30 Monck Street
London SW1P 2AP
T: +44 (0)20 7340 0550
E: post@ciot.org.uk

Corporate re-domiciliation

Response by the Chartered Institute of Taxation

1 Executive Summary

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 Our view is that a re-domiciliation regime, that permits inward and outward re-domiciliation, would be helpful for businesses that wish to re-locate to the UK as well as those seeking to relocate abroad, whether in whole or in part. It will make the process of doing so more straightforward, provided that there is clarity and certainty around the operation of the rules. However, for inward re-domiciliation, we would venture that this regime alone is unlikely to induce businesses to move to the UK. Whilst it may 'tip the balance', by making it more straightforward for them to do so (and indicate more broadly that the UK is open to attracting business), they are likely to be coming primarily for other reasons, including a favourable view of other, more substantive, aspects of the UK's tax system. Therefore, we would encourage the government not to lose focus on seeking ways to make the UK's tax system better overall. This is more likely to have a positive impact on the UK's global competitiveness than a re-domiciliation regime alone, particularly for active trading companies and not just holding companies.

1.3 In addition, the attractiveness of the regime will rest to a large extent on its perceived simplicity and clarity in practice. In order to deliver a straightforward regime, we would like to see, so far as possible, parity between companies originally incorporated in the UK and those that re-domicile here and also parity between the rules applying in relation to tax migration and the new re-domiciliation regime.

1.4 The government may discover that a new re-domiciliation regime is of interest to foreign companies (including foreign subsidiaries of groups that are headed in, or already have significant presence in the UK) that are already tax resident in the UK. It will enable these companies to become 'wholly' UK based and may provide a useful tool for multinational enterprises (MNEs) to simplify their group structure and reduce the overseas administration costs that currently arise in respect of foreign incorporated group companies that are already UK tax resident. The reputational aspect of being fully UK based may also be relevant to such

MNEs that otherwise would be left with legacy 'tax haven' companies in their groups. These re-domiciliations are unlikely to have any significant economic impact but could provide greater certainty to such groups and the UK exchequer.

1.5 We suggest that inward re-domiciliation without the ability to re-domicile out of the UK is unlikely to prove attractive. Although the consultation document points to some examples of jurisdictions providing inward re-domiciliation only, in our view these are the exception rather than the norm.

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 Introduction

3.1 We refer to the consultation published by the government on 27 October 2021 on *Corporate re-domiciliation*. Representatives of the CIOT met with HMT and HMRC to discuss the proposals contained in that consultation document on 7 December 2021. In particular, we focussed on the comments in chapter 5 (Tax) of the consultation document. Our comments below build on the discussions at that meeting.

3.2 We welcome the early stage of this consultation. We understand that the policy aims of the proposals are to strengthen the UK's position as a global business hub and an open, competitive, free market economy. A re-domiciliation regime would enable a foreign-incorporated company to change its place of incorporation to the UK while maintaining its legal identity as corporate body. The aim is to give companies maximum continuity over business operations. Clearly the scope of this consultation goes beyond tax and other aspects of UK law in relation to companies will be important. Our comments below are limited to responses to the questions posed in chapter 5 of the consultation document, which considers possible tax consequences of a new regime.

3.3 Our stated objectives for the tax system include a legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences and one that provides certainty so businesses and individuals can plan ahead with confidence. We also advocate greater simplicity and clarity, so people can understand how much tax they should be paying and why.

3.4 Although beyond the scope of our expertise, we would note that other aspects of the consultation will also impact on the attractiveness of the regime. For example, policy decisions made around company law issues may be important. Other jurisdictions may have more relaxed rules than the UK around matters such as distributable reserves. Ensuring that they are able to continue to benefit from these rules, if the UK regime does not replicate them, may mean that re-domiciling to the UK is not attractive for some.

3.5 In addition, we note the section in chapter 3 of the consultation document around adequate checks and balances and the discussion around whether a threshold for economic presence in the UK is required. We note the conclusion that a threshold is not required, and that this will ensure that the UK regime is in line with other countries' re-domiciliation regimes. We also note that the government is proposing a set of eligibility criteria, designed to protect the UK tax base and various other matters (as per paragraph 3.6 of the consultation document). The government also needs to bear in mind its international political, as well as legal, commitments, and to keep a watching brief on the potential ramifications of foreign companies re-domiciling to the UK, where doing so may have implications for their tax treatment under the domestic rules of other jurisdictions (in particular the United States which looks more generally to the jurisdiction of incorporation of a company), regardless of whether or not they also move their tax residence to the UK.

