

Minutes

BUSINESS TAX FORUM

10:30-12:30, Monday 1 December 2008
Room 2/39, 100 Parliament Street

Chair:	Melanie Dawes Julian Heslop	(HMRC) (GlaxoSmithKline)	
Secretariat:	Judith Knott Angela Brown	(HMRC) (HMRC)	Business Customer Unit Business Customer Unit
Attendees:	Paul Morton Eileen Haughey Tim Voak Ian Menzies-Conacher Mike Sufrin Michael Devereux Freda Chaloner Graham Black Naomi Ferguson Ian Hardie Edward Troup Jamshed Malik	(Reed Elsevier) (Marks & Spencer) (Tesco) (Barclays) (Rolls Royce) (Oxford University Centre Business Taxation) (HMRC) (HMRC) (HMRC) (HMRC) (HMT) (BERR)	100 Group 100 Group CBI CBI CBI Large Business Service Large Business Service Local Compliance CT&VAT Business & Indirect Tax
HMRC / HMT speakers:		Jonathan Mills (HMT) Jonathan Leigh-Pemberton (HMRC) Richard Thomas (HMRC) Miles Nelson (HMRC) Kevin Madley (HMRC)	
Apologies:	Ian Brimicombe Joel Walters Brian Chapman	(100 Group) (Vodafone) (Unilever)	Business Secretariat 100 Group CBI

1. Welcome, Minutes and Action Points.

Minutes were agreed for publication.

HMRC advised that a new International Directorate had been created, headed by Judith Knott.

Revised Terms of Reference for the Business Tax Forum were agreed, which more clearly articulate the strategic focus of the forum.

Good progress has been made following discussions with business members over revisions to HMRC's guidance on company residence. A draft containing practical and relevant examples is being circulated to business members for detailed comment in the very near future.

HMRC are in discussions with the business member secretariat over the new Transfer Pricing sub group. Terms of Reference and membership should be in place before Christmas.

Business members had requested an analysis of CFC applications – since April 2007 there have been 141 applications for advance clearances under the CFC rules of which 109 have been accepted, 8 declined and 24 remain open. HMRC doesn't maintain precise records on which exemption was claimed in each case but could advise that the vast majority of applications received, as well as clearances given, involve consideration of the motive test.

Business members had commented on delays in processing treaty clearances. HMRC has now identified a number of process improvements and will be rolling these out over the coming months, which will result in an improved service for business.

2. Pre Budget Report (PBR) announcements

HMT advised that the 2008 PBR set out the steps the Government is taking to support business in uncertain times, to ensure financial stability and global competitiveness. HMT welcomed feedback and comments. Business members advised that the VAT reduction had been difficult to implement at their busiest time of year and felt that a greater period of notice and consultation would have been helpful. There was also an impact on long term service contracts, and it was agreed to take this forward in more detail at a separate meeting with HMT, outside the Business Tax Forum governance. Business members were concerned that there could be difficulties in preparing the VAT returns covering the period of change, and HMRC advised that it would take a practical view on this.

3. Foreign Profits update

HMT confirmed that the 2008 PBR announced a balanced package of reforms which will form part of Finance Bill 2009, including a foreign dividend exemption for large and medium businesses. Details are set out in [Chapter 4.24 of the Report](#). Draft clauses will be [published for consultation](#) next week, and engagement with business will continue on the options to reform the UK's CFC rules. Business members welcomed the changes, and the drive to reduce the administrative burden of these international tax issues. There was concern about the effect that a 45% rate of income tax would have on the UK as a business location; business would consider this as a factor alongside the implications of a foreign profits review.

HMRC advised that it is still considering the implications of the recent FII Group Litigation Order on EU compliance of ACT and dividends.

4. Treasury Consents reform

HMT advised that draft clauses would be published shortly, in advance of Finance Bill 2009. This would propose a move towards post transaction reporting, with a de minimis limit of £100 million to target the potentially higher risk transactions. It would cover shares and securities, and include controlled partnerships and trusts, but would not attract criminal penalties. Ordinary banking transactions would be exempted. Business members welcomed these reforms.

5. Principles based legislation

HMRC referred to the [consultation document published at PBR](#) which had been informed by the progress of the preceding consultation. HMRC were looking to introduce legislation at Finance Bill 2009, and consultation would continue over the coming months. The new Foreign Profits dividend exemption legislation would reflect a principles based approach, and also the objectives of the anti-avoidance simplification review. Business members requested further discussion on the impact of the transfer of income provisions on the Oil and Gas sector, but were pleased with the level of engagement and the progress that had been made.

6. Large Business Update

HMRC confirmed that the Review of Links principles are embedding well and the CRM relationships are helping both sides understand the impact of a changing economy. Good progress has been made in settling historic low risk issues, and engaging staff in new ways of working. The new non-statutory clearance service has been successful – 924 applications have been received and 81.6% responded to within 28 days. All formal consultations this year have run for 12 weeks, and Finance Bill 2008 measures that introduced procedural changes had guidance published alongside, following consultation with stakeholders. Overall, the consultation culture is becoming embedded within HMRC. PBR saw the Policy Partnership with HM Treasury working extremely effectively – working together to understand the impact on business.

Business members felt that there were still some inconsistencies in the approach across HMRC's Large Business Service, with instances of a more formal approach being taken through written correspondence. Business members welcomed the move towards resolving issues through early dialogue, where possible. The challenge for HMRC's Local Compliance directorate is still understanding the demographics of the large business population, and to ensure synergies with the approach to medium sized business. Business members were concerned at the move away from a geographic structure to more centralised offices in Local Compliance, but welcomed the move to assigning Points of Contact as call centres are not always the best way for these large businesses to engage with HMRC.

HMRC are developing a large business vision statement that draws together successes from a number of customer experience and compliance initiatives into a balanced statement of HMRC's approach to its large business customers, placing value on building effective relationships.

7. AOB

HMRC advised that the US Tax Treaty was scheduled for review early 2009; business members would welcome a move towards mandatory binding arbitration with the US.

It was agreed to expand the forum to include a business member serviced by the Local Compliance directorate. Secretariat will ask the CBI to nominate.

Meeting organiser: Beverley Duncan 020 7147 3286