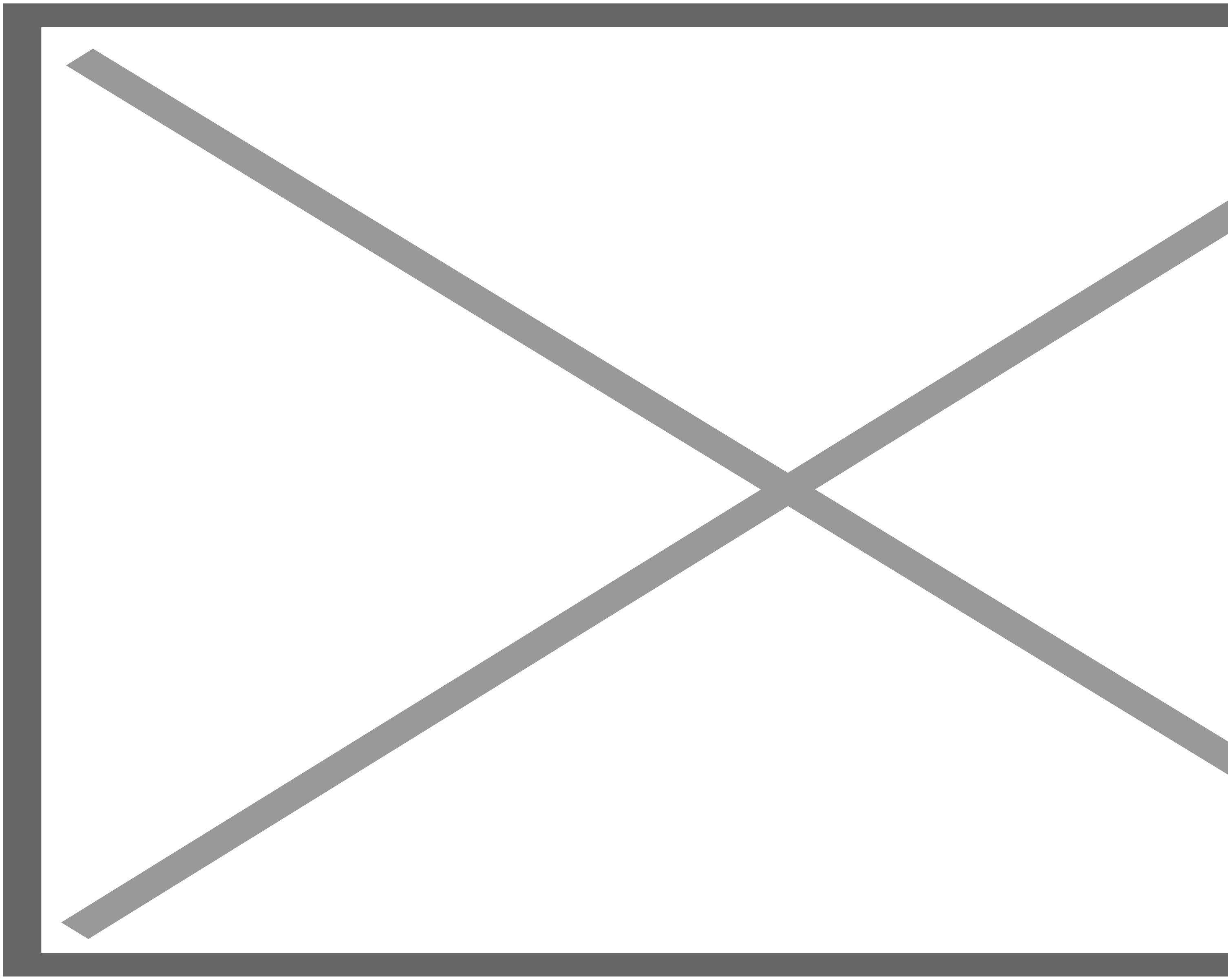
Share and share alike

Management of taxes OMB Personal tax



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Michael Steed and *Marion Hodgkiss* consider the practical tax issues involved in the sharing economy

Key Points

What is the issue?

The UK is becoming one of the leading hubs in the growth of the exploding ‘sharing economy’, and business, investment and taxation models will need to develop to meet these challenges.

What does it mean to me?

Advisers may be asked to provide advice on these issues in practice as they become even more important and widespread in the UK economy.

What can I take away?

Many of these changes are welcome – either to boost the economy or to simplify the tax system for the individual – for example the new £1,000 allowances, but sometimes the knock on effect has not been thought through fully, and the reliefs can create problems.

In the March 2017 issue of *Tax Adviser*, we explored some of the tax and employment law issues in the rapidly expanding ‘gig economy’ in an article entitled ‘Pick and mix’. In this issue we look at its first cousin, the ‘sharing economy’ and muse over some of the possible tax and other issues that arise.

In 2016 PwC published a report on the size and presence of the collaborative (sharing) economy in Europe. It is big (transactions were around £7.5bn in 2015 in the UK alone) and growing fast. The UK has delivered some notable success stories in this new economy, although the report identifies Deliveroo, a food delivery service, as a rising star in the sharing economy. We are puzzled by this analysis as Deliveroo feels more like a gig-economy business (with its small army of ‘self-employed’ riders delivering restaurant food to customers).

