TAX: HOW SIMPLE IS SIMPLIFICATION?

COMMENTARY BY EMILY CAMPBELL

Those of you who have been in practice in the field of taxation for several years may raise an eyebrow at the concept of "tax simplification". As a humble Oxford BCL student on the personal taxation course in 1993/4, my tax handbooks consisted of just two volumes: one yellow book, one orange book. Now the 2019/20 version of those books are comprised of 8 combined volumes. If I am not mistaken, I also detect the use of a finer paper.

Tax simplification has led to a proliferation of statutes. It is disappointing, for example, that certain sections of the Income and Corporation Taxes Act 1988 remain in force. Further, the taxation of trusts is scattered between (in particular) the Income Tax (Earnings and Pensions) Act 2003, the Income (Trading and Other Income) Act 2005 and the Income Tax Act 2007, with certain Finance Acts such as the Finance Act 2004 (pre-owned assets tax, registered pension schemes) and the Finance Act 2005 (trusts with vulnerable beneficiary) thrown in for good measure.

Nonetheless, tax simplification is here to stay. The Office of Tax Simplification (OTS) was set up on 20 July 2010 and was made a permanent independent Office of HM Treasury on 21 July 2015. The statutory basis is found in section 184 to 189 of, and Schedule 25 to, the Finance Act 2016, which came into effect from 28 November 2016. The OTS is the independent adviser to the government on simplifying the UK tax system. According to the website, the objective is to offer recommendations and advice to the Chancellor about how to make the UK tax system simpler, not least for individuals and smaller businesses.

Now the OTS has inheritance tax in its crosshairs. This coincides with the HMRC review of the taxation of trusts, first published on 7 November 2018, where the consultation period closed on 28 February 2019. HMRC is (according to the website) still analysing the feedback.

In January 2018, the Chancellor asked the OTS to review a wide range of administrative and technical aspects of inheritance tax. The OTS published its first report in November 2018. The second report was published a few days ago, on 5 July 2019. It covers the following areas: lifetime gifts (time limits and taper, payment of inheritance tax and the nil rate band), interaction with capital gains tax, businesses and farms, lifetime assurance products and pensions, anti-avoidance legislation, grossing up, spouse exemption, residence nil rate band, trust and charities. The report makes 11 recommendations, which are concentrated on three key areas of inheritance tax:

(1) Lifetime gifts, including liability for paying any tax due on such gifts;
(2) Interaction with capital gains tax; and
(3) Businesses and farms.

The report makes recommendations in other areas of inheritance tax too. The response of the government – which is in a state of flux and has a number of higher priorities – to the report is awaited.

In a series of short articles on our website, the author will look at each of the areas covered by the report and what they may mean for practitioners. Watch this space!

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