

# MINUTES

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## BUSINESS TAX FORUM

14:00 hrs, Thursday 6 January 2005

Inland Revenue, Chancellor's Suite, 1 Parliament Street

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### ATTENDEES:

#### *Inland Revenue*

David Varney (DV – Chairman of Inland Revenue,  
HMCustoms and Excise and HMRC)  
Dave Hartnett \* (DH - Head of Revenue Policy)  
Trevor Evans (TE - Director, Business Tax)  
Suzanne Viner (SV - BTF Secretary)  
Roy Warden (RW - item 3 only)  
Janice Cross (JC - item 4 only)  
Susan New (SN - item 4 only)  
David Ulph (DU - item 5 only)  
Mark de Brunner (MdB - item 7 only)  
Ray McCann (RM - item 8 only)

#### *HM Customs and Excise*

David Garlick (DG - Director, Large Business Service)  
Chris Tailby (CT - Director Anti-Avoidance Group)

#### *HM Treasury*

Judith Knott (JN – Budget, Policy, Finance)

#### *Department of Trade and Industry*

Mark Gibson (MG)  
Paul Philip (PP)

\*Co-Chairman

#### *Business*

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

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

BTF worked through the Outstanding Action Point register that had been circulated in advance of the meeting. DG submitted two papers to the BTF on New Compliance Process, this cleared Action point 51. DH confirmed that

AP61, AP67, AP68, AP73 and joint AP71 and 80 had been completed. It had been agreed between business and the Revenue that AP76 “Revenue to produce a paper on awards of options in advance of December BTF” was no longer required. John Symonds said that business may want to return to Share Options as an agenda item again later in the year. That left two outstanding action points on the register. AP79 - David Garlick to make full presentation on tax on the Boardroom Agenda at December BTF – this has been postponed to the March meeting of the BTF as David Garlick’s office are holding a workshop in early February that will add value to the presentation to BTF. AP82 was a request from business to extend the next BTF meeting to three hours. This had not been possible for the January meeting due to diary commitments on both sides. Su Viner will look at extending the March BTF meeting.

<b>Action point</b>	<b>Su Viner to look into increasing the length of the next BTF meeting to 3 hours.</b>
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## 2. Update on PBR

DH asked the group what they would particularly like to know about the Pre-Budget Report and threw it open to the Forum to ask questions or raise concerns.

IMC said the big concern is retrospection, a concern to make sure that retrospection more generally is not now seen as normal legislative reaction – to make sure that retrospection does not become the norm.

DH responded that it was important to convey the sense of exasperation Ministers had felt with the employment product disclosures that had started coming in as a result of the disclosure regulations. It was not possible to preclude entirely the use of this approach again in the future.

It was felt by business that the type of disclosures received by the Revenue and Customs was an example of the system working. There was a view that the use of retrospection led to uncertainty, and opened the possibility that business could act in good faith and then the Government change its view and position. IMC said that if there had been a change in policy then it should be communicated. JS commented that we need to make sure that we understand the potential unintended consequences of the “prospective retrospection”. However, he felt that purchasers of schemes needed to beware of what they bought

DV raised the issue of appropriate behaviour by tax professionals – what are the relevant disciplinary proceedings? Members of professional bodies need to exercise more control over their members.

DH suggested that business might be interested in sending someone to Professor John Tiley's February Tax Seminar in Cambridge at which a New Zealand QC will be speaking, his view being that avoidance is often evasion.

### 3. **Transfer pricing - sub-group objectives/remit**

RW gave an update on the Transfer pricing subgroup (see annex 1 – one-page sub-group update paper).

PG echoed RW's comments saying that the subgroup had been very effective

JS asked if there was any sense of long-term ambitions for the group to make it more productive

PG responded that one of the great strengths of the group is that it identifies practical issues as they arise. The group has got a long term vision but identifies issues up-front as they arise. He would say that it is a very positive response on part of the Revenue in terms of trying to make it better.

### 4. **Share options - emerging remuneration practice**

IMC spoke to two slides prepared by business (see annex 2) A high level discussion followed in which it was agreed that the issue was with the IFRS as opposed to the Inland Revenue and that something that the UK Government had incentivised through a specific tax treatment was now being disincentivised by IFRS. There was a discussion that business may move to other forms of employee incentivised plans, e.g. share incentive plan.

JS had earlier flagged that business may want to revisit this item at a future BTF. JS is to raise this as an agenda item with SV when required.

DH suggested that a smaller group had a 1-2 hour pre-meeting before this item is raised at a full BTF. This was agreed by the group.

