Trading and Property Allowances: Record-keeping obligations

OMB Personal tax

01 May 2018

Although relevant annual receipts not exceeding £1,000 may be non-taxable and the allowance may replace a deduction for actual expenses, record-keeping obligations remain.

The new Trading and Property Allowances (introduced by Finance (No 2) Act 2017 but effective from 6 April 2017) were heralded in the March 2016 Budget with the catchphrase ‘no forms to fill in, no tax to pay’. Strictly speaking, that promise is met where an individual’s qualifying trading or property receipts for a year do not exceed £1,000. An individual with such receipts will not have to declare that income source, complete a tax return because of its existence or have any tax to pay on that income. Maybe, however, many of us had read a bit too much into the proposal to make the tax position of the nation’s micro-entrepreneurs ‘more certain and simple’.

Between November 2017 and March 2018, there was a considerable amount of discussion between HMRC and the professional bodies of draft versions of the relevant guidance for inclusion on the GOV.UK website and in HMRC’s Business Income Manual and Property Income Manual. This brought to light that TMA 1970 s12B (Records to be kept for purposes of returns) had slumbered undisturbed throughout the design of the legislation for the two allowances and that there were therefore continuing record-keeping obligations on the users of either full relief or partial relief under either allowance.

S12B(3) requires individuals to keep and preserve (for almost six years) records of:

> ‘all amounts received and expended in the course of the trade, profession or business and all matters in respect of which the receipts and expenditure take place’ and
> ‘in the case of a trade involving dealing in goods, all sales and purchases of

goods made in the course of the trade’.

In the absence of any special provision, these rules (and the sanction of ‘a penalty not exceeding £3,000’ for their breach) apply to any trade, profession or business which attracts the Trading Allowance. S12B(6) extends the application of the same provisions to ‘the letting of property’ so that most if not all receipts that would attract the Property Allowance are subject to the same obligations.

The initial advice from HMRC policy specialists was that all users of the allowances would need to keep records of both their receipts and their expenses. Following correspondence and further discussions with LITRG and ATT, HMRC identified a possible adaptation. At the time of writing (at the end of March), this was understood to include the following elements:

- The GOV.UK guidance will refer to the obligation on users of the allowances to keep and preserve records of their receipts (necessary for those using full relief to demonstrate if required that their receipts do not exceed £1,000 and for those using partial relief to demonstrate if required both the amount of those receipts and that all the receipts qualified for that relief);
- The guidance (which HMRC were expecting to be published at the beginning of April) will also refer to the advantages (not obligation) of keeping a record of expenses;
- Pending the making of regulations (under s 12B(3A)(a)) which will formally relax the obligation to keep and preserve records of expenses where either of the allowances is used, HMRC will use their general collection and management powers to achieve the same effect.