Access to NHS central register not necessary to manage Scottish rate of income tax

Technical | Management of taxes

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Key Points

Draft Scottish regulations would give HMRC access to the non-clinical data held on NHS Scotland's central register

Legislation affecting taxation can be found in unexpected places. In relation to the Scottish rate of income tax (SRIT), the Scottish government published draft amendments to legislation concerning the NHS central register that would permit HMRC, among other bodies, access to non-clinical data, such as names and addresses on that register. Access to clinical data would not be allowed.

That might seem uncontroversial, but a previous consultation on the issue of sharing data revealed a significant number of members who have concerns with the creeping relaxation of data protection rules. Accordingly, the CIOT's Scottish Tax Technical Committee looked at the proposals from a taxation perspective.

A brief summary of UK data protection legislation may be found on the GOV.UK website.

The equivalent EU legislation may be found on the EU website.

Our submission to the Scottish parliament may be found on the CIOT website.

In it we point out that the criteria for deciding who is a Scottish taxpayer are to be found in the Scotland Act. This provides that a person is a Scottish taxpayer if he or she either has a close connection with Scotland or spends more days in Scotland

than elsewhere in the UK. Mere access to a residence in Scotland is not necessarily determinative. Accordingly, access to the central NHS records, although convenient, might not provide the answers. Indeed, access to council tax records, which show the status of a residence, might be better.

We noted that, although an EU member state is permitted to provide for exceptions in the public interest, there is a high threshold that we are not certain is met, given the relatively small number of cases in which the register might provide useful information.

We therefore concluded that the proposed access to the register will provide insufficient benefit to justify its use and may be contrary to data protection legislation.