



THE CHARTERED INSTITUTE  
OF  
TAXATION

# Income Tax Self Assessment Enquiries

A collaborative research study  
Chartered Institute of Taxation and Inland Revenue

October 2000

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## **Acknowledgements**

This collaborative Inland Revenue (IR) and Chartered Institute of Taxation (CIOT) study is an innovative development and we are grateful to those members of the CIOT Technical Committee and IR Steering group who have supported it from its inception in December 1999, in particular John Gribbon, David Williams, Rob Golding and Nigel Eastaway.

We are enormously grateful to all those members of the Chartered Institute of Taxation, Association of Taxation Technicians, members of Inland Revenue, other agents and taxpayers who have taken the time to contribute to this study, through completion of a questionnaire, face to face and telephone discussions. We have been overwhelmed by the interest in the study. In addition, we are grateful to Jayne Howson and Philippa Staples for the timely completion of the data analysis and presentation of the findings.

This study is a clear demonstration of the commitment to the 'Working Together' initiative. The results from the study show where there is agreement as well as where further work needs to be done. We trust that these findings will aid the development of further closer, constructive working between the Inland Revenue and Tax Advisers.

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## **Foreword**

We are delighted that the Chartered Institute of Taxation and the Inland Revenue have been able to work together in carrying out this detailed research study into Income Tax Self Assessment (ITSA) enquiries.

The study has involved an extensive discussion between the research team, led by Ann Hansford for the Chartered Institute of Taxation and Barry Jefferies for the Inland Revenue, and colleagues across both organisations. This review of ITSA enquiries has been conducted within a very constructive forum. We are pleased that there have been frank and fair discussions at all stages of the research process and that no areas have been omitted from this collaborative report.

We strongly believe that there should be a continual dialogue between representatives of the professional bodies and their counterparts in the Inland Revenue to identify areas where improvements are needed to make the UK tax system run more smoothly and to discuss how best those improvements can be achieved. The formal 'Working Together' initiative between the Inland Revenue and the professional bodies - Chartered Institute of Taxation, Institute of Chartered Accountant in England and Wales (ICAEW), Association of Taxation Technicians (ATT), Association of Chartered Certified Accountants (ACCA) and Institute of Chartered Accountants in Scotland (ICAS), has established a forum for identifying difficulties and ensuring that they receive attention.

The findings from this study have clarified the aspects of enquiries under ITSA which are causing difficulty and the report sets out the options for change that have been identified during the study. We are confident that this report will help to focus the dialogue that the Chartered Institute of Taxation and other professional bodies have with the Inland Revenue.

**Dave Hartnett**     *Director General (Policy and Technical), Inland Revenue*

**Richard Mannion**     *President of the Chartered Institute of Taxation*

## **Executive Summary**

This report sets out the findings from a collaborative Inland Revenue and Chartered Institute of Taxation research study that considered Income Tax Self Assessment enquiries from the perspectives of both Tax Advisers and Inland Revenue (IR) staff.

There were three main stages to the study. The preliminary study established the issues for IR staff and Tax Advisers. The main stage of the study investigated these issues in detail through a large scale questionnaire survey for CIOT/ATT members, IR staff, other Tax Advisers and taxpayers. There was a third follow up stage that reviewed the issues raised during the questionnaire survey in greater detail. This later stage enabled discussion of options for change to be considered in depth.

The results are reported in six main sections, 3-8, with conclusions in section 9. Each of the sections 3-8 sets out the findings from the questionnaire survey and the comments relating to the issues raised. Each concludes with a review of the options for change considered in the follow up discussions with groups of IR staff and telephone interviews with CIOT/ATT members. Briefly the findings can be summarised as:

### **An overview of ITSA enquiries (section 3)**

This section covers the resolution of minor queries without the formality of a Section 9A TMA enquiry, the distinction between ‘giving of notice’ and ‘date of issue’ within the legislation and enquiries into Capital Gains Tax items. There was strong support for the opportunity to resolve minor issues without a formal Section 9A enquiry and IR staff were more in favour of a change from ‘giving of notice’ to ‘date of issue’ than were the Tax Advisers.

