

MINUTES

BUSINESS TAX FORUM

16:30 hrs, Friday 22 September 2006

HM Revenue and Customs, Room 2/39, 100 Parliament Street

ATTENDEES:

Revenue and Customs

Dave Hartnett * (DH - Director General)
John Connors (JC - Director, Large Business
and Employers)
Elena Williams (EW - BTF Secretary)
Geoff Lloyd (GL - Director, Corporation Tax
and VAT)

HM Treasury

Edward Troup (ET – Director, Business and
Indirect Taxes)
Judith Knott (JK – Corporate Taxation)

Department of Trade and Industry

Bob Fisher (BF - Tax Advisor)

Business

Jon Symonds* (JS - 100 Group)
Mervyn Woods (MW - CBI)
Philip Gillett (PG - CBI)
Ian Menzies-Conacher (IMC - CBI)

Apologies:

Sebastian Hordern (CBI)
Adam Little (100Group)
David Garlick (HMRC - Director, Large
Business Service)

Chairmen

*Co-

1. Minutes of previous meeting & matters arising

2. The Future Format of the Business Tax Forum

JC circulated a paper to the meeting

DH said that the significant question was whether the BTF is needed as an umbrella forum if the Large Business Advisory Board (LBAB) is also an umbrella forum? Chief Financial Officers are steering the Varney Review, if all of them joined the LBAB it would have a powerful voice and provide a big impetus for HMRC and the Large Business Service but it might meet only twice a year.

JS said that he was still open-minded. It depends on where you start with the LBAB. If there are two meetings a year there will need to be something in between such as an executive body. But with four meetings the LBAB could drill down to operational matters.

3. Update/Priorities on the 2006 Review of Links with Large Business

JC gave some feedback from the second meeting of the HMRC Review of Links Consultative Committee that took place on Monday 11 September and distributed a summary paper that reflected comments made at that meeting:

He said that there was general agreement that the review is going in the right direction.

Advisory Board

The meeting on 11 September saw value in a large business advisory board (LBAB) but it would need clear accountabilities and a practical edge.

The advisory board could be used to:

- assess progress around results and the delivery of objectives of the Review;
- assess progress in the development of the risk assessing process; and
- issue an annual or bi-annual progress report.

Use of agents

HMRC should maintain a separate but parallel engagement with agents but they shouldn't form part of the advisory board.

Clearances

Suggestions around clearances, pre-clearances and escalation processes were welcomed as significant developments which will assist in providing greater certainty.

Where HMRC is going

HMRC will draft a report. HMRC's engagement with business through the BTF will help to identify the priorities. The are small, medium and long-term deliverables in terms of he track and monitor progress.

JS said that he would encourage HMRC not to make the paper too long as it needs to be focussed and that the Large Business Advisory Board could work out how to implement the ideas. JS also said that transparency and competitiveness were both very important but the question for ministers is how do we deal with the competitiveness dimension? If the paper is to be a joint effort from HMRC and business the other parts need to be presented to

ministers. He asked how business could constructively engage in the process.

ET explained to JS that the Varney Review was only part of the picture in terms of looking at the competitiveness of the UK. He said that competitiveness cannot be extricated from policy, policy is a separate issue but HMT is engaging with business on it.

JC said that he would like business and others to provide some direction as to how HMRC can aid the process of making the UK more competitive. ET explained that there's work being undertaken looking at the wider issues of competitiveness and that HMT would be happy to explain how the department feels tax fits within the wider discussion of development. JC said that any dialogue would be helpful and that he would like to debate and contribute to the discussion and engage in macro dialogue.

DH told the meeting that the Dutch finance minister had recently expounded interesting views in relation to tax, the tax code and other issues.

Action points

- 1) John Connors and Edward Troup to have a meeting as a starting point for dialogue on competitiveness.
- 2) Dave Hartnett to circulate to the BTF a paper from the Dutch finance ministry

4. Update on Anti-Avoidance/General Anti-Avoidance Rules (GAARS)/Disclosure

Senior HMRC lawyer David Pickup is currently leading a small team that are undertaking a legal study of how anti-avoidance works internationally. Their main interest is in the application of anti-avoidance legislation and judicial process; they've been talking to lawyers, not officials in tax administrations around the world. This is proving to be a very useful piece of work and they're seeing diverse, contradictory approaches between countries. Canada, Australia and South Africa were cited as examples.

