Alas, poor Warwick!

General Features | Indirect Tax | Inheritance tax and trusts | Management of taxes | Personal tax



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Mike Truman reports on the CIOT autumn residential conference, held at the University of Warwick

Key Points

What is the issue?

The latest changes in tax were addressed at the CIOT autumn residential conference at the University of Warwick.

What does it mean to me?

The conference ran sessions on personal tax, including the new personal savings and dividend nil rate bands, the IHT residence nil rate band; HMRC powers; Making Tax Digital; the Finance Act; pensions and VAT.

What can I take away?

The CIOT residential conferences offer an opportunity to listen to experts on a variety of tax topics and enjoy networking with other advisers.

In the current climate, there's probably a danger that the CIOT will be accused of some form of 'geography avoidance' if I don't get one thing straight. The Autumn Residential Conference is not held in Warwick. It's held at the University of Warwick, which is not the same thing at all. Given that there seemed to be many people who were coming to the conference for the first time this year, it would be tempting to think that was the reason why some were late arriving; they were desperately driving around the county town of Warwickshire looking for a university that is actually in the rather more (what shall we say…) prosaic city of Coventry. In reality it was traffic and trains that were, as usual, the main culprits. One result of this was that the usual humorous sponsor slot from LexisNexis was sadly missing, as the presenter of it, Chris Jones, was stuck on the car park that was the M25.

Those who couldn't get there for the opening session missed an interesting personal tax update from Sue Moore, private client tax manager at the ICAEW Tax Faculty. She picked four key topics from the many possibilities – property taxation, the new personal savings and dividend nil rate bands, the IHT residence nil rate band, and pension reliefs. She had some very practical suggestions on property taxation, such as the advantages of taking a detailed inventory of the assets used in a let residential property as at April 2016 (and now would be better than never) to form a basis for replacement allowance claims.

However, the area that most delegates still seemed to be talking about after the lecture was the impact of the so called personal savings allowance and the dividend nil rate band, both of which she said were better seen as nil rate bands: 'the secret is to realise that the dividend 0% and the personal savings allowance are not reliefs but actually use part of the rate bands. It is permissible to allocate the personal allowance in the most favourable way for the taxpayer, ITA 2007, s25.' As a result, it may be appropriate to allocate some of the personal allowance against dividend income, say, if it would otherwise be allocated against bank interest that would be

taxed at nil rate.

Tori Magill, from the law firm Pinsent Masons, looked at HMRC powers. As the list that she went through lengthened, delegates could have been forgiven for wondering whether there was anything HMRC had asked for that they had not been given. I have this picture in my mind of two senior HMRC officials egging each other on – ‘Tell you what, why don’t we ask for a criminal offence of offshore evasion where you don’t need to know that what you are doing is wrong?’ ‘Don’t be daft, they’ll never give us that.’ ‘Wanna bet…?’. But there are still defences and limitations to HMRC powers, which Tori highlighted. The power to inspect business premises, for example, is emphatically not a power to search those premises.

She ended on the often neglected issue of the Charter of HMRC Standards and Values, better known as the Taxpayers’ Charter. She believed that this has ‘become a real safeguarding tool in the hands of the practitioner, to call to account and to fetter the exercise of powers by HMRC officers without the expense of public law remedy.’

The second day started with a lecture from Peter Rayney on exit route strategies for owner managers and investors. He highlighted a significant change that was made to the rules for investors’ relief as it went through the Finance Bill committee. Initially the rules were that you could not qualify for investors’ relief if you were an office holder or employee, thus creating a clear dividing line between investors’ and entrepreneurs’ reliefs.

In the committee, however, the investors’ relief conditions were amended to allow claimants to be unpaid directors, and to become paid employees more than 180 days after the investment was made provided this was not anticipated at that time. Both were introduced to meet the needs of those taking a significant stake in a business for some oversight and the ability to step in if something went wrong, but the result was that an unpaid director, say, seemed to be able to claim £10m of entrepreneurs’ relief and £10m of investors’ relief, thus potentially making £20m of gains on the same shares taxable at 10%. While the position had yet to be tested, Peter suggested that such directors should think about remaining unpaid in order to protect the possibility.

A brace of CIOT former presidents, Chris Jones and John Cullinane, then talked about the role of the tax adviser in today’s world. Looming large on the horizon was Making Tax Digital, with its system of quarterly reporting to HMRC through software.

John was clear that this was going to fundamentally change the way that practitioners operated, calling it ‘the biggest change in our market in our lifetime.’ The Institute was raising with HMRC the issue of how some small self-employed people, in particular, were going to deal with it, and members were urged to participate in the surveys and feedback opportunities that the CIOT were providing.

Initially the information fed to HMRC quarterly will be in summary form only, and should be almost automatic once the underlying transactions have been captured digitally. The process of finalising the year is seen as a stand-alone process, not dissimilar to preparing final accounts and a tax computation, although with a nine-month period in which to do it linked to the accounting date rather than 31 January. However, for the simplest of businesses, this could be built into the fourth quarter reporting process.

The other area looked at in the lecture was professional standards, and in particular the anticipated changes to the Professional Conduct in Relation to Taxation rules following the government’s 2015 challenge to the profession to tackle those who advise on aggressive avoidance. It was expected that these would include provisions to require advisers to steer clear of creating or encouraging the use of unacceptably aggressive tax planning schemes.

