

2006 Review of Links with Large Business

November 2006

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CHAIRMAN'S FOREWORD

Chancellor,

You commissioned me to undertake a review of the relationship between large business and HM Revenue & Customs (HMRC). The broad remit was to address the concerns about the nature of that relationship and tone of engagement.

It gives me great pleasure to present this report of the findings of the review. The outcomes will provide greater certainty to business, an efficient risk based approach to dealing with tax matters, speedy resolution of issues and clarity through effective consultation. I therefore recommend to you the proposals which I believe will, by addressing the concerns of business, fundamentally improve the nature of the relationship.

Government and business have a common goal of maintaining and enhancing the attractiveness of the UK as a place to do business in and to do business from. The relationship between large business and HMRC and the efficiency and effectiveness of the administration of the tax system is important in achieving this goal.

Globalisation and technology are accelerating the pace of world economic change. Business and HMRC, together with their policy partners in HM Treasury (HMT), need to share perspectives on these changes, and engage in an open and transparent dialogue about their implications for UK business. This will enable continued modernisation to ensure the global competitiveness of UK business on a long term, sustainable basis.

I firmly believe that HMRC's objective of achieving the best possible customer understanding and engagement is essential and will have benefits for both business and HMRC.

I believe successful delivery of these proposals will improve the nature of the relationship. They call for significant change in attitudes and behaviours from both HMRC and business and, if the full benefit of the opportunities is to be delivered, HMRC and business must work together.

For their part, HMRC does not underestimate the scale of challenges they will face in delivering these proposals but, planning for implementation is already underway. There is both the desire and the commitment to address the cultural issues which will underpin delivery.

There are challenging times ahead and a lot to do but I am confident that HMRC, fully supported by business, will rise to the challenge.

I am extremely grateful to the Consultative Committee and to HMRC and HMT for their advice, their help and indeed their challenges in preparing this report, as well as all those who gave their time to contribute to the consultation.



Sir David Varney

BUSINESS RESPONSE

Business recognises the clear link between taxes and the investment required to deliver successful elements of a thriving national economy, including a skilled workforce, modern physical infrastructure and a progressive regulatory environment.

In order to provide for this ongoing investment in the pre-requisites for a successful economy, the UK must focus on what factors determine the scale of its corporate tax base in an increasingly globalised economy.

Business wants a tax environment and administration that contributes to making the UK a competitive place to do business in and to do business from. Business commitment to this is evidenced by its establishment of the Oxford University Centre for Business Tax, which has the potential to become the leading independent centre for research into business tax and therefore an essential component in achieving greater competitiveness.

Vital elements of a fair, equitable and competitive tax system are certainty, stability and predictability. These elements promote and support sustainable growth both domestically and internationally.

We fully endorse the proposals set out in this report. Taken together, they represent a significant package which will make a real difference in taking forward the relationship between business and HMRC. The proposals, when delivered and with the support and engagement of HM Treasury, will contribute to the competitiveness of the UK and will foster and encourage an environment in which business can flourish.

We acknowledge and welcome the efforts made by HMRC to engage in a constructive dialogue with business and in particular, welcome the extensive open engagement that has taken place during this review.

We believe maintaining such consultation and transparent dialogue will be vital to ensuring the continued responsiveness of the tax system and the development of a common understanding which promotes responsible attitudes to taxation.

Businesses' increased dialogue with the Chancellor and other Treasury ministers is also welcomed and business would like to see this approach continue.

We recognise the proposals represent a significant challenge for both HMRC and business and that successful delivery will require the engagement and commitment of business and their professional advisers to work with HMRC. Key to the success of the proposals will be the evolution to a culture of cooperation. We believe if all interested parties are committed to making a long-term pro-active investment in the relationship, business and the UK economy will be the ultimate beneficiaries.

EXECUTIVE SUMMARY

1.1 HMRC was formed in April 2005 from the merger of Inland Revenue and HM Customs & Excise. HMRC's role is to administer the UK's tax and customs systems. In doing this, the premise is that most businesses are diligent and honest in dealing with their tax affairs, seeking to pay what they owe and claim only what they are due.

1.2 HMRC is committed to making it as easy as possible for business to get their tax affairs right and, as part of their duty of care to those who handle their tax affairs responsibly, are also committed to deal firmly with those who intentionally fail to meet their responsibilities. HMRC's strategy is to put customers at the heart of everything it does, understanding them, responding to their behaviours and expectations and helping them to meet their obligations.

1.3 However, the current experience and, as importantly, the perception of business is that there are inconsistencies in the approach adopted across HMRC. Therefore, to bring the strategy to life and address the concerns of business, HMRC is re-assessing how it does business with business – identifying both what HMRC can do better and what HMRC needs business to do differently. The Chancellor of the Exchequer's announcement at Budget 2006 of this review of the relationship between large business and HMRC was therefore timely.

Review

1.4 The review team have consulted with over 140 businesses and trade and representative bodies via one-to-one meetings, group meetings and workshops. The consultation focused on prioritising the concerns of large business and developing, alongside business, outcomes and proposals to address these concerns. Based on these discussions, the respective views of large business and HMRC as to what they want from the relationship can be summed up as follows:

Business view 1.5 Business wants a relationship based on mutual trust where there is an appreciation of commercial drivers, recognition that tax is rarely the driver of large business' commercial decisions and that tax is managed responsibly. Business wants an HMRC where the operational practices are delivered by appropriately trained and adequately supported staff within a culture that is conducive to providing certainty through swift resolution of issues.

