FB 2017: £1,000 allowances for trading and property income (clause 19)

Personal tax

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An essentially simple idea for two modest allowances prompts some unanswered questions.

Draft clause 19 (with draft Sch 5) of the intended provisions for inclusion in Finance Bill 2017 provides answers to some but not all of the questions which practitioners had about the new £1,000 allowances for both trading and property income, which will be introduced from 6 April 2017. This note provides a brief summary of the proposed provisions.

Trading allowance

The trading allowance is available in respect of an individual's relevant income (being the gross income before any expenses) from:

(a) any one or more relevant trades (a definition which excludes a trade carried on in partnership and a rent-a-room trade); and/or

(b) any one or more source of miscellaneous income (income chargeable to income tax under ITTOIA 20015 Pt 5 Ch 8, being income not otherwise charged for the tax year – Schedule D Case VI for those of us with long memories – again with the exclusion of rent-a-room income).

If the individual's relevant income does not exceed the individual's trading allowance for the tax year (that is £1,000 for 2017/2018), then, unless the individual has elected for 'full relief' not to be given:

- the profit or loss of any relevant trade is treated as nil; and
- the net amount of any miscellaneous income is treated as nil.

This nil treatment is the default position. No claim is required for the allowance to apply. An individual can, however, elect (on or before the first anniversary of the normal self-assessment filing date for the tax year for which the election is made) for full relief not to be given. This appears to be an all or nothing election so it cannot be used for example to preserve entitlement to the allowance against miscellaneous income whilst getting normal relief for expenses from one or more trades.

Where the individual's relevant income does exceed the individual's trading allowance, they can (as an alternative to claiming the normal deduction for expenditure) elect (in the same timeframe) for what is (somewhat confusingly) referred to as 'partial relief' thereby being entitled to the flat deduction of £1,000 without any obligation to keep records of actual expenditure. Where the individual has more than one source of relevant income, they may allocate the allowance as they choose so long as this does not reduce the chargeable income from any source below nil.

Property income allowance

The property income allowance will work in very much the same way as the trading allowance, with an exclusion of availability for rent-a-room income, identical election rules and similar allowance splitting provisions. The property income allowance will not, however, be available:

- where the individual is entitled to a tax reduction in lieu of non-deductible costs of mortgage interest (the provision that is being phased in from 6 April 2017) or
- in respect of income from an Authorised Investment Fund distribution or a REIT distribution

The provisions for both allowances include restrictions in respect of rent-a-room expenses.

The only anti-avoidance provision (which applies equally to the trading and the property income allowance) is a denial of relief where the relevant income is paid by or on behalf of a person who is the employer of the individual or someone connected

with that individual.

Amongst the questions unanswered by the draft legislation are the following:

- Will the deemed ‘nil’ income resulting from the trading allowance adversely impact entitlement (or evidence of entitlement) to Entrepreneurs’ Relief on the subsequent disposal of a capital asset used in the relevant trade?
- How will such ‘nil’ income be viewed in considering whether a trade is being operated on a commercial basis (for example in relation to a future claim for loss relief)?
- In the absence of any requirement to claim either allowance, how will HMRC be able to identify whether income of which they are (independently) aware is taken out of charge by the recipient’s entitlement to an allowance – and so avoid raising a fruitless enquiry?

It will be interesting to see what, if any, changes are made to the draft provisions when the spring Finance Bill is published.