Further written evidence submitted by the Association of Taxation Technicians (ATT) (FB13)

Finance Bill 2017-19: Clause 60
Digital reporting and record-keeping for income tax, etc
Exemption for the digitally excluded

Overview

1. Clause 60 contains provisions for introducing digital reporting and record-keeping requirements for Income Tax in a new Schedule A1 to be inserted in TMA 1970. Our focus in this written evidence is on the provisions for *digital exclusion* in respect of partnerships included in paragraph 14 of Schedule A1. Paragraph 14 is reproduced in the appendix below for ease of reference.

2. We believe that the provisions as drafted will have unintended consequences and may discriminate against partnerships which includes both one or more individuals who are digitally excluded and one or more individuals who are not digitally excluded.

Paragraph 14 of Schedule A1

1. As drafted, paragraph 14(3) requires that ***all*** partners must meet the *digital exclusion condition* (see paragraph 14(4)) in order for the partnership as a whole to be digitally excluded. This appears to be regardless of the role that each partner plays in the business.

2. Our concerns are that:

   - Where a partner is digitally excluded, but the partnership as a whole is not, the requirement for the partnership to keep digital records will mean that any digitally excluded partner will be unable to maintain or access the partnership's tax and accounting records.

   - Where the digitally excluded partner or partners are those who deal with the financial affairs of the partnership business, the inclusion within the partnership of any partner who does *not* meet the digital exclusion condition will mean that the partnership cannot satisfy the exemption condition. This appears to be the case even if the digitally capable partner's role in the business is very different from and unrelated to the recording or reporting of the partnership's financial affairs.

3. We think that paragraph 14(3) needs amending so that a partnership is treated as digitally excluded if each ***relevant partner*** meets the digital exclusion condition. The term *relevant partner* would be defined to exclude a partner whose role in the partnership did not include their significant involvement with the recording and reporting of its tax and accounting affairs.

4. We include two examples below of scenarios where the provision, as drafted, may operate in a discriminatory manner.

Examples of discrimination

1. Example 1: In a family farming business, it is common for younger family members to be introduced into the partnership business in stages. Frequently and sometimes for many

years, the younger partner's role will consist to a large extent of the hands-on physical farming activities.

In the case of a husband and wife farming partnership, where both are (for whatever reason) digitally excluded, bringing into the partnership a younger family member who is *not* digitally excluded would mean that the partnership had to maintain its records and report digitally.

This obligation to maintain records and report digitally would apply despite the fact that the older partners who had the business skills and experience to manage the farm finances remained unable to fulfil the obligation and that the younger partner had neither the available time nor the necessary skills and experience to do so.

2. Example 2: An electrician who is digitally excluded and operating as a sole trader could take on an apprentice and, in time, offer them a partnership. If the new partner is ***not*** digitally excluded, then the exclusion is lost and the senior partner either has to pass over the job of record-keeping and reporting to their junior partner from the start of the partnership or incur professional costs to carry out work which the senior partner has previously done using the facilities available to the digitally excluded.

   A loss of control over record keeping and/or difficulties accessing a new system could discourage the electrician from taking their former apprentice into partnership to grow the business.

Appendix:

1. Paragraph 14 as drafted

"Exemption for the digitally excluded

14 (1) The Commissioners must by regulations make provision—

(a) for a person to be exempt from requirements imposed by regulations under paragraphs 7, 8 and 11 if the Commissioners are satisfied that the person is digitally excluded, and

(b) for a partnership to be exempt from requirements imposed by regulations under paragraphs 7, 10 and 11 if the Commissioners are satisfied that the partnership is digitally excluded.

(2) A person is digitally excluded if the digital exclusion condition is met in relation to the person.

(3) A partnership is digitally excluded if the digital exclusion condition is met in relation to each partner.

(4) The digital exclusion condition is met in relation to a person or partner if—

(a) the person or partner is a practising member of a religious society or order whose beliefs are incompatible with using electronic communications or keeping electronic records, or

(b) for any reason (including age, disability or location) it is not reasonably practicable for the person or partner to use electronic communications or to keep electronic records."

2. The Association of Taxation Technicians

The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has over 8,300 members and Fellows together with over 5,000 students. Members and Fellows use the practising title of 'Taxation Technician' or ‘Taxation Technician (Fellow)’ and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.

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