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Rt Hon Philip Hammond MP
Chancellor of the Exchequer
HM Treasury
1 Horse Guards Road
London SW1A 2HQ

24 February 2017

Dear Philip,

Tax Avoidance exploiting film industry tax breaks

As you know, there was a great deal of concern over the exploitation of the tax breaks introduced under the last Labour Government for the film industry. Arguably these tax breaks were too generous and ill designed. This sorry story is a clear example of how tax reliefs aimed at achieving a specific policy objective – in this case to boost the UK film industry – can result in unacceptable complexity in the tax system, providing scope for confusion and also some abuse. The result is that for many years HMRC have been involved in a long-running legal battle against avoidance schemes.

Of late, however, an increasing number of representations have been made to me expressing concern that the outcomes are not always fair nor what anyone could have expected. This has resulted in financial calamity for some of those involved and considerable difficulties for HMRC in bringing a large number of schemes to a close.

Many have said that, when these schemes were being sold, they were not considered to be aggressive avoidance but just a deferral of tax, and they were often marketed as routine tax management. Whether or not these claims are valid, it does appear that many individuals are facing very severe financial distress as a consequence.

As you know, there have been various press articles that have referred to Accelerated Payment Notices amounting to more than £2 billion and to suicides within investor circles[1]. Press articles have also noted that investors could face "life changing bills" which far exceed the amount of their original investment[2].

I have also heard various individuals' complaints, which may or may not be justified, about HMRC's approach. For example, I have been told that a number of firms and

[1] Financial Times "Tax schemes film saga creates villains and victims", by Adam Palin, 22 April 2016
[2] Financial Times "Film Investors face 'life changing' bills for tax avoidance", by Vanessa Houlder, 19 November 2016

individuals have made suggestions to HMRC for what they consider to be an equitable and pragmatic way of bringing the matter to a conclusion after several years, and that these suggestions have been rejected.

The issue of "dry income" seems to be of concern. As I understand it, it means that individuals who have been denied any relief from their costs should nevertheless continue to be taxed on income from a partnership from which they never benefit. At the very least, HMRC should now provide a clear explanation of the underlying principles.

I would be grateful if you would set out clearly how these matters are being addressed within HMRC and what is being done to ensure that any egregious schemes are not causing other less offensive tax planning arrangements to be caught up in very long running enquiries.

The outcome of the court case would also suggest that there is a gap in how partnerships are treated. There appear to be no provisions that allow legitimate costs associated with financing a non-trading business. Is this something that should be considered as part of HMRC's review of partnership taxation? It would also be helpful if that review could take account of the consequences of taxing the "dry income" of a partnership in the hands of the partners, and consider whether the current rules need to be reviewed.

I will be placing this letter, and your response, into the public domain.

Yours ever,

Andrew

RT HON ANDREW TYRIE MP
CHAIRMAN OF THE TREASURY COMMITTEE