There were three issues raised for enquiries concerning CGT items but the one that provoked the most interest was whether enquiries relating to CGT items should be the subject of a separate enquiry power. The questionnaire survey showed that over 60% of CIOT/ATT members and other agents were in favour of a separate CGT enquiry power, as compared to 47% of IR staff.

### **Opening the enquiry (section 4)**

This section covered issues relating to opening letters, codes of practice and interviews in the opening stages of an enquiry. Over 70% agreed that the opening request for information should be copied to the taxpayer in every case. Approximately 70% of IR staff were content with the opening letters and with the codes of practice as compared to a significantly lower figure of Tax Advisers. There were also diverse views on the benefits, or otherwise, of an interview in the opening stages of an enquiry and these are considered in detail in this section.

## **Executive Summary (cont'd)**

### **The enquiry process (section 5)**

This section considers three main areas, Faster Working, litigation of a particular point whilst the enquiry is in progress and requests for private bank account details. 70% of IR staff agreed that 'Faster Working' has proved ineffective, as compared to 42% and 60% of CIOT/ATT members and other agents, respectively and there was very little support for the view that Faster Working had reduced the time and costs of an enquiry. Support for the opportunity to litigate a particular point whilst an enquiry is in progress was greater from Tax Advisers than from IR staff.

There are diametrically opposed views on whether private bank account details should be requested. IR staff and Tax Advisers agreed that there are situations where such details will be required. The disagreement is based on the timing and the relevance of the request.

### **Partnership enquiries (section 6)**

This section considers five main areas, computer software issues for partnerships, partnership enquiries triggering a notice to each partner, partners' responsibility for the tax liability, whether there should be a radical re-think of partnership enquiries and the administrative burden resulting from partnership enquiries under ITSA. Although this section of the questionnaire generated considerably more comments (49 pages) than any other section, it did not come up with any definitive solutions to the many problems identified.

### **Concluding the enquiry (section 7)**

This section considers four main areas, final interviews to resolve outstanding issues, collection of duty etc via statement of account rather than by contract settlement, contract settlements involving instalment arrangements and possible revision to Section 28A(3) and Section 28A(4) TMA. Overall there was general support for the continuation of contract settlements particularly for those involving instalment payments. Proposals for a revision of Section 28A were welcomed by IR staff but have yet to be considered by Tax Advisers.

### **ITSA enquiries from the viewpoint of the taxpayer (section 8)**

This section considers all aspects of an enquiry from the perspective of taxpayers, all of whom had been the subject of an ITSA enquiry. There were only 28 respondents to this simplified version of the questionnaire and so the conclusions that can be drawn from such a small sample are limited. However, the issues covered in the other sections reflect areas of concern for these taxpayers.

## Abbreviations

ATT	Association of Taxation Technicians
CG	Capital gains
CGT	Capital gains tax
CIOT	The Chartered Institute of Taxation
CTSA	Corporation Tax Self-Assessment
EH	Enquiry handbook
ICAS	Institute of Chartered Accountants in Scotland
IR	Inland Revenue
IT	Income Tax
ITSA	Income Tax Self-Assessment
LITRG	Low incomes tax reform group
OCC	Operational Consultative Committee
PBA	Private bank accounts
SA	Self Assessment
TDO	Tax District Office
TSO	Tax Service Office
TMA	Taxes Management Act 1970

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## **1 Introduction**

This study has been made possible by the efforts of senior members of the Inland Revenue (IR) and the Chartered Institute of Taxation (CIOT). The CIOT and the IR approached this study from different starting positions. Discussions at the highest level took place in December 1999 and it was decided that there was sufficient overlap in the objectives of each group to undertake a collaborative study involving the CIOT and IR.