The report identified five key areas of the sharing economy, all of which are accessed through online platforms – primarily smartphones:

- ***Collaborative finance***: individuals and businesses who invest, lend and borrow directly between each other, for example, crowd-funding (such as Crowdcube) and peer-to-peer lending;
- ***Peer-to-peer accommodation***: households sharing access to unused space in their home or renting out a holiday home to travellers (think Airbnb);
- ***Peer-to-peer transportation***: individuals sharing a ride, car or parking space (such as JustPark) with others;
- ***On-demand household services***: freelancer marketplaces enabling households to access on-demand support with household tasks such as dog walking, food delivery and DIY;
- ***On demand professional services***: freelancer marketplaces enabling businesses to access on-demand support with skills such as administration, consultancy and accountancy.

The speed of introduction of such services (and it is primarily services) and the growth in both the UK and the wider European economy, is noteworthy and the UK is now widely seen as an important hub for starting such businesses, both from a tax and a regulatory point of view.

The issues that this raises include regulatory issues, such as financial regulation in peer to peer lending, as well as tax issues.

So how has the UK tax system dealt with the inexorable rise of these new and rapidly growing sectors?

Oldies but goodies!

Some parts of the traditional tax framework appear equal to the task and include:

The badges of trade: which loosely tell a hobby from a trade – the boundaries can be quite difficult, which is why the two new £1,000 allowances in FB 2017 are useful at the margin (but not for serious traders) – see below;

Rent-a-room relief (aka Lodgers' Relief): £7,500 for sharing your only or main home with other people – also see below;

Capital allowances: remember software and set-up expenditure on websites count as plant for capital allowances (CAA 2001 s 71);

Investment reliefs: SEIS and EIS for crowdfunding websites (such as Crowdcube which claims on its website that it has raised over £220m since its inception!); EIS provides 30% up front income tax relief and its FA 2012 derivative SEIS, allows a 50% up-front income tax relief on smaller investments. Both, of course are subject to tight conditions, but they make crowd funding attractive to investors from a tax perspective.

Employee Management Incentive (EMI): a tax-advantaged share option scheme designed for smaller companies. A company grants share options to selected employees to allow them to acquire its shares over a prescribed period provided that certain conditions are met. The essential point is that these options are charged to capital gains – quite often at 10% under Entrepreneurs' Relief – rather than income tax on increases in value.

Research & Development: Many start-up companies are not within the more traditional business sectors and may be involved in technological developments that could be classified as R&D. Where they are, an additional 130% of the qualifying expenditure will be CT deductible. Many eligible companies do not claim this relief as it is not well understood by smaller businesses or their advisers. On the other side, there are also some companies who think they are eligible for the relief on work that does not fall within the definition of R&D for tax purposes. It would probably help if the accounting and tax definitions were aligned at least for the smaller companies.

Newer tax legislation

Peer-to-peer lending has become popular (see, for example Zopa), as the returns can be greater than conventional banks and building societies. The tax legislation is moving to cope with these changes. For example, peer-to-peer lending interest is taxable, but is listed in the Personal Savings Allowance and FB2017 is removing the need to deduct tax on interest for investors. Tax relief for irrecoverable loans is also available. The first peer-to-peer ISAs are also appearing on the shelves.

From a non-tax perspective, peer-to-peer lending is now regulated by the FCA.

FB 2017 and those two new £1,000 allowances!

We get a very real suspicion that these were introduced to cover the fact that HMRC would never have the resources to police low level trading and monitoring income for sharing underused assets, so badging them as encouraging micro-entrepreneurs, gets around this problem. The new allowances are for individuals only – not for partnerships or companies.

Both of the allowances work in the same way: if income from the activity (and remind your clients that it is income and not profits) does not exceed £1,000, then the income is ignored; it is not taxable and not reportable. If, however the income (and not profits) exceeds £1,000, then tax is due and taxpayers have a choice: they can use normal profit and loss principles and completely ignore the allowance, or they can elect to ignore the expenses completely and just be taxed on their total income less the £1,000 allowance.

FB 2017 makes these allowances as insertions into ITTOIA 2005.

There is an important point about the interaction between the £1,000 allowances and the more traditional rent-a-room allowance in Part 7 of ITTOIA 2005 (which was raised in April 2016 from £4,250 to £7,500 per annum).

The critical point is that it is not possible to have the rent-a-room relief and either of the two new allowances.

Oh and by the way, clients don't always appreciate that for rent-a-room relief to operate, the renters must effectively use the same front door as you do, so separate annexes and flats over separate garages don't obviously qualify (ITTOIA 2005 s 784 refers to 'the use of furnished accommodation in an individual's only or main residence').

Rent-a-room relief, perhaps rather surprisingly also applies to small B&B owners – see Help Sheet 223. The Help Sheet also refers to these restrictions: 'You can't use the Rent a Room Scheme if (it is): not part of your main home when you let it.'

The government is clearly exercised by the rent-a-room relief as there is a proposal in the 2017 Budget that this be restricted to longer lets only.

The Budget Red Book provided:

'Rent-a-room relief – The government will consult on proposals to redesign rent-a-room relief, to ensure it is better targeted to support longer-term lettings. This will align the relief more closely with its intended purpose, to increase supply of affordable long-term lodgings.'

It would appear therefore, that the government is targeting short-term Airbnb type sharing economy activities in favour of longer-term more stable provisions of accommodation.

Conclusion

This is a fascinating area and one that we will be hearing much more of. The UK should be rightly proud of its attitude to innovation in business with a supportive tax code, although we note again that both the sharing and the gig economies have their dark sides – we all hear stories of worker exploitation and houses being trashed having been hired through Airbnb.