

MINUTES

BUSINESS TAX FORUM

14:00 hrs, Tuesday 17 June 2003

Inland Revenue, Board's Room, New Wing, Somerset House

ATTENDEES:

Inland Revenue

Dave Hartnett * (Head of Revenue Policy)
Mary Hay (Director, Business Tax)
Stephen Jones (Director, Large Business Office)
Mike Williams * (Deputy Director, International)
Peter Hopkins (Capital & Savings)
Richard James (Business Tax, Secretary)

HM Treasury Ivan Rogers

*Co-Chairman

*Present for agenda items 4 onwards only

#Present for agenda items 1 & 2 only

Business

Jon Symonds * (100 Group)
Ian Brimicombe (100 Group)
Philip Gillett (CBI)
Ian Menzies-Conacher (CBI)
Sebastian Hordern (CBI)
Pauline Connor# (AstraZeneca)
Jeremy Orbell# (Barclays)

Apologies: Patrick Chapman (100 Group)

1. Minutes of previous meeting & matters arising

The minutes of the previous meeting were agreed without amendment.

It was agreed that papers for meetings would be issued at least a week in advance of the meeting, and that where appropriate the agenda would record that a paper would be circulated for the item. It was agreed that the business secretariat would circulate business side papers, and the Revenue secretariat would do the same for Revenue papers.

Action point	The above agreements to be incorporated into the working practices of the Business Tax Forum
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The Revenue advised that sub-groups were being contacted to discuss their relationships with the Business Tax Forum, and that work was continuing on the lawyers' and accountants' groups. Agreement had been reached with the

business side about taking forward the establishment of the transfer pricing group.

Action point	The subject of sub-groups to be revisited at the next meeting of the Business Tax Forum. Work on identifying and contacting sub-groups to be progressed prior to the next meeting.
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2. Remuneration strategies

Pauline Connor delivered her slide based presentation to the Business Tax Forum regarding remuneration strategies and interactions with the Inland Revenue.

Business commented that some elements of remuneration packages, such as share schemes and pensions, need a great deal more Revenue involvement than other elements. Issues can arise when dealing with local offices where mostly clerical staff handle employer's work with only limited technical support, and so some local offices might not appreciate the subtleties of more complex remuneration arrangements. Local offices can also fail to understand the commercial impacts of tax considerations within an overall remuneration strategy.

Business also made the point that serious confusion can be caused by the fact that many NIC related rules are not aligned with income tax rules covering the same sort of transaction.

Business advised that, although there is no doubt that they do save the Revenue resources, PAYE Settlement Agreements (PSAs) do generally save work, but do still require a lot of data and a certain amount of administration. Business suggested that it might be helpful if third party liabilities could be included in PSAs in addition to the liabilities of the company's own employees. They also suggested that some Inspectors may not be fully aware of the flexibility possible within the existing PSA framework.

Action point	IR to take this point away and consider the issues around the scope and consistency of PSAs.
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Business commented that it can be very difficult to find the information that they need to determine the tax treatment of an item, as they have to examine the employer's pack, the Employer's Bulletin, Budget updates, IR35 material and various other sources of information. This imposes an administrative burden on employers, some of whom may not have the necessary resource or expertise to conduct the research.

On the subject of e-filing, business representatives commented that their software suppliers may well not be ready on time to enable compliance with 'e' filing. They would therefore have to pay penalties.

The business side suggested that the Revenue should reconsider whether the ability of SAP to deliver should be recognised in setting the reporting deadline.

Business commented that errors in administering PAYE are often caused by a lack of awareness, or by genuine error, rather than through any deliberate effort. Additionally, remuneration strategies are principally driven by market forces and performance management. Tax considerations are secondary to the effective delivery of competitive remuneration packages. Generally, business suggested that the IR did not always appreciate the full picture.

Jeremy Orbell then delivered his presentation, focussing on remuneration strategies broadly rather than on Revenue relationships.

Tax is a driver in remuneration strategies, but not a particularly major one. The relatively low marginal rates of tax now payable mean that the expense of complex planning is often not justified. On the other hand, the recent 1% rise in NIC means that some employers are looking again at NIC mitigation.

Tax reliefs on pensions and approved share schemes are felt to be very important. Business suggested that, without these reliefs 'all employee' plans would probably die off.

SIP take up has not proved to be as popular as might have been hoped. The fact that tax relief necessitates a 5 year wait, coupled with the loss of tax relief if the employee leaves in that time, probably accounts to the lower levels of take up. SAYE remains very popular as it is well understood and carries low risk.

Business assets taper relief is not perceived as having had a large effect on take up of plans, not least because most employees simply do not understand capital gains tax reliefs. It is very difficult to provide the basic information that employees need in a simple to understand form. There are also issues around implications for lower income employees if all of their income and investments (salary, pension and share investments) are dependant on the same company.

Business representatives suggested that the future would see a growth in share plans and other long term incentives. Specifically, this is likely to relate to the grant of shares with performance conditions attached, as share options will become less desirable once accounting changes mean that they have to be expensed in the profit and loss. Low rises in basic salaries are likely to continue, with performance bonuses becoming greater as a proportion of total

remuneration. Bonuses are likely to be tied more closely to relative performance of organisations vis a vis their competitors.

