

# MINUTES

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## BUSINESS TAX FORUM

14:30 hrs, Friday 10 June 2005

HM Revenue and Customs, Chancellor's Suite, 100 Parliament Street

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### ATTENDEES:

#### *Inland Revenue*

Dave Hartnett \* (DH - Head of Revenue Policy)  
Stephen Banyard (SB - Director, Business Taxes)  
Suzanne Viner (SV - BTF Secretary)  
Simon Norris (SN - Powers review team)  
David Garlick (DG - Director, Large Business Service)  
Eugene Mitchell (EM - Large Business Service)

#### *HM Treasury*

Edward Troup (ET - Budget, Policy, Finance)  
John Connors (JC - Budget, Policy, Finance)

\*Co-Chairman

Apologies:  
Mark Gibson (DTI)

#### *Business*

Jon Symonds \* (JS - 100 Group)  
Philip Gillett (PG - CBI)  
Ian Menzies-Conacher (IMC - CBI)  
Mervyn Woods (MW - CBI)  
Sebastian Hordern (SH - CBI)  
Adam Little (AL - 100Group)

### 1. Minutes of previous meeting & matters arising

BTF worked through the minutes of the previous meeting and the Outstanding Action Point register. It was agreed that action points AP79, AP90, AP92, AP93, AP94, AP95, AP97, AP98, AP99, AP100, AP102, AP103 and AP104 had been completed. DH invited PG to provide feedback on the Construction Industry Scheme (CIS) meeting that PG and DH attended in May (AP92).

PG said that the CIS meeting had been as he had anticipated with all of the business community expressing concern about the new scheme. His view was that it was a unsatisfactory meeting. DH agreed with PG's main points and has agreed to keep PG informed of progress with resolving some of the issues of new CIS for business.

JS added that there are lessons to be learnt from the experience with new CIS with regards the role of the BTF group in escalating concerns. There is a need to think through these lessons to make sure consultation is truly effective and a potential for effective consultation to be a success criteria for the new customer units was raised.

Action point	DH to keep PG informed on progress with CIS. SV to add to the agenda for Septembers BTF meeting.
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## **2. HMRC Powers – consultation**

SN introduced the review of powers, he went through the CRC Act and said that powers carried forward in that Act were ring-fenced to the way they had applied in the Revenue and Customs and Excise. However, this was not a long-term tenable position for the new department and therefore on the 24<sup>th</sup> March the Review of Powers consultation was launched. The consultation will end on the 13<sup>th</sup> June and HMRC aims to publish responses by the end of July.

The Steering Committee of the Review met for the first time on the 9<sup>th</sup> June. It consists of members of representative bodies and independent contributors. The proposals for procedural and legislative change that arise from the consultation and Steering Group are likely to be published (with draft clauses) in early February 2006 in time for Finance Bill 2006. However, it is likely that there will also be measures in Finance Bill 2007 and 2008.

BTF recognised that this is an important review, opportunities to look across the piece at powers do not arise very often. The consultation has not had many responses yet but early themes include more use of technology, better risk assessment and making it easier for the compliant to comply while cracking down on the non-compliant.

Business raised the issue of linking this work with the ongoing tribunal reform. DH said that HMRC had already received representations on this.

## **3. Tax Avoidance – communication with business, follow up to disclosure and process of introduction of new legislation.**

This was a business-led item concerning issues over legislation in this years Finance Bill.

AL spoke to this agenda item. He said that the Finance Bill legislation on arbitrage had now moved towards a focus that was missing at first, i.e. a UK focus rather than UK as global policeman. However, it is business' view that the provisions are starting to resemble general anti-avoidance rules which will lead to a lot of subjective issues and judgements, for instance judgements on what constitutes the 'main

benefit'. There is a concern that this measure will lead to some Multi-national to consider moving offshore, and therefore adversely effect the UK's productivity. There are also outstanding concerns over tiering and a general view that HMRC need to be clear at the outset what the objectives of legislation are.

ET responded for HMT and outlined the implications of the General Election period on the amount of time available to HMRC and HMT to comment while drafting the legislation. HMRC/HMT had gone a long way forward in little time but it was recognised that more needed to be done. With regards Section 91C there is no intention to tax something with a purely commercial purpose.

PG raised the concern that companies sometimes do have many layers, not for issues of avoidance, but for multiple reasons including legacy issues. The new rules may force companies to de-layer. DH asked PG to provide DH, ET and SB of examples where this was the case to help inform the process.

ET added that with regards disclosure and the closure of schemes deemed to be unacceptable to the Government HMRC/HMT do not always consult with business first in order to avoid pre-emptive action. PG could see the logic behind this but added that it is not always easy for business to understand where HMT/HMRC are coming from.

JS raised the idea of a mechanism that could be used to enable business to understand from the outset that something is a key "red" issue for HMRC/HMT. These "red" issues therefore might mean that speed in that instance was more necessary than clarity, and that the measure may, therefore, cover more than intended at first sight but there was a possibility to discuss and roll it back. Any system would need trust on both sides but could make a huge difference.

DH agreed that a mechanism could be helpful and suggested a workshop event for the BTF, or a sub-set thereof, to see if the idea could be developed further. ET agreed.