The highlight of the Autumn Conference for many people is the now permanent fixture that is the Tim Good Finance Act lecture. It sometimes only tangentially covers the Finance Act, but is always good for an update on the Archers-rivalling story of Tim’s life… Of course, what Tim actually does is to use anecdotes (some of which may even be true) about his personal and business life to memorably explain key changes and opportunities in the taxation system. So, for example, he talked about going to buy six John Lewis £50 gift cards on behalf of his company, which he would be giving to himself as a benefit in kind during the year. Why? Because there is a £300 limit on the trivial benefit in kind exemption when close company director/shareholders are involved, and because the gift cards, unlike the gift vouchers, do not have any right to receive cash if the value of the goods bought is less than the value of the voucher (the balance just gets left on the card).

He also mentioned the recent case of Rupert Grint, the actor who played Ron Weasley in the Harry Potter films, who was changing his accounting date. Change of accounting date triggers overlap relief if available, and at present this can therefore be obtained at will, a rule that Tim has used to good effect. However, Making Tax Digital proposes the possibility that overlap relief will only be available on cessation,

and it may therefore be a good idea to trigger it before any change is made.

Tim also expanded on the points made by Peter Rayney about investors' relief, citing the case of Hotel Chocolat. The company is listed on AIM, which means it still qualifies for investors' relief. However, the shares acquired must be subscribed for rather than purchased if the relief is to apply. When Hotel Chocolat came to market, it made a mix of shares available, some newly issued and some sold by existing shareholders. Getting the former would have been crucial for those wanting investors' relief. It was then also important that no connected person became an employee within 180 days, which Tim pointed out could have included his son taking a holiday job in one of their shops that summer. By Christmas, however, Tim will be very happy to put his offspring to work in confectionery sales…

Julie Butler is well known as an expert in farming taxation, particularly where horses are involved. She gave a plethora of good tips to those with countryside clients, arising out of her advisory practice, and highlighting the need for specialist advice in this area. A seemingly simple move such as claiming use of home as office for the farmhouse can kill the IHT exemption for the farmhouse on death. She also cited the frightening statistic that, despite complicated mixes of farm ownership and business partnership, only a sixth of farmers actually have a formal partnership agreement in place.

As in many areas of tax, she said that the key to tax efficiency was good, contemporaneous, recording and business planning. This is particularly important when the business includes horses, which HMRC seem to see as an invitation to investigate – DIY liveries are frequently attacked as an investment business rather than a trade, and Julie said that a case was on its way to the tribunal shortly. There have been a number of recent cases on farm losses where proving that the business is being carried on commercially has been crucial.

That concluded the Saturday sessions, but the delegates reconvened later for the conference dinner, where the speaker was snooker legend Steve Davis. Despite starting with a deliberately detailed explanation of the route he took to get to the conference, most of his talk was a hilarious refutation of his reputation for being boring, and I have never seen as many people queuing up afterwards to get an autograph, or, now, a selfie, with the after-dinner speaker.

Starting the final morning of lectures, John Woolley, of Technical Connection, is, like Julie Butler, a well-known expert in his own field, this time pensions. He looked at a

number of opportunities and traps in the existing tax legislation as it applies to pensions. IHTA 1984 s 10 will normally exempt payments from pensions on death from IHT, but there are exceptions, One of these is where extra contributions are made, there is an assignment of a death benefit (into trust, for example) or a pension transfer when the taxpayer knows that they are suffering from a life-threatening illness and dies within two years. John compared two broadly similar cases of significant contributions made within two years of death, but where one of the taxpayers knew he was ill and the other did not. Both, he said, were reportable on IHT409, but the one who did not know about her illness should be exempted from charge by s 10.

John also looked at the technical area of by-pass trusts to hold death benefits, which some commentators have considered unnecessary since the introduction of the latest reforms. John was less convinced, thought it still had a part to play in the right cases, and went through the points that should be considered.

Michael Ashdown looked at some of the current issues in VAT, an area where the Finance Act rarely looms large, but case law does. However, this year the Act did impose a new potential joint liability on the sales platform used to make sales for overseas suppliers, such as Ebay. The target is apparently overseas suppliers who sell goods located in UK warehouses, which should give rise to a VAT charge, but often the supplier is not registered (there is a nil threshold for registration when the supplier is not UK established).

Brexit, perhaps surprisingly, had not featured that much in the conference, but Michael obviously looked at its implications for VAT. The only certainty is that VAT will be retained; there is no real detail yet on how the UK will change the system it inherits. Goods will suffer the biggest changes in VAT treatment, as sales to and from the EU will become exports and imports again; changes to services will be less significant.

The final speaker was Philip Ridgway, looking at ‘George’s attack on property owners’. He covered the new 3% SDLT charge, ATED, and finally the changes in the two 2015 Finance Acts and in FA 2016. One interesting exemption that he highlighted to the 15% enveloped dwellings rate was for those made available to the public for visits. They only have to be open for 28 days in a calendar year for people to ‘use, stay in, or otherwise enjoy the dwelling’. This must be undertaken on a commercial basis with a view to making a profit, and the public must be able to use a significant part of the interior of the building, without any definition in the Act of

‘significant’.

This might perhaps have reminded delegates that they did all have homes to go to, and so another successful conference came to a close. The next one is the Spring Residential Tax Conference, on the weekend of 24–26 March at Queens’ College, which really is in Cambridge!

Image

THE CIOT SPRING RESIDENTIAL CONFERENCE

The conference offers a range of topical lectures presented by leading tax speakers. Group working sessions will support the lectures and there will be displays of tax books and software.

- The new dividend allowance and dividend tax – is it the end of the world as we know it?
- What’s new in IHT?
- Capital allowances – a practical update
- Capital gains tax – 12 month round-up
- Budget 2016 – the highlights
- Ask the experts
- Do you admit to your friends that you’re a tax adviser?
- VAT problems in groups
- Recent corporation tax cases

Book your place on the CIOT Spring residential conference here: www.tax.org.uk/members/conferences-events/spring-residential-conference-2016