Distributions in a winding-up – FB16 cl l35: Update

OMB

01 September 2016

HMRC has provided us with details of its current approach to clearance requests involving distributions in a winding-up.

Clause 35 of Finance Bill 2016 introduces a targeted anti-avoidance rule (TAAR) for specified distributions made on a winding-up. In August 2016's Technical Newsdesk, I reported that CIOT had written to HMRC with suggestions for examples that we would like to be addressed in guidance on the clause.

HMRC has now advised that it has started to receive a number of clearance requests from taxpayers, despite there being no statutory clearance procedure under the new legislation. It has confirmed that it is not its general practice to offer clearances on recently introduced legislation with a purpose test. However, the department recognises that this may cause some difficulty for taxpayers, particularly in the absence of guidance.

HMRC has therefore drafted a standard reply to use for all requests for clearance. This explains its position, but also tries to expand on its view on how the new rules work. It has also included a few examples. This is intended as an aide memoire rather than a replacement for the guidance, which is still being worked on and should be published before the end of this year in detailed form with more examples.

If you are encountering difficulties with the practical application of cl 35 email mcurran@ciot.org.uk.

HMRC's letter can be found on the CIOT website.