Annual investment allowance – exclusion of mixed membership partnerships

OMB

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CIOT comments on the exclusion of mixed membership partnerships

The CIOT has written to HMRC about addressing the anomaly that excludes mixed membership partnerships from taking advantage of the annual investment allowance (AIA). It is an issue that members often raise with us.

CAA 2001 s 38A states that the AIA is not available for qualifying expenditure incurred by a partnership unless it is incurred by one in which all the members are individuals. This excludes partnerships that have both corporate and individual members from claiming the AIA, as well as those in which all the members are corporates.

The Office of Tax Simplification (OTS) has also previously expressed disappointment that a change in legislation to enable these structures to access the relief was not included in the 2014 Autumn Statement (see paragraph 8.7 of the OTS's Review of Partnerships: final report published in January 2015). The OTS covered the exclusion in its interim report at paragraphs 3.5 to 3.6 where it noted that the reason for exclusion seemed to be because of concerns that complex rules would be required to prevent double claims of AIA (once through the partnership and then through the corporate member).

We do not believe it is either a fair or a proportionate response to fears of possible avoidance to exclude an entire sector of commercial activity from access to an important relief without first attempting to navigate a way around those fears. We ask whether the time has come for a full review of the exclusion to try to find a way of allowing mixed membership partnerships to claim the AIA without introducing

complex anti-avoidance rules.

The full text of the CIOT's letter can be found on the CIOT website.