4 Company residence

4.1 As a general principle we suggest that the rules of a new regime permitting re-domiciliation to the UK should ensure that companies using the regime for this purpose should be treated so far as possible the same as companies that were originally incorporated here. Our view is that the regime will be the most attractive if there is parity between the different types of companies and that it would be unhelpful for UK law to create different classes of UK domiciled companies. The new regime will overlay the existing rules on tax migration by companies. We suggest that the tax treatment arising from a re-domiciliation to the UK should be the same as for a company that migrates to (by which we mean becomes tax resident in) the UK through existing mechanisms of moving central management and control, subject to relevant double tax treaties.

4.2 We understand the policy intent is that, once re-domiciled to the UK, the company will be treated exactly the same as any other UK company (albeit that it arrived in the register of UK companies in a different way). We understand that this also means that companies coming into the UK will also have to meet the non-tax requirements of originally UK incorporated companies, that is to say that there will not be a 'lighter touch' for re-domiciled companies. We support this approach.

4.3 Similarly, we suggest that all UK companies and companies that re-domiciled here earlier should be able to utilise a new outward re-domiciliation regime and that there should be no tax difference between outward re-domiciliation and outward migration.

4.4 **Question 37. Is clarification required as to whether a company will become or cease to be UK resident following a re-domiciliation to or from the UK?**

4.5 In our view the new regime should provide clarity around whether and when a company will become or cease to be UK resident as a result of re-domiciliation, in order to provide businesses with certainty and that certainty should be provided in a time-efficient manner through a formal process. It should be provided prospectively based on agreed assumptions and not on a retrospective basis after a company has moved.

4.6 We recognise that the UK can do a lot to clarify the tax treatment of entities as they come into the UK, but that it is not within the UK's powers to change how other jurisdictions will treat them. If a foreign incorporated company re-domiciles to the UK (and is therefore deemed by the UK to have been incorporated in the UK), the company will likely be regarded as UK tax resident under UK domestic law. If the company also retains its tax residence status in the foreign jurisdiction (under that jurisdiction's domestic law), recourse will need to be made to the relevant double tax treaty to determine where the company will be treated as tax resident. Depending on the treaty tie breaker provisions, this could involve considerable debate (and hence delay) between the competent authorities trying to agree where tax residence should be located and also where appropriate, in determining where 'effective management' is located. Accordingly, clarification on how tax residence is to be resolved following re-domiciliation will be required. It is currently not clear what form that resolution might take. UK unilateral legislation or regulations may not be capable of over-riding the treaty tie break provisions. One solution would be to provide provisional unilateral clearance, subject to competent authority agreement if that is what the tiebreaker requires: the Multilateral Instrument standard is clearly inappropriate as it stands for speedy resolution.

4.7 The development of the proposed rules should also take into account the potential non-UK tax effects that could arise. For example, in certain countries the re-domiciliation may constitute a 'disposal' event for the shareholder, and whether or not this is the case may depend on how the re-domiciliation is treated for UK company law and tax purposes. Such factors may impact the decision on whether to undertake the re-domiciliation at all.

4.8 To minimise uncertainty, we suggest that as part of the development of these proposals, the UK government engages with major trading partners to increase the certainty available to businesses, for example, by encouraging other jurisdictions to mention the UK's new regime in their commentary and vice versa. In addition, it would be beneficial for the UK rules to mirror, so far as possible, other jurisdictions regimes. This would enable businesses (and HMRC) to rely on their precedents etc. We suggest that this work can be developed alongside a new UK regime for re-domiciliation and should not of themselves delay implementation of the proposal.

4.9 **Question 38. Which of the above options would be preferable and why?**

4.10 We would favour the option for the legislation of any new regime to ensure that, subject to any double tax agreement the company will be treated as UK resident by virtue of the re-domiciliation – that is to say, the company is treated the same as a company originally incorporated in the UK.