HMRC view 1.6 HMRC wants a relationship based on trust and transparency and a shared commitment to efficient and effective collection of the right tax at the right time. HMRC recognises that allocating resource according to risk, with the result that issues are addressed and resolved quickly and efficiently, is not only cost effective but also forms the basis for building a better relationship.

Outcomes

1.7 The outcomes that both business and HMRC want to see as a result of this review are:

- greater certainty;
- an efficient risk based approach to dealing with tax matters;
- speedy resolution of issues; and
- clarity through effective consultation and dialogue.

1.8 Underpinning these proposals is a commitment for culture change within HMRC to equip staff with the range of skills, competencies and support needed to understand the perspective of large business and to deal confidently with complex matters of relevance to large business in today's rapidly changing environment.

Key proposals

1.9 To deliver the above outcomes, we put forward the following key proposals, further details of these and supplementary proposals are set out in Chapter 4 of the report.

Certainty: businesses will obtain earlier certainty about the tax treatment of transactions. It will be easier and quicker to get HMRC's view so businesses are able to avoid unintended consequences of genuine business transactions. This will be delivered by:

Key proposal 1 1.10 The introduction of a system of advance rulings to give UK and international business certainty about the tax consequences of significant investments and corporate reconstructions. From Pre-Budget Report 2007 HMRC will provide binding rulings across all relevant taxes to businesses that provide clear plans for investment.

Key proposal 2 1.11 The extension of existing clearances so that as normal business practice, HMRC will provide businesses with their view of the tax consequences of significant commercial issues whenever there is uncertainty. By no later than Budget 2008, businesses who seek HMRC's view on significant issues both pre and post transaction will receive a binding HMRC view within 28 days as the norm.

Efficient risk based approach: Businesses will benefit from a more cost effective use of resources and efficient resolution of issues through the implementation of an audit approach which is focused on key risks. To underpin this HMRC will develop, in conjunction with business, a more sophisticated risk assessment framework. This will be delivered by:

Key proposal 3 1.12 The implementation by 31 December 2007 of an approach to enquiries which concentrates on risk areas so that resources are focused on resolving contentious issues more efficiently and quickly than is currently the case.

1.13 HMRC will publish details of what this approach will mean for low risk businesses by 31 March 2007. As a result, for example, a low risk business might expect to receive a risk-based enquiry only every three years, subject to a review of specific high risk issues as necessary. Higher risk businesses will also benefit as the process of getting to the heart of the issues and reaching conclusion will be quicker.

Key proposal 4 1.14 A comprehensive approach to the settlement of transfer pricing enquiries, based on guidance to be developed with business and published by the end of 2007 so that, subsequently, matters will be settled within 18 months as the norm. This is a significantly shorter timeframe than is currently the case.

I.15 Only those cases which are both particularly complex and high risk will continue beyond 18 months. It is expected that such cases would take no longer than 3 years to resolution or the point where preparation for litigation starts. A combination of a clear action plan for resolution and senior level review within HMRC will ensure progression.

Speedy resolution of issues: Issues will be resolved more quickly and efficiently. The costs for business and the time they spend in resolving issues with HMRC will be reduced. This will be delivered by:

Key proposal 5 I.16 HMRC making it clear to business how contentious issues will be resolved in a more efficient, less confrontational way and ensuring the mechanisms for dispute resolution work effectively. This will include establishing clear accountabilities and authorities for HMRC's Client Relationship Managers (CRM), Sector Leaders and senior management (to be published by the end of 2006).

I.17 The CRM will normally have primary responsibility and accountability for resolving issues with individual businesses and it is to be expected that the majority of issues will be resolved at this level. On occasion issues will be such that escalation beyond the CRM is appropriate but it is to be expected that this would be the exception rather than the norm. In such cases escalation routes, ultimately to the HMRC Director General responsible for business matters, will be clear and available. This will ensure all longstanding and contentious issues have clear routes to resolution.

Key proposal 6 I.18 HMRC senior management taking responsibility, with immediate effect, for the active management and resolution of tax enquires that remain unsettled after 18 months of enquiry. During 2007 HMRC will work with businesses to develop a framework for clear action plans, with timescales, so it is clear how outstanding issues will be resolved. Targets and progress against them will be published on the HMRC website.

Clarity through consultation: Businesses will benefit from earlier clarity and reduced complexity as the development of the administrative framework is based on effective consultation so that the business perspective informs decisions. This will be delivered by:

Key proposal 7 I.19 With effect from Budget 2007, HMRC will be accountable for taking the business perspective into consideration in everything it does from implementing policy decisions to designing systems and processes. A consistent approach to informal and formal consultation with clear accountabilities and parameters will ensure the business perspective is taken into account as the norm, so contributing to a more certain administrative framework within which business can thrive.

Key proposal 8 I.20 The introduction of a programme, agreed with business representatives, to revise and update the various forms of guidance of relevance to large business. From 2008, all such HMRC guidance will be developed in conjunction with business and will be timely, accurate and easily understood.

