Simple assessment: not so simple perhaps?

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LITRG considers some of the knotty imperfections of the simple assessment system.

From HMRC's point of view, there are three main ways an individual can be assessed to income tax:

- by submitting a self assessment tax return;
- under the PAYE system; and
- by receiving a simple assessment calculation.

Simple assessment can almost be thought of as a 'last chance saloon'. Anyone who owes income tax, but does not fall within HMRC's self assessment criteria and/or does not have a suitable source of PAYE income to collect the liability, will usually fall within simple assessment.

HMRC issue simple assessments automatically in the months following the end of the tax year. Taxpayers do not have to register for simple assessment or prompt HMRC in any way, save for cases where HMRC are not aware of a particular income source. However, can this lull a taxpayer into a false sense of security? Or for some taxpayers, can this lack of control result in a certain sense of unease? The picture might be different depending on the taxpayer concerned and the income sources in question.

Simple assessment in the legislation

Simple assessment is an important feature of the legislation regarding 'notice of liability to income tax and capital gains tax' (Taxes Management Act (TMA) 1970 s 7), as it provides a legislative 'let out'.

In summary, TMA 1970 s 7 sets out that a person is required to notify HMRC that they are chargeable to income tax within six months of the end of the tax year (that is 5 October), unless:

- they are already within self assessment and have received a notice to file (which has not been withdrawn);
- all of their income is taxed under PAYE or is otherwise deducted at source at the appropriate marginal rate; or
- they have received a simple assessment, and this correctly assesses the income tax due.

This final bullet is the 'let out' referred to earlier, and can be both a great strength and potential weakness in the system. This becomes clear when looking at how simple assessment works in practice.

Simple assessment in practice: the concerns

LITRG has been taking stock of the current simple assessment process and has the following concerns:

- HMRC have indicated that simple assessments will not be issued where the tax owed is 'small' and would be outweighed by the cost of collection. HMRC are unwilling to explicitly set out what they consider to be a small liability. This leaves advisers (and LITRG!) in a tricky spot. For instance, how can we provide guidance on the LITRG website advising a taxpayer with a small liability (and

who has not received a simple assessment) to just ignore their obligations, when TMA 1970 s 7 specifically says they have a duty to notify HMRC? In the absence of a simple assessment, the taxpayer must technically make the notification.

- Simple assessment calculations are not always issued before the statutory notification deadline of 5 October. HMRC have suggested that most simple assessments will be issued by the end of October, but this leaves taxpayers who have not received a simple assessment by 5 October in limbo – to notify or not to notify? And again, can advisers comfortably just tell taxpayers to 'wait and see', given the notification deadline in TMA 1970 s 7?
- Simple assessments are based on the information HMRC have in their possession. Often, this will be income sources such as state pension and bank interest. But how reliable is this data? And what about income where there is no data feed? HMRC do not receive data for dividend income or other sources, unless the taxpayer has already got in touch to tell them. The simple assessment letter does advise taxpayers that they can 'appeal' a simple assessment within 60 days in cases where there is a discrepancy, but this is an additional burden on the taxpayer. Further, there is currently no 'easy' way to tell HMRC about other income sources before the simple assessment is issued, other than by phone or post.
- Finally, we have heard anecdotally that the simple assessment calculation itself can be wrong. Our assumption is that HMRC's computation software for simple assessment is not programmed to the same parameters as for self assessment, which can lead to incorrect tax liabilities showing due (both for and against the taxpayer). It is currently unclear how many taxpayers might be affected by this. But whatever the number, how many taxpayers will be able to recognise and challenge such errors? Again, in the case of an 'under-assessment' a taxpayer faces another situation where they are left exposed under TMA 1970 s 7, as the simple assessment 'let out' is not fully satisfied. We consider this an urgent problem and advise any agents who deal with simple assessment cases to check the calculation carefully.

LITRG is raising these issues with HMRC, as we feel they have the potential to severely undermine taxpayers' trust in this 'simple' method of settling outstanding income tax liabilities.

If members have any views or experiences of the current simple assessment process, please feel free to get in touch.

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