Action point	PG to provide examples of layered companies to DH, ET and SB to inform the development of legislation on tiering.
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Action point	SV to organise a 3 hour workshop event for the further discussion of a mechanism that might enable a better understanding between business and HMRC/HMT on "red" issues.
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#### 4. Financial Review Reporting Panel (FRRP)

The BTF were given a presentation by EM on the findings of the FRRP. This presentation included discussion of 14 anonymised cases where auditors had cleared incorrect accounts. In all the cases the correct accountancy treatment should have been obvious.

Business said that they agreed some cases were shocking. DH said that the issue for HMRC going forward is that in the past they had not traditionally collected large penalty payments from big companies. There is a question of whether going forward they ought to do things differently. HMRC is looking at the scope for the future.

## **5 Time limits for responses to HMRC/business correspondence enquiries – two way process.**

PG introduced this discussion, saying that business were looking for even-handed time-limits for responses to correspondence and that there seemed to be a hint of a return to past delays.

DH responded that this was a two-way process and that the department was looking at how to handle correspondence better going forward, looking at process and cultural issues. He suspected that different approaches to correspondence would be required for different audiences.

DG said that for big businesses served by the LBS the modus operandi will be that each company will have an account manager who will have a conversation with the company in the first instance and follow with correspondence. The account manager will be the agent in delivering better service and ongoing dialogue.

## **6. HMRC new organisation structure/chart and working arrangements**

See slide.

DH gave an overview of the new business design for HMRC and the HMRC/HMT policy partnership. He discussed the portfolio responsibilities for Excom members and told the group that his new responsibilities were for Customer Contact, Large Business and Employers Customer Unit, Central Compliance and Anti-Avoidance.

MW asked HMT to produce a structure diagram that showed how the HMT structure overlaid with the new HMRC structure. MW also asked for an opportunity to meet with the heads of the 36 new business units. DH responded that this was under consideration already and something would be arranged.

DH also said that HMRC would try by the end of the month to compile a table of destinations for SCS members/teams that the BTF may have had dealings with before in the Revenue and Customs and Excise – for instance where the 6-8 teams in CCP have now gone in the new business design.

Action point	ET to provide the BTF with a chart that overlays the HMT team structures with the new HMRC business design.
Action point	SV to organise an event for the BTF and the 36 heads of the new units to meet before the next BTF meeting in September – perhaps at a sandwich lunch before the workshop on “red” issues.
Action point	SV to produce a destination table to go alongside the new business design to show how the two map together by the end of June.

## 7. LBO/LBS new modus operandi

DG said that from the 18<sup>th</sup> April this year the LBS had had an interim structure. The final structure of LBS will come into effect on the 1<sup>st</sup> April 2006. LBS are currently running 15 pilots in 3 sectors, a) banking and insurance, b) oils and gas, c) alcohol and tobacco, in which direct and indirect tax teams are working together. For these pilots the staff have been through technical training and 15 companies were taking part. It is too early to say what the impact of ringmastering will be. An Evaluation will take place in September at which point LBS will provide BTF with some of the responses from the companies (anonymised).

LBS will be looking to develop their organisational design by September and decide how to take forward by October to start building in time for April 2006. LBS will continue to use the same personnel, however, so there will be continuity.

## 8. Tax on the Boardroom Agenda

DG introduced this topic with reference to JS concerns over the process. In LBS the New compliance process (NCP) has some 80 entities. LBS has found that including more than this number has not been workable and therefore is looking at using framework agreements to try and include more businesses. In Customs and Excise MOUs had been used – since the merger this work has been frozen but the LBS is now looking at both the MOUs and the NCP and how this might link with tax on boardroom agenda. LBS will then engage in dialogue with business and discuss the risk assessment. LBS reserve the right to enquire into risks and would like in certain circumstances to be able to present findings to the Audit committees and escalate up the company hierarchy to the Finance Director and further if necessary. If there are deemed to be problems with the tax on the boardroom agenda relationship between HMRC and the business both sides can escalate their concerns. If HMRC are not happy with the engagement of the group tax director it reserves the right to escalate to the Finance Director and the Chairman of the company if considered necessary. Likewise if the business is not happy with our processes they can escalate to the Executive Director in HMRC.

It is hoped that this work will lead to a document that will outline what those that sign up to the agenda can expect from HMRC and detail what HMRC expects in return.

LBS are currently writing a draft consultation document. DG will be sending this draft in the next six weeks to selected groups, including the BTF, on a Chatham House Rules basis. This will help develop the final consultation document which will go to the PMG. The PMG will be asked to write to the current LBS population explaining what we are doing and what it is that we are trying to achieve.

LBS has also developed some prototype technology that is capable of complex risk assessment. LBS will share with business the risk scoring that their company receives on a scale of 1 to 10 (10 being the most risky) and engage in dialogue with the business to gain an understanding of the material risks. LBS will not carry out an audit if the risks are not clear.

## **9. AOB**

SV gave out the Draft Terms of Reference revised by DH to include performance measures. It was agreed that this draft would be cleared by e-mail before the next BTF meeting in September.

**Action  
point**

SV to co-ordinate clearance of the BTF draft Terms of Reference within 30 working days.