Commitment to delivery

Clear accountability for delivery: business will influence the delivery of the proposals and the public reporting of progress by HMRC.

1.21 A Large Business Advisory Board (Advisory Board), involving senior and influential business representatives, will be established with responsibility and accountability for reviewing, assessing and reporting progress on the delivery of the proposals.

1.22 A delivery plan, to which HMRC can be held to account, is being developed. This will set out how HMRC will deliver these key and other supplementary proposals with appropriate targets, measures and timeframes.

1.23 This will be discussed at the first meeting of the Advisory Board and published on the HMRC website by 31 March 2007. The Advisory Board will regularly report progress against the delivery plan and will reassess the terms of reference to ensure the initiatives are refreshed so that they remain relevant over time as priorities change.

1.24 HMRC leadership recognises the scale of the challenges ahead to address the issues raised during the consultation and to deliver the proposals. HMRC is committed to delivering these outcomes and proposals and to working with large business to achieve this.

Scope of the review

1.25 The primary focus of the review is HMRC's largest business customers. Whilst only 0.2% of businesses in the UK are large, they employ 52% of all employees¹ and make a significant contribution to the UK economy in terms of the generation of profits, wealth and taxation.

1.26 Whilst the consultation covered the full range of taxes, in the main the priorities identified by business focus on corporate tax issues.

1.27 Nevertheless, the proposals and the principles underpinning them have relevance to all businesses and across all taxes. HMRC will undertake further actions, building on initiatives already underway to address concerns raised during the review around the administration of indirect and employment taxes.

1.28 The review has focused on HMRC's relationship with business. It is recognised that advisers, representative and professional bodies, as key stakeholders of HMRC and as part of business' support system, have an important role to play. They will have a keen interest in the development and implementation of a number of the proposals. HMRC expect that these stakeholders will make a valuable contribution to delivering the proposals.

¹ KPMG Administrative Burdens—HMRC Measurement Project, Published 20 March 2006.

Context of the Review

2.1 All governments aspire to have a tax administration that is efficient and effective and at the same time, collects the revenues required by law to fund public services. Common challenges faced in achieving this aspiration include reducing administrative burdens whilst addressing concerns around corporate governance, delivering changes in tax policy with reduced resources and keeping pace with new technology and changes in the market.

2.2 To address these challenges, the UK tax administration must be capable of evolving and keeping pace with the modern global economy, the changing business environment and legislative landscape. The creation in April 2005 of HMRC and its continued evolution is part of an ongoing programme of modernisation of the tax administration.

2.3 The HMRC and HMT policy partnership provides an integrated approach to developing tax policies that supports the broader economic and strategic drivers of increased productivity and expanded economic and employment opportunities. Maintaining the competitiveness of UK business on a long term, sustainable basis is essential for the achievement of these broader drivers and the prosperity of the UK.

2.4 It is recognised that the contribution of tax to public finances supports the infrastructure and sustainability of the UK economy which in turn enables business to develop and thrive.

2.5 HMRC's administrative role is vital in delivering tax policies efficiently and effectively. The principle of fairness requires that the tax system be administered evenly and equitably with appropriate checks in place to ensure all businesses are able to compete without fear of either discriminatory or favourable treatment.

Developments in the relationship with large business

2.6 A key element in the development of a modern and responsive tax administration is its relationship with the country's largest businesses and employers. This was explicitly recognised in the publication of recommendations of the former Inland Revenue's Review of Links with Business in 2001 (2001 Review).

2.7 The 2001 Review signified an important step forward in the relationship between large business and the Inland Revenue. Although some recommendations were not followed through, many were successfully implemented and there is widespread recognition of the benefits these delivered.

2.8 Since the 2001 Review there have been a number of developments designed to make working effectively with large business a priority. These include the:

- creation of the Large Business Service (LBS) – bringing together those primarily responsible for the day to day relationship with large business;
- launch of the LBS Operating Model² – setting out HMRC's approach to working in collaboration with large business. This approach, which is currently being implemented in LBS, will be introduced across HMRC during 2007;

² LBS Operating Model is available at www.hmrc.gov.uk/lbo/operating-model.htm

- establishment of a Business Customer Unit – with a remit to inform, influence, support and appropriately challenge everything that impacts on business of all sizes so that HMRC becomes truly customer focused.

2.9 Given the various reorganisations, the merger, the introduction of new working practices and the concerns of business, the time is right to re-assess the relationship and the effectiveness of the tax administration.

2.10 The Chancellor of the Exchequer therefore announced this review at Budget 2006. The terms of reference are included at Annex A. A consultative committee of senior representatives of business, HMRC and HMT provided guidance and direction to the review. Details of the committee members are provided at Annex B.

2.11 Within the context set out above, the review is seeking to establish a framework for the relationship within which HMRC and business can work together to develop a more trusting, transparent relationship and a more effective, certain tax system that meets mutual needs.

Scope of the review

2.12 Although the review has focused on HMRC's relationship with large business, professional advisers, representative and professional bodies will have an important role to play in the successful implementation of the proposals.