The objectives of the IR were set out in the Press Release, dated 9<sup>th</sup> December 1999. These were:

- to carry out a review of all the processes and procedures involved in an Income Tax Self Assessment (ITSA) enquiry that impact on taxpayers or agents; consulting with interested parties from both within and outside the Revenue
- to highlight those areas that are working well and those where improvements are required, and
- to make recommendations on improvements that could be put in place.

The objectives of the CIOT were to build on the findings of the first study, *Self-Assessment: Working towards Best Practice*, issued in April 1999, and to develop the issues and concerns raised by members in that review of Self Assessment after the first year.

Working together on this innovative, collaborative study has provided an opportunity for a wide-ranging assessment of ITSA enquiries, which would have been far less effective if it had been carried out independently. Through this collaborative study there has been an opportunity to develop realistic, practical and achievable options for change.

## **2 The Research Study**

This study set out to extract a wide range of views on Income Tax Self-Assessment (ITSA) enquiries, in a structured way to ensure that the data collected could be used to provide evidence to support options for change. The research has involved a preliminary study, questionnaire survey, group discussions and telephone interviews.

### **2.1 Preliminary study**

The preliminary study for Chartered Institute of Taxation (CIOT) and Association of Taxation Technicians (ATT) members involved telephone discussions with some of those who had been involved in the first ITSA study. These discussions followed up the issues raised during the first ITSA study and in addition, there were discussions with senior members of CIOT and members of the Technical Committee who commissioned the research study. For Revenue staff there had been no similar previous work and so there was a more extensive preliminary study involving group discussions with network staff directly involved in the working of ITSA enquiries in order to seek to establish the potential problem areas. TaxAid and the Low Incomes Tax Reform Group (LITRG) were contacted in order to clarify the issues for unrepresented taxpayers.

### **2.2 Questionnaire study**

Following the preliminary study the questionnaire was prepared and piloted with members of CIOT and volunteers from the Revenue discussion groups. Articles on the research study were included in the February Tax Bulletin, the April special edition and in the internal Revenue staff magazine. The study was announced to CIOT/ATT members in a detailed article in the March 2000 edition of *Tax Adviser*. This was timed to coincide with the distribution of the questionnaire.

The finalised questionnaire for CIOT/ATT members was then sent to 750 CIOT members and 250 ATT members, with the sample being taken from the CIOT/ATT database of members who identified personal tax as one of their specialisms. A reminder letter was sent out three weeks later to non-respondents.

The Revenue questionnaire was posted on the Inland Revenue intranet website with a letter addressed to the Officer in Charge of each local office inviting them to nominate one person to complete it. In addition there was an open invitation to all other Revenue staff to complete the questionnaire.

A slightly amended version of the CIOT/ATT questionnaire for completion by other agents was posted on the Revenue website. In this the question on qualifications was extended to include ACA, ACCA, ICAS etc. Notice of the questionnaire was given on the CIOT website, with full details as to where the questionnaire could be found on the IR website. Paper copies were made available on request.

The questionnaire that was developed for completion by taxpayers was also available on the IR website. Similarly there was a link from the CIOT to IR websites and paper copies were available.

The response rates for the four different groups are given in the following table.

### Questionnaire responses

<b>Group</b>	<b>Total number</b>
CIOT/ATT members – mailed questionnaire	332
Inland Revenue staff – intranet questionnaire	1,786
Other agents – internet questionnaire	104
Taxpayers – internet questionnaire	28

The demographic details for each group are set out in appendices 1-4.

### 2.3 Discussion groups with Inland Revenue staff

The results from the questionnaire survey provided a framework for the next stage of the study which involved ITSA enquiry review groups with Inland Revenue staff in a variety of locations - Glasgow, London (2), Stockport, Bristol and Chepstow. With one exception, the groups of IR staff considered a range of issues arising from the study. The exception was one of the groups in London that was set up solely to consider partnerships. For the general review groups, IR staff were selected from those directly involved in the working of ITSA enquiries and who indicated in their questionnaire responses a willingness to participate further in the review.

