

ESC 13 Late Local Currency Elections

S31A Taxes Ordinance 1997 (TO1997) was introduced by the Taxes (Amendment) Ordinance 2002. The time limit for companies in existence at that time was 9 months from the date the Ordinance came into force. Previously accounts had to be drawn up in sterling. The time limit is now past for those companies.

Some advisors and companies were not aware of this extension to the Ordinance and did not make an election in time. In addition businesses change over time and their local currency may also change. For this reason a relaxation in the time limit will be given in certain circumstance. The election once made however, is irreversible.

A late election should be made to the Tax Officer and should contain the following information:

- Date from which the election will commence
- Reasons an election was not made in time
- The functional currency and details of how the functional currency has been determined, it is expected this will be the same as the functional currency to be used.
- Details of previous forex losses and gains arising from previous transactions in this currency and sterling. The change to compute the profit or loss in another currency may crystallise an overall forex loss or profit from previous transactions in the currency. The potential crystallised loss or profit will be taken into account when deciding whether to extend the time limit for the election.

A late election will not be accepted if one of its main purposes is tax avoidance.

This relaxation in allowing late elections will be kept under review and may be withdrawn if it appears to be abused to gain a tax advantage.