



ADMINISTRATIVE BURDENS ADVISORY BOARD

Advisory Board Meeting
16 January 2008

Minutes of meeting on 16 January 2008

Minutes of the meeting on 16 January 2008

3.00pm – 5.30pm Auditorium (Right) – 1 Horse Guards Road

Advisory Board Attendees: Teresa Graham (TG), Ian Dewar (ID), Andrew Hubbard (AH), Roger Southam (RS), Dr Martin Jones (MJ), Julie Kenny (JK), Francesca Lagerberg (FL), Karen Thomson (KT), Ian Dewar (ID), Simon Sweetman (SSw), John Whiting (JW)

Apologies: John Endacott, Steve Sharratt

HMRC Attendees: Melanie Dawes (MD), Stephen Banyard (SB), Judith Knott (JKn), Simon Woodside (SW), Roy Massingale (RM), Sally Beggs (SBe), Ian Stewart (IS), Bob Wightman (BW), Michael Fell (MF), Alex Hardaker (AHa), Ann Marie Earwaker (AME), Iain MacNiven (IM)

Apologies: Geoff Lloyd, Mike Shipp

HMT Attendees: Katherine Green (KG), Simon Bor (SBo)

Apologies: Edward Troup

Secretariat: Jon Sherman (JS), Phillip Dunkley (PD)

Welcome & Introductions

1. TG welcomed everyone to the first meeting of the Board for 2008, extending a particular welcome to Melanie Dawes, HMRC's new Acting Director General (Business). The minutes of the meeting on 02 November 2007 were agreed. The action points had been discharged, were in hand or were on the current agenda. JS updated the board on HMRC's handling of recorded delivery items, highlighting the fact that a review of HMRC's post handling systems is currently underway – but he reassured the Board that HMRC does sign for recorded delivery post, albeit in batches.

Item 1: Income Shifting

2. KG introduced the agenda item, focusing discussion on the current income shifting consultation and draft legislation – and emphasised that the views of Board members were very much welcomed as part of the consultation.
3. AHa opened for HMRC by saying that most businesses do not income shift and those that do are likely to know about it (either directly or through their agents), so the new rules should not increase burdens for the vast majority of businesses that do not income shift. He also emphasised that the draft legislation: contains 3 factual tests, should not result in extra record keeping (except for the most complex businesses) and that other legislation (such as the Companies and Partnership Acts) already requires certain records to be kept.
4. Board members responded with strong views:
 - JW said he did not see the restrictions working in the way articulated by AHa and believed that all businesses would have to take the new rules into account as an increased burden. He emphasised that he would

prefer a thorough review of the overall taxation of small businesses rather than piecemeal measures such as this one.

- FL reiterated that this was a big issue for business, particularly as lots of people had been encouraged to incorporate as a result of recent changes to the tax rules. She added that any well advised taxpayer would want to keep records to demonstrate they are not caught, so the impact would be felt more broadly. She said it was a priority that the legislation was restricted in scope to give protection for those people who are not affected – and that the Government needed to be looking to make those changes now.
- AH said it was self-evident that the new rules would increase admin burdens and it was a mistake for the consultation impact assessment (IA) to show an admin burden reduction. He called for more honesty in IAs and emphasised that this was important for the credibility of the department's admin burden reduction programme. He also agreed that the legislation was not sufficiently targeted and emphasised the need to give comfort to innocent taxpayers.
- SSw agreed that the IA significantly underestimates the negative impact of the new rules on businesses.
- ID said part of the problem was that the new rules would force businesses to prove a negative i.e. prove they are not income shifting. He said it would be much better if the test could be a positive one.
- MJ felt that the new rules were another blow for the small business man, following on from other recent tax changes.
- JKn acknowledged that there were lessons to be learnt from the IA. In this case, at the time the consultation IA was published HMRC had evidence to indicate that the new rules would result in less businesses filling in the Partnership Tax Return which is the admin burden reduction shown in the IA. They did not have sufficient evidence to quantify any increases in burdens (which was one of the drivers for the consultation) and so no figure was included. It did not mean that HMRC believed the overall impact would be a reduction in compliance costs but realise that this is how it has come across. She said HMRC would give more careful thought to the presentation of these types of figures in the future.
- TG summed up for the Board. She emphasised that it had been damaging for the IA to show an admin burden reduction and that the departments needed to learn lessons from this. She said, if the Government was listening, she was setting them an 'ABAB challenge' – create more certainty for businesses. It was important that ABABs views on this issue were known and she concluded by agreeing with other Board members that ABAB should write to the Minister to explain its view and call for a broader review of the taxation of small businesses (and she asked JW to prepare a draft).