In order to ensure the best possible use of the time at these meetings, participants were provided with pre-session information (Appendix 5 provides an example). This included an introduction to the meeting containing the objectives for the review group, the appropriate section of the results from the questionnaire survey and a one page selection of free text comments. The group members were invited to consider one of the aspects under review in detail, present their ideas to the rest of the group and then to defend their proposals. In this way each member had a designated role together with an opportunity to contribute to all aspects under discussion at the group review meeting. Meeting notes were taken for later assessment and the focus of these notes was on those areas identified by the group as involving realistic, practical and achievable options for change.

### 2.4 Telephone interviews with CIOT/ATT members

Fifteen telephone discussions were undertaken with CIOT/ATT members over a period of three days. The interviewees were selected from questionnaire respondents who had indicated a willingness to be interviewed when they returned their questionnaire. In each case the interviewee was asked to expand on one or more of their comments on the questionnaire. Notes were made during the telephone calls and these telephone interviews were written up within 24 hours of the discussions.

## **2.5 Summary**

The study has been based on quantitative and qualitative data drawn from a wide range of IR staff, CIOT/ATT members, other agents and taxpayers who are directly involved in the operation of ITSA enquiries. The findings are now considered in the following six sections:

- An overview of ITSA enquiries;
- Opening an enquiry;
- The enquiry process;
- Partnership enquiries;
- Concluding an enquiry; and
- ITSA enquiries from the viewpoint of the taxpayer.

All statutory references are to the Taxes Management Act 1970 (TMA).

### 3 An overview of ITSA enquiries

This section considers three main areas:

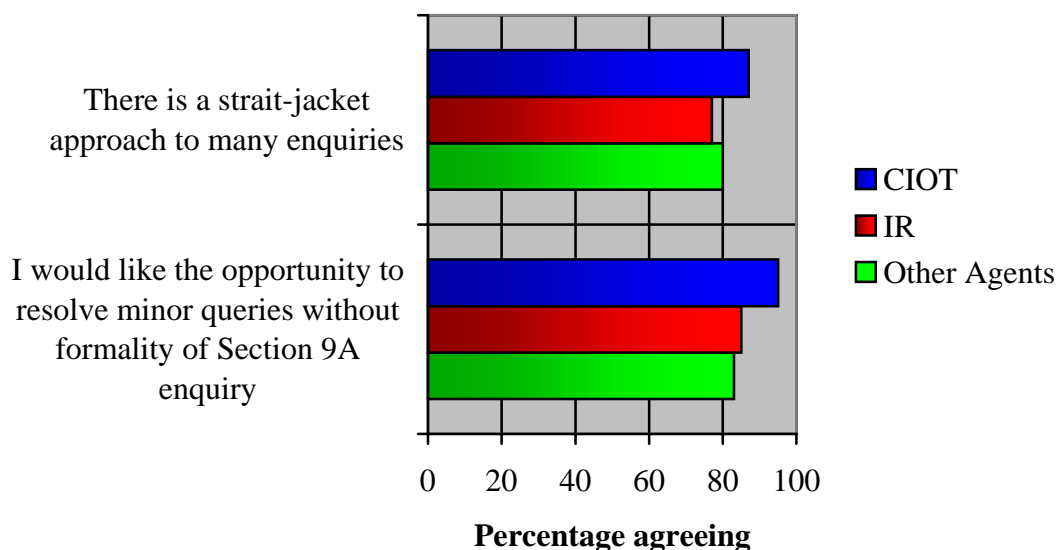
- 3.1 Resolution of minor queries without the formality of a Section 9A TMA enquiry,
- 3.2 'Giving of notice' and 'date of issue',
- 3.3 Enquiries solely into Capital Gains Tax (CGT) issues.

In each section the questionnaire responses are analysed, points from the group and telephone discussions are considered, where appropriate, and finally options for change are identified.

