

**Trading and Property Allowances**  
**Consultation on draft clauses for Finance Bill 2017**  
**Response from the Low Incomes Tax Reform Group (LITRG)**

**1 Executive Summary**

- 1.1 We welcome the opportunity to comment on the draft clauses for Finance Bill 2017 in relation to the trading and property allowances (clause 19 and Schedule 5).
- 1.2 We welcome the introduction of these new allowances, as we think they will be helpful for low-earners who may be discouraged from earning a small amount of additional income because of their tax obligations or who are in-between ‘hobby-trading’ and starting a new self-employed business. These allowances will usefully provide some lee-way between when you need to report relatively small amounts of income to HM Revenue & Customs (HMRC) and when you do not.
- 1.3 It is crucial that clear guidance should be provided covering topics such as when business records need to be kept, making elections for partial relief and when you need to inform HMRC about your trading and property business.
- 1.4 We recommend that there is consideration of the impact that these changes will have on reporting income under universal credit (UC), as claimants will still need to keep business records and report trading and property income to the Department for Work and Pensions (DWP) even if the income is below £1,000. It would be helpful if DWP liaise with HMRC when a UC claimant is close to the trading allowance threshold, so that the claimant can be prompted to notify HMRC about their trading income. Very clear communications of the different rules for tax and benefits purposes will be essential.

- 1.5 The level of both allowances should be reviewed regularly so that they are not eroded by inflation.

## **2 About Us**

- 2.1 The LITRG is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.
- 2.2 LITRG works extensively with HMRC and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

## **3 General comments**

- 3.1 We welcome the introduction of these new allowances. These allowances will usefully provide some lee-way to those who choose to supplement their main source of income by dabbling in some casual activities such as occasional online selling, and also provide clarity for those who are in a transition from 'hobby trading' to developing a commercial business as to when they need to report relatively small amounts of income to HMRC and when they do not.
- 3.2 These new allowances will be introduced very soon and it is important that HMRC provide clear guidance so individuals who may be affected are aware of them. This guidance should clarify what trades and income can benefit from using the trading allowance, providing specific examples including online trading, for example through online auction websites, and advising at what stage HMRC should be notified about a new business. Appropriate guidance should be provided to explain that partnerships (including informal partnerships such as a husband and wife selling items together) are not allowed to claim these new allowances.
- 3.3 It is particularly important that clear guidance is provided not only to individuals who may have trading and property income below £1,000 but to those who may benefit by electing to use the allowances for partial relief. There should also be examples of where you might want to not claim these new allowances such as if a loss would otherwise arise.

- 3.4 The guidance also needs to make it clear that both the allowances can be claimed at the same time if an individual has both qualifying trading and property income. Conversely it should also point out that only one trading allowance can be claimed even if there are several sources of qualifying trading income, and only one property allowance can be claimed even if there are two sources of property income.
- 3.5 Guidance on these changes should be communicated in a variety of formats and should bear in mind that many of the individuals affected by the introduction of these new allowances will be unable to afford to pay for tax advice. Appropriate guidance should be provided for landlords using the rent-a-room relief. These taxpayers may not receive professional tax advice, and it would be helpful if there were warnings contained on the self-assessment notes (online and on the paper version) to explain that it is not possible to claim both the property allowance and rent-a-room relief.
- 3.6 We have concerns about when individuals may be notified about these changes. For example, for an individual with trading income below £1,000 who has been completing a self assessment tax return, will it be their responsibility to inform HMRC that they think they no longer need to complete a tax return for the 2017/18 tax year or will HMRC use details from their 2016/17 tax return to identify and contact those who no longer need to complete a tax return. We would expect HMRC to consider cancelling penalties for the late filing of a self assessment tax return when there has been confusion over whether a return is required and the trading or property income is below £1,000.
- 3.7 Clear guidance must be provided in relation to keeping business records if you are earning below the £1,000 allowance. We understand that HMRC consider one of the benefits of Making Tax Digital will be an improvement in the accuracy of business records for small businesses. We are concerned that without appropriate information small businesses may make genuine mistakes regarding what business records they should be keeping, especially when they move from being below the trading allowance to making sales above £1,000. Indeed, they might be misled into thinking that they do not need to keep records at all if they are below the allowance. This will become a problem if their income increases.
- 3.8 As these new allowances will not affect the income reported to the DWP in order to claim UC, it is vital that UC claimants understand that they still need to keep business records and report trading and property income even if it is below £1,000. It would be helpful if HMRC and DWP could work together so that any guidance explains what records are required and what income must be declared for tax and UC purposes. We understand that income used for tax credits will follow the relevant tax rules, however we are concerned that there will be confusion when claimants move from tax credits to UC as these new allowances will not be used against trading and property income for UC claims.
- 3.9 Consideration needs to be given to how the new property allowance may affect the repayment of student loans. Currently unearned income above £2,000 is included in the calculation of student loan repayments. Clarification is needed as to whether the unearned income will include property income before or after the use of the property allowance.

**4 Comments on draft legislation**

**4.1 *Clause 19 Trading and property allowances***

4.1.1 No comments.

**4.2 *Schedule 5 Trading and property allowances***

4.2.1 Draft section 783Z1 (4) should read ‘loss **to** the business’ rather than ‘loss **of** the business’.

LITRG  
26 January 2017