Partial surrender of life insurance policies – informal consultation on options for reform

Personal tax

01 February 2016

CIOT responds to the informal consultation on options for reform

As previously reported in Technical Newsdesk, the CIOT was granted permission to make written and oral submissions in the appeal to the Upper Tribunal in *Lobler v HMRC* [2015] UKUT 152 (TCC). The CIOT's application was made against a background of a number of First-tier Tribunal decisions in which the tax regime governing the partial surrender of life insurance policies in ITTOIA 2005 Part 4 Chapter 9 was subject to severe judicial criticism. In *Lobler*, the Upper Tribunal in effect allowed rectification of the taxpayer's partial surrender (such that he was treated as though he had opted instead for full surrenders) to remedy the substantial inequitable tax charge he incurred.

Since the decision, the CIOT has engaged informally with professional bodies representing the life insurance industry, other representative tax bodies and with HMRC to discuss possible options for legislative reform. From these discussions some key parameters for the insurance industry emerged:

- any new rules must keep the existing 5% cumulative allowance;
- insurers must continue to be permitted to segment policies; and
- the insurance industry would not be in favour of an option that required a significant and expensive change to the insurers' systems or reporting requirements.

The CIOT is concerned that any solution will need to be sufficiently flexible to prevent a Lobler-type charge from arising in the future and also that any amendment to the legislation includes transitional provisions capable of providing a

solution to those currently facing substantial tax charges on chargeable event gains (if any remain after *Lobler*). The CIOT is also conscious that any legislative change is not inadvertently susceptible to abuse.

The CIOT has discussed various options for reform and the views of respondents on these have been submitted to HMRC, together with additional stand-alone solutions proposed by others. The submission can be read on the CIOT website.

The CIOT understands that HMRC intends to produce a formal consultation identifying the proposals that they wish to consider further with a view to introducing draft amendments in the Finance Bill 2017.