#### 3.1 Resolution of minor queries without the formality of a Section 9A TMA enquiry

Chart 3.1 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the statements

**Chart 3.1**



#### Further comments added to the questionnaires

- *If a more informal approach is going to be allowed on minor issues, this should not create a situation where the taxpayer/agent is able to wriggle out of a later full enquiry on the grounds that the informal query constitutes the single enquiry opportunity. Therefore any letter or telephone call dealt with on an informal basis for the benefit of the profession and taxpayers should be “without prejudice”.*
- *The idea of dealing with minor queries over the telephone whilst practical concerns me. If telephone queries were raised would that effectively amount to a Section*

*9A enquiry or would that route still be open to the Inland Revenue if they wished to pursue other items in the client's Tax Return?*

### **Outcomes of the questionnaire survey and further discussion**

The following table 3.1 provides an analysis of the full responses. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from IR staff and the final figure gives the percentage responses from other agents.

**Table 3.1 Resolution of minor queries without the formality of a Section 9A enquiry.**

<b>Resolution of minor queries without the formality of a Section 9A enquiry</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opinion</b>	<b>Dis-Agree</b>	<b>Str. Dis-agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
There is a 'strait-jacket' approach to many enquiries – when a short telephone discussion or brief letter to the adviser could solve the problems	50 37 53	37 40 27	8 7 4	5 14 9	 2 7
I would like the opportunity, either by telephone or otherwise, to resolve minor queries without the formality of a Section 9A enquiry.	62 48 56	33 37 27	 6 2	4 8 9	1 1 6

In this study there were 87% of CIOT/ATT members, 80% of other agents and 77% of IR staff agreeing or strongly agreeing that there is a strait-jacket approach. This compares to the first CIOT study on self-assessment<sup>1</sup> when 55% of CIOT members agreed or strongly agreed that there was such an approach.

There was very strong support for the proposal that there should be an opportunity to resolve certain minor queries, either by telephone or by some other means, without having to resort to a Section 9A enquiry involving the formal opening and closing procedures. The extent of this support can be seen from the above table with 95% support from CIOT/ATT members, 85% from IR staff and 83% from other agents. This view was repeated very strongly in all the IR discussion groups and in the CIOT telephone interviews.

### ***Options for change***

There is a very definite wish from all parties for a change that would allow IR staff to resolve minor queries without the need to open a formal Section 9A enquiry. Many respondents voiced fears that there would be dangers in encouraging telephone

<sup>1</sup> Hansford A (1999) *Self Assessment: Working Towards Best Practice* London Chartered Institute of Taxation

queries because of possible later disputes as to what was and was not said and that IR staff would use the opportunity for a 'fishing' expedition, leading to the opening of a formal enquiry at a later date. Any legislative change would require a clear definition of 'minor queries'.

Resolution of minor queries without the formality of a Section 9A enquiry warrants further discussion at Operational Consultative Committee (OCC) and the 'Working Together' group, given the level of support for change. One option that should be given further detailed consideration is for a **written** request for information. This would include an explanation that this request was being made on an informal basis and that it would not prejudice the right to open a formal Section 9A enquiry at a later date. The taxpayer could then:

