

# Minutes

## Business Tax Forum

10:00 - 12:00 19 September 2011  
Room 2/39 100 Parliament Street

<b>Chair:</b>	Melanie Dawes William Morris	(HMRC) (General Electric)	Business Tax CBI
<b>Secretariat:</b>	Ian Brimicombe Lidia Otero Ian Quelch	(100 Group) (HMRC) (HMRC)	Business Secretariat HMRC Secretariat HMRC Secretariat
<b>Attendees:</b>	Jean Sharp Abdul Nabi John Bartlett Tim Voak Erin Robinson Jon Sherman Naomi Ferguson Mark Holden May Anderson Nick Houghton Judith Knott Freda Chaloner Keith Cartwright	(Aviva) (Marks & Spencer) (BP) (Tesco) (BIS) (HMT) (HMRC) (HMRC) (HMRC) (HMRC) (HMRC) (HMRC) (HMRC) (HMRC)	100 Group 100 Group CBI CBI  Business & International Tax Business Customer & Strategy Central Change Central Policy CTIAA CTIAA Large Business Service Local Compliance
<b>Apologies:</b>	Paul Morton Mike Sufrin John Connors Iain MacKinnon Melissa Tatton Ian Stewart	(Reed Elsevier) (Rolls Royce) (Vodafone) (HSBC) (HMRC) (HMRC)	100 Group CBI 100 Group  CTIAA VAT

### 1. Welcome

Welcome and introductions. Ian Quelch, HM Revenue & Customs (HMRC), was welcomed following his appointment as Deputy Director, Large Business Customer & Strategy.

### 2. Update from International sub forum meeting

Judith Knott of HMRC reported back from the International sub-group meeting. The topics covered were double taxation anti-avoidance, how to build European Union (EU) proof legislation and Controlled Foreign Companies (CFC). The minutes of the meeting would be published.

Business mentioned that there was a desire by the 100 Group and the CBI (Confederation of British Industry) to meet in October to have a discussion on EU tax issues.

### **3. CFC consultation**

HMRC provided an overview of the CFC reform consultation process to date. The consultation document was published on the 30 June.

#### **[Read the Consultation on Controlled Foreign Companies \(CFC\) reform: detailed proposals - HM Treasury](#)**

HMRC met and had discussions with various working groups over the summer. One of the key issues highlighted was the need to ensure that the broad policy principles are properly translated into legislation. HMRC and HM Treasury (HMT) will review the themes that have come out of the consultation and produce recommendations at the beginning of next month. One key area of discussion has been how to provide a 'gateway' test for the new regime. Another proposal which HMRC will be following up is for a small number of individual cases to be used in a pilot to test how the rules could be implemented. This pilot would be used to feedback into the design before there was wider engagement.

HMRC intended the draft legislation to be ready at the beginning of December. It would look different to the proposals that were put forward in the consultation document due to the input and feedback from business. In the interim, HMRC planned to make a brief announcement signposting the direction of travel. Business were asked to note that there would be a period of time where HMRC and HMT would be concentrating on drafting the legislation, although there was recognition of the need to keep the lines of communication open during that time.

Business responded by saying that the process had been good and that an interim announcement would be welcomed. There was an acknowledgement that business are concerned that there may be a long process to go through to ensure that the CFC rules don't apply and they are hoping that a gateway would avoid this. They would like a system where 90 per cent of people were automatically exempt but they felt confident that things were moving in the right direction. HMRC thanked business for their views and comments on the process to date. Business felt that if the CFC legislation resulted in the application of a general exemption test then it could be used as a model for approaching other anti abuse areas in futures and would result in a more competitive UK tax system.

### **4. Dispute Resolution and Alternative Dispute Resolution**

HMRC provided an update on dispute resolution. The Dispute Resolution Unit was created in HMRC in August 2010 to look at improving the process of resolving disputes with an emphasis on improving compliance processes. The Litigation and Settlement Strategy, launched in 2007, had been recently refreshed, new draft guidance had been issued and HMRC would be grateful for any feedback.

Since September 2010 eleven cases have gone into an Alternative Dispute Resolution (ADR) (in practice mediation) pilot. Since then four cases have been settled, two through mediation and two through preliminary 'facilitated structured discussion' prior to formal mediation. There are currently seven cases still in the pilot. The most common method used to mediate the cases was facilitative mediation, where there was a neutral evaluation by someone that was not a tax expert.

HMRC had found mediation to be helpful in cases where:

- parties were unclear or unable to articulate points in dispute

- there were multiple parties involved
- there was no dispute over technical analysis but parties need to agree methodology to quantify liability
- there were disputes over facts
- there were entrenched views and strained relationships

HMRC also believe that cases where mediation is less suitable are where:

- HMRC needed judicial precedent to apply to other cases
- there was doubt over the strength of evidence and HMRC wanted to test it at a Tribunal
- it was premature - either because there had been little or no engagement between the parties or because productive discussions were ongoing
- the request for ADR appeared to be an afterthought
- there was a fundamental difference in legal interpretation and HMRC wanted to maintain its existing policy

The existing case team within HMRC should lead the mediation, supported by specialists as required and facilitated structured discussions would take place before move to full blown mediation. The pilot had shown that there were benefits of ADR for all parties but that ADR is still only likely to be appropriate to a small number of cases. Going forward, the role of the Dispute Resolution Unit would be the guardians for best practice, to provide training and guidance, collate internal and external feedback from ADR participants, to support the case owners and be a point of contact for queries.

