

Foreign profits: small business: meeting 2 August 07

External attendees

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Issues raised

- why can't small business have exemption regime
- exemption would be easier to manage for small business than credit
- CC adds a further compliance burden to small companies, and thus whether small business, who generally have less money to abuse passive income, could be removed entirely from the CC regime
- whether existing legislation (eg transfer pricing, residence, managed service company rules, S.739 ICTA, S714 ITA07) provided HMRC with sufficient defence against possible abuse from behavioural response, against a backdrop of reducing HMRC resource, and to extent concerns nonetheless exist, whether some other protection should be enacted (eg exclusion from exemption/application of CC where dividends come from non-treaty jurisdictions)
- application of controlled companies (CC) regime to UK subsidiaries, even for wholly domestic groups (point relevant to all business, not just small) - business viewed the UK/UK application as a waste of time - could the CC regime operate without UK/UK application, to reduce compliance burden
- whether having exemption for large, and retaining taxation with credit for small, would be discriminatory
- whether the CC regime could apply in the same way as the transfer pricing regime, ie application to medium and small companies in only very limited circumstances
- whether Government could have a direction-making power for the CC regime to apply to small and medium in cases where abuse perceived
- simplification of tax credit rules, particularly in respect of tiering, and possible impact on some groups
- whether groups could file a consolidated CTSA return in respect of UK companies, so the application of CC for UK/UK cancels out, and whether this would be EU compliant
- whether groups could easily find the information to comply with the CC regime
- application of incidental income exemption
- boundary issue – may not realise whether company is S/M/L until later, and company may move between segments – whether to have grace period or other rules (eg modelled on QIP regime boundary treatment)

- whether a small company (tax with credit with limited CC) would be worse off than a large company (exemption with full CC)
- whether credit regime could be simplified, eg dividends could be exempt if likely to have suffered high tax abroad
- if credit regime simplified, whether CC regime needed
- whether a CC regime based on transfer pricing approach (ie small companies generally exempt) and a simplified credit regime to give protection, would be appropriate
- how details of any simplified credit regime could be worked up with business, eg workshops
- whether the de minimis trigger for CC could have two tests, ie consolidated profits as proposed, but even if breached, whether outside regime if passive income is less than a de minimis figure
- issues raised in other module meetings, eg definition of passive income, apply to small too
- reporting requirement to replace Treasury Consents