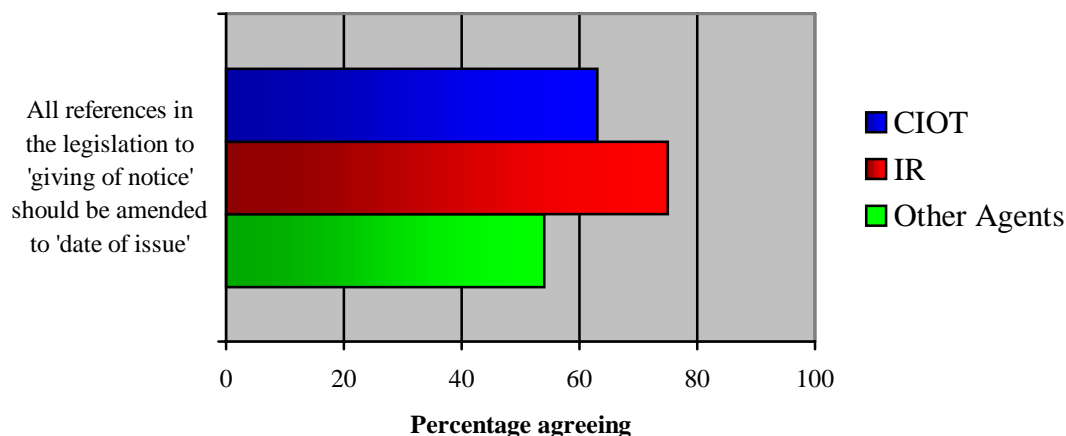
- provide the required response on this basis;
- decline a response and leave the Revenue to decide whether or not to open a formal enquiry to obtain the required information; or
- ask the Revenue to open a formal Section 9A enquiry.

A written request would avoid the possible misunderstanding of a telephone discussion. This proposal would address the concerns of entering into an unnecessary enquiry for a relatively minor issue.

### 3.2 ‘Giving of notice’ and ‘date of issue’

Chart 3.2 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the statement.

**Chart 3.2**



#### Further comments added to the questionnaires

- *‘Date of issue’ is just as ambiguous as ‘giving notice’. Define the point at which the enquiry is open; when the Revenue says or when the taxpayer receives.*
- *Date of issue could become more problematical in future as returns are downloaded from website.*
- *The use and timing of Section 19A notices should also be reviewed – again a legislative change to reflect a time limit from date of issue is probably the best option.*
- *A lot of the legislation appears to have been written without conviction and it is now tripping us up, eg ‘giving notice’ rather than the date of the letter, giving 40 days in a Section 19A notice instead of 30 days. Why can’t we say what we mean? (And not be frightened of saying it).*
- *We must resolve problems involving ‘giving notice’ Section 9A and Section 19A.*

## Outcomes of the questionnaire survey and further discussion

Table 3.2 below provides an analysis of the full responses. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from Revenue staff and the final figure gives the percentage responses from other agents.

**Table 3.2** 'Giving of notice' and 'date of issue'

'Giving of notice' and 'date of issue'	Str. Agree	Agree	No Opinion	Dis-Agree	Str. Dis-agree
	%	%	%	%	%
All references in the legislation to the 'giving of notice' should be amended to the 'date of issue'.	25 40 24	38 35 30	35 23 31	2 2 6	9

Not surprisingly there was greater support for this from IR staff (75% in favour) than from others, but nonetheless 63% of CIOT/ATT members and 54% of other agents did support the proposal. There were quite high percentages of 'no opinion' in each of the three groups but only 2% of CIOT/ATT members and of IR staff were actually opposed to it as against 15% of other agents.

The support was also reflected very strongly in the IR group discussions where there was also the suggestion to increase the amount of time allowed for compliance with the notice etc to take account of possible postal delays. This would compensate the taxpayer for the reduced amount of time that would be available to comply with the notice if the proposed legislative changes were to go ahead.

