Draft FB 2017 Cl 19: Trading and property allowances

OMB Personal tax

01 March 2017

Responses by LITRG and ATT on the new trading and property allowances available from 6 April 2017 highlight the need for clear guidance, the difference in treatment of trading income for tax and universal credit purposes and several detailed practical issues.

LITRG and ATT have each submitted a response on the draft legislation for Finance Bill 2017 (Clause 19 and Schedule 5). This draft legislation introduces new trading and property income allowances of up to £1,000, both of which can be claimed by individuals from 6 April 2017.

LITRG welcomes the introduction of these new allowances, commenting that they will usefully provide some leeway to those who choose to supplement their main source of income by involvement in some casual activities such as occasional online selling. They will also provide clarity for those who are in transition from 'hobby trading' to developing a commercial business as to when they need to report relatively small amounts of income to HMRC and when they do not.

However, LITRG recommends consideration of the impact that these changes will have on reporting income under universal credit (UC). Claimants will still need to keep business records and report trading and property income to the Department for Work and Pensions (DWP) even if their relevant income is no more than £1,000. LITRG thinks that it would be helpful if DWP liaise with HMRC when a UC claimant is close to the trading allowance threshold, so that the claimant can be prompted to notify HMRC about their trading income. Very clear communications of the different rules for tax and benefits purposes will be essential in order to stop claimants becoming confused about when they need to report trading and property income. This potential problem could be further exacerbated by the transition from tax

credits to UC as tax credits will follow the tax position and include any deductions for these new allowances.

As these new allowances will be introduced very soon, LITRG recommend that clear guidance is provided covering topics such as: who can use these new allowances; when business records need to be kept; making elections for partial relief; and when HMRC need to be informed about a new trading business or property income.

The ATT response echoes LITRG's call for very clear guidance and comments on a number of practical aspects in relation to the draft legislation including:

- The possible merit of formatting the legislation or the related guidance in clear steps to assist accessibility;
- The practical difficulties in relation to the required elections;
- The potential for the adopted numbering of new sections of ITTOIA 2005 to cause confusion;
- The implications of excluding partnership trades from the definition of 'relevant trades';
- The definition of 'relevant income' including the significance or otherwise of GAAP principles;
- The interaction of the Nil profit or loss treatment within 'full relief' with other provisions including Income Tax, Capital Gains Tax and Inheritance Tax;
- The benefit of incorporating appropriate prompts in tax returns to highlight the inter-relationship of a loss claim with an election not to be given full relief and the definition of relevant income;
- The cliff-edge impact of relevant income exceeding the allowance;
- The apparent distinction in the definition of 'relevant income' as between partnership trading income and partnership property business income.

LITRG's full response can be found on the LITRG website.

ATT's full response can be found on the ATT website.