4.11 With regard to outward re-domiciliation we would similarly favour legislation which ensures that, subject to central management and control being outside the UK, it will cease to be UK resident by virtue of the re-domiciliation. However, we would reiterate the problems that can arise around tie-breaker provisions and agreeing effective management mentioned in paragraph [4.6] above. These will also be relevant to outward re-domiciliation.

4.12 As mentioned above, a new outward re-domiciliation regime should be available to all UK companies as well as those companies who re-domiciled here earlier. We recognise that that this opens up the possibility for all UK incorporated companies to re-domicile out of the UK by providing an 'easier' route to leaving the UK, compared to migration: by moving central management and control, coupled with an appropriate double tax treaty provision. We also recognise that this may give rise to HMRC concerns about potential loss of corporation tax base. However, we suggest that it is important that a new outward re-domiciliation regime ensures parity between companies that were originally incorporated in the UK and those that have come to be treated as such by inward re-domiciliation. The proposals should not result in it becoming more difficult for either of these types of company to effectively leave the UK – either by way of migration or re-domiciliation.

4.13 We would reiterate the point made at paragraph 3.4 above, that the best way to counter this risk and ensure that the UK is viewed favourably by businesses as a place to be based, is by enhancing the UK's global competitiveness through various measures that include improvements to the UK's tax system.

4.14 We could envisage a rule preventing a re-domiciliation back to the UK before a number of years have passed to prevent companies re-domiciling out of the UK at will (and ceasing to be UK tax resident); for example to ensure that the company is not a close company, and then re-domiciling back to the UK when the charges and rules applying in relation to close companies are no longer relevant to the company in question. However, we suggest that such an anti avoidance rule should have a purpose test, as it is possible for a re-domiciliation not to work out as expected in the new jurisdiction and for there to be reasons, other than tax avoidance, for wishing to return to, or leave, the UK. It would not be sensible for a time restriction rule to prevent a company being able to re-domicile if there are commercial reasons for wishing to do so.

4.15 **Question 39. Are there are any other options which should be considered?**

4.16 There are not any other options that we would suggest should be considered.

5 Loss importation

5.1 **Question 40. Do you have any views on how material this risk is, and what additional protections might be introduced to prevent such loss importation?**

5.2 The risk of loss importation already exists and there are protections against this. We recognise that the Exchequer risk from loss importation may be perceived to increase if it becomes easier to become UK resident and it is understandable that there is some restriction around the use of losses on coming to the UK. But we suggest that the existing protections in the UK tax code should be adequate in circumstances of re-domiciliation as they are in relation to tax migration. It is not clear to us that there should be a distinction (resulting, presumably in more restrictions) between cases of re-domiciliation and other circumstances where a company becomes UK tax resident. Echoing our key point above, for certainty and simplicity (in order to maximise the attractiveness of the regime) we would prefer to see parity of treatment between the ways in which companies might become UK tax resident.

5.3 We understand that HMRC are concerned about companies that have losses moving to the UK to use against UK profits in other group companies, and subsequently moving out of the UK. But we question how likely this scenario would be in practice. The UK loss regime is not especially generous, such that it would encourage such behaviour. Conversely, consideration should be given to businesses that have made losses and come to the UK, which then become profitable. At this point they will start to pay UK corporation tax (and would have been contributing in terms of employment taxes and VAT in the meantime), so overall there may well be a benefit to the UK Exchequer. Such businesses should not be discouraged by a complicated regime that restricts the use of their losses from the outset. So a broader question should be asked around why the UK would seek to restrict the use of pre domiciliation losses. We are not clear about the perceived abuse, and suggest that whether it is worth protecting against this 'abuse' should be assessed against the possible effect of reducing the attractiveness of the regime overall.

5.4 That said, we recognise HMRC's concerns in this regard and consider that some form of barrier, or ring-fencing of losses, in circumstances where a company remains resident in another jurisdiction as well as the UK, may be appropriate. The rules could apply in circumstances of dual residence. We would emphasise that the rules must be clear in order for the regime to remain appealing. Generally we would not welcome a 'purpose test' as these are not simple, clear or straightforward to apply in practice.