<b>Action point</b>	<b>JS to raise Share options as an agenda item when required by business. Su Viner to put on forward look and agenda of future BTF.</b>
	<b>When agenda item is raised by JS, SV to organise a pre-meeting for a smaller group.</b>

### 5. **Tax gap definition (David Ulph)**

DU spoke to a paper looking into a) definition of the tax gap, b) measuring the tax gap, c) using the information to drive compliance. DU's paper has been attached here as annex 3. DH invited questions.

PG said business' have concerns over how the Revenue are trying to determine the amount of tax due on a given activity. There are concerns over vagueness especially as regards Corporation Tax, for instance in the early days of payment on account – many businesses overpaid to avoid penalties so if current forecasts are being based on a simple extrapolation of payments at that time then the forecasts are bound to be misleading.

DU said that there was an issue on measurement of the tax gap for corporation tax.

DV said that in areas where the gap had been measured, targeted measures had been taken to increase yield.

At the conclusion of the meeting DH said he would circulate DU's speaking notes with the minutes of the meeting.

## **6. HMRC - performance targets (role of BTF), Customer Survey results/performance metrics**

Items 6 and 8 on the agenda were taken together.

DG gave an update on the recent survey undertaken on relationship between business and the Revenue/HMCE. Improvements had been seen in many of the areas that were surveyed. DG also ran through the performance measures that are posted on the IR BTF website and the results of the survey against these measures. Results are being built into planning for 2005/2008.

DV stated that performance targets for the next 3 years are locked into HMT funding – if the BTF would like to input to the next ones then they can do so early in the process, once we are clear of the Bill which will create HMRC.

DH noted that comfort could be taken from the survey figures but members of BTF all heard about areas where things are not going so well so we could sharpen our questions

PC asked the group how this work could be taken forward.

DH asked that PC, DG and DH meet and discuss the role of targets, and relationship with Large Corporate's Forum.

### **Action point**

**DH, DG and PC to meet and discuss the role of targets, and the relationship with the Large Corporate's Forum.**

## **7. Construction Industry Scheme (CIS)**

PG started with a business view on how CIS was going. Business felt uncomfortable and were concerned that the 3<sup>rd</sup> draft of regulations had been presented but they have not seen a detailed write-up of how CIS will work in practice. The software suppliers are quoting 18 months as the lead in time to create the required software which does not fit with the time left available before CIS goes live. These concerns were being raised as there are now only 15 months to go.

MdB gave an update on the position with regards CIS. The 3<sup>rd</sup> draft of regulations had been published and subject to comments it is intended to lay the regulations quickly. There is a regular monthly meeting involving business, the next one will be on the 26<sup>th</sup> January which will be a big session looking at all open action points with the aim of closing some down, taking stock on others and agreeing next steps. MdB undertook to run material past industry as and when it becomes available, he also agreed to look into producing a detailed write-up of how CIS will work in practice and to look again at the timetable for software.

MW said there was a fear of laying the regulations before we had resolved the practical issues

DH said that he would raise the timetable with Ministers if comments from business were significant. The advantage of regulations, however, are that they can be amended quickly. DH asked for CIS to be put on the agenda for the next BTF meeting.

<b>Action point</b>	<b>SV to put CIS on the agenda for the March BTF meeting.</b>
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## 8. Disclosure within HMCE (Chris Tailby)

PG raised a concern about how VAT disclosure regulations were working in practice. The issue of concern to business is that there is no time limit on the reporting requirements. So, for example, it is unclear whether an old lease and leaseback arrangement of 7 years ago needs to be disclosed. PG said that business and those who want to comply need to have realistic targets.

CT replied that HMCE had not been swamped with a lot of extra disclosures and therefore he surmised that people seem to understand the scope of the rules. CT has done a lot of education to help raise awareness.

JS asked to bring the group back to the principle reason for introducing this as an agenda item which was that business had found the consultation process for VAT disclosure less helpful than for that of direct taxes.

JS said that they would have preferred something in response to the letter the 100 Group sent in July. DH suggested the matter be followed up at a meeting with the 100 Group and the CBI.

<b>Action point</b>	<b>SV to put this on the agenda for the March BTF</b>
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## 9. **Any Other Business**

1. PG and IMC asked for the Revenue to produce further guidance on s765. DH said that he could not promise that immediately, as PG know this was being considered as part of the Corporation Tax modernisation

2. IMC asked for an overview of CT's new unit and how it will fit with DG's team. DG responded that he would expect a business to have a single point of contact for each group. DH also added that business should expect new SIS to do everything it did before and more.

3. The BTF members put on record their thanks for out-going Secretary Doug Stoneham for all his work for the group.

**Next meeting: 3<sup>rd</sup> March 2005**