

MINUTES

BUSINESS TAX FORUM

14:00 hrs, Thursday 8th September 2005

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

ATTENDEES:

Inland Revenue

Dave Hartnett * (DH - Head of Revenue Policy)
Stephen Banyard (SB - Director, Business Taxes)
Suzanne Viner (SV - BTF Secretary)
David Garlick (DG - Director, Large Business Service)
Paul Smyth (PS - Large Business and Employers
Customer Unit)
Mark de Brunner (MdB - Construction Industry Scheme)

HM Treasury

Edward Troup (ET – Budget, Policy, Finance)
Judith Knott (JK - Budget, Policy, Finance)

Department of Trade and Industry

Bob Fisher (BF - DTI Tax Advisor)

*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. Three items on the register now have red status (being over 6 months old). It was agreed that AP95 (business to provide IR/CE with a picture of a typical tax governance structure of a 100 group company) was not urgent as the 100 Group had helpfully organised meetings with some CFOs for DH, which DH thanked JS. DH added that a colleague would come to BTF to give a presentation on the outcome of those meetings and that a further discussion on tax governance issues would follow.

2. Construction Industry Scheme (CIS)

MdB gave an update on the status of the CIS scheme and alerted BTF to the key live issues.

External communications - MdB said that information packs had been sent to agents at the end of August and there was to be wider publicity to raise awareness. Ministers have agreed a phased implementation by deferring until October 2006 the fixed automated penalty charges. However, MdB said it is still important that returns are sent in from April 2006. The deferral of penalties should blunt the new regime at the margins whilst people get used to it.

Live issues - MdB is hearing from representatives of the industry as a whole that there is not enough time to implement new CIS. The HMRC team have tried to adopt an analytical approach to understanding the issues for the industry. There are four issues:

- a) Software - Third party suppliers will be developing the software. They need to develop it, offer for sale, and allow time for the software to bed in and for users to understand it. This all needs to be done before next April's 'go live' date. MdB recognised that this was a tight timetable but said that twenty of the fifty suppliers believe they will have their products on the market by December/January in good time for April's launch. MdB accepted that there will be a bedding in period and said that HMRC will watch this closely but that it was not considered a showstopper.
- b) Awareness generally - MdB said there was an increasingly good story to tell on awareness and that it was expected to rise rapidly as advertising increases. There is also guidance on the HMRC website about new CIS.
- c) New verification process - in some circumstances verification will be required before payment is made. There is some concern that there might be a bottleneck in this verification process which could cause a system meltdown in the worst case scenario. HMRC are planning for all eventualities, the system only requires verification for 'first' relationships i.e. when a sub-contractor gets paid for the first time. The team are making provisions for unnecessary verifications which are not needed but attempted anyway.
- d) Catch-all - the fourth issue is a catch all of the other small live issues around for new CIS at present. This includes finalising guidance for those companies with multiple trading names, what to do with amendments to returns, and what to do with the pence figure on returns. These are pretty detailed issues for which MdB said that HMRC believes it has the right answers but that there are tensions

between the perfect answer and getting the guidance finalised so that the software developers can develop their systems.

MdB reiterated the importance of keeping conversation open between HMRC and representative bodies.

MW also added that Local Authorities, a key stakeholder for new CIS, had very low levels of awareness and this was an important issue that needed to be addressed.

MdB said that he had held a conference attended by over half of the Local Authorities which he considered to be very successful at raising awareness amongst that stakeholder group.

MW noted that industry had not started the process of introducing the systems that new CIS will need to rest on as they don't know what they are to introduce yet. He also added that it is not just the software that needs developing there is the issue of tailoring that software to the company's processes this takes time, energy and effort which is not available in time for the go live date.

On penalties MW asked whether the relationship between the proposed deferral and the regime for "mechanical" triggering of CIS penalties had been explored. MdB agreed to take the matter away for consideration and report back.

JS asked MdB what the bedding in contingencies were and whether it was possible to run the two systems, old and new, concurrently.

