



# ICAEW REPRESENTATION 03/18

## TAX REPRESENTATION

### FINANCE (No.2) BILL 2017-19, CLAUSE 18 AND SCHEDULE 6

#### PARTNERSHIPS

Text of submission by ICAEW Tax Faculty on 5 January 2018 to House of Commons Public Bill Committee in response to [invitation dated 14 December 2017 to “have your say”](#)

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## **FINANCE (No.2) BILL 2017-19, CLAUSE 18 AND SCHEDULE 6 PARTNERSHIPS**

### **Text of submission**

#### **WHO WE ARE**

1. Please see Appendix 1.

#### **THE MEASURE**

2. This measure introduces new provisions to clarify certain aspects of partnership taxation, including a new mechanism to resolve disputes between partners about the allocation of partnership profits (Sch 6, part 5).

#### **OUR CONCERNS**

3. We are concerned the draft legislation denies the ability for a partner to refer a dispute about the information in the partnership return to the Tribunal “to the extent that it is in substance about the amount (before sharing) of the partnership’s profits or losses for a period” (see new section 12ABZB, sub-clause 4). We are not clear why a partner’s ability to refer a dispute is restricted in this way.
4. For example, the AB partnership consists of two partners, partner A and partner B, sharing profits and losses equally. Partner A is the nominated partner and is responsible for submitting the partnership tax return. Partner A and B have a disagreement to the extent that a solution cannot be found. As a result, partner A allocates all of the partnerships’ profits to partner B and files the return. Under the current proposals there is no mechanism for partner B to dispute this profit allocation.
5. It is not clear why, in new section 12ABZB, sub-clause 11, a partnership return which has been subject of a referral to the Tribunal cannot be the subject of another referral (unless it is the first referral following an amendment to the return).

#### **SUGGESTED AMENDMENTS**

6. We suggest the following amendments are made in relation to our concerns noted in paragraphs 3 and 5 above:
  - Within Sch 6, para 10, clause 2, remove new sub-clause 12ABZB (4).
  - Within Sch 6 para 10, clause 2, amend new sub-clause 12ABZB (11) such that a referral can be made in respect of a partnership return which has been the subject of a previous referral, if it is not related to matters relevant to the previous referral.

#### **FURTHER GENERAL CONCERNS**

7. We are also concerned that, under current law, partners of a partnership are required to confirm that their allocation of partnership profits is correct on their individual tax return. Where there is a dispute about the allocation of profits there is no mechanism to state this on the individual return. The proposed legislation states that “a partnership return is conclusive for tax purposes...” indicating that the individual taxpayer will be bound to report the figures on the partnership return on his/her personal tax return, even if he disputes these.

#### **OUR RECOMMENDATION**

8. We recommend that further protections need to be given to the position of an individual taxpayer subject to a dispute. HMRC should introduce a box in the tax return that could be ticked to indicate that the taxpayer disputes the partnership figure that has been entered (so the taxpayer doesn't compromise himself by declaring the tax return is correct and complete). In addition, it should be possible to hold over any tax at stake as a result of the dispute until such a time as it is resolved.

## APPENDIX 1

### ICAEW TAX FACULTY – WHO WE ARE

ICAEW Tax Faculty is internationally recognised as a source of expertise and is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world.

ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 147,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.

ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value ICAEW is a world-leading professional accountancy body.