

A review of two aspects of the tax rules on partnerships: Briefing

HM Revenue & Customs (HMRC) has today published a Consultation document concerning two aspects of the tax rules for partnerships: disguised employment and profit and loss allocation schemes.

As announced at Budget 2013, the Government is consulting on the detailed design of changes to two aspects of the partnership tax rules in order to prevent tax loss arising from disguising employment relationships through limited liability partnerships (LLPs), and from certain arrangements involving allocation of profits and losses among partnership members.

The Government is proposing to change the tax rules in line with its principles and objectives for fairness and flexibility, and is seeking views to inform the detailed policy design and on possible impacts of the proposed changes by **9 August 2013**.

HMRC will consider meeting interested parties to discuss the issues arising. The timing, format and venue of any meetings will depend on the level of interest expressed.

Questions & Answers

Q1 Why are you doing this?

A1 The Government is committed to fairness and tackling tax avoidance and has a strong track record of doing so. The current rules on the taxation of members of LLPs and on profit and loss allocation in LLPs and other partnerships produce outcome that result in tax loss and are unfair to other taxpayers in certain circumstances.

Q2 What are you doing?

A2 At Budget 2013, the Government announced that HMRC would consult on two aspects of the partnership rules: removing the presumption of self-employment for some LLP members, to tackle the disguising of employment relationships through LLPs; and countering the manipulation of profit and loss allocations (by LLPs and other partnerships) to achieve a tax advantage.

Q3 Who is likely to be affected by the proposed changes?

A3 ***Disguised employment:*** an LLP member who works for the LLP on terms that are tantamount to employment.

Profit and loss allocation schemes: members of LLPs and other partnerships where the members of the partnership consist of members who are chargeable to income tax and others who are not, but only where it is reasonable to assume that:

- a main purpose of the partnership profit-sharing arrangements is to secure an income tax advantage for any person; or
- a main purpose of arrangements in force is to allocate a partnership loss to a partner with a view to that partner obtaining a reduction in tax liability by way of income tax reliefs or capital gains relief.

Profit and loss allocation schemes also cover tax-motivated arrangements whereby one partner transfers profits to another as a result of a revised allocation of profits in return for payment that is not taxed as income.

Q4 What outcome are you seeking from the consultation?

A4 HMRC is seeking responses on the design and potential impacts of the proposed changes from interested parties who are involved in a partnership and who may be affected by the proposed changes.

Q5 When will the changes happen?

A5 The Government proposes to introduce changes in Finance Bill 2014 and in a National Insurance Contributions Bill to be introduced this year. The changes will take effect from 6 April 2014. This will allow sufficient time for consultation and development of legislation which is soundly based and which will remain fit for purpose into the future.

Q6 Will there be meetings?

A6 HMRC will consider meeting interested parties to discuss the issues arising. The timing, format and venue of any meetings will depend on the level of interest expressed.