President's Page, November 2015

Welcomes

01 November 2015

Tackling tax avoidance

In the first Budget of this year the then coalition government announced: ‘It would be asking the regulatory bodies who police professional standards to take on a greater lead and responsibility in setting and enforcing clear professional standards around the facilitation and promotion of avoidance to protect the reputation of the tax and accountancy profession and to act for the greater public good.’ The current government has confirmed that this policy will now be pursued and the CIOT has been taking an active lead in developing a response.

The term ‘tax avoidance’ means different things to different people and the public debate not only confuses avoidance with illegal evasion, but sometimes implies that even claiming basic statutory reliefs is avoidance. We need a strong tax profession in the UK and we should never lose sight of the fact that more than 90% of this country’s tax receipts come in with little or no intervention from HMRC. It is critical, in a democratic society, that citizens and corporations can seek advice on the law and plan their affairs in accordance with it. This is especially true in taxation where the law is steeped in complexity. In light of this, many of those working in the tax profession would say that our side of the system is working and the challenge laid down by government is something we must strongly resist.

At its recent meeting, the CIOT Council had a long, healthy and constructive debate about how best to deal with this challenge. As a profession, we have to accept that public opinion is against us, exacerbated, or perhaps even driven, by adverse media coverage. Although such coverage is often unfair, and in some cases untrue, the world has moved on and the problem cannot now be solved by ‘educating’ the public. It would be irresponsible for us not to engage sensitively and responsibly to the government’s request. To do otherwise would probably result in parliament passing new laws that deliver a far worse outcome. So it is better for us, as an

Institute, to be party to any changes that are deemed necessary than to sit back and let others, with less knowledge and understanding of the real issues, impose changes that could be counter-productive or even unworkable in practice.

Central to this discussion is the need to ensure that tax outcomes deliver a result in line with the clear intentions of parliament or, in some areas, do not deliver one that is so absurd that parliament could never have intended it. (Reference the recent case of Lobler that HMRC lost at tribunal – as this example implies, I believe the issue cuts both ways.) However, in some cases there could be valid and opposing interpretations about the intent of parliament and taking a view that may differ from HMRC's publicly stated view should not be taken to be avoidance. Ultimately, it is for the courts to finally determine the legal position.

As I say above, it is right that the CIOT engages constructively in the response to the government's challenge to ensure our voices are heard. We need to play our part in addressing this challenge because we have a responsibility to our members and the wider public.

Branch visits

In recent weeks I have visited various regional branches to give presentations on the Finance Bill and Act of 2015. The announcement in the summer Budget of the forthcoming restriction of interest relief for buy-to-lets has certainly stirred up some concern. In the example I take audiences through, the taxpayers end up with a tax charge of more than 140% on a joint rental profit of just £50,000. This is a jump from the 11.2% they pay now! It is proposed to phase the deduction of interest to a 20% tax reducer from 2017/18.

The other area of great interest is the new regime for dividends from April next year. One group that will gain is that of higher rate taxpayers earning dividends of below £21,667; but among the losers will be those extracting reasonable sums from owner-managed companies. Having spent the past few weeks poring over the new rules draws me to conclude that, although such owner-managers will pay some more tax, there is no compelling reason for them to disincorporate and move back to sole trading. That said, anyone who is yet to incorporate may wish to pause until we know what might be happening to Class 4 National Insurance in light of the announced abolition of Class 2. We should know more on 25 November, the date of the autumn statement.

Of course, my number-crunching has all been based on a hypothetical client, so computations will need to be prepared in line with clients' own circumstances to arrive at the best result.

I cannot believe that I am now nearly halfway through my year as President. Where has the time gone?

Until next month…