Clause 34: Time limits for proceedings involving offshore matters: IHT

Summary

1. This clause increases the time limit for proceedings for the recovery of inheritance tax (IHT) to 12 years in cases where a tax loss arises in respect of offshore tax unless a longer time limit applies.

Details of the clause

2. This clause introduces new section 240B to Inheritance Tax Act (IHTA) 1984.

3. It provides that the new 12 year time limit can apply where appropriate instead of the 4 year time limit at section 240(2) IHTA.

4. New subsection 240B(1) restricts the circumstances in which the 12 year time limit will apply to cases involving offshore matters or offshore transfers within section 240(2) IHTA (cases where an account has been delivered to HM Revenue and Customs (HMRC) and payment made and accepted in full satisfaction of the tax so attributable).

5. New subsection 240B(2) introduces the new time limit of 12 years.

6. New subsections 240B(3) and (4) define offshore matter and offshore transfer. These definitions are similar to the definitions used in other legislation including the amendments to the penalties legislation introduced by Section 120 and Schedule 20 Finance Act 2015 and the Requirement to Correct legislation in Schedule 18 Finance (No 2) Act 2017.

7. New subsections 240B(5) and (6) ensure that the 12 year time limit for proceedings will not apply where HMRC has received information from another tax authority under the automatic exchange of information. This includes information received under the Common Reporting Standard in circumstances where HMRC could reasonably have been expected to identify the lost tax and raise the assessment within the normal time limits on the basis of the information received. Under the Common Reporting Standard, HMRC will receive information about overseas accounts, insurance products and other investments, including those held through overseas structures such as companies and trusts. This includes details of the account holder or owner, including name, address, date of birth, balance of the account, and payments into the account.

8. Subsection 4 sets out the commencement provisions. The new section 240B will apply to chargeable transfers on or after 1 April 2013 in cases where the loss of tax is brought about by careless behaviour and from 1 April 2015 in other cases.

9. Subsection 5 provides that the definition of "person liable to tax" in section 240(8) IHTA applies to cases within subsection 240B(4)(a).

Background note

10. It can take longer to establish the facts in cases involving offshore assets and structures. This section has been introduced to give HMRC more time to bring proceedings in these offshore cases.

11. This measure was announced in Autumn Statement 2017 as part of the government's strategic response to offshore tax evasion, avoidance and non-compliance.

12. A consultation on the design principles for the legislation began on 19 February 2018 and closed on 14 May 2018. A response document is published with the draft legislation on 6 July 2018.

13. If you have any questions about this change, or comments on the legislation, please contact Sarah Weston on 03000 589165 email:sarah.weston@hmrc.gsi.gov.uk).