

**TAX LAW REWRITE CONSULTATIVE COMMITTEE**

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**MINUTES OF THE COMMITTEE MEETING HELD ON 15 MAY**

Note by the Secretary

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I attach the minutes of the meeting of the Consultative Committee, held on 15 May 2007.

**JACKIE BARTLETT**  
**Secretary to the Consultative Committee**

**MINUTES OF THE MEETING OF THE CONSULTATIVE COMMITTEE HELD ON 15 MAY 2007 IN THE JAMES PENNETHORNE ROOM, SOMERSET HOUSE, STRAND, LONDON**

Present:  
Mark Nellthorp (Chairman)  
Adam Broke  
Russell Chaplin  
Keith Gordon  
Terry Hopes  
Bob McInerney

Mervyn Woods

Secretary: Jackie Bartlett

In attendance:  
John Sellers  
Lucy Baines  
Richard Marlin  
Maggie Leates  
Steve Batterby  
Brian Jones  
Adrian Wilsdon  
Richard Spitz  
Douglas Ramsay  
Jenny Manson

**Apologies and welcome**

1. Apologies had been received from Francis Sandison, Colin Campbell, David Williams and Malcolm Gammie
2. The Chairman welcomed Bob McInerney to the Committee. He replaces Simon Sweetman as representative of the Federation of Small Businesses.
3. The Chairman told the meeting that Wreford Voge from the CIOT was not able to attend due to illness. His place will be taken temporarily by Lakshmi Narain Chairman of the CIOT Corporate Tax sub committee, but he was unable to attend on this occasion.
4. The Chairman also introduced John Sellers, Head Drafter for the project, who replaces Hayley Rogers and joins from the Office of Parliamentary Counsel (OPC).
5. The Chairman announced some changes in personnel within the project.
  - Jackie Bartlett joins the project from the disbanded NMA team. Jackie replaces Basil Rajamanie as Secretary to the Committee. Basil will be joining the Better Regulation Unit and the Chairman thanked Basil for his hard work. The Committee also expressed their appreciation for Basil's valuable work during his time with the project.
  - Richard Marlin is leaving the project to return to OPC and will be replaced by Philip Ember.
  - Matthew Sawyer and Richard Davey will be leaving to join the Powers Review team.

**Item 1: Minutes of the meeting held on 27 February 2007**

6. The minutes of the meeting on 27 February had already been circulated. They were agreed.

## **Item 2: Matters arising**

7. There were none.

## **Item 3: Income Tax Act: Paper CC/SC (07) 14: Correction of errors using Sections 1028 and 1029**

8. The project explained that they were proposing to make some additional consequential amendments relating to the Enterprise Investment Scheme (EIS) and Community Investment Tax Relief (CITR) provisions. While they made no difference to the effect of the law, the project believed that these amendments would be helpful to anyone reading the legislation.
9. The project had also identified two small unconnected drafting errors. The first concerned an inadvertent change in the law in s620 (1) (c) of the Income Tax Act (ITA) which required correction. The second was a minor transcription error. Paragraph 75(2) of Schedule 3 to ITA substitutes a revised s294 for shares issued before 17 March 2004. The error is in subsection (4) of the substituted section.
10. The project was seeking the Committee's approval to exercise the powers in sections 1028 and 1029 to make the changes. To remove uncertainty, the project proposed that all the amendments should take effect from 6 April 2007. To inform future work, the project would also welcome the Committee's views on judgement about the need for and helpfulness of the proposed amendments was right. They explained that it would be helpful to know if the work on amendments was being pitched at the correct level.
11. During discussions the following points were made;
  - The amendments will be made by Statutory Order.
  - Explanatory notes will be appended to make the track of the corrections clear.
12. The Committee considered the request and indicated that they were content with the project's proposal to exercise the powers in clauses 1028 and 1029 to correct the errors as proposed .The project thanked the Committee.

## **Item 4: Paper CC/SC (07) 15 – Bill 5: Currency**

13. Before introducing this paper, the project referred to paper CC/SC (07) 08 which was considered at the February meeting. Annex 1 to that paper stated that clauses on AUTs, OIECs, purchased life annuities and contaminated land were scheduled to be published in time for this meeting. The project explained that these clauses had not materialised because: those on AUTs and OIECs had been superseded by secondary legislation; clauses in Finance Bill 2007 impact on those concerning purchased life annuities; and the Government had recently issued a consultation paper on contaminated land provisions. The project added that the Committee had commented in the past that it is unhelpful for the project to publish draft clauses for publication when there is consultation at the same time which may result in significant changes to provisions.

14. The project explained that paper CC/SC (07) 15 presents draft clauses that set out the basic rule regarding the currency in which companies calculate and express their income and chargeable gains. The rule applies to all companies but the subsequent special rules which apply in certain cases are of particular importance to multinational companies. The clauses are intended to be convergent with generally accepted accounting practice.
15. The project said that they would welcome the Committee's comments on the draft clauses.
16. In discussion the following main points were made:
  - Section 1(2) (c) does not mention Northern Ireland. The project will consider this.
  - Section 2(1) refers to income and chargeable gains" rather than "profits", which is used in the source legislation, but this term is not applied in other circumstances where it might be helpful. The project will look into this.

