

MINUTES

BUSINESS TAX FORUM

11.00-13.00, 2 March 2011
Room 2/39, 100 Parliament Street

Chair:	Melanie Dawes Julian Heslop	(HMRC) (GlaxoSmithKline)	
Secretariat:	Vanessa Woodward Lidia Otero Ian Brimicombe	(HMRC) (HMRC) (100 Group)	Business Customer Unit Business Customer Unit Business Secretariat
Attendees:	Will Morris John Connors Abdul Nabi Jean Sharp Ian Menzies-Conacher Mike Sufrin Tim Voak Freda Chaloner Keith Cartwright Jim Harra Judith Knott Val Hennelly Jen Little Jon Sherman Erin Robinson	(General Electric) (Vodafone) (Marks & Spencer) (Aviva) (Barclays) (Rolls Royce) (Tesco) (HMRC) (HMRC) (HMRC) (HMRC) (HMRC) (HMRC) (HMT) (BIS)	CBI 100 Group 100 Group 100 Group CBI CBI CBI Large Business Service Local Compliance CT&VAT Business International PSN IMS Business Tax Programme Business & Indirect Tax
Apologies:	John Bartlett Paul Morton	(BP) (Reed Elsevier)	CBI 100 Group

1. Welcome

Welcome and introductions.

Membership was discussed, Kate Ramm (HMRC) secretariat has been replaced by Vanessa Woodward. Will Morris (General Electric) was welcomed as the new business chair and business and HMRC are working towards appointing a CFO from The Hundred Group as a third co-chair.

2. Update on Large Business VAT Gap

As a result of the last meeting a group was set up to investigate the size and nature of the Large Business element of the VAT gap estimate. Business provided an update on progress. There have been two initial meetings that have looked into both the top down and bottom up

estimation techniques and the difference between the two, including the assumptions that have been made.

The work highlighted some issues:

- Assumptions have been made on intra group services, ONS data looks at the totality of company transactions there is a possibility that if intra group transactions have not been properly calculated that there has been an overestimation of VAT
- The data used is a decade old (PWC have fresher data that can be used for the Hundred Group)
- Irrecoverable VAT
- Distinction between content versus delivery methods (e.g. if it is a newspaper the assumption is that VAT is 0% but if delivered on an iPad it becomes taxable)
- There is a need to reconcile the ONS data with the final outputs
- The identification of what is included within the deductions
- The Motability scheme is not directly covered within the assumptions

It is important to understand the components of the gap to focus the work of indirect tax specialists on areas of greatest uncertainty and risk. HMRC will need to test the assumptions of the model and in some areas work with Customer Relationship Managers to test drill areas of uncertainty. A full project plan will be drawn up to take the work forward with findings and recommendations being made to this forum later this year.

3. XBRL

HMRC provided an update on XBRL. The trigger date for mandation is 1 April, operational resources have been put in place to make sure that HMRC can deal with any additional demand. The original timetable has been confirmed by the Exchequer Secretary to the Treasury and is underpinned by the 'managing transition' provisions or 'soft landing'. HMRC appreciates that not everyone will get everything right from day one, the approach will be to help and support people to get things right, not penalise them for errors. HMRC will be looking for incremental improvements in the application of XBRL over the two year soft landing period.

A high level document has been published (HMRC website 9th Feb 2011) which is supported by more detailed guidance which is continuing to be developed. The guidance includes the managing transition' provisions and detail on other requirements such as the minimum tagging list.

Business voiced concern that software packages would not be able to deliver comprehensive solutions by the 1 April. As a result some businesses have made the decision to file early to avoid filing online. They are still waiting for a comprehensive solution and are concerned at the timing, (notwithstanding the soft landing) due to the fact that there has been no trial period. Business also wanted to emphasise that the introduction of iXBRL has imposed a high burden in terms of cost and time.

The strong message from business is that no additional requirements or changes should be made in the near future as it has taken a lot of work to get systems to this stage. There was a specific request from the Insurance Sector for pragmatism on adoption as they have no specific taxonomy available. HMRC assured business that there were no immediate plans to make any major changes. Accounting taxonomies will change when the ASB's new accounting standards are introduced (IFRS introduction for SMEs) and HMRC are trying to ensure that the move to full tagging takes place at the same time. HMRC hopes to make an announcement very soon. Changes to the Computations Taxonomy are expected to be minimal over coming years – only driven by changes to the tax system e.g. as Budget announcements.

