at gov.je or on a paper form. Paper forms can be posted to taxpayers. There will also be paper forms available to collect at Customer and Local Services at La Motte Street, St Helier or from any of the Parish Halls.

2.5 Retiring before the end of 2041

Some taxpayers who pay instalments will retire on or before 31 December 2041. Consideration should be given to the commitment to paying the instalments after retirement, when income is likely to be reduced. In most cases this should be a manageable amount, but taxpayers are encouraged to contact the Debt Management Team if they are facing financial difficulties – see paragraph 8.3 (Time-to-pay arrangements).

2.6 Payment holidays

Regulation 4 permits a taxpayer to be able to apply for a payment holiday of up to one year. The purpose of a payment holiday is to provide short term relief for any reason – it does not reduce the deferred 2019 liability.

As a result, regular payments made after a payment holiday might need to increase. Alternatively, if it is affordable, a taxpayer could make a lump sum payment to 'catch up' before resuming regular payments at the previous level.

The practical effect of a payment holiday is that a 1/17th payment is not required to be paid at the end of the year in which the payment holiday applies. If a taxpayer is making regular payments, then these should be stopped – repayments will not be made.

To recognise that circumstances change, every taxpayer is allowed one 'no questions asked' payment holiday. No supporting information needs to be provided as evidence of the reason(s) for the first payment holiday; it can be taken for any reason

If a taxpayer needs more than one year's payment holiday, or if they want a second payment holiday at a later date, they must apply to the Comptroller with supporting evidence of the reason(s) for the additional request. Under regulation 17 if a request to take more than one payment holiday is refused this is an appealable decision and can be referred to the Commissioners of Appeal for tax.

2.7 Applying for payment holiday

To apply for a payment holiday, taxpayers must complete the online or paper form. In the case of a second or further payment holiday, taxpayers should include documentation in support of their application as these will not be granted as a matter of right. A second or further application that does not explain the reason(s) for the application will be rejected.

2.8 Approving second or further payment holidays

Taxpayers are always encouraged to contact Revenue Jersey at an early stage if they have financial problems.

Revenue Jersey will adopt the same approach to financial difficulty as it would ordinarily, meaning that a payment holiday may be granted if taxpayers can demonstrate they cannot pay and provide a credible plan to ensure that outstanding sum is paid within a reasonable time.

To demonstrate that they cannot pay, a taxpayer must provide full details about their income and expenditure, and any assets such as investments or property. Taxpayers will be required to reach an agreement on the continued repayment of the frozen liability with Revenue Jersey if a second or further payment holiday is to be approved.

2.9 ITIS and other credits

Taxpayers who have voluntarily increased their ITIS effective rates to build up a credit balance, or where there is a credit balance for any other reason, in a particular year of assessment, can ask for that credit to be applied to their deferred 2019 liability.

3. Paying on reaching pensionable age

Taxpayers who have not reached pensionable age can choose to defer until they reach pensionable age under Regulation 5, if they have appropriate financial plans in place

3.1 Deadline for applying

Taxpayers who want to pay when they reach pensionable age must:

- Have, or put in place, appropriate financial arrangements to ensure that they are able to pay the deferred 2019 liability within 12 months of reaching pensionable age; and
- Make their election by 30 September 2024.

Section 5 of this guidance covers applications made after 30 September 2024.

3.2 How to apply to pay on reaching pensionable age

There will be an online and paper form for making the application and a link will be provided in this guidance when it is available. Elections must be made no later than 30 September 2024.

If no election is made to pay on retirement, taxpayers must pay over a fixed period.

3.3 Meaning of pensionable age

Pensionable age is defined in accordance with the Social Security (Jersey) Law 1974 and is dependent upon when an individual's date of birth falls.[1]

Appendix 2 contains a table setting this out.

It is important to note that the date of the taxpayer's actual retirement does not impact the date on which their 2019 liability becomes payable. However, taxpayers who have retired before they reach pensionable age can pay their 2019 liability at the point of retirement if it suits their circumstances and they can afford it.

