Parkin S. Booth & Co.

Chester
01244 340129

Liverpool
0151 236 4331

Warrington
01925 245004

Proposed tax changes to distributions in Members Voluntary Liquidations

Changes in the way in which shareholder distributions are treated in Members Voluntary Liquidations (MVLs) have been proposed, which could lead to shareholders paying significantly more tax than they had previously anticipated. The planned changes will apply to distributions made after the 6 April 2016.

At present, where a company is subject to a solvent winding up (MVL), the distributions to shareholders are treated as a return on capital and are therefore subject to capital gains tax, and where applicable, entrepreneur's relief. Therefore, a lower rate of tax is paid in comparison to receiving dividends outside of a MVL, where funds are treated as income and are subject to income tax.

The government has been concerned that these rules may be exploited in order to create a tax advantage through transactions which are tax driven, rather than commercially driven.

The government propose to introduce a new Targeted Anti-Avoidance Rule (TAAR) that would apply to certain distributions from a MVL. This TAAR would treat a distribution from a MVL as if it were an income distribution, where;

- An individual who is a shareholder in a close company (5 or fewer shareholders) receives a distribution in respect of shares in a MVL
- Within a period of 2 years after the MVL an individual continues to be involved in a similar trade or activity; and
- One of the main purposes was to obtain a tax advantage.

If therefore, there is a likelihood that a shareholder may want to set up a new similar company within the next 2 years they will have to consider whether the TAAR might affect the tax paid on an earlier sale.

Given the impact of the proposed changes on the amount of additional tax that could be paid by shareholders, then anyone not aware of the rule changes could be in for a 'nasty shock'.

Should you have any clients who are considering closing a company but may fall foul of the rules above, it is imperative that they act quickly. Placing a Company into an MVL can be done in a short space of time but realising the assets, particularly releasing funds from a bank can time some time that could potentially delay the capital distribution.

Please note that should your clients require any confidential advice regarding the proposed changes of the MVL process, or any other insolvency matter they are welcome to contact one of our Partners. An initial consultation is provided free of charge and without obligation. Also, if you or any of your colleagues require any clarification regarding insolvency law or procedure, please do not hesitate to contact us.