MdB said that it is not possible to run the two systems concurrently - you have to turn one off to turn the other on. HMRC and Ministers will have to take a view nearer the time when to flick that switch. If necessary HMRC can continue running the current system. If it is decided not to switch on the new CIS in April 2006 there are options around when it can be switched on, however, MdB was worried about introducing two accounting systems. He said there were ways that this could be worked around but that this would need more analysis and risks more potential issues than the current plan to go live in April 2006.

JS asked DH what BTF's role would be in the decision to switch to new CIS or not

DH responded that it would be helpful if MdB could continue to come to BTF meetings and for business to provide insights into concerns.

JS asked for the paragraph from the previous meeting to be re-noted in the minutes "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" - this will form part of the discussion on CIS at the next BTF meeting.

DH said that new CIS had moved forward a lot since it was last on the agenda in March and thanked MdB for his input to this.

Action point	CM to put CIS on the agenda for the next BTF meeting - to include a discussion on lessons to be learnt regarding consultation.
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3. **Anti Avoidance –identifying where Business and HMRC agreed and differ on avoidance.**

JS introduced this agenda item as a possibility to set the framework for the longer session on this issue planned for later in September. The 100 Group had met earlier to discuss expectations for that meeting. JS raised the idea of a continuum of transaction types ranging from those that both Business and HMRC know to be unacceptable transactions to those that both consider normal business activity and that which it is expected companies will do to manage their tax affairs.

The essence of the issue is whether the point at which arrangements are acceptable is in a different spot on the continuum for HMRC than it is for Business. The aim should be to try and expand the area of agreement and narrow the area of difference. ET said this was a useful opening discussion but wanted to make the point about what is for the courts to consider, i.e. whether a form of avoidance works or not, and that which is regarded as acceptable or unacceptable, i.e. political judgement.

DH summarised by saying that he hoped the workshop could lead to a better understanding of what the tax engines are which drive/facilitate business. PG said that if business could see a more consistent official HMRC line then there would be more comfort. JS added that it was often felt that HMRC thought tax was more of a driver in business decisions that it really is in most cases

Action point	JS and DH to talk before the further meeting on this issue and to set the framework for that meeting
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4. **Oxford Tax Research Centre update**

JS introduced this agenda item providing an update on the Oxford Tax Research Centre saying the 100 Group had now signed off on it. Over 60 companies from the top 100 had committed resources to the Centre which JS considered to be a significant level of sign-up, in excess of previous expectations. Oxford University are to approve the plans next week and there will be a formal launch in November with a press release, supported by Gus O'Donnell before then. The form of the Centre has

been very carefully constructed to ensure that it is properly resourced for the first five years. The Centre is looking to appoint an internationally sourced research Director - assuring independence of research. The University will chair a standing committee and it is hoped that HMRC will be represented on this. On the back of this it is intended to restructure the tax committee of the 100 group to ensure it is aimed towards delivery of the right topics and data necessary to produce high quality research. There is the potential for a major conference in May/June 2006 to identify deliverables.

DH said that he thought this was an exciting development with huge potential.

6. AOB

AL raised two items

a) reform of UK Corporation Tax - reaction to M&S case. AL said on a frequent basis material decisions are being made on international investments and it is unclear whether these are sensible decisions or not. AL asked for an update.

JK said that we are still waiting for the final judgement on M&S and, whilst there can be helpful discussions with business, it is still for Ministers to decide how to respond to any decision. By December's BTF meeting there should be some renewed dialogue and the opportunity for discussion.

DH said it would be added to the next BTF agenda

b) AL outlined situations in which he is faced with decisions the implications of which are either good or bad for the business. He discussed examples of where a company decides against a product/scheme but is put under competitive pressure to consider these options especially when margins are narrow.

DH said that there is a danger that HMRC is taken to have more knowledge than it actually has and it would be helpful to be pointed in the right direction on occasion. HMRC does not always have enough Intelligence to know what it is that needs to be stopped. DH added that HMRC wants to get into a rolling discussion -DH asked whether there are any things that HMRC and Business could collaborate on more to stop?

**Action
point**

CM to add update on M&S case to the December BTF meeting

END