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Dear Ms Acton

### **Mixed Partnerships and TCGA 1992 section 162**

Thank you for your letter of 4 February 2016 to John Barnett in his capacity as Chair of the CGT and Investment Income Sub-committee. I am the current Chair of the CGT & Investment Income Sub-committee and would be grateful if all future correspondence on this issue were addressed to me.

Your letter sets out HMRC's revised interpretation on the availability of TCGA 1992 section 162 relief which, you indicate, will apply from 30 April 2016. We would be grateful for confirmation that your revised interpretation applies only to incorporations from 30 April 2016, i.e. that the tax treatment of incorporations prior to 30 April 2016 remains in accordance with HMRC's original practice as set out in the letter dated 16 May 2014. If not, we think that 'grandfathering' provisions should be introduced to address this and to alleviate the costs attendant on unwinding any such incorporations.

The CIOT's CGT and Investment Income Sub-committee is due to meet in April and consideration of the correctness of HMRC's revised position will form part of the agenda. Accordingly we may wish to write again after our next committee meeting.

Leaving aside the correct legal position we do have some concerns that HMRC's approach may be counter-productive when viewed in context of i) the policy objective of section 162 relief, and (ii) encouraging the dismantling of mixed-member partnerships. Therefore we request that HMRC would:

1. confirm that there will be grandfathering for those who have relied on HMRC's original interpretation and, if not, to provide some relief for those who wish to unwind incorporations they have undertaken;

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2. consider introducing a specific statutory relief so that section 162 TCGA 1992 relief is available when mixed memberships incorporate in the circumstances described.

Yours sincerely

Aparna Nathan  
Chair, CGT & Investment Income Sub-  
committee

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