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Dear Vince

HMRC REPORTING

I trust that you are keeping well. We have been asked by a board of trustees to obtain clarification in respect of transaction reporting for a Small Self Administered Scheme (the “SSAS”), which has appointed an FCA regulated asset manager to act as its investment manager (the “IM”).

We understand that the IM will utilise derivative strategies to generate cash to leverage the amount of the initial capital invested by the SSAS with the IM. These derivative strategies will carry a degree of market risk.

This leveraged amount will be used by the IM to enter into an investment strategy, involving the acquisition of non-UK dividend paying equities together with corresponding hedges in respect of market risk. Given the small margins associated with the strategy, the use of leverage through derivatives is intended to improve the investment returns for the SSAS from the IM’s investment strategy.

The net investment return arising to the SSAS from the IM’s strategy is likely to be less than £100,000 per annum.

Questions

In submitting the APSS301 to HMRC, we have the following questions:

1. Does the leverage obtained by way of derivatives need to be disclosed in Box 4.6 of the APSS301 as a “borrowing”?
2. Do Boxes 12.3 and 12.6 need to be completed on a “gross” basis (i.e. gross acquisition cost and gross disposal proceeds of each and every underlying stock acquisition and disposal to be reported) or on a “net” basis (i.e. the net acquisition cost and net disposal proceeds of assets acquired, after any derivative liabilities).

3. Do you have any comments to make in connection with this investment regulated pension scheme entering into derivatives to raise cash to acquire non-UK dividend paying equities and corresponding hedges? In particular the tax exemptions that apply in respect of (a) income derived from investments or deposits held for the purposes of a registered pension scheme is exempt from income tax (section 186 of the Finance Act 2004); (b) income from futures contracts and options contracts are deemed to all be from investments as is any income derived from transactions relating to futures contracts or options contracts (section 186(3)); (c) a gain arising from the disposal of investments held for the purposes of the scheme is exempt from capital gains tax (section 271 of the Taxation of Chargeable Gains Act 1992).

Our opinion

The Trustees have taken legal advice that (i) entering into derivatives to generate leverage/gearing should not be regarded as "borrowing" (in particular where there is a degree of market risk in the derivatives), and (ii) that the strategy of holding non-UK equities over dividend record date (together with a corresponding hedge) should not be regarded as "trading" activity.

It follows that in respect of the borrowing point this does not fall within Section 182 of Finance Act 2004. This would mean that box 4.6 in the annual return would be declared "no".

In respect of box 12.3 & 12.6 I am aware that in respect of similar activities under Financial Reporting Standard 102 and SORPS "net" basis is reported.

I would be grateful for your comments and whether you consider that such an approach is reasonable.

Yours sincerely

Gavin McCloskey
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