3.4 Declaration of means

When making their election, taxpayers do not have to provide evidence in support of their application, but they must make a declaration that, to the best of their

[1] Social Security (Jersey) Law 1974, Schedule 1AA

knowledge, they will have the means to pay the 2019 liability 12 months after they reach pensionable age.[2]

3.5 Types of financial arrangements

Revenue Jersey does not endorse or approve any particular type of financial arrangement, but it must be sufficient to be able to pay the 2019 liability within 12 months of the taxpayer reaching pensionable age.

The most common arrangement is likely to be a pension scheme from which a tax-free lump sum can be taken. The Income Tax (Jersey) Law currently allows 30% of the net fund value to be taken if the taxpayer is aged 50-74.[3]

Taxpayers should speak to their pension provider to discuss their pension scheme's rules or if they are unsure whether 30% of their fund value at retirement is expected to be sufficient to pay the 2019 liability.

Other examples of financial arrangements include savings and investments (including ISAs, stocks, shares, etc.), and property, other than a taxpayer's main residence.

Ultimately, whether or not a financial arrangement is appropriate will depend on a taxpayer's circumstances and the amount of the deferred 2019 liability.

Revenue Jersey cannot accept an expected inheritance, or similar, as the basis for an election.

3.6 Reviewing financial arrangements

Taxpayers do not need to provide evidence in support of their election. They should keep hold of relevant information and evidence underpinning that election, as Revenue Jersey may request this at any time.[4] If Revenue Jersey is not satisfied that the taxpayer will have sufficient means to pay their 2019 liability within 12 months of reaching pensionable age then it may require that liability to be discharged earlier.

Taxpayers must also tell Revenue Jersey if their financial arrangement changes in a way that means they may not be able to pay the 2019 liability when they retire. For example, where a person leaves the employment in which a pension scheme is provided.

Revenue Jersey will adopt a risk-based approach to reviewing financial arrangements, and some information requests will be randomly made. If, following a review, it appears that the financial arrangement will not be sufficient to pay the 2019 liability, Revenue Jersey may require the taxpayer to discharge that liability earlier.[5]

---

[2] Income Tax (Payment of 2019 Liability), Regulations 2019, Regulation 5
[3] Income Tax (Jersey) Law 1961, Article 131CF
[4] Income Tax (Payment of 2019 Liability) Regulations 2021, Regulation 7
[5] Income Tax (Payment of 2019 Liability) Regulations 2021, Regulation 7

3.7 Withdrawing the option for a taxpayer to pay on reaching pensionable age

If Revenue Jersey considers that a taxpayer will not have the means to pay on reaching pensionable age, the taxpayer will be notified, and the remaining 2019 liability will become due and payable in equal instalments each year until the end of 2041.

If a taxpayer cannot afford to pay in instalments in the remaining time available, a time-to-pay arrangement may be reached. Revenue Jersey commits not to enforce collection in the courts if a taxpayer observes the time-to-pay arrangement and keeps Revenue Jersey informed of any further changes in circumstances or difficulties encountered.

A taxpayer may appeal a decision requiring them to pay in instalments.[6] Appeals must be in writing within 40 days of the refusal decision and cases will be heard by the Commissioners of Appeal.

3.8 Deadline for paying after reaching pensionable age

Once a taxpayer who has elected to pay on retirement has reached pensionable age the 2019 liability will become due and payable within 12 months.

[6] Income Tax (Payment of 2019 Liability) Regulations 2021, Regulation 17

4. Flexibility for pensioners

Instead of paying over a period of time, pensioners can request to defer the payment to their testamentary estate if making regular payments would cause financial hardship. This means the executor or administrator of the taxpayer's estate must settle the 2019 liability before any assets can be distributed.

4.1 How to apply

Taxpayers who wish to pay their 2019 liability from their estate after their death must apply in writing to Revenue Jersey declaring that they would experience financial hardship if they were to pay in instalments.[7]

4.2 Conditions

A taxpayer must be aged 65 or over on 31 December 2020. The 2019 liability would need to be settled by the executor or administrator in the normal way.

The Comptroller may request evidence to support the application.

4.3 Approval

The Comptroller may consider the following before approving an application:

- a person's reasonable living expenses
- any assets a person owns or has an interest in
- any other relevant factors

Any decision by the Comptroller to refuse the application can be appealed. The appeal must be in writing within 40 days of the refusal.[8]

[7] Income Tax (Payment of 2019 Liability) Regulations 2021, Regulation 11
[8] Income Tax (Payment of 2019 Liability) Regulations 2021, Regulation 17

5. Switching between options

Taxpayers may apply to move from deferred payments to annual instalments, and vice versa. These applications must be approved by the Comptroller.

