

TAX: Bye, Bye ARI - Hello CGT?

Written by PAG

Friday, 24 February 2012 15:14 - Last Updated Saturday, 25 February 2012 13:28



The Attribution Regime (ARI) for Individuals will be abolished with effect from 6th April 2012. The ARI ensured that Isle of Man resident shareholders did not roll up profits in an Isle of Man company tax free.

The abolition of the ARI means that Isle of Man resident shareholders of Isle of Man companies may be able to roll up profits tax free in a company until such time as a distribution is made. The use of a company structure with the ability to roll up profits tax free for Island residents would appear to be a very attractive proposition, but perhaps unfair to the majority of taxpayers unable so to do.

Treasury Minister Teare in his Budget speech admitted that in 2010-11 attribution charges resulted in approximately £3.5million in tax!

He went on to say "But this ought not to ultimately lead to a loss of revenue because we will tax company profits when they are distributed to shareholders".

Sure enough a Practice Note was issued by Assessor of Taxes Dr Malcolm Couch which stated: "If the winding up, dissolution or striking off of a company leads to a distribution of assets from the company to its shareholders, then this is a taxable income distribution by virtue of Section 2PA of the Income Tax Act 1970".

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Surely this reference to assets means the introduction of a Capital Gains Tax?

The point was not lost on tax advisors KPMG and PWC and many accountants who publicly stated that more guidance on interpretation was needed.

These were the same people who, with the abolition of ARI had identified an opportunity for certain clients to roll up company profits for later distribution.

Dr Couch was quick to respond and, 3 days after the Budget, issued an update stating "The Isle of Man does not have capital gains tax and there is no intention to introduce such a tax". He promised to issue further guidance later.

Ministers Teare and Bell always stress that our financial industry, on which we are so reliant, needs clarity!

Yet it appeared the various pronouncements only served to create considerable confusion.

Meanwhile Minister Teare said: "It has come to my attention that unacceptable tax planning was being contemplated and I had to take steps to ensure that tax due on income not capital gains was paid. This is not an attempt to introduce a form of capital gains tax; nothing is further from my mind".

The abolition of the ARI potentially causes £millions to be lost in tax revenue and at the same increases the opportunity for even more to disappear within company structures.

The Assessor is clearly finding it difficult to stem the seepage. Time to introduce a Tax Commission perhaps - empowered to review Tax Policy.