2.13 HMRC will continue to engage in a parallel dialogue with these important stakeholders both in the normal course of business and in the context of the final declaration³ from the meeting of the OECD Forum on Tax Administration in September 2006.

2.14 The primary focus is HMRC's largest business customers—those who make a significant contribution to the UK economy in terms of employment and the generation of profits and wealth, whether they are UK or foreign owned, listed or privately owned.

2.15 The needs of such large complex businesses means that there are some specific issues to be addressed which may not be as pertinent to other businesses. Nevertheless, the principles underpinning the proposals are equally applicable and relevant, albeit on a potentially different scale, to all of HMRC's business customers, be they large, medium or small.

2.16 In addition, whilst the LBS is the primary operational interface between large business and HMRC, many other operational and policy directorates within HMRC have a role which impacts on large business. This review is relevant to all of those within HMRC who work with large business.

2.17 The findings of this review are consistent with those of the Review of Links with Medium Sized Business⁴ which focused on the need for greater commercial awareness within HMRC and the adoption of a risk based approach tailored to meet the needs and address the risks of businesses of different sizes.

³ Full text is available at www.oecd.org/dataoecd/0/14/37463807.pdf

⁴ Published at 2005 Pre-Budget Report (www.hmrc.gov.uk/pbr2005/medium-business-links.pdf)

REVIEW FINDINGS

3.1 The review has been carried out openly and transparently. The Consultative Committee is encouraged by the enthusiasm of business, HMRC and HMT to engage and by their recognition of the role each has to play in developing the relationship. The Committee thanks all of those who have contributed to the review.

3.2 The review involved consultation via one-to-one meetings, group meetings and a number of focused workshops with over 140 businesses, representative and trade bodies. A number of internal HMRC workshops were also held to ensure the HMRC perspective was taken into account. The Consultative Committee met as a group on three occasions, supplemented by individual meetings with the review team. Regular updates of progress and emerging thinking were published on the HMRC website.⁵

3.3 A willingness by both business and HMRC to focus discussions on solutions and outcomes rather than problems and barriers has enabled the development of proposals to move the relationship forward and build upon the best of the past.

3.4 A summary of the feedback, which informed the outcomes and proposals, is below.

Certainty

3.5 As recognised in the 2001 Review, obtaining certainty as to the tax treatment of a particular transaction remains of paramount importance to business. Certainty means getting a definitive answer as to HMRC's view in a particular circumstance which is binding and can be relied upon. Being able to obtain this as a matter of normal business practice has the potential to make a real difference to the competitiveness of the UK in relation to tax.

3.6 Business' view was that a formal 'rulings office' such as that adopted by other fiscal authorities would not be welcomed. Their experience is that this has the potential to become bureaucratic and not sufficiently responsive in today's fast moving commercial environment. **Key proposals 1 and 2** in the Executive Summary will meet the need for flexibility and speedy response and HMRC senior management will take steps to ensure consistency of approach.

3.7 HMRC's Code of Practice 10 (COP 10) process is regarded by business as an effective means of obtaining certainty in a number of scenarios. However, its limitations are recognised, in particular the fact that the relevant legislation must fall within the last four Finance Acts for an issue to be considered.

3.8 Regardless of when legislation is enacted, businesses need to be able to obtain clarity and certainty about how HMRC believes it applies to their particular commercial transactions, circumstances and facts. **Key proposal 2** in the Executive Summary will extend and update this informal approach, removing the time limit, so that where there is genuine uncertainty COP 10 is available as a way of obtaining certainty.

3.9 Business acknowledges HMRC currently provides rulings and clearances under a number of statutory provisions but would like clarification of what is available under the different regimes. **Key proposal 2** will provide this clarity.

⁵ Review of Links can be found on the HMRC website at www.hmrc.gov.uk/large-business/index.htm

Efficient risk based approach

3.10 In a complex global environment, the need to assess and manage risk is high on the business agenda. The US Sarbanes-Oxley Act has had far reaching consequences for corporate governance, even for those who are not directly subject to it. The assessment of tax risk and the effective management of that risk is an increasingly important aspect of the corporate governance of large corporates.

3.11 Adopting a risk based approach is also increasingly central to government policies and interventions. Reflecting this and HMRC's aim to deploy resource in accordance with risk, the LBS Operating Model puts risk at the heart of its new way of working.

3.12 This review has shown that whilst there is support from business for this approach, how it will be applied in practice is not yet understood. Business recognise the benefits of working in partnership with HMRC to develop a more sophisticated risk assessment process and so a better shared understanding of risks and how these are managed. Applying this to underpin a more effective and efficient audit approach will contribute to an improved relationship based on a better understanding of perspectives.

3.13 For each LBS customer a preliminary risk assessment has been produced and the process of discussing these with each company has begun. This will provide a platform for the subsequent programme of work proposed by this review.

3.14 Key proposal 3 in the Executive Summary will deliver this better understanding and a more focused enquiry approach informed by the risk assessment. A focus on businesses who pose a higher risk will result in an effective use of resources for both business and HMRC and a more efficient resolution of issues.

Speedy resolution of issues

3.15 Business expects HMRC to deal with tax matters efficiently and effectively and to be responsive to requests for its view on issues so that businesses can obtain clarity. For their part, HMRC expects business to be open in providing information that will assist them to understand commercial transactions and the business' assessment of the tax consequences.

