Partnership taxation

Personal tax

01 December 2016

LITRG responded to a consultation document containing proposals which would potentially increase burdens on UK partnerships and change the basis on which tax might be collected.

The UK government is concerned that partnerships are being used in increasingly more complex business structures that enable some of the partners to avoid paying their share of tax in the UK. LITRG's response noted that whilst they support full payment of tax liabilities, there are a number of issues affecting low income taxpayers that need to be considered.

Identifying the partners

The consultation proposes that the nominated partner must disclose the identity of all of the underlying partners, meaning those partners represented by a nominee, for example, would have to be disclosed to HMRC. In addition where a second partnership ('B') is itself one of the partners, the nominated partner would also have to provide full details of B's partners. LITRG has noted this is placing a burden on the nominated partner that may be insurmountable for the types of family partnerships of which some low income taxpayers are members; further in situations where some members are overseas, this is likely to be a real issue for them.

Further, the consultation suggests that HMRC might treat as partners all those who were disclosed as such in the partnership tax return. LITRG's response states that a right of appeal must be made available in such cases to deal with circumstances in which mistakes are made.

Reporting partnership income

It is proposed that partners must disclose on their own tax return their share of profits as disclosed by the partnership. LITRG pointed out that where there is a dispute as to allocation of profits, this requirement may be contrary to the statement each partner is required to make on their own tax return that it is ‘correct and complete’.

Paying partnership tax

Where partners are not properly identified, the consultation proposes that the tax due by those partners should be assessable on the partnership as a payment on account. LITRG pointed out the unfairness that this would create as some of the partners to whom the liability relates may have no capital in the partnership and the tax would therefore have to be funded by the other partners in the partnership.

Allocation of profits

The consultation document suggests that profits should be allocated to partners in the same way as accounting profits. This is a clear deviation from the current basis since, at the moment for tax purposes, where a partnership overall makes a taxable profit, no partner may be allocated a loss for tax purposes.

Our full response can be found on the LITRG website.