**Item 5: Paper CC/SC (07) 16 – Bill 5: Relief for employee share acquisitions: SIPs, SAYE option schemes, CSOP schemes, CSOP schemes and ESOT's**

17. The project explained that the paper presents draft clauses which give relief for the cost of setting up particular types of share scheme and which give relief for the provision of shares under an approved share incentive plan. The clauses are based on sections 84A and 85A of ICTA and Schedule 4AA to ICTA.
18. The project sought the views of the Committee on the draft clauses. In particular, they drew the Committee's attention to the questions in paragraphs 17 and 19, and the associated Annex 1 Change. The change is intended to clarify and make more consistent the way in which withdrawn relief is treated. The Change removes uncertainty but is expected to have no practical effect as it is in line with current practice.
19. In discussion the following points were made:
  - The principle behind Paragraph 20 of the explanatory notes perhaps needs to be signposted so that the unwary are not trapped.
  - Are the provisions relating to expenditure on establishing a profit sharing scheme (see section 84(1)(b)) to be rewritten?
  - Paragraph 25 of the explanatory notes (second sentence) is unclear. It might be helpful if "that" was inserted after "provides".

**Item 6: Paper CC/SC (07) 17 – Bill 5: Unauthorised Unit Trusts**

20. The project explained that the paper presents draft clauses which charge to corporation tax, payments made to companies by unauthorised unit trusts. The corresponding income tax provisions are rewritten in Chapter 10 of Part 4 of ITTOIA, but the Income Tax Act 2007 amended both these provisions and section 469 of ICTA. The draft clauses take account of the changes and bring the income tax and corporation tax codes into line.
21. The Committee had no comments on this paper

### **Item 7: Paper CC/SC (07) 18 – Bill 5: Loan relationships**

22. The project explained that the paper presents draft clauses that bring into account gains and losses arising to a company from its loan relationships. Most loan relationship provisions are found in FA 1996 but it is the intention of the project that, unless there are good reasons not to, all provisions should be brought together.
23. The project sought the views of the Committee on the draft clauses. In particular they went through each of the questions set out in the explanatory notes, and on associated Changes intended for inclusion in Annex 1.
24. In discussion the following main points were made:
  - **Change 1** – The Committee asked if the project was consulting with representatives of relevant societies. The project replied that they had not yet done so.
  - **Change 2** – The Committee questioned whether “person” could be intended to relate to participators of close companies. The project explained that the source legislation originally referred to participators, which is probably why “person” appears in it, but references to participators had subsequently been repealed.
  - **Change 3** - The Committee suggested that ‘in a case where’ should replace ‘for which’ in the first paragraph.
  - The Committee commented that section 144(1) was particularly complex.
  - The Committee suggested that it might be helpful to readers to have a table wherein the changes, questions, clauses and relevant explanatory note paragraphs were brought together. The project said that they could do this where it was appropriate.
  - The Committee asked if the project had consulted with representatives of the finance industry. The project said that they had not, but had worked closely with subject specialists who were involved with the financial sector.
  - The Committee suggested that the British Bankers’ Association and the members of the loan relationships working party should be made aware of the draft clauses.
25. The project thanked the Committee for all the helpful comments.

### **Item 8: Paper CC/SC (07) 19 – Administrative and insurance provisions**

26. The project explained that this paper outlined its proposals for reviewing and possibly rewriting some administration and insurance provisions following the announcement that the Government will not now proceed with work on a New Management Act. The concern is that, unless some action is taken, provisions will be left isolated where they are and this may not be helpful to users. The project emphasised that it was their intention to deal with the provisions in a pragmatic and flexible way, with a view to being as helpful as possible to users. They will also take the opportunity to review any other unintended ‘orphans’ of the rewrite process.

27. The project sought the views of the Committee on their general approach as outlined in the paper.
28. In discussion the following main points were made:
  - The project has identified most of the material to be considered.
  - No decisions have been made about how the work might best be done but it is intended that the legislation will follow the same time scale as Bills 5 and 6.
  - The Committee would like to see a working draft of the proposals and suggested that a stand alone 'housekeeping' Bill might be the best way to avoid confusion.
  - The Committee agreed that work in this direction was essential and should proceed.
  - The project will produce a list of provisions before the next meeting.
29. The project thanked the Committee for their helpful comments on the various papers.

**Item 9 – Any other business**

30. The Committee referred to a Powers Review measure in Finance Bill 07 which refers to a right of appeal to a tribunal in circumstances in which judicial review is not available. They felt that this went against the spirit of the TLR project as it is unhelpful to the user and contains unrealistic expectations. The project said that this comment would be passed on.
31. The Chairman drew the Committee's attention to the publication of the 2007-2008 plans and confirmed that members had each received a copy. The Committee confirmed that they would like hard copies of the plan to continue to be produced as it was an effective way of marketing the project.
32. The next meeting of the Consultative Committee will take place on 3 July 07 at 2.30 pm in the James Pennethorne Room, Somerset House.

**JACKIE BARTLETT**  
**Secretary to the Consultative Committee**