Low Incomes Tax Reform Group
A voice for the unrepresented

Trading and Property Allowances
Finance Bill 2017, Clause17 and Schedule 3
Briefing from the Low Incomes Tax Reform Group (LITRG)

1 Trading and property allowances – general comments

1.1 Clause 17 and Schedule 3 of Finance Bill 2017 introduce two new allowances to be used against eligible trading and/or miscellaneous income and property income. These new allowances will be helpful for low-earners who may be discouraged from earning a small amount of additional income because of their tax obligations and also provide clarity for those who are in-between 'hobby-trading' and developing a commercial 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.

1.2 Although we support the introduction of these new allowances, we are very concerned that unrepresented low-earners will struggle to understand some of the more complex rules, especially if they have overlap profits, more than one trade or source of income or have not elected, as often will be the case, to use the cash basis of accounting. It is crucial that clear and detailed guidance is provided in a range of formats covering these areas and that it is well advertised.

1.3 Many low-income earners will not be able to afford professional tax advice and therefore may not be aware of these new allowances; taxpayers must be informed about them in a variety of formats so they can elect to use the allowances either fully or partially. As it will be up to the taxpayer to allocate these allowances if they have more than one relevant source of income, it would be helpful if guidance contained examples explaining how these allowances could be allocated.

1.4 We strongly recommend that HMRC consider cancelling penalties arising from the late filing of a self assessment tax return when there has been confusion over whether a return is

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required and the trading or property income is below £1,000, as we are hugely concerned 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 consider 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?

1.5 We are very 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. We recommend that clear guidance must be provided in a variety of formats in relation to keeping business records if you are earning below the £1,000 allowance.

1.6 We strongly 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 and necessary for the DWP to 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; any guidance needs to explain 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 continue to be concerned that there will be unnecessary 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.

1.7 Often when changes are made in one area of tax, there can be consequences in other areas within the tax system. For example, careful 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 and appropriate guidance must be published on both the GOV.UK and the Student Loans Company websites.

1.8 We recommend that the level of both allowances should be reviewed regularly so that they are not eroded by inflation. To ensure that this occurs and the allowances are uprated regularly, they could be uprated with other limits that are reviewed each year by reference to the Consumer Prices Index.[1] We therefore suggest the following amendments as detailed at 2.2.1.

[1] Section 57 of the Income Tax Act 2007

2 Comments on draft legislation

2.1 *Clause 17 Trading and property allowances*

2.1.1 No comments.

2.2 *Schedule 3 Trading and property allowances*

2.2.1 Draft section 783AD insert after subsection (2):

'(3) For the tax year 2018-19 and subsequent tax years, the amounts specified in subsection (1) shall be indexed in the same way as adjusted net income as set out in section 57(4) Income Tax Act 2007.

(4) Before the start of the tax year the Treasury must make an order replacing the amounts specified in the provisions listed in subsection (1) with the amounts which, as a result of applying the calculation specified in section 57(4) Income Tax Act 2007, are the amounts for the tax year.'

2.2.2 Draft section 783BD insert after subsection (2):

'(3) For the tax year 2018-19 and subsequent tax years, the amounts specified in subsection (1) shall be indexed in the same way as adjusted net income as set out in section 57(4) Income Tax Act 2007.

(4) Before the start of the tax year the Treasury must make an order replacing the amounts specified in the provisions listed in subsection (1) with the amounts which, as a result of applying the calculation specified in section 57(4) Income Tax Act 2007, are the amounts for the tax year.'

2.2.3 Draft section 783BI (4) should read 'loss **to** the business' rather than 'loss **of** the business'.

3 About Us

3.1 The Low Incomes Tax Reform Group (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.

3.2 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.

3.3 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.

LITRG
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