Item 2: Simplification Reviews

5. KG and JKn gave brief updates on the progress with the three Simplification Reviews announced at PBR (VAT, Associated Companies and Anti-Avoidance). The general view from Board members was that the Reviews are worthwhile, show good direction of travel and have the potential to deliver some beneficial policy changes.

Item 3: ABAB Terms of Reference (TOR)

6. TG opened by saying that as ABAB had now been in existence for two years it seemed like an appropriate time to discuss ABAB's TOR to ensure they could continue to operate effectively in the future. She asked for views about whether it would be beneficial to devote some time at the next meeting to discussing this. Board members supported the idea.
7. JKn responded first for HMRC by saying how much the Department values and appreciates ABAB's contribution to the admin burden reduction programme. She emphasised that HMRC sees a continuing role for ABAB over the next 3 years, but thought it would be worthwhile to discuss the TOR at the next meeting to ensure that the most effective use is made of the Board.
8. MD reiterated that admin burden reduction and tax simplification were massive agendas for HMRC and HMT respectively. She added that she could not see HMRC delivering on their admin burden challenge without the help of the Board and emphasised that she sees ABAB as an integral part of the admin burden programme.
9. FL suggested that ABAB should possibly take on more of a campaigning role, allied with a rolling rather than static membership – but emphasised that they needed a clear strategy about their raison d'être. AH thought that the key issue was making sure that the right issues are exposed to ABAB at the right time. At the moment some are and some aren't and he would like to see a system whereby everything goes through an admin burden process before it is released externally. There was general consensus amongst Board members that they want to be involved with the big issues and want to be involved at the start.
10. MJ acknowledged that the Board has come a long way but the real killer for small businesses is uncertainty. He said they needed to develop a better dialogue with the outside world and increase their visibility.
11. TG summarised by saying that the 'stock' is well covered at Challenge Panels but 'flow' less well and suggested (from the ideas raised in discussion) that the Board may want to take this forward by considering their role in relation to:
 - Scrutinising new proposals for admin burden impacts;
 - Consultation; and
 - Challenge function.

14. She also emphasised that she needed HMRC to set out what they want from ABAB to facilitate the discussion at the next meeting.

AP 1: ABAB Secretariat to include ABAB's Terms of Reference as agenda item for next meeting in April.

AP 2: As preparation for April agenda item, ABAB Secretariat to contact Board members individually to canvas their views about ABAB's TOR and strategy over the next 3 years.

Item 4: Annual Investment Allowance (AIA)

- 15 BW updated the Board on the development of the AIA since the last meeting in September. He explained that HMRC has listened to the Board's advice about ensuring safeguards are proportionate to the risks involved. He hoped that the proposed new AIA rules set out in his paper achieved the right balance. Board members were very pleased with the outcome and thanked BW for the good work. SSw added that if he could do something to relieve the burden of small capital allowances pools as well, that would make things even better.

Item 5: Better Communication with HMRC Customers

16. MF introduced the paper about 'Better communication with our customers'. He explained that his team in 'Compliance Pacesetter' was planning a piece of work to improve the tone and quality of letters HMRC sends to customers around the audit and inspections process – which is one of the Board's priority irritants (How HMRC communicates). He explained the range of activities they are planning and asked the Board for their advice about whether this was along the right lines and whether they were happy to support the work. The Board endorsed the work enthusiastically and said it was exactly the type of initiative they wanted to see rolled out in HMRC. They asked to be kept informed of progress.

AP 3: Compliance Pacesetter to update the Board at a future meeting (suggest October 2008) about the progress they are making to improve the way HMRC communicates with its customers around the audit and inspection process.

Item 6: External Stakeholder Meetings

17. SBe updated the Board on the meetings that TG has been leading with key external stakeholder groups (IoD, CBI, BCC, FSB and EEF). SBe and SBo have both been involved to provide a joined-up HMRC /HMT perspective. The purpose of the meetings is to raise awareness about the Board and the admin burdens programme, along with highlighting links to the Tax Simplification agenda – and seek external views and feedback. The initial meetings were held in September, with the second round in December after PBR – with another set planned for April. The feedback has been positive and the groups have expressed a continuing interest to hear about the admin burden work.

Item 7: AOB

18. MJ raised concerns about the scope of the new Money Laundering Regulations (MLR).

AP 4: ABAB Secretariat to explore the issues with HMT and HMRC colleagues leading on this issue and report back to the Board on the concerns members had raised about the scope and uncertainty surrounding the new rules.

Next Meeting: Arranged for 30 April at 100 Parliament Street