3.16 In many cases the process is efficient but this is not always the case. The experience of business is that the time taken and costs incurred to reach resolution of issues can be disproportionate to the amount of tax at stake. The business perception is that the willingness of HMRC to engage, to seek resolution of issues and take decisions is inconsistent, as is the willingness to provide a view on issues and to give guidance to business.

3.17 It is appreciated that some matters will be complex and that it is inevitable that, on occasion, HMRC and business (and their advisers) will have differing views as to the application of the legislation to the particular facts.

3.18 Reaching resolution of contentious issues within a reasonable timeframe and in a professional manner will remove much of the tension from the relationship and also reduce costs for business and HMRC.

3.19 Being able to agree a clear plan setting out how issues will be progressed with timescales and clear responsibilities for both business and HMRC would be welcomed as a way of providing greater certainty and speedier resolution. Business does not expect an ‘amnesty’ on open issues and recognises that plans for resolution will be in line with HMRC’s approach to settlement and litigation.

3.20 They do, however, expect to be provided with a better understanding of that settlement and litigation approach alongside the plan for issue resolution, so that they are able to understand how the plans fit with the approach and have greater certainty as to the way forward and the likely timing of resolution.

3.21 Business is in favour of a relatively informal but clear escalation route so that they are able to understand the route available to resolve significant contentious issues. **Key proposals 5 and 6** in the Executive Summary will provide business with this certainty and with these clear escalation routes.

Clarity through effective consultation

3.22 Experience has shown that early involvement of business to ensure the issues, policy intention and the concerns of both business and HMRC are understood pays dividends in terms of a more robust outcome.

3.23 Business recognise that, given HMRC’s responsibility to administer the tax system efficiently and fairly, suggestions cannot always be taken on board perhaps due to the disproportionate resource requirements or the adverse impact they may have on some businesses. In line with the Government’s commitment to reduce administrative burdens on business HMRC recognises that any burden must be proportionate to the tax at stake.

3.24 During the review, examples of good and bad experience were highlighted. Whilst recognising the parameters within which HMRC works, balancing competing priorities and policy objectives, **key proposals 7 and 8** will ensure these positive experiences become best practice and the norm.

3.25 Consultation with business during this review and in the wider context has emphasised the need to establish more common ground in what constitutes unacceptable tax planning and behaviours. More needs to be done to achieve this. By business and HMRC working more collaboratively to deliver the proposals set out in this report a better understanding of respective perspectives should begin to emerge.

3.26 In particular, it is envisaged that the Advisory Board, through a focus on managing risk, could provide direction to the development of a framework and principles that, over time, help achieve a common understanding of what might constitute responsible behaviour.

3.27 The development, through informal consultation with business, of Tax in the Boardroom Guidance⁶ by HMRC is generally regarded as a step in the right direction in providing greater clarity of HMRC’s perspective in relation to good corporate governance in respect of tax.

⁶ Tax in The Boardroom is available at www.hmrc.gov.uk/lbo/tax-in-the-boardroom.htm

3.28 In the longer term, HMRC would hope to see businesses' tax policies evolving to follow the principles in the example below, with this becoming the norm rather than the exception.

Example

“... objective ... minimising the tax burden ... in a manner consistent with commercial objectives, legal obligations and ethical standards. Tax planning ... is perfectly acceptable provided it is consistent with the laws of the jurisdiction concerned and has regard to the intention of the legislator as well as the strict letter of the law. Artificial transactions whose sole purpose is to reduce tax should not be undertaken, particularly those that have no economic effect other than the tax saving ... relationships with the tax authorities must be considered.”

Working together to build a more professional relationship

3.29 There are plenty of examples where individual businesses and HMRC have good relationships and an open, transparent dialogue reflecting the progress made since the 2001 Review. Ensuring that such transparent dialogue becomes the norm requires a greater commitment from HMRC, from business and where appropriate their agents and intermediaries.

3.30 The delivery of the key proposals of this report will help to generate changes in attitudes and behaviours and to increase mutual trust. To facilitate this, a better understanding is needed of how tax fits within the wider business context, how decisions are made and the relevance of corporate governance.

3.31 The role business can play in assisting HMRC achieve this understanding, by offering their time and sharing experience and best practice, cannot be underestimated. HMRC acknowledges and welcomes the significant investment of time by many in the private sector who already give their time to contribute to consultative committees and working groups and HMRC training events.

3.32 Chapter 4 outlines HMRC proposals to develop a coherent programme of working with business to ensure a consistent approach, an effective use of time and avoid certain individuals being disproportionately 'burdened'. Assessment of progress over time will be essential to ensure that the issues raised are addressed effectively.

Outcome

4.1 Based on the findings of the review, the desired outcome is an effective tax administration which is summed up as being:

A tax administration that is attuned to today's global economy:

- efficiently and effectively collecting tax revenues
- providing appropriate protection of tax revenues
- providing consistently high standards of service and experiences
- delivering a speedy resolution of issues
- providing an early route to certainty
- playing a leading role internationally
- continually evolving and improving
- anticipating and adapting to changes in the business and tax environment

All of the above will contribute to an environment in which business can flourish

Improved relationship

4.2 The proposals below will deliver an improved relationship between large business and HMRC based on:

A culture which supports a mindset and behaviours that are conducive to the efficient and effective resolution of issues based on highest standards of professional conduct and greater mutual respect and trust.