The Revenue said they would consider how to make best use of the information that comes out of this sort of discussion.

Action point	Inland Revenue to arrange for Pauline Connor to give a presentation to IR staff regarding remuneration issues.
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3. Pensions simplification – issues arising from consultation document

The Revenue advised that the main issues raised in consultation included the lifetime benefit limit of £1.4m; the start date of the new regime; questions relating to indexation; and the rate of the recovery charge where the benefit limit is exceeded. The question of transitional protection for those already over the benefit limit was also raised.

Ministers are now considering all of the issues that were raised during consultation. This will be followed by a further consultation period in the Autumn. Business will have a further opportunity to comment on the proposals when the next consultation document is published.

Action point	The next BTF meeting to be given an update on the status of pensions simplification
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4. Updates from the Large Business Office

The Revenue advised that a workshop was held on 16 June for participants in the Review of Links Recommendation 6 pilot. Essentially, this had established that everything that was said about the pilot at the interim report remains accurate at the current time. The pilot is working very well and is popular with participants.

The LBO recognised the need to ensure adequate resource availability to administer the transition of new participants into the pilot. Whilst ensuring that the momentum with the current participants is maintained, the LBO also recognises the need to avoid the development of a 'two-tier system' between pilot participants and other LBO customers.

Potential new members of the pilot will be approached and sent a prospectus outlining the way in which the pilot operates.

Business reaffirmed their support for the pilot and agreed with the Revenue's view that roll-out to other cases should not be at a pace which exceeded the

LBO's capacity to administer it and maintain the standard of service to other companies.

The Revenue confirmed that the full evaluation report would be brought before the Business Tax Forum in due course.

5. **Budget compliance and enforcement package**

The Revenue summarised the four elements to the compliance package announced in the Budget.

The LBO element of the package will provide funding to allow the LBO to deal more effectively with some of the biggest issues that regularly arise. This will be through the provision of additional accountancy and legal support, rather than through the recruitment of additional Inspectors. The money will not be used to conduct a large number of low level enquiries into the affairs of LBO companies.

Money will also be made available to the Special Compliance Office to look at offshore fraud, primarily involving individuals.

Part of the package will provide funds to resource the collection of NIC outstanding from cases in which avoidance schemes have now been established by litigation as likely to have been ineffective, as well as providing resources for the Revenue to examine a range of NIC avoidance schemes in more detail.

The final element of the package relates to Receivables activity. The additional money will fund more effective action to force the submission of outstanding returns. The idea of this is to collect the tax due – it is not a scheme to raise more money through penalties. The Receivables funds will also be used to explore the debt recovery process looking at, for example, ways of speeding it up.

6. **Review of Links with Business – performance measures**

It was agreed that the paper on performance measures would be discussed at the next meeting. In the meantime, business representatives would consider their own views on how the performance of the Business Tax Forum should be measured, to complement the options advanced in the Revenue discussion paper.

Action point	Prior to the next meeting, business representatives to consider how they would measure the performance of the BTF from their own perspective. Patrick Chapman will need to pursue this with the Revenue secretariat.
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It was discussed that the next meeting of the Business Tax Forum should be used to discuss both Revenue and business perceptions of how the Forum had performed in the year since it was established.

Action point	Revenue and business to independently assess the performance of the Business Tax Forum over the past year and to each prepare a paper on the subject, ready for an overall assessment of performance to be conducted at the September meeting of the Forum.
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7. Section 765 and Section 703 – IR responses

Section 703 - The Revenue advised that there has been no change of policy in respect of the implementation of Section 703, and issued a handout summarising the Revenue's stance on s703. Business representatives will take this Revenue response back to the CBI parties who raised the query, and will raise the subject again if there are any further queries.

Section 765 – the Revenue advised that the precise role and usage of Section 765 would need to be considered once the forthcoming CT consultation on international issues had been concluded. The Revenue advised that only one of the s765 examples provided by business had been recent (and this one could not be said to relate to inappropriate use of s765 by the Revenue), and so it had been difficult to trace some of them without more specifics being provided. The concerns that business have raised around Section 765 might relate to a difference in perceptions between business and the Revenue in how clearance applications are approached.

Notwithstanding the comments above, the Revenue advised that any companies with concerns about a perceived abuse of Section 765, that they had experienced, could approach either Dave Hartnett or Mary Hay – both of whom are outside the core Section 765 work – to discuss their experiences. It was agreed that, without any contact of this nature, there was not really anything further that could be achieved on this subject now.

8. AOB

The prospect of changing the time of the Business Tax Forum meetings to minimise the prospect of disruption due to other commitments was discussed.

Action point	Revenue secretariat to consider alternative times of day when arranging the next series of meetings.
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Members of the Business Tax Forum expressed their appreciation to Pauline Connor and to Jeremy Orbell for the high standard of their presentations to the BTF.

Next meeting: 16 September 2003