Spotlight on the Capital Taxes Liaison Group

Briefings



20 November 2024

The Capital Taxes Liaison Group is an HMRC forum within which members of the accountancy and legal profession, as well as other interested bodies, can discuss matters relating to capital gains tax, inheritance tax and trusts.

The Capital Taxes Liaison Group helps to advise on draft guidance and provides members with an opportunity to raise matters of uncertainty regarding legislation, guidance or procedure.

CIOT and ATT are both represented at the Capital Taxes Liaison Group, through a combination of staff and volunteers. Other members of the Capital Taxes Liaison Group include the main accounting and tax bodies, along with representatives from the legal profession and industry, as well as HM Treasury.

The Capital Taxes Liaison Group is chaired jointly by Sarah Kelsey (Deputy Director, Assets, Residence and Valuation) and James Konya (Deputy Director, CT Structure).

It meets every six months to discuss open issues from earlier meetings, but prior to each meeting members are invited to place new items on the agenda for discussion.

Once new guidance has been drafted, members are invited to participate in reviewing it, allowing HMRC the benefit of that feedback before the guidance is finalised. Matters discussed in 2024 so far have included guidance on matters such as ESC D32 with respect to incorporation when business liabilities are involved; and whether the assets transferred need to include the legal, or just the beneficial, ownership. The current guidance on ESC D32 is rather dated and does not factor in the modern commercial practice of lenders with respect to these liabilities. The Capital Taxes Liaison Group is a forum where this guidance can be discussed and refined.

Another subject of guidance review has been that on the extension of residential leases and the tax consequences where a property management company owns the freehold. More recently, following the October Budget, the CIOT has offered to review the guidance concerning the mid-year change of capital gains tax rates.

As well as guidance, legislation itself and definitions therein are sometimes discussed. One such recent example concerned cryptoassets and whether they might be included in the provisions for inheritance tax loss relief alongside ‘qualifying investments’ within the Inheritance Tax Act 1984.

Also, the question has been raised as to whether there is a defect in s 22 of the Taxation of Chargeable Gains Act 1992 concerning the potential exposure to capital gains tax of dividends to non-UK resident individuals from a non-UK resident company holding UK property.

In all these cases, HMRC (and HMT when concerning legislation) will ask forum members for examples of where any areas of uncertainty have led to actual difficulties with taxpayers and how many people are likely to be affected. As much detail as possible should be provided when placing matters for discussion before the group so that HMRC and HMT can prioritise their resources accordingly.

Further information about the Capital Taxes Liaison Group can be found on GOV.UK at tinyurl.com/5esh5fwd, including ‘meeting minutes’ prepared by HMRC. Please be aware that because these are for public consumption, they are necessarily sanitised and do not fully reflect everything discussed during the meetings, nor the extent of the debate and challenge put forward by the representative bodies.