Consultation and dialogue which provides a framework for the development and implementation of a more effective, competitive and predictable tax system.

An operational focus which provides greater clarity, certainty and reduced administrative burdens for business and enables HMRC to meet its obligations in an efficient and cost-effective way.

4.3 HMRC is committed to providing staff with the training, development and support required to equip and empower them to address the challenges and deliver the proposals.

Proposals

4.4 The proposals address the core themes highlighted by business during the review—certainty, efficient risk based approach to dealing with tax affairs, speedy resolution of issues and the need for clarity.

4.5 Further detail is provided below on each of the key proposals set out in the Executive Summary, as well as details of supplementary proposals which will support delivery of the outcome business wants.

Certainty

Businesses will obtain earlier certainty about the tax treatment of transactions. It will be easier and quicker to get HMRC's view so businesses are able to avoid unintended consequences of genuine business transactions. This will be delivered by:

Proposal 1 4.6 The introduction of advanced rulings to give business certainty about the tax consequences of significant investments and corporate reorganisations. From Pre-Budget Report 2007, HMRC will provide binding rulings across all relevant taxes to those that provide clear plans for investment, reconstructions and reorganisation including proposed legal structures and financing. HMRC will consult with business to clarify the scope of the rulings system including what is considered as significant and the information businesses would be expected to provide. (Key Proposal 1, Executive Summary)

Proposal 2 4.7 The swift provision, as normal business practice, of HMRC's view of the tax consequences of genuine significant commercial issues whenever there is uncertainty. By no later than Budget 2008 businesses who seek HMRC's view on the tax treatment of transactions, either pre-transaction or post-transaction but pre-filing, will receive a binding view within 28 days of the request as the norm on the basis they make full and transparent disclosure of the supporting facts and commercial intent. HMRC will revise the scope of the COP10 process, setting out clear parameters and how this will be applied consistently. HMRC will consult further with business to develop the revised process. (Key Proposal 2, Executive Summary)

Proposal 3 4.8 By Budget 2007, HMRC will publish in one place on the HMRC website, details of the various statutory rulings and clearances available to business including relevant contacts. Business will then have easy access to all the information required to understand the scope of the clearances across the various taxes, the requirements and time-limits for each and the point of contact for enquiries.

Efficient risk based approach

Businesses will benefit from a more cost effective use of resources and efficient resolution of issues through the implementation of an audit approach which is focused on key risks. To underpin this, HMRC will develop, in conjunction with business a more sophisticated risk assessment framework. This will be delivered by:

Proposal 4 4.9 The implementation, by 31 December 2007 of an approach to enquiries which concentrates on risk areas so that resources are focused on resolving contentious issues more efficiently and quickly than is currently the case. HMRC will publish details of what this approach will mean for low risk businesses by 31 March 2007. As a result, for example, a low risk business might expect to receive a risk-based enquiry only every three years, subject to a review of specific high risk issues as necessary. Higher risk businesses will also benefit as the process of getting to the heart of the issues and reaching conclusion will be quicker. (Key Proposal 3, Executive Summary).

- (a) HMRC will work with business to develop an enhanced risk assessment framework. This enhanced framework will be capable of taking into account how a corporate assesses and manages its risks and the relative weighting of risks across the taxes. This will improve the way HMRC identifies risks for review and business' understanding of how HMRC has reached their conclusions. HMRC will publish details of the framework at the time of Budget 2007. A joint working group with the private sector has been set up and their recommendations will inform the development of the framework.
- (b) By 31 December 2007 HMRC will have completed risk reviews with all LBS businesses. These reviews will be based on the enhanced framework. They will be used as the basis for agreeing risk areas where interventions are required, as well as the nature of the interventions. Corporates will have the opportunity to discuss their risk management processes, systems and corporate governance so that the business view can be fully taken into account in the assessment of the risk.

Proposal 5 4.10 The introduction, by 31 December 2007 of a more efficient approach to undertaking transfer pricing enquiries. A greater focus on high risk businesses and transactions will mean that enquiries for businesses with less complex affairs will be resolved more quickly. Those with complex transfer pricing issues will also benefit from swifter resolution than is currently the case and will also have more certainty as to how and when matters will be concluded. (Key Proposal 4, Executive Summary).

- (a) The norm will be that transfer pricing enquiries will be completed within 18 months of commencement, as opposed to the 36 months now taken on average, where businesses promptly provide the information needed for an enquiry. HMRC will publish further guidance as to what information is required by Pre-Budget Report 2007. Business will be consulted in the development of the requirements.
- (b) Only those cases which are both particularly complex and high risk will continue beyond 18 months. In such cases, where businesses make full and transparent disclosure of supporting facts and commercial intent and promptly provide information, it is expected that these will take no longer than 3 years from filing the return to resolution or the point where preparation for litigation starts. Business and HMRC should agree the issues to be resolved, a clear action plan and timetable for resolution. These cases will be subject to regular senior level review within HMRC to ensure progression in accordance with the timetable and to address issues.