Chris Davidson and his team in the Anti-Avoidance Group are working on a statement of practice outlining when HMRC will intervene in a transaction. It has not yet been decided as to whether this statement will be made available to the public. The statement is currently a work-in-progress.

DH commented that PG's paper about GAARs and approaches to avoidance had been surprisingly bland. PG explained that the paper was designed to set out his thoughts of where GAARs might go in the future but had also been a 'team product' which had ... than otherwise might had been possible. ET

acknowledged that the paper was bland because it was not designed to offend.

PG stated, in relation to anti-avoidance measures, that his preferred route would be legislation by press release whereby HMRC issue a press release and a statement of intention to discuss the issues. He said that he initially thought that GAARs would be the preferred route but eventually moved away from this conclusion.

5. Alignment of Company Tax Accounts and Filing Dates

PG expressed concern over the consultation process. He explained that the large representative bodies were against the acceleration of the CT return filing date put forward in the consultation document. He mentioned that the concerns of these bodies had received a sympathetic hearing from Department of Trade and Industry officials and the Small Business Council, but that in spite of overwhelming views to the contrary the process appeared to be continuing apace.

MW claimed that at the Better Regulation Consultative Committee (BRCC) meeting of 21 September it was suggested that this situation was bringing in to question the ethos of the wider consultation process and that the views of the private sector were being ignored.

DH told the meeting that he was in the process of responding to similar concerns from the CIOT in which he planned to state that HMRC were using the Corporation Tax Operational Consultative Committee (CTOCC) as a vehicle for more discussions.

GL told the meeting that HMRC are committed to reporting back on the filing dates' consultation at the 2006 Pre-Budget Report (PBR). He also wanted the meeting to note that responses to the consultation from the small business sector were mixed.

IMC suggested that there was no reason why filing dates couldn't be aligned now for people in favour of the move. MW added that more carrots not sticks were required to encourage people to volunteer.

DH said that there would be no formal response prior to the PBR but that HMRC have listened and the message is clear.

In response to the suggestion from PG that the consultation process is inflexible ET said that HMT's Small and Medium Enterprise Team had been working with HMRC to look at the impact of the [consultation process]. PG said that this was exactly the sort of reassurance that he needed.

DH asked the business reps on the forum if they had any experience of electronic filing in the US. PG said he had just filed and that there were problems with field agents agreeing accounts without detailed examination.

6. Customer Relationship Managers (CRMs) – Empowerment/Technical Expertise. Team Leaders – What Role?

PG expressed confusion about the roles of CRMs and Sector Leaders (SLs). He was unsure as to whether CRMs would have the relevant expertise and technical background that would make them a real force for progress. In terms of the sectoral approach PG said that he could see the advantage of having SLs for banking, oil etc but he could not see the advantage of pushing the others down a sectoral approach or having SLs in various geographic locations. JC said that these issues had been picked up by the Review of Links with Business and the Large Business Service. JC assured the meeting that the CRMs would be sufficiently empowered but IMC did not feel that this was the case.

JS said this was an ongoing subject but that the system is better than the previous one. He also stated that the system was in transition and the real test would be whether it gets things done.

DH agreed with JS.

7. Powers Review and More Flexible Interventions

IMC wished to explore the issue of enhancing flexible enquiries with less rigidity. He said that the self-assessment (SA) system was designed around an ad-hoc approach with time limits etc but that large corporations are not interested in that. The corporation tax self-assessment (CTSA) system was not helpful to business either and that the old Section 54 provided flexibility on both sides.

DH gave an illustration of the Dutch horizontalisation agreements, contractual agreements between the Dutch Tax Authority (DTA) and big business, whereby the DTA receives notification of risk at the earliest opportunity and in return offers less frequent audits.

8. Any Other Business

DH apologised for the delay of the paper that he is producing with JS on the BTF's achievements to date as offered at the previous BTF on 7 July 2006.

Action points

DH and JS to circulate paper to the BTF

END