### *Options for change*

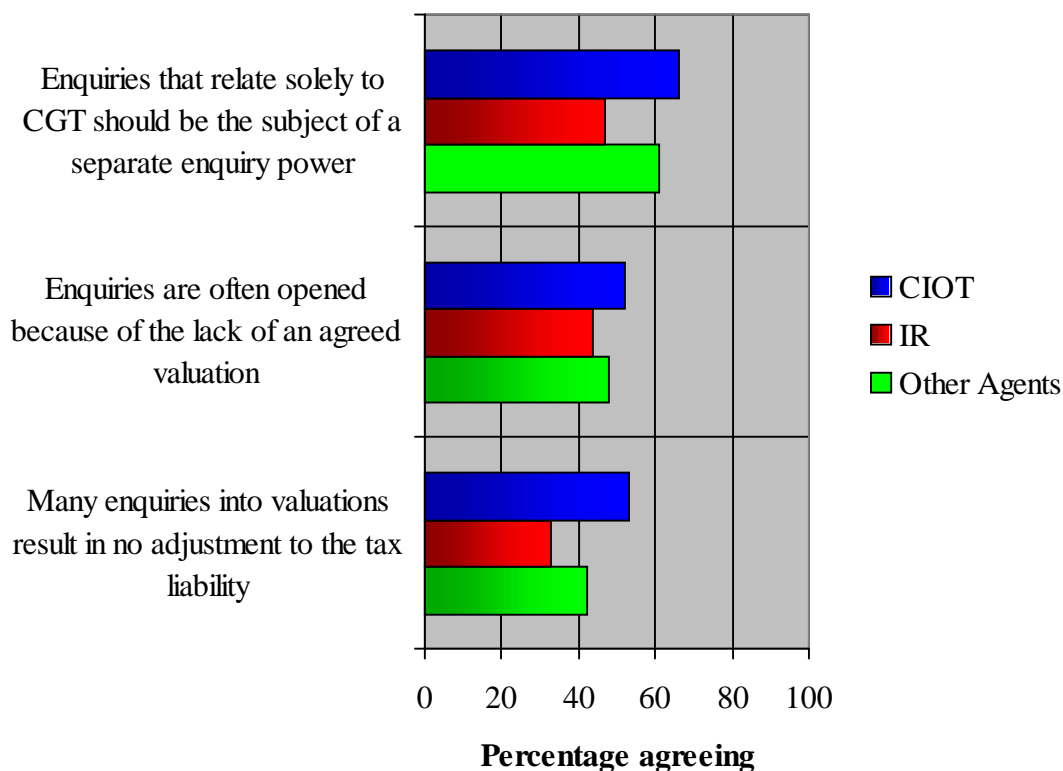
Problems have already arisen in relation to the date of opening of Section 9A enquiries and to the date that notice was given under Section 19A, but there will inevitably be problems arising in relation to Section 28A closure notices. This review is concerned solely with matters relating to ITSA enquiry work, but the problem does go much wider to involve the date of certain late issued return forms, the due date of payment of tax etc. Any change that is decided upon could sweep up all these other potential problem areas.

One answer to the problem would be for a legislative change from the 'giving of notice' to the 'date of issue' of the notice or alternatively to the 'date as shown on the notice'. The questionnaire results give support to the recommendations from the discussion groups that there should be such a legislative change but in doing this there will need to be consideration given to the adequacy of the 30 days time limit. Some extension of this might be appropriate to allow for possible postal delays.

### 3.3 Enquiries into Capital Gains Tax (CGT) items

Chart 3.3 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the statements.

Chart 3.3



#### Further comments added to the questionnaires

- *Capital gains – money is lost because CG enquiries have been downgraded in importance so that they don't count for the main enquiry stats., meaning that we cannot give them the time they deserve despite the valiant attempts of our only inspector bringing in lots of culpable monies. Loss of Revenue to the Exchequer is surely to deserve our equal attention no matter where it is lost from.*
- *Given the lack of information on Returns about the acquisition of assets, the Capital Gains schedule may be the first indication of ownership. Any attempt to separate Income Tax Enquiries from CG Enquiries would mean two enquiries if we were not satisfied that there were sufficient means to acquire the asset in the first place, and had to enquire into sources of income.*
- *There is no realistic training available on capital gains tax at all, how many millions of pounds per year is the department losing? Even after taking into account the cost of training inspectors/officers properly the extra yield would be very considerable.*

- *Capital Gains are part of the SA return and in country districts, CG and farm/land owner accounts are linked and best worked together.*
- *In recent years very few CG enquiries have been started because of estimated valuations, but there is a huge gap in quality of information supplied by large firms of chartered accountants and semi-qualified sole practitioners. Many CG enquiries have established that valuations supplied had little in common with District Valuer's final valuations.*

### **Outcomes of the questionnaire survey and further discussion**

The following table 3.3 provides an analysis of the full responses. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from Revenue staff and the final figure gives the percentage responses from other agents.