5.1 From paying on reaching pensionable age to annual instalments

Taxpayers who had previously elected or applied to pay by deferred payment may apply to instead make annual instalments under Regulation 8.

When the application is approved, the 2019 liability is due and payable in equal instalments on 31 December each year, beginning in the year of approval and ending by 31 December 2041.

5.2 From annual instalments to paying on reaching pensionable age

Taxpayers may apply after 30 September 2024 to pay on reaching pensionable age.[9] These applications, unlike applications made before 30 September 2024, are subject to the Comptroller's approval.

Taxpayers are required to make a declaration within their application stating that they have sufficient means to pay the 2019 liability within 12 months of reaching pensionable age.

Revenue Jersey may ask for further information to support the application and may decline the application if the financial arrangement is considered insufficient to cover the 2019 liability. In addition, as above at section 3.6, Revenue Jersey may require the taxpayer to discharge their liability earlier should the taxpayer's circumstances change impacting their ability to pay later.

[9] See above section 3.6

6. Leaving Jersey

Taxpayers should pay their 2019 liability in full when they become non-resident in Jersey under Regulation 9.

6.1 Leaving Jersey

Taxpayers should tell Revenue Jersey before they leave the Island. Any outstanding taxes should be paid before leaving, including the 2019 liability, which will crystallise upon departure.

If a taxpayer cannot afford to pay upon departure, they should contact Revenue Jersey to come to a time-to-pay arrangement. The 2019 liability would still be legally due and payable but Revenue Jersey commits not to enforce collection in the courts if a taxpayer observes the time-to-pay arrangement.

6.2 Continuing to receive Jersey-source income

By concession, if a taxpayer continues to pay Jersey tax on a Jersey source income after they have left the Island, generally Revenue Jersey will allow existing payment plans to continue.

The tax debt will crystallise once the taxpayer no longer receives income from a Jersey source. If a taxpayer demonstrates that they cannot afford to pay at this point, they should contact Revenue Jersey to discuss a time-to-pay arrangement.

7. Earlier payment deadlines

One of the purposes for moving all personal taxpayers to a current year was to help individuals with the financial effects of the pandemic and lockdown measures. There are exceptions for certain non-individuals and those who pass away before the Regulations come into force.

7.1 Trusts and estates

If the 2019 liability arose from assets held in trust or in an estate, the deadline for payment was 6 months after the Regulations came into force under Regulation 13 (i.e. the due date was 30 September 2021).

This Regulation does <u>not</u> apply to interest in possession (IIP) trusts in which a beneficiary is entitled to – and is already in receipt of – income of the trust directly.

Trustees and administrators of those IIP trusts are requested to contact Revenue Jersey if they are requested to pay the 2019 liability in full.

7.2 Partnerships

The deferral of the 2019 liability for partnerships is more complicated because partners of a partnership are likely to change over the lifetime of the payment period. This may to lead to issues in the future as to which partner(s) are liable to which portions of the 2019 liability.

To address this, the payment Regulations ascribe the 2019 liability to each partner in the same proportion as the share of the partnership's profits that each partner was entitled to in 2019 (i.e. under the partnership agreement). The proportion ascribed is added to their 2019 personal income tax liability; Revenue Jersey has contacted all partners to ensure they are aware of this.

7.3 Death – before Regulations in force

In accordance with Regulation 12, if a taxpayer passed away before the Regulations came into force on 30 March 2021, their 2019 liability is due and payable 12 months after the Regulations come into force (i.e. the due date is 30 March 2022). This will help ensure the administration of the person's estate is not lengthened unnecessarily.

7.4 Death – all other cases

If a person dies after these Regulations come into force, any liability outstanding is due and payable on the date of death. At that point, the 2019 liability is a liability of the estate and there is no concessional treatment to permit payment over a longer period of time.

7.5 Bankruptcy

If bankruptcy is declared in respect of a taxpayer, the normal procedures apply. Any 2019 liability left to pay is a “provable” debt in the désastre.[10] The debtor is subject to the full 2019 liability at the time of the declaration, even if the obligation to pay does not crystallise until a later date.

