Re-calculating gains on part surrenders of life insurance policies

Personal tax

01 April 2017

Finance Bill 2017 consultative clause 13 provides a discretionary remedy for ‘wholly disproportionate’ gains but the CIOT and LITRG have some concerns.

We have previously reported on the CIOT’s extensive involvement in the consultation process to find a legislative solution for life insurance policyholders who partly withdraw substantial sums early, thereby unintentionally triggering swingeing income tax charges that far exceed the economic growth of the policy. The government has decided not to legislate any of the options upon which it consulted formally. Instead Finance Bill consultation clause 13 provides for an alternative remedy that will allow policy holders who have inadvertently triggered ‘a wholly disproportionate gain’ to apply to an officer of HMRC to have their gain recalculated on a ‘just and reasonable’ basis.

Both the CIOT and LITRG have some concerns about safeguards and the practical application of this remedy (see our submissions on the CIOT and LITRG websites). Representatives of the CIOT and LITRG met HMRC recently to discuss these concerns, most importantly the lack of an appeal mechanism, the definition gateway that the gain must be ‘wholly disproportionate’ (that term carrying a restricted legal meaning) and the need for a policyholder to be alerted to the remedy especially in the context of Making Tax Digital.

It was confirmed at the Spring Budget that the new provision (and at the time of writing we await its final form) will have effect from Royal Assent of the Finance Bill 2017.