4.11 A team has been set up with responsibility for developing, in partnership with business, the guidance which will form part of the new approach and have started consultation with the private sector. This consultation will be expanded so that the development of the approach is informed by the practical experience of business.

Proposal 6 4.12 The introduction of a new risk-based approach for undertaking employer compliance reviews. In the past, businesses have found that these reviews are not always appropriately focused and the time and costs to resolve issues is disproportionate to the tax at stake. The new approach would be forward looking and based on system and control testing. Business will benefit from a more focused, efficient approach with a swifter resolution of issues and a greater focus on ensuring business processes are robust for the future. Proposals for a systems based approach, focusing on risk, will be developed taking into account the views of business and will be reported at the time of Budget 2007.

Speedy resolution of issues

Issues will be resolved more quickly and efficiently. The costs for business and the time they spend in resolving issues with HMRC will be reduced. This will be delivered by:

Proposal 7 4.13 HMRC will make it clear to businesses how contentious issues will be resolved in a more efficient, less confrontational way and ensuring the mechanisms for dispute resolution work effectively. (Key Proposal 5, Executive Summary).

- (a) To address the concerns and misunderstandings expressed by business during the consultation, by 31 December 2006, HMRC will publish further details about the roles and responsibilities of LBS CRMs and Sector Leaders. This will include setting out the principles of the HMRC settlement and litigation approach and how CRMs will apply these principles in practice. This will give business greater clarity around the authority of the CRM to make decisions that will resolve issues.
- (b) The CRM will normally have primary responsibility and accountability for resolving issues with individual businesses and it is to be expected that the majority of issues will be resolved at this level. On occasion issues will be such that escalation beyond the CRM is appropriate but it is to be expected that this would be the exception rather than the norm. In those cases the escalation route will be from the CRM to the Sector Leader, then to the Director of LBS and ultimately to the HMRC Director General responsible for business.

4.14 The expectation is that a greater focus on risk and issue resolution as normal business practice would mean most issues can be resolved without referral to board level. However, the HMRC Director General responsible for business will take issues to the HMRC Board as necessary. Further details of the escalation route will be published on the HMRC website by 31 December 2006.

Proposal 8 4.15 Senior operational management taking responsibility for the active management and resolution of tax enquiries that remain unsettled after 18 months. During 2007 HMRC will work with businesses to develop a framework for clear action plans, with timescales, so it is clear how outstanding issues will be resolved. Targets and progress against them will be published on the HMRC website. This approach, building on the progress already being made within LBS, will ensure open issues are resolved more rapidly and give businesses a clear understanding of the approach and timescale for resolution. (Key Proposal 6, Executive Summary).

Clarity through effective consultation

Businesses will benefit from earlier clarity and reduced complexity as the development of the administrative framework is based on effective consultation so that the business perspective informs decisions. This will be delivered by:

Proposal 9 4.16 Ongoing dialogue and consultation to ensure the business perspective is taken into account in all significant aspects of HMRC's work that have a direct effect on business. This will avoid surprises and unintended consequences, contributing to a more certain administrative framework within which business can thrive. The overriding presumption

will be that the views of business will be obtained prior to the implementation of significant new, or changed, legislation or administrative processes as a matter of normal practice. (Key Proposal 7, Executive Summary).

- (a) A consistent approach to informal and formal consultation with clear accountabilities and parameters will ensure meaningful discussions take place before ideas are crystallised and that objectives are understood at the outset. The approach will allow for small scale informal discussions so that sensitive issues can also be informed by the business perspective. HMRC will work with business to develop and implement a workable approach in early 2007 and publish the parameters of the consultation framework.
- (b) The Regulatory Impact Assessment and the controls and accountabilities around this will be tightened so that this becomes a more robust challenge to ensure the business perspective has been adequately considered and taken account of by the responsible HMRC officer.
- (c) Improving the communication and accountabilities around the various consultation forums with large business. A streamlined structure with clear reporting lines and escalation routes will be introduced. All forums will have clear remits and terms of reference. The structure will be published on the HMRC website by 31 December 2006 and all agenda and meetings notes will be published. Issues will be addressed in only one forum with clear accountability for resolution. The forums will be ultimately accountable to the HMRC Director General for business.
- (d) Refreshing the mandate and membership of the Business Tax Forum (BTF), by 31 December 2006, so that it has responsibility for resolving high priority issues escalated to it on an exception basis from other forums. The BTF will also have a remit to work with the Advisory Board in monitoring and providing direction to the implementation of the proposals of this review. The BTF Advisers sub-group will continue in its current form.

Proposal 10 4.17 The introduction of a programme, agreed with business representatives, to revise and update the various forms of guidance of relevance to large business. Details of the programme and timetable will be published at Budget 2007. Outdated guidance will be updated, in collaboration with business, to reflect changes in legislation and evolving commercial circumstances and to include relevant practical examples which illustrate HMRC's view. (Key Proposal 8, Executive Summary).

Proposal 11 4.18 From Budget 2008 all guidance on new legislation will be developed in conjunction with business and issued alongside the legislation so that business can see how this will impact on them.