If and when changes are needed HMRC will give as much notice as possible and will consult with all stakeholders. HMRC realises the impact of migration to iXBRL and thanked business for their help.

4. Disguised Remuneration

HMRC provided a presentation on disguised remuneration. The Discussion Document on a new approach to policy making was published at the June 2010 Budget. The engagement over the summer was a welcomed approach and the Government response was published in December 2010. The new approach includes increased transparency about Government intentions on major areas of reform, earlier announcements of intended policy changes, publication of draft legislation in advance in most cases, a more strategic approach to anti-avoidance and the changes in tax legislation to be contained within a more regular cycle.

Following the end of consultation it was clear that there was a concern that the legislation would impact genuine deferred remuneration and approved share schemes. Consultation was completed in February 2011 and FAQs were published in February to address the areas which received the greatest level of queries and to give some assurance where people had concerns.

The legislation is aimed at arrangements to avoid or defer tax on remuneration by way of provision of funds or benefits by third parties and builds on fact patterns and challenges developed through litigation. It describes arrangements that may range from being presented as informal understandings to formal sub-trust allocations which will be treated as payments of employment income and the intention of the legislation is to drive through form to underlying substance. It is wide ranging, but more defined than a motive test, includes EFRBs and there is a general view that it will be effective in relation to EBTs.

There has been active engagement with business, lawyers, accountants and trade bodies with over twenty meetings being held. As a result of these meetings some concerns have surfaced. That the legislation is drafted too widely and will catch innocent arrangements that there will be an impact on deferred remuneration packages and that settle funds that are not accessible until certain defined conditions are met. Other issues raised were EFRBs, share warehousing, growth and liability of earmarked assets and credit for tax already paid. The published FAQs <http://www.hmrc.gov.uk/budget-updates/disguised-remuneration-faqs.pdf> indicate that HMRC will provide carve out for such arrangements but there needs to be a balance between ensuring that innocent arrangements are not caught within the legislation and making sure that the legislation has the impact required.

Business understand the types of schemes that are being targeted and are content with the consultation process. They have found the FAQs helpful but are still concerned about what the legislation will look like when it is drafted and how it will work. They feel that it would be better to work collaboratively up front to save time and effort down-stream and to avoid the creation of complex legislation. Business feel that the courts are backing HMRC on this issue and therefore do not know whether a new piece of legislation in this area is really necessary.

HMRC is working towards consulting at the very beginning of the process of the introduction of new legislation. HMRC do not feel that they can rely on the tribunal system as this areas appears to be a growth area and relying on the courts could increase the backlog in compliance and make the issue more difficult to tackle. HMRC will attempt to introduce legislation which is more purposive in the future.

5. CFC Reform – part of larger reform package

HMT provided an update on CFC reform. Development of the legislation on interim reforms has been progressing well through the working groups and there have been some useful lessons for the design of full reform legislation. Full reform discussions are now turning to the overall shape of the new regime, the various tests and exemptions as well as the specific rules for finance and intellectual property. There is still a long way to go and a lot of detailed issues to resolve but the consultation process is working well. The next stage will be to publish a further document in the spring setting out the full design of the new regime.

Business agreed the importance of focusing more broadly on the overall shape of the regime and agreed that the process has been working very well. It is important to move to the next stage of consultation as soon as possible.

6. Report back from International sub group

HMRC provided an update on issues discussed at the International sub group.

- The Transfer pricing work has been reorganised and a Competent Authority team has been set up. The new team will deal with MAPs and APAs and will be able to deal with the extra demand anticipated as more countries become more interested in International taxation
- A common consolidated tax base across Europe was discussed although this was seen by business as unlikely to be an advantage for the largest businesses
- Joint audits with USA will be a way of engaging on a bilateral basis with the customer in order to increase certainty
- Update on International operational issues.

7. AOB

HMRC thanked Julian Heslop and Ian Menzies Conacher (who are retiring) for the contributions that they have made to the forum over a number of years and for their help in increasing dialogue and improving transparency.