

TAX LAW REWRITE CONSULTATIVE COMMITTEE

MINUTES OF THE COMMITTEE MEETING HELD ON 2 JUNE

Note by the Secretary

I attach the minutes of the meeting of the Consultative Committee, held on 2 June 2009.

JACKIE BARTLETT
Secretary to the Consultative Committee

MINUTES OF THE MEETING OF THE CONSULTATIVE COMMITTEE HELD ON 2 JUNE 2009 IN THE WILLIAM PITT ROOM, SOMERSET HOUSE, LONDON

Present:

Robina Dyall (Chairman)
Colin Campbell
Adam Broke
Keith Gordon
Mary Fraser
Malcolm Gammie

Secretary: Jackie Bartlett

In attendance:

John Sellers
Brian Jones
Jenny Manson
David Edney
Diane McKenzie-Boyle
Lucy Baines
Douglas Ramsay

Apologies and welcome

1. Apologies had been received from Terry Hopes, Francis Sandison and Russell Chaplin.
2. The Director explained that Terry Hopes was unable to attend the meeting but welcomed Peter Bickley, from ICAEW who attended in his place.
3. The Director said that Bob McNerney had sent his apologies and had indicated his intention to resign from the Committee. The Director expressed thanks from the Project on his contribution to the work and said that efforts would be made to identify another representative from the FSB.
4. The Director congratulated Keith Gordon on behalf of the project on being voted CTA of the year.

Item 1: Minutes of the meeting held on 24 February

5. The minutes of the meeting on 24 February had already been circulated. There were no comments and the minutes were agreed as a true record.

Item 2: Matters arising

6. There were none.

Item 3: Bills 6 & 7: Paper CC/SC (09) 06: Co-operative housing associations and self-build societies

7. The project explained that this paper presented draft clauses which rewrite sections 488 and 489 of ICTA. The sections provided rules for housing associations and self-build societies and the approvals processes that underpinned those rules.

8. The project proposed two changes. One (Change 683) was purely administrative. The other (Change 680) amended the references to year of assessment in relation to co-operative housing associations and self-build societies. These bodies were within the charge to corporation tax. In the source legislation, their claims to exemption in respect of rents receivable from tenants were in terms of tax years. The project said that the rationale for retaining the tax year as the basis of the claim and relief was significantly reduced and the change standardised the claim and relief on the basis of an accounting period. Although the change was in principle and in practice adverse to some taxpayers and favourable to others, the numbers affected and the amounts involved were likely to be very small.
9. The ICAEW had commented on this and stated that they were happy with the proposed change.
10. The Committee commented that Change 680 was sensible and demonstrated administrative consistency. They asked if the project were aware of any other rogue or stray references to 'tax years' in the legislation. The project thought not.

Item 4: Paper CC/SC (09) 07– Charitable donations

11. The project explained that this paper presented revised draft clauses. The clauses, which rewrite sections 338 to 339 and 587B to 587C of ICTA, were originally exposed in Committee Paper CC (08) 14 in April 2008 and became Part 6 of draft Bill 6 published in March 2009.
12. It was suggested, both in consultation and by the Committees, that as the clauses rewrite provisions dealing with donations by companies to charities that the project should look again at the use of the term "charges on income" and see if it could be dispensed with. This would be in line with the approach taken in ITA 2007 which removed the concept of charges on income for income tax purposes. The rewritten corporation tax provisions would adopt a more transparent term such as "charitable donations relief".
13. The project had checked the position carefully, given the long history attached to the use of this term, and this had taken some time. It had concluded that it was possible to move away from the term safely and the revised clauses reflected this.
14. In addition to the drafting changes arising from the "re-labelling", there had been some alterations to the clauses published in the draft Bill.
15. The Committee commented that they were pleased to see this change.

Item 5: Paper CC/SC (09) 09 – Investment trusts

16. The paper presented draft clauses which rewrite section 842 of ICTA. This section provided the rules covering the approval of a company as an investment trust by the Commissioners for HMRC.
17. The project proposed one change in the law, which was a taxpayer favourable change bringing the law into line with well established and accepted practice.
18. The Committee were content with this change.