5.5 To the extent that there is any restriction around the use of pre-domiciliation losses, or the rules mean that only post domiciliation losses are capable of offset against post domiciliation profits of either the company or the UK group, these rules should not apply to any profits relating to a UK property trade or a UK rental business (as these are already subject to UK corporation tax). It should be possible to offset pre domiciliation losses against post domiciliation UK property trade or rental profits to the extent that these have both arisen under the UK corporation tax regime.

6 Capital gains and intangible asset base costs

6.1 **Question 41. Do you have any views on this?**

6.2 We suggest that there should be no tax difference between outward re-domiciliation and outward migration. Although we understand that the question around inward re-domiciliation is more difficult, our view is that if the government agrees to uplift the tax basis for inward re-domiciliation, the same should apply (but currently does not) for inward tax migration.

6.3 Generally the UK's tax code is becoming more territorial in its base. Having an uplift in base cost when a company comes to the UK would follow this approach, as the UK would then only be taxing the economic growth arising while the company is resident in the UK. This approach would also mirror the situation in relation to offshore losses, which are restricted. However, we recognise that this would be a generous approach by the UK government and would support an approach that is limited to circumstances where the company has suffered an exit charge in the other jurisdiction on the way into the UK. Following Brexit, there should be equal treatment for companies coming from EU and non-EU jurisdictions.

6.4 With the extension of capital gains taxation to non-residents, we understand that non-UK incorporated companies that own UK property are more frequently considering becoming UK tax resident. At present becoming resident in the UK for tax purposes can be achieved relatively straightforwardly by moving central management and control to the UK, subject to any relevant double tax treaties. However, we understand that for some a UK incorporated company would be preferred, often because this makes regulatory requirements (such as bank and other supplier 'know your client' requirements) more straightforward. Additionally, if a non-UK incorporated company that owns UK property becomes UK tax resident, under current rules it would retain its 'usual place of abode' outside the UK and would therefore continue to be regarded as a 'non-resident landlord' for the purpose of the non-resident landlord scheme, see Property Income Manual, para PIM4810. The need to register the company under the non-resident landlord scheme would be obviated if the property was owned by a UK incorporated company. At present this can only be achieved by transfer of the properties to a UK incorporated company. This process is not straightforward as it typically requires bank involvement and may require consents from third parties. Moreover, it is not uncommon for clients to be advised that such transfers should be made by way of a reconstruction (instead of by way of an intra-group transfer) and, in that event, a statutory clearance will typically be applied for before the transfer is made. For these companies re-domiciliation could be attractive.

6.5 At present property owning companies have legislative protection of a base cost uplift to April 2015/April 2019 market value in accordance with TCGA 1992 Schedule 4AA paragraph 16 if they become UK tax resident after April 2019. It will be important for property owning companies that a new re-domiciliation regime makes clear that this tax neutral position from a capital gains tax perspective would also be the case for companies that utilise the new regime to re-domicile to the UK. Without this, re-domiciliation will not be attractive for property owning companies.

7 Personal taxation for the owners of companies

7.1 **Question 42. Do you have any views on the impact of the proposals for a re-domiciliation regime on personal taxation?**

7.2 The experience of private client practitioners is that there are significant contexts where inward re-domiciliation would save unnecessary complexity and expense and, if easily achieved, could result in net tax yield.

7.3 There are two overarching points; firstly, inward re-domiciliation without the ability to re-domicile out of the UK is unlikely to prove attractive given currently non-UK companies will not wish to be locked into the UK. Although the consultation document points to some examples of jurisdictions providing inward re-domiciliation only, these are thought to be the exception rather than the norm. Secondly, the tax consequences of inward re-domiciliation should follow the event without qualification. Thus, the transfer of assets abroad provisions should cease to apply to the company and its shares would become UK situs and, therefore, not able to be excluded property for inheritance tax purposes and not give rise to either foreign source income or foreign chargeable gains for remittance basis purposes. The reverse consequences should follow on outward re-domiciliation.

7.4 If there are concerns that re-domiciliation may be utilised for short term tax benefits outside the policy intent, consideration might be given to a minimum period before outward re-domiciliation akin to the capital tax gains temporary non-residence provisions.