[10] Bankruptcy (Désastre)(Jersey) Law 1990, Article 29(1)

8. Other matters

8.1 Taxed-at-source income

Taxpayers whose 2019 assessment contained taxed-at-source income will have the 2019 liability suspended after the deduction of tax. This is because the tax is liable and paid at source (e.g. in respect of a pension scheme, it is the pension scheme that pays the tax, not the individual taxpayer). The individual taxpayer is provided with a credit within the assessment to represent the fact the payment they received was net of tax. The final tax liability is calculated after the credit is taken into account.

8.2 Non-resident landlords

Non-resident landlords whose 2019 liability arises solely from rental income from Jersey property can elect either to pay by annual instalments, or by deferred payment in the same way as other taxpayers can, as allowed for under Regulation 10.

If a non-resident landlord sells the property from which their income arises, prior to the 2019 liability becoming due and payable through their chosen option, the liability will become due and payable on the date of sale.

If a person is in receipt of rental income from more than one property, the 2019 liability will become due and payable upon the sale of the last property.

8.3 Time-to-pay arrangements

Taxpayers may request a review of their financial circumstances to allow for fair and manageable terms for payment to be agreed between the individual and Revenue Jersey.

As is the case for all tax debt, no enforcement action would be taken against individuals who are making these payments as agreed with Revenue Jersey.

8.4 Independent taxation

Independent taxation will be introduced in three phases and is likely to be completed by the year of assessment 2025. All taxpayers will be responsible for their own tax affairs.

The PYB liability will remain with whoever was the primary taxpayer and will not be affected by the move to independent taxation.

Taxpayers who intend to increase their ITIS effective rate to cover their PYB annual payments should consider the impact of independent taxation.

9. Regulation-by-Regulation

Regulation 1

This Regulation provides for the interpretation of terms used in the Regulations

Regulation 2

The application of the Regulations applies only to those persons whose 2019 liability was deferred by paragraph 23 of Schedule 5 of the Income Tax Law – namely taxpayers who previously paid on a prior year basis (PYB). It does not apply to those taxpayers who have always paid on a current year basis (CYB).

Regulation 3

Provides for the default treatment. If no election is made, a taxpayer must pay at least 1/17 of their deferred 2019 liability by the end of 2025. The deferred liability must be paid in full by 31 December 2041.

Regulation 4

A taxpayer may apply for a payment holiday of one year. The first application made by a person must be approved however any subsequent applications are subject to approval at the Comptroller's discretion.

The effect of a payment holiday is to skip one 31 December payment due date and for the remaining instalments to be recalculated to take account of this.

Regulation 5

Provides for the option to pay after the taxpayer has reached pensionable age. A positive election must be made by the taxpayer by 30 September 2024. An online form and a paper equivalent will be provided. "In writing" includes by email.

"Pensionable age" has the same meaning as given in the Social Security (Jersey) Law 1974.

Regulation 6

Allows a person who missed the election deadline to pay after reaching pensionable age to apply for the option. These applications are subject to the Comptroller's approval and are not an election like those made under Regulation 5.

Regulation 7

Requires a person who has elected or applied for deferred payment to inform the Comptroller of any change in circumstances that results in them no longer being able to pay after retirement.

The Regulation also allows the Comptroller to review the financial arrangements of these persons. If these financial arrangements aren't considered by the Comptroller to be sufficient to cover the 2019 liability, the Comptroller may instead require a person to pay by annual instalments.

Regulation 8

Enables a person who has elected or applied for deferred payment to instead apply to pay by annual instalments.

Regulation 9

Provides that any outstanding 2019 liability becomes due and payable on the date that a person becomes non-resident.

Regulation 10

Provides that a 2019 liability that arises to a non-resident by way of rental income is due and payable upon the sale of the property.

Regulation 11

Allows a person who was 65 years or older on 31 December 2020 to apply to pay their 2019 liability from their estate if paying in instalments would cause financial hardship.

Regulation 12

Provides that the liability of a person who dies prior to these Regulations coming into force is due and payable 12 months after these Regulations come into force (i.e. the due date is 30 March 2022).