Item 6: Paper CC/SC (09) 09 – Industrial and provident societies and co-operatives

19. The project explained that this paper presented draft legislation which rewrites and relocates into the Taxation of Chargeable Gains Act 1992 the provisions in section 486(8), (9) and (12) of ICTA which are about corporation tax on chargeable gains.
20. This material was being relocated into TCGA as it fitted more naturally into the structure of TCGA than into the structure of Bill 6. The remainder of section 486 was rewritten in clauses 1004, 1006 and 1007 of Bill 6. Accordingly Bill 6 would repeal section 486. The project hoped that this would represent a more logical layout of the provisions for users.
21. The Committee were content with this approach.

Item 7: Paper CC/SC (09) 11 – Bill 7: Expansion of scope to deal with consequential amendments and repeals missed by previous rewrite Acts

22. The project said that this paper provided information on the approach to tidying the legislative landscape.
23. The Committee asked about the extent of the repeals and the project said that these would be shown in the pre-Introduction print of the Bill. There would also be a covering paper and a response document explaining the changes and these would be presented to the Committees. The project said that it would attempt to indicate the changes between the versions of the Bill and added that that in late August or early September it would publish response documents on the papers published after the draft Bills.

Item 8: Paper CC/SC (09) 12 – Alternative finance arrangements

24. The project explained that this paper dealt with the IT and CGT aspects of alternative finance. It also anticipated an amendment to the alternative finance legislation in the Finance Bill 2009.
25. In considering the structure of the rewritten legislation the project looked again at the regulatory power rewritten for Corporation Tax in section 521 of CTA 2009. The difficulty in rewriting this power separately for the different taxes, while ensuring that it continued to operate in the same way, led to the decision to include it as a single stand alone clause in Bill 7, with section 521 of CTA 2009 being repealed.
26. The Committee approved the consistency achieved in this way. They also pointed out some typographical errors in clauses 564R and 1(a).
27. The Committee questioned the use of the word 'relocates' in clause 1. The project said that no particular weight attached to the use of that term. It had been used because the intention was to place the clause in the Part of Bill 7 which was designed to relocate provisions of tax legislation as part of the landscape tidying exercise..
28. The project clarified the timing for publication of pre-introduction prints of Bills 6 and 7. The Committee asked the project if there were any plans in the event of an early general election. The project said that there were not, but in such an event the Committees would be kept closely informed.

Item 9 Paper CC/SC (09) 10 – Future of the project

29. The Director said that early in the year a letter had been sent to major law and accountancy firms and some representative bodies. The letter asked two questions: should the project be brought to a close after the current work was completed and, if not, were there any suggestions for 'targeted' areas of legislation that might benefit from rewriting? It was made clear that the rewrite of whole areas of the tax code had been ruled out by Ministers.
30. The balance of opinion from the respondents was in favour of closing down the project and there was no clear consensus on targeted rewrite areas. The Director said that this was disappointing but not unexpected - the hands-on support from the tax community had been in decline for some time.
31. This outcome would be discussed by the Steering Committee at their next meeting.
32. The Committee commented that the ICAEW remained of the view that the project should continue on a limited basis and felt that simply bringing the project to an end would involve risks. First, the interests of the tax system would no longer have a champion within HMRC. Second, the momentum behind improving drafting standards would be lost. Third, ending the project could impair the chances of policy simplification.
33. The Committee also acknowledged that the project had already achieved a significant measure of simplification. It was suggested that had there been some consensus on targeted material to be rewritten, this might have attracted support.
34. The Committee commented that the project's approach to consultation had been a particular success and had established very helpful links with the accountancy and legal professions.
35. The Committee asked about the possibility of a general election being called before Bills 6 and 7 had completed the parliamentary process. The project confirmed that this could cause problems, particularly if the Bills were delayed and another Finance Act were to be passed before a new legislative slot could be secured.

Item 10 – Any other business

36. There was none.
37. The next meeting is on Tuesday 29th September at 2:30. The Secretary will inform members of the venue nearer the time.

JACKIE BARTLETT
Secretary to the Consultative Committee