Business responded that mediation often helped to progress things as it made people re-evaluate what they were doing and why. They thought it would be helpful to understand what the criteria were for referring a dispute for ADR. HMRC explained that a case might be entered for mediation if either the customer or the HMRC caseworker was 'stuck' on an issue. There were boards of governance to deal with large issues and to arrive at consensus from Customer Relationship Managers (CRM's) and tax specialists. One of the points highlighted by the work of the Dispute Resolution Unit was that fewer direct tax cases get referred for ADR, while indirect tax cases were much more quickly escalated.

## **5. Real Time Information**

Business presented a paper outlining their concerns relating to Real Time Information (RTI), including timing of the project and quantity of data requested.

HMRC provided an overview of RTI. The aim of RTI was to improve the PAYE system reducing the administrative burden of the process. The purpose of RTI was that it would help reduce error and fraud in benefits and support the introduction of Universal Credits. Work had been carried out to minimise the data set required and to make it manageable but HMRC was aware that there were still concerns, particularly regarding the number of hours worked. The software industry was involved in the project and it was hoped that where possible they would significantly help to mitigate any issues highlighted in response to the consultation.

HMRC recognised that the timescales were a concern and steps had been taken to address these concerns. Work had been carried out with the large IT providers who had fed back that whilst challenging the timetable was manageable. If there were specific issues that businesses wanted to discuss then HMRC was happy to follow these up. Significant adjustments had been made to the timescales so that there would be a full 12 month pilot before mandating RTI. The third concern covered was the IT infrastructure and the high volume of small files that the system would have to cope with. The objective was to have all

core systems in place by April 2012 meaning that all capacity testing assurance would be in place in ample time.

Business questioned whether the response to the consultation had been published and how RTI would be communicated on ongoing basis. There was general concern as to whether RTI would take into account work taking place on National Insurance contributions and the point made that data requirements should be set as soon as possible as shifting requirements made it difficult for business to plan to implement the changes.

HMRC acknowledged that there were challenges involving RTI, that there was a need to listen to employers and that there had perhaps not been sufficient engagement with in-house payroll providers to date. There were a number of events planned to engage with employers and HMRC would ensure that CRM's provided the relevant information to large business over the next few months. HMRC was looking across the RTI project to ensure that it wouldn't conflict with other work being carried out. The core requirements had been baselined but the results of the pilot may mean there were some changes. There would be further communications and updates on RTI over the following months.

## **6. Business feedback on HMRC's approach to sub-CRM Large Businesses**

Business members of the Business Tax Forum requested a discussion on HMRC's approach to sub-CRM large businesses following anecdotal evidence gathered that these businesses did not feel that they received the same level of service as businesses with a CRM. Business wanted to explore whether there was anything that they could do to help review the issue.

HMRC responded by explaining that approximately 1,300 groups within Large and Complex had CRM's whilst the rest of the population had customer coordinators (CCs). The CC service had just been relaunched. If a specific business felt that there was a reason that they required the level of contact provided by a CRM then HMRC would be open to reviewing the case.

Business questioned how the accountancy profession felt about the introduction of a CC. HMRC had not received any adverse comments from accountants. In the majority of cases businesses appeared to be using their CC's to navigate any administrative issues including identifying the correct person to contact on an issue.

HMRC agreed to look at how it could consult with sub-CRM businesses to establish if there was a gap. It also highlighted that this group was more dependent on their agents for receiving messages from HMRC and a forum to interact with the agents of the sub-CRM population was already in existence

[HM Revenue & Customs: The Large Business Mid-Tier Agents Forum](#)

## **7. Cross-learning workshops**

Business wanted to review whether the joint learning event on customer understanding had been of value and whether it would be worthwhile preparing something similar but on a different topic at some future date. Also mentioned was the joint training on the Senior Accounting Officers legislation where CRM's and tax managers received training side by side which was also found to be useful.

HMRC agreed that the joint training event on customer understanding had been of use, which was in part due to the quality of the speakers. Business suggestions for future joint

training, leadership and the new CFC legislation were agreed as potential topics for consideration.

## **8. AOB**

### **Organisational Changes in HMRC**

HMRC explained that they had been undergoing a reorganisation and that all the directors had now been confirmed in post. The changes should mean that there is a geographically coherent structure going forward making it easier for the Large Business Service and Local Compliance Large and Complex to communicate with their customers. Some of the CRM posts would be competed for but the process would be completed by the end of September and any handovers would be properly managed. Business was assured that the overall number of CRM's would not be reduced.

Melanie Dawes and Business thanked Freda Chaloner (who was retiring) for the contribution that she had made to large business over a number of years.

**Meeting Organiser: Rita Makwana Tel: 020 7147 3566**