After these Regulations come into force, any liability outstanding is due and payable on the date of death. At that point, the 2019 liability is a liability of the estate and there is no concessional treatment to permit payment over a longer period of time.

Regulation 13

Requires trusts and estates to pay their 2019 liability within 6 months of these Regulations coming into force (i.e., the due date was on 30 September 2021).

This does not apply to trusts that are interest in possession trusts in which a beneficiary is entitled to, and receiving, income of the trust directly.

Regulation 14

Provides that the 2019 liability of a partnership is divided between the partner in proportion to their share in the partnership and is due and payable as if it formed part of their own 2019 liability.

Regulation 15

Allows the Comptroller to demand immediate payment of the 2019 liability of a person who is required to make annual payments if they do not pay an amount due within 3 years of the amount becoming due and payable.

Regulation 16

Requires that the Comptroller review the operation of these Regulations no later than 30 June 2031, and that the Minister present a report a report to the States Assembly summarising these findings.

Regulation 17

Allows a person to appeal a decision made by the Comptroller under these Regulations.

Regulation 18

Provides that these Regulations come into force 7 days after they are made.

Appendix 1

Example 1

Taxpayer 1 has a deferred 2019 liability of £8,500 and intends to start paying in 2025. Below are three examples of how the deferred liability might be paid – examples A and B are permitted but example C is not, because the cumulative payments are below the minimum payment as shown in the second column.

The figure in brackets is the cumulative payment made under each option.

Year	Min payment (cumulative)	A – permitted	B – permitted	C – not permitted
2025	£500	£500	£1,000	£250
2026	£1,000	£500 (£1,000)	£1,000 (£2,000)	£250 (£500)
2027	£1,500	£500 (£1,500)	£1,000 (£3,000)	£250 (£750)
2028	£2,000	£500 (£2,000)	£1,000 (£4,000)	£250 (£1,000)
2029	£2,500	£500 (£2,500)	£1,000 (£5,000)	£500 (£1,500)
2030	£3,000	£500 (£3,000)	£1,000 (£6,000)	£500 (£2,000)
2031	£3,500	£500 (£3,500)	£0 (£6,000)	£500 (£2,500)
2032	£4,000	£500 (£4,000)	£0 (£6,000)	£500 (£3,000)
2033	£4,500	£500 (£4,500)	£250 (£6,250)	£500 (£3,500)
2034	£5,000	£500 (£5,000)	£250 (£6,500)	£500 (£4,000)
2035	£5,500	£500 (£5,500)	£250 (£6,750)	£500 (£4,500)
2036	£6,000	£500 (£6,000)	£250 (£7,000)	£1,000 (£5,500)
2037	£6,500	£500 (£6,500)	£250 (£7,250)	£1,000 (£6,500)
2038	£7,000	£500 (£7,000)	£250 (£7,500)	£1,000 (£7,500)
2039	£7,500	£500 (£7,500)	£500 (£8,000)	£1,000 (£8,500)
2040	£8,000	£500 (£8,000)	£500 (£8,500)	Nil
2041	£8,500	£500 (£8,500)	Nil	Nil
Total	**£8,500**	**£8,500**	**£8,500**	**£8,500**

Appendix 2

The below table sets out the pensionable age as defined in the Social Security (Jersey) Law 1974.

Age categories	Pensionable age
Person born before 1st January 1955	65
Person born on or after 1st January 1955 and before 1st November 1955	65 years and 2 months
Person born on or after 1st November 1955 and before 1st September 1956	65 years and 4 months
Person born on or after 1st September 1956 and before 1st July 1957	65 years and 6 months
Person born on or after 1st July 1957 and before 1st May 1958	65 years and 8 months
Person born on or after 1st May 1958 and before 1st March 1959	65 years and 10 months
Person born on or after 1st March 1959 and before 1st January 1960	66 years
Person born on or after 1st January 1960 and before 1st November 1960	66 years and 2 months
Person born on or after 1st November 1960 and before 1st September 1961	66 years and 4 months
Person born on or after 1st September 1961 and before 1st July 1962	66 years and 6 months
Person born on or after 1st July 1962 and before 1st May 1963	66 years and 8 months
Person born on or after 1st May 1963 and before 1st March 1964	66 years and 10 months
Person born on or after 1st March 1964	67 years