



INTEREST RATE HEDGING PRODUCTS REDRESS PAYMENTS

Interest Rate Hedging Products (IRHP) Redress payments has been a popular campaign for HMRC and it is evident that they continue to act on the Third Party Information supplied by the banks to profile for enquiry cases.

HMRC's enquiries do not solely focus on those who choose to omit a Redress payment from their Tax Return. Where the receipt has been declared HMRC will want to be satisfied that a timely declaration has been made and that the nature of the payment received has been identified correctly given that a Redress payment can comprise of up to 3 elements:-

- Basic Redress – the amount by which someone has overpaid because they were mis-sold an IRHP.
- Compensatory Interest – applied to the Basic Redress and is the only element of the Redress payment where the banks will make a deduction for tax at source (for an individual).
- Consequential Loss Payment (CLP) – which may include for example, compensation for the fact that the receipt of a Redress payment pushes someone into a higher tax bracket or a Capital payment to reflect the loss in value of assets.

HMRC have published guidance on the tax treatment of IRHP Redress payments setting out, amongst other things, their hard-line view that the Redress is taxable in the year of receipt and that in the majority of cases the Redress will be taxed as a business receipt (to counteract the tax relief obtained when making a deduction for payments made under the IRHP against business profits within the trade accounts).

A client accountant asked Croner Taxwise to assist on an insured enquiry case where HMRC intended to tax a Farming/B&B Partnership on a substantial Redress payment on the basis the loan agreement was in the Partnership name and the Redress payment paid direct to the business account. After we established that the loan was obtained in the name of the Partnership purely to secure preferential business lending terms and that the funds had been used to extend living quarters within the B&B we were able to advise the accountant exactly how to demonstrate to HMRC that the full funds were used for a non-business purpose and that no prior tax relief had been obtained through the business trade accounts. HMRC accepted the evidence, conceded that the payment was not in this instance a business receipt and closed their enquiry without amendment. A successful outcome for the end client and the consultancy assistance provided to the client accountant at no extra cost via the insurance claim.

We are currently assisting in another insured case where HMRC intended to treat the full CLP element of a Redress Payment as an 'income payment.' After conducting a thorough review of the Redress offer correspondence we identified that a large sum constitutes a Capital payment relating to the loss in value on 4 properties that the client had been forced to sell at an earlier date than originally intended because of being mis-sold an IRHP. HMRC have accepted the 'Capital' nature of the payment relating to the loss in value and have agreed that the lower Capital Gains rates of tax will apply to this element of the CLP; we have successfully secured a reduction in the tax liability of the end client.

If you have a case like this, are having difficulties with HMRC and would like to speak to one of the consultancy team please email consultancy@cronertaxwise.com or call the team on 0844 728 0120



0844 892 2473



hello@cronertaxwise.com



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