



# ICAEW REPRESENTATION 22/16

## TAX REPRESENTATION

### Changes to dividend taxation – clauses 2 and 3

ICAEW welcomes the opportunity to comment on [draft clauses 2 and 3 Finance Bill 2016](#) concerning the changes to dividend taxation published by HM Revenue & Customs on 9 December 2015.

This response of 28 January 2016 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty 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. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.

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## MAJOR POINTS

### Key point summary

1. We presume that the omission of changes to the dividend ordinary rate and dividend additional rate is an oversight.
2. We assume that beneficiaries with a life interest will be able to use the dividend nil rate band for trust dividend income.
3. The introduction of an unfranked income tax liability for basic rate taxpayers together with an obligation to notify HMRC of a liability to tax significantly increases the administrative burden for taxpayers falling within this group.
4. The removal of the dividend tax credit could have a negative impact on the Charity sector.
5. The standard rate band of £1,000, maximum, for non interest in possession trusts resulted in fewer tax returns being filed saving on the administrative burden for trustees and HM Revenue & Customs. To avoid bringing more trusts back into the tax net requiring completion of a trust return any dividends falling into the standard rate band of the trust should have a 0% tax charge.

### General comments

#### Clause 2

6. While this clause introduces the dividend nil rate into s8, ITA 2007, it does not make the expected changes to the dividend ordinary rate and the dividend additional rate. Presumably this omission is an oversight?
7. We note that no changes are made to s9, ITA 2007 to introduce a dividend nil rate for trusts. Where a beneficiary has a life interest, however, we assume that they will be able to use the dividend nil rate band in s13A, ITA 2007 for any dividend income received from the trust.
8. We note the changes to s7, TMA 1970 and are concerned by the requirement for basic rate taxpayers to notify HMRC of a liability to tax if they have dividend income that is not covered by the nil rate band. This significantly increases the administrative burden for this group and exposes them to penalties. Further, it does not appear that this group will fall within 'simple assessment' as HMRC does not hold the requisite information about the dividend income from the companies making the dividend payments. We note that the [\*policy paper\*](#) refers to the fact that recipients of dividends in excess of £10,000 (before tax) are already required to be in self assessment. This statement accords with [\*guidance on HMRC's website\*](#). However, this is at odds with the requirements of s7(6), TMA 1970 which currently removes the obligation to notify HMRC of a liability to tax for recipients of dividend income who are liable to tax at the basic rate, the dividend ordinary rate or the starting rate for savings. Therefore the number of taxpayers affected may be greater than the 8,500 estimated in the policy paper.

#### Clause 3

9. The removal of the dividend tax credit could have a negative impact on the Charity sector which has not been recognised in the [\*policy paper\*](#). Even though a taxpayer cannot receive payment of non-payable tax credits on dividends paid by UK companies, those credits can be used by the taxpayer to cover the tax reclaimed by a charity on a Gift Aid donation.

## APPENDIX 1

### ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see via <http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax>).