

## Multinational top-up tax and Domestic top-up tax draft guidance manual

### Comments by the Chartered Institute of Taxation

#### 1 Introduction

- 1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.
- 1.2 We welcome the opportunity to comment on the draft guidance published by HMRC in June on multinational top-up tax (MTT) and domestic top-up tax (DTT), following their introduction in the Spring 2023 Finance Bill. We appreciate that this guidance is partial at the moment and that HMRC will publish further guidance later in due course, including updated versions of the draft chapters published to date.

#### 2 About us

- 2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.
- 2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.
- 2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

### 3 Comments

- 3.1 Although there is an overview chapter for each of MTT and DTT, the guidance manual has been designed to cover both MTT and DTT when it covers the detail of the rules. It should be made clear throughout the guidance when there is a different application for MTT purposes compared to DTT.
- 3.2 We welcome the table at paragraph 09990 that maps between the UK legislation and the OECD Model Rules, supporting commentary and administrative guidance (currently the guidance published in February 2023, but we understand that it will be updated for later guidance published in July 2023). This is very helpful. A table going the other way would also be very useful. We appreciate that given the volume of OECD material, this would be challenging. However, a starting point would be mapping the OECD Model Rules to the UK legislation.
- 3.3 More specifically, we have a comment in relation to the section giving an 'Overview of Domestic top-up tax'. In 06010 (Differences between Domestic top-up tax and Multinational top-up tax) it says:

#### Chargeability

There is no concept of responsible members in DTT, so such parts of MTT will not be relevant for DTT. Generally, each qualifying entity will be chargeable (see MTT06100).

We suggest the following words are added:

'The tax is calculated on an aggregated basis as for MTT and then allocated to individual entities in a similar manner to MTT; for DTT entities to which tax is allocated are themselves chargeable.'

This is to avoid any impression that each entity has a separate Effective Tax Rate calculation.

- 3.4 In 06100 (Domestic top-up tax charge – Chargeable persons) the opening paragraph states that 'responsible member' is not relevant to DTT, saying 'the concept of responsible member does not exist in DTT'. However, the term is then used in the first sentence of the paragraph 'Qualifying member is a partnership'.

In 06110 (Domestic top-up charge – The amount charged), the term 'responsible member' is used again.

We suggest that these references to responsible member are changed to something more appropriate for DTT.

- 3.5 Finally, our understanding is that the UK's DTT is on a UK group (not entity by entity) basis and that it uses numbers used in preparing the consolidated accounts (not the entity accounts). So we are a little unclear what F(No 2)A 2023 section 266(10) means in respect of 'qualifying financial statements'. The wording 'this Part' refers to Part 4 which is the part enacting Domestic top-up tax, but it seems that section 266(1) may only be relevant in those circumstances where there is no UK group, but only a single UK entity. Please could the guidance clarify what HMRC considers to be the qualifying financial statements in this section.

### 4 Acknowledgement of submission

- 4.1 We would be grateful if you could acknowledge safe receipt of this submission.

The Chartered Institute of Taxation  
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