7.5 We suggest that apportionment offers a relatively simple basis for attributing gains and income to pre and post re-domiciliation periods. A remittance basis user disposing of shares in a UK company that has re-domiciled outwards would be taxable on an arising basis on the part of the gain attributable to the period up to the date the company re-domiciled outward, with the gain attributable to the period after outward re-domiciliation taxed on the remittance basis. Apportionment offers the advantage of simplicity. The alternative of an outward exit charge is more complex and would lead to a 'dry' tax charge.

7.6 To put the matter beyond any doubt, that may otherwise detract from the benefits of inward re-domiciliation for shareholders who are remittance basis users, we suggest the legislation confirms that the mere fact of inward re-domiciliation does not trigger a remittance of foreign income/gains used to acquire shares in the re-domiciling company.

7.7 There may be merit in considering the exchequer risk where outward re-domiciliation is intended to mitigate an inheritance tax ten-year charge. The simplest solution is for outward re-domiciliation to occasion an exit charge for inheritance tax.

7.8 To the extent that the foreign companies are close companies, the rules in Corporation Tax Act (CTA) 2010, Part 10 (Close Companies) will apply to the company following re-domiciliation. These rules may give rise to charges (for example under CTA 2010 section 455) due to monies lent out to shareholders. This may well be an equitable outcome, respecting the principle that companies that re-domicile to the UK should be treated the same as companies that were originally incorporated here. However, the prospect of these additional parts of the legislation being applied to companies that are currently non-UK incorporated and non-UK tax resident would be disincentives to re-domiciling to the UK.

8 Stamp Taxes on Shares and Securities (STS)

8.1 **Question 43. Do you have any views on the impact of the proposals for a re-domiciliation regime on STS?**

8.2 That STS applies (generally, but subject to the rules about things done or to be done in the UK) only in relation to shares in UK companies is likely to impact on whether or not re-domiciliation is attractive in certain circumstances where STS is particularly important. For example, it is likely to remain more attractive to continue to hold UK property in a foreign company, whether or not that company is tax resident in the UK, to mitigate the cost of STS on a future sale of the property if it is expected that this will mostly likely be effected by way of a sale of the shares in the company.

8.3 Chargeable securities for SDRT purposes include foreign companies' shares held on a UK register; such shares are within the regime for the 0.5% charge. Depending on the rules around registration of companies utilising the re-domiciliation regime, the definition of chargeable securities may need to be amended to include shares of companies re-domiciling to the UK following entry, and to exclude shares of outward companies following exit.

8.4 We recognise the potential risk to the Exchequer of an outward re-domiciliation of a company prior to its sale, if this resulted in no STS payable on the sale. An option would be a targeted anti avoidance rule to counteract circumstances where a company is re-domiciled out of the UK linked to a sale of the company without STS. However, we would welcome a discussion around the framing of an anti-abuse rule along these lines as this should not impact commercial re-domiciliations where a sale occurs separately from the re-domiciliation. The shape of the test around the company's tax residence following re-domiciliation will also be relevant. If a company has changed tax residence as a result of the re-domiciliation, there are likely to be more significant tax implications than a future charge (or not) in respect of STS on a transfer of its shares, making an avoidance motive around STS unlikely in all but extreme circumstances. We would, therefore, urge caution before including complicated anti avoidance provisions into the new regime.

9 Value added tax

9.1 **Question 44. Do you have any views on the impact of the proposals for a re-domiciliation regime on VAT?**

9.2 We would note that the VAT rules around business establishment and fixed establishment are not necessarily the same as the central management and control rules used to determine residence for corporation tax purposes. It is important to understand where the differences lie while going through the process of developing this regime – particularly if the tax residence of companies will depend on central management and control – as well as place of incorporation. So far as possible it would be helpful to try to avoid different positions arising for companies from a direct tax and indirect tax perspective. Consistency between the two positions is preferred but, if this is not achievable, certainty of outcome and implications definitely should be. We were reassured to hear that HMRC are aware of the potential issues that could arise in this regard and that the government aims to ensure that the VAT rules work for businesses.