Proposal 12 4.19 HMRC working with HMT, business and advisers to develop a better shared understanding of the contribution of the UK tax system to the overall attractiveness of the UK as a place to do business. Consideration will be given to the potential future engagement with independent bodies and research programmes, such as the Oxford University Centre for Business Tax.

Working together to build a more professional relationship

Business will consistently engage with a professional, focused and (where appropriate) challenging HMRC equipped with the skills, competencies and commercial understanding to deliver all of the proposals from this review. Business will benefit from a demonstrably better experience in their relationship with HMRC. This will be delivered by:

Proposal 13 4.20 Equipping HMRC staff with the range of skills and competencies needed to deal confidently with complex matters of relevance to large businesses and empowering them to do their job.

- (a) Re-invigorating HMRC's technical training programme during 2007 and supporting this with a programme to enhance competencies in areas such as relationship management, communication skills, decision making, teamwork and knowledge sharing. This will include a greater emphasis on joint training with the private sector.
- (b) Working with the private sector to develop during 2007 a programme of joint training, seminars, secondments and mentoring to strengthen the commercial understanding of HMRC staff. This will seek to embed not just deeper knowledge but also a real understanding of the drivers behind decisions on how to invest and develop a business in a global economic environment.

Proposal 14 4.21 Consulting with large business during 2007 to develop structured ways of getting thorough, honest feedback on their relationship with HMRC and how it could be improved. This will include determining how the feedback will be used to improve performance and change behaviours. Assessing how this can become a two-way process so that HMRC is also able to feedback experiences to business will also be considered.

Delivery of proposals

4.22 Delivering on the proposals is vital. Some will be for short term delivery and others longer term. To maintain momentum and retain an external challenge during the implementation phase an Advisory Board will be established.

4.23 The Advisory Board will have responsibility and accountability for reviewing, assessing and reporting progress towards the delivery of the proposals. The terms of reference will be agreed and published following the first meeting of the Advisory Board, which will take place in advance of Budget 2007.

4.24 The Advisory Board will include members of the HMRC Board, senior representatives of business and HMT, and will annually report progress against implementation commenting upon the impact on competitiveness over time. It will also reassess the terms of reference to ensure the initiatives are refreshed so that they remain relevant over time as priorities change.

4.25 Private sector members of this board will have an important role providing a steer on emerging issues, business drivers and stresses which may have a future impact on the tax administration and business so that HMRC continually evolves.

4.26 An outline delivery plan, to which HMRC can be held to account, setting out the targets, measures and timeframes is being developed. This will be discussed at the first meeting of the Advisory Board and published on the HMRC website.

4.27 The level of commitment and degree of change in attitude and approach required from both business and HMRC cannot be underestimated. A collaborative approach where each party is held to account is needed to deliver the proposals and the new relationship.

4.28 It is recognised that on occasion problems will arise. At times either business or HMRC may fail to live up to their 'side of the bargain'. In such cases the Advisory Board will have a role in addressing problematic issues which arise that are of wide application with the potential to degrade the process and erode the gains in competitiveness that are being sought.

Objective

Following the establishment of HM Revenue & Customs (HMRC), to build on the implementation of the Inland Revenue's Review of Links with Business and identify opportunities to further improve the extent to which the views and experiences of large business are taken into account in the administration of the tax system.

Consultative Committee

A consultative committee, chaired by Sir David Varney, will steer the work of this review. The committee will be made up of representatives of business, HMRC and HM Treasury.

Scope

The review will focus on outcomes designed to:

- provide effective channels of communication to ensure the needs of business are understood by HMRC and are taken into account in administering the tax system and that business understands what HMRC is seeking to achieve;
- develop solutions which improve administrative and operational processes that cause practical difficulties for large businesses;
- introduce processes which ensure that HMRC's work in respect of policy maintenance and implementation is better informed by the perspective of business, and
- ensure the Business Tax Forum remains an effective vehicle for the discussion of operational issues relating to the administration the tax system.

Reporting

The outcomes of the review will be reported to the Chancellor prior to the 2006 Pre-Budget Report.

Douglas Flint CBE	Group Finance Director, HSBC Holdings plc
Ken Hanna	Chief Financial Officer, Cadbury Schweppes plc
Richard Laphorne	Chairman, Cable & Wireless plc
Ken Lever	Finance Director, Tomkins plc
Rudy Markham	Chief Financial Officer, Unilever plc
Jon Symonds	Chief Financial Officer, AstraZeneca plc
Sir David Varney ⁷	Chancellor's Senior Adviser on Service Transformation, HM Treasury— Committee Chair
Dave Hartnett CB	Director General, Compliance Strategy & Business, HMRC
John Connors	Director, Large Business & Employers, Business Customer Unit, HMRC
Julie Hughff ⁸	Assistant Director, Large Business and Employers, Business Customer Unit, HMRC
David Garlick CBE	Director, Large Business Service, HMRC
Melanie Dawes ⁹	Director, Large Business Service, HMRC
Edward Troup	Director, Business and Indirect Taxes, HM Treasury

⁷ Chairman of HMRC until 31 August 2006.

⁸ Private Sector secondee.

⁹ From 11 September 2006, as successor to David Garlick from 1 January 2007.

