

FURTHER CONSULTATION ON THE TAX TREATMENT OF PRE-OWNED ASSETS

SUMMARY OF RESPONSES

General

The Inland Revenue published a consultation document on 16 August 2004 asking for

- comments to assist the drafting of regulations and associated guidance on the machinery to operate the tax charge on pre-owned assets (Schedule 15, Finance Act 2004); and
- any other matters of operational concern to be identified.

This is a summary of the responses.

2. 36 responses were received up to the formal closure of the consultation period on 18 November, plus a further 7, to date, since that time. Of these, 16 were submitted by representative bodies, and 27 by practitioners.

3. Some responses commented on aspects of the pre-owned assets charge which were outside the scope of this consultation (for example, about the basis of charge itself): those comments are not included in this summary.

4. The timing of the consultation and the content of the document was designed to inform Ministers' decisions on the detail of the regulations to enable them, and Revenue guidance, to be in place before the income tax charge begins on 6 April 2005. The consultation period was slightly longer than the 12 week period recommended by the Code of Practice. Ministers were grateful to all who responded; this materially assisted in the finalisation of the regulations and the drafting of the guidance.

General reactions

5. The general consensus of those who commented was that the machinery should be kept as simple and straightforward as possible, largely to keep taxpayers' compliance costs down. But there were also concerns that the system should be fair to taxpayers.

Specific aspects raised in the consultative document:

Valuation date (Consultation questions 1,2 and 3)

6. Most agreed that, at least as a general rule, the “valuation date” should be 6 April of the tax year in question, or if later the first day of the “taxable period” for the asset in question. Some suggested the taxpayer should have the option to choose a different date where it was simpler, or to their advantage, to do so. Others mentioned that some types of assets might have a natural annual valuation date: for example insurance products might have a policy anniversary valuation every year; and some land might already need to be valued on 1 April basis (perhaps for business rate purposes).

Valuation intervals (Consultation questions 4, 5, 6 and 7)

7. A system of annual valuations for all asset types was generally considered to be too onerous and costly for taxpayers, while being of little practical benefit to the Exchequer. The great majority therefore favoured an extended-interval system, at least for assets which could not be valued readily and cost-effectively each year (such as quoted shares).

8. Possible valuation cycles of three to ten years were mentioned, but the consensus was in favour of five-yearly valuations. Most wanted such a system to be voluntary, with taxpayers able to elect for annual valuations, or to submit a new valuation where, for example, the asset value had fallen.

9. Some said that any extended-interval regime should apply only to land and chattels, but most thought that it should apply to all classes of assets including intangibles such as unquoted shares and insurance policies.

10. Some were in favour of values being indexed (perhaps by reference to the RPI) in the interim years between actual valuations, but most were against any form of indexation.

Imputed yield on chattels and intangible assets (Consultation question 8)

11. For the sake of simplicity, some mentioned adoption of the Official Rate (currently 5% p.a.). However, the majority thought this was too high for both chattels and intangible assets..

12. Similarly, while some saw merit in a uniform rate as the simplest approach, most thought chattels and intangible assets were so different in nature that they merited different rates. Many favoured a lower rate for intangibles to reflect the psychic nature of the benefit from that type of asset.. Suggestions for annual yields fell almost exclusively in the range 1% to 2%.

Other operational matters (Consultation question 9)

13. Many respondents stressed the need for the Revenue guidance to be comprehensive, and outlined various questions and situations which they wished to see covered. The need for adequate publicity was also mentioned.

14. Some wanted to see some sort of pre-return clearance procedure available to taxpayers, while others were concerned about the effect of the decision in *Langham v Veltema* on the Self Assessment process

15. Some considered that taxpayers' compliance etc costs should be deductible against the value of the pre-owned asset for tax purposes.

LIST OF RESPONDENTS

Representative Bodies etc:

Association of British Insurers
Association of Taxation Technicians
Bar Council, Law Reform Committee
Country Land & Business Association
Foundations (The National Co-ordinating Body for Home Improvement Agencies)
Historic Houses Association
Institute of Chartered Accountants of Scotland
Institute of Professional Willwriters
Law Society, Capital Taxes Sub-Committee
Law Society of Scotland, Capital Taxes Sub-Committee
London Society of Chartered Accountants, Taxation Committee
Low Incomes Tax Reform Group
Royal Institution of Chartered Surveyors
Scottish Rural Property & Business Association Ltd
Society of Trust and Estate Practitioners, Technical Committee
{The Chartered Institute of Taxation }*
{The Institute of Chartered Accountants in England & Wales, Tax Faculty }

Practitioners/Industry:

BDO Stoy Hayward LLP
Bird Luckin Chartered Accountants
Boodle Hatfield, Solicitors
Chris Marney, General Manager, JMG Trustmatters Group
Clifford Chance LLP
Deloitte & Touche LLP
Druces & Attlee (Solicitors)
Ernst & Young LLP
G F M T Wheatley, Buzzacott
Gordon Lynes
Grant Thornton
HBOS plc, Insurance & Investment Division
Joe Richardson, Hunters Solicitors
John Barnett, Partner, Burges Salmon LLP
KPMG
Life Legal, Norwich Union
Ralph Ray, Wilsons Solicitors
Ray Magill
Reeves & Neylan Chartered Accountants
Scott Pickard, Philip J Milton & Company Plc
Scottish Life International
Scottish Widows
Skandia Life Assurance Company Ltd
St James's Place Capital plc
Sydney Mitchell Solicitors
Terry Hill, The Fry Group
Toby Harris

* Joint response from these two representative bodies