9.3 The consultation document mentions consideration of anti avoidance measures. It is not clear to us what potential mischief the government considers may arise in relation to VAT that might make anti avoidance measures needed. In our view, it is important to establish first what the position will be for VAT purposes (that is to say resolving the potential uncertainty and application of the rules as per paragraph 9.2 above). Thus we need a clear and consistent application of the existing rules and clarity around the new rules before then identifying any potential mischief and considering whether anti avoidance provisions are required. We note that the UK already has fairly substantial anti avoidance provisions and we would not support merely 'belt and braces' provisions which do not address specific concerns and can only result in uncertainty for taxpayers.

10 Other tax consequences

10.1 **Question 45. Do you have any views on any other tax consequences of a company re-domiciling in or out of the UK and whether any other amendments to UK tax law should be considered?**

10.2 We would welcome further clarity on what types of entity will be entitled to re-domicile to the UK and, effectively, become UK companies. We understand that the intention is that entities that are equivalent to UK companies should be entitled to utilise the new rules. However, it is sometimes difficult to decide whether foreign entitles are considered to be bodies corporate for UK tax purposes. Some are, even if they are not called companies under foreign law. Will these bodies be entitled to re-domicile here? This is a grey area that needs to be addressed.

10.3 The compliance and administration implications of a re-domiciliation regime should be considered at an early stage. This is both to ensure clarity for taxpayers and also to ensure that any changes that may be required to the IT systems of both corporates and HMRC are taken into account and time (and resource) is allowed for those changes.

10.4 In particular, with regard to an outward re-domiciliation regime, the filing/reporting requirements for the outgoing corporate need to be clear – what is needed by when. Will the corporate need (for example) to notify HMRC in advance of its intention to re-domicile away from the UK? The experience of our members in dealing with investigations into whether a company is/was UK resident or has/had a UK permanent establishment is that there is often an issue around finding the factual evidence to help determine the correct position. The mechanism of re-domiciliation and the extent of its automatic impact on a company's tax residence will clearly be important in determining what evidence may be required. However, in any event, HMRC should be clear about what evidence they will expect the company to retain in case of subsequent challenge by HMRC (which could happen several years later). This should ideally be set out in guidance so companies are aware up front and know how long to retain the documents for.

10.5 Consideration should be given to protecting HMRC's ability to recoup tax if an outgoing corporate makes mistakes in its filings. Whilst the UK has rules around discovery and assessment time limits, this work best for UK situs businesses. HMRC can struggle to recoup monies if taxpayers are no longer in the UK (as the consultation on international debt earlier this year showed). Whilst that consultation focused on individuals, similar issues could apply to corporates who cease to be based here. Does HMRC therefore need/want an opportunity to do a pre-exit review (or similar) to give it a chance to issue any further assessments before the company leaves? Alternatively, does HMRC consider that they have sufficient properly scoped bi-lateral agreements with other jurisdictions to enable it to recoup taxes etc without undue delay?

10.6 Separate to the penalty regimes for things like errors in documents (Finance Act 2007 Schedule 24) there is currently a piece of legislation still on the statute book in Taxes Management Act (TMA) 1970 at section 109B. This provides provisions for securing payment by a company of outstanding tax before they cease to be UK resident. Sections 109C & D provide for tax-geared penalties for not complying with section 109B. Section 109E empowers HMRC to transfer the exiting company's debt to another company/person. Section 109F gives some interpretation rules for sections 109B-E. Depending on what the government wishes to incentivise/disincentivise via any changes following this consultation, these sections in TMA 1970 may need to be revised. Alternatively, if they are considered to still be fit for purpose then we suggest that they should be re-publicised.

10.7 We also asked at our meeting with HMT and HMRC whether the government is considering a cross border merger rule. We understand that such a rule is not currently being considered by the government. We commented that if the policy intent is about making the UK more attractive, the introduction of a rule permitting mergers between UK companies and/or between UK and non-UK incorporated companies (that is to say, cross border) would be an interesting development.

10.8 There will be points of detail around the company law rules and requirements that may impact on tax for the company or the shareholder. Coming within UK company law will create a new legal environment for the company and it will be necessary to consider what other factors may determine the extent to which the process of re-domiciliation is effectively treated as a 'continuation' from a corporate law and tax perspective. For example, is the 'incorporation date' the original incorporate date or does this become the date of re-domiciliation, and if there are new share certificates, are these merely a copy of the existing share certificates albeit now issued by the UK?

11 Acknowledgement of submission

11.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

13 January 2022