

HMRC Capital Taxes Liaison Group Meeting

**HMRC, 100 Parliament Street, Westminster, London, SW1A 2BQ
21 October 2015**

1. Introductions/apologies

- i. The Chair welcomed attendees and opened the meeting. Introductions were made and apologies noted.

2. Changes in SPT/HNWU

- ii. The Chair updated attendees on recent changes:
 - The High Net Worth Unit (HNWU) has now moved to the new Mid-Sized Business & Wealthy Compliance (MSBWC) Directorate which is part of Enforcement & Compliance (E&C). This will include the Affluent team.
 - The CRM model will be extended for individual customers with between £10-20m assets - going forward HMRC will ask someone from Enforcement & Compliance to talk at next meeting.
 - There will be the new Deputy Director for Assets & Residence Policy as from 1 January 2016.

3. Matters arising from previous meeting

- iii. Collateral relief - HMRC informed attendees that a note had been sent out last week, this was followed by a telephone call ring-mastered by HMRC
- iv. A further meeting for group members will take place within the next few weeks. HMRC invited people to let them know if they wished to attend

4. Deeds of Variation call for evidence – update

- v. HMRC stated that all responses are currently being analysed so could not go into detail on what they say.
- vi. HMRC informed attendees that the call for evidence ran for 12 weeks from 15 July – 7 October.
- vii. A new digital approach was taken and 9 specific questions were asked using an on-line questionnaire (“Survey Monkey” – HMRC received 214 responses in total – 191 were via “Survey Monkey” and 23 written.
- viii. HMRC will report back on the responses in the autumn.
- ix. HMRC asked attendees if there were any issues with using “Survey Monkey”. Group members indicated that people had not been happy using it. They pointed out that the manner in which the question is drafted

can often influence the answer. HMRC published using 2 formats - a Word document and "Survey Monkey" - as it was recognised it was important to give respondents the choice. HMRC will pass on the Group's concerns.

5. Non Dom – overview of reform

- x. HMRC gave a brief summary. The Government had announced changes to tax treatment of non-doms in the Summer Budget.
- xi. Individuals who have a UK Domicile of origin and who were born in the UK will be treated as UK domiciled while they are resident. The deeming rules for IHT will be aligned with income tax and CGT. Individuals returning to UK will have a year of residence before they come within the scope of IHT. This will allow some flexibility for those returning for a short while to look after an elderly relative for example.
- xii. The changes will take effect from 6 April 2017.
- xiii. Finance Bill 2017 will contain measures to charge IHT on the value of UK residential property held indirectly through an offshore company or trust. The Government will consult on proposals and a consultation document is expected to be published by the end of the year/early next year.
- xiv. The Government will consider the costs associated with de-enveloping and any other concerns group members may have.
- xv. HMRC are hoping to publish more legislation at Autumn Statement – policy is still being developed.
- xvi. Group members asked where DTAs fit in – HMRC said there will be a knock on effect and they will be reviewed. Delegates raised concerns that there may be IHT issues where the DTA dates back to Estate Duty, citing recent experience with the deemed domicile rules for the members of the House of Lords.

6. Non Dom & Trusts

- xiv. HMRC reported that: FB17 will also contain a measure for off-shore trust arrangements.
- xv. The policy will not be implemented until April 17. HMRC are currently holding meetings with key stakeholders and are looking at ways to get the best outcome for individuals affected and the Exchequer – there are many complexities involved and talks are still on-going.
- xvi. The consultation is still open and a response will be published at Autumn Statement or soon after.

7. Entrepreneurs' Relief

- xvii. HMRC informed the Group that HMRC, HMT, CIOT and other stakeholders have had useful discussions on the 3 main consequences of the FA 2015 changes:

- Goodwill transferred to a close company
- Shares in companies with holdings in joint venture companies, or which are partners in trading firms
- Rules associated disposals

and that various questions were currently being considered by CIOT and other stakeholders

- xviii. Group members said that discussions are going ahead on how to respond to HMRC's questions
- xix. HMRC are hopeful of publishing draft legislation in the New Year for comment before possible inclusion in FB 2016 but will depend on ongoing discussions with Ministers' agreement.
- xx. Delegates reported recent problems in obtaining non-statutory clearance on ER applications: that officers were taking different views on the effect of cash held on deposit when determining whether a business is a trading business and not referring issues to technical teams. HMRC believed that non-statutory clearances on ER were handled by one or two persons, so there should be consistency of treatment.
- xxi. As a general point HMRC invited externals to inform them of any persistent or generic issues/problems they experienced so that she can follow up with the appropriate team

AP1: HMRC to check how non-statutory clearances are handled

8. Non-Resident CGT

- xxii. Delegates reported that overseas fiduciaries are confused about what obligations they must meet within 30 days of the property conveyance. AM asked for suggestions as to how HMRC could better engage with overseas fiduciaries.

9. 4th Money Laundering Directive

- xxiii. HMRC informed the meeting that the Directive was published on 5 June in the EU official journal. Article 31 requires that member states hold a register of the beneficial ownership of trusts. HMRC has 2 years to implement the directive.
- xxiv. HMRC said Trustees should already hold this information and there shouldn't be many changes. New regulations will be developed over the next few months. HMT are preparing a consultation document which is expected to be published in Nov/early New Year.
- xxv. HMRC will organise stakeholders meetings on how this will work and assured group members that legal gateways will be in place to protect taxpayer confidentiality.
- xxvi. HMRC commented on discretionary trusts – the register is seeking details of beneficiaries from trustees. Group members stated that this could put huge costs on trustees. HMRC acknowledged there is tension to work around.

HMRC reiterated that he will hold Group meetings to which everyone will get an invitation.

10. IHT- General

xvii. HMRC highlighted current topics.

- i. Residence nil-rate band - included in F(No.2)B15 and legislation is going through Parliament. HMRC also reported that there was a lot of interest in the measure (over 120 emails plus phone calls). HMRC hopes to produce a FAQs note once legislation is finalised. A technical note on the downsizing proposals was published on 18 September. The deadline for responses was 16 October but HMRC would like to know about problems and is prepared to extend the deadline.
- ii. DOTAS – HMRC has taken on board comments regarding the draft IHT hallmark regulations and this is being revised. HMRC will be publishing a summary of responses and probably a revised version of the draft regulations for further comment (subject to Ministerial approval).
- iii. IHT Online – HMRC reported there will be pilot for selected non-taxpaying cases to file online starting in early November. If that works as expected the service will be extended to all non-taxpaying cases. Work is continuing on developing the new service for taxpaying estates. HMRC will keep group members informed of developments.

xviii. Group members raised speciality debts and the issue over situs of secured debts and asked HMRC if they had responded to a recent letter from one member. HMRC replied to a letter on 30 July 2014 so it wasn't clear which letter was being referred to. It was agreed that the issue needed to be finalised, preferably by a meeting with STEP, ICAEW, CIOT and others who were interested.

AP2: HMRC – to arrange a joint meeting to discuss specialty debts and include technical colleagues – probably in early Dec.

11. ESC D33: response to consultation

xix. HMRC reported that this will soon be published.

AP3: HMRC to email people who responded to consultation.

12. AOB

Group members were informed that there were major pieces of working going on across all areas of the teams work at the moment. The valuable role of this forum as trusted stakeholders was recognised and attendees were thanked for their past engagement and encouraged to add their insight into consultations and draft legislation going forward.

The next meeting will be in the New Year. Date to be advised.