**Table 3.3 Enquiries into CGT items**

<b>Enquiries into CGT items</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opinion</b>	<b>Dis-Agree</b>	<b>Str. Dis-agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Enquiries that relate solely to the Capital Gains (CG) pages should be the subject of a separate enquiry power, not directly linked to any enquiry on the Income Tax pages	24 15 27	42 32 34	14 30 15	17 19 14	3 4 10
Enquiries are often opened into the CG pages solely because of the lack of an agreed valuation of an asset in cases where a post-transaction valuation could have been obtained using form CG34	12 11 13	40 33 35	44 53 43	4 3 7	2
Many of the above enquiries into valuations of assets result in no adjustment to the tax liability	7 9 12	46 24 30	42 58 49	5 8 8	1 1 1

The results from the survey show strong support from Tax Advisers for the proposal that there should be a separate CGT enquiry power, with 66% of CIOT/ATT members and 61% of other agents supporting but with only 47% support from IR staff. Looking at it from the other angle however, the extent of disagreement with the proposal was very much the same from all three groups, ranging only from 20% to 24%. There was a cautious acceptance of the proposal by the IR discussion groups but with concerns expressed at the impact that this could have on other aspects of ITSA work.

The results for the statement concerning the lack of an agreed valuation were very much influenced by the 'no opinion' column suggesting that many respondents had had little or no actual experience of CGT enquiries. A total of 44% of CIOT/ATT members and 43% of other agents registered 'no opinion' along with 53% of IR staff. There was however little disagreement with the statement.

The IR discussion groups expressed the view that the position could be improved if greater encouragement were given to the completion of forms CG34. Greater IR publicity would help to bring the existence of the form to a wider public but the main problem was seen to be delays in reaching agreement with Shares Valuation Division (SVD) and with local District Valuers.

The suggestion that many valuations resulted in no liability was also strongly affected by the level of 'no opinion', ranging from 42% for CIOT/ATT members up to 58% of IR staff, but again there were considerably higher percentages agreeing with the statement than those disagreeing.

### *Options for change*

This study has revealed considerable support for the proposal that there should be a separate CG enquiry power, which is totally separate from any power to enquire into the income tax pages of the return. However, this is something that would have wide ranging effects on the way ITSA operates and so requires careful thought before any changes can be implemented.

CG computations are now requested as part of the return and this should help to reduce the number of CG enquiry cases but those requiring agreed valuation of assets such as land or unquoted shares could still result in long delays in bringing CG matters to a conclusion. The advantage of a separate CG enquiry power in such a situation is that the taxpayer can have finality on all income tax matters in advance of the resolution of the CG valuation. Although SP1/99 gives the taxpayer the reassurance that IR will not raise new income tax issues by taking advantage of the fact that the CG liability is still unresolved because of an outstanding valuation, this does not mean that the income tax liability can be finalised. However, a separate CG enquiry power would be contrary to a fundamental principle of ITSA; namely that finality means finality for all aspects of IT and CGT affairs for taxpayers. It would also mean that at any one time there could be separate on-going enquiries for the same year into the IT pages, into some amendment to those pages, into the CG pages etc.

The proposal to disengage CG issues from the general IT issues merits further consideration but careful thought needs to be given to the implications before any changes are made. The Operational Consultative Committee (OCC) would be a useful forum to start this further work.

Many correspondents commented on the length of time involved in arriving at agreed valuations. The position could be improved by more use of form CG34 by Tax Advisers and a quicker response by IR staff in dealing with them. This may not reduce the number of cases resulting in no change to the liability, but it should help to establish the position more quickly.

## 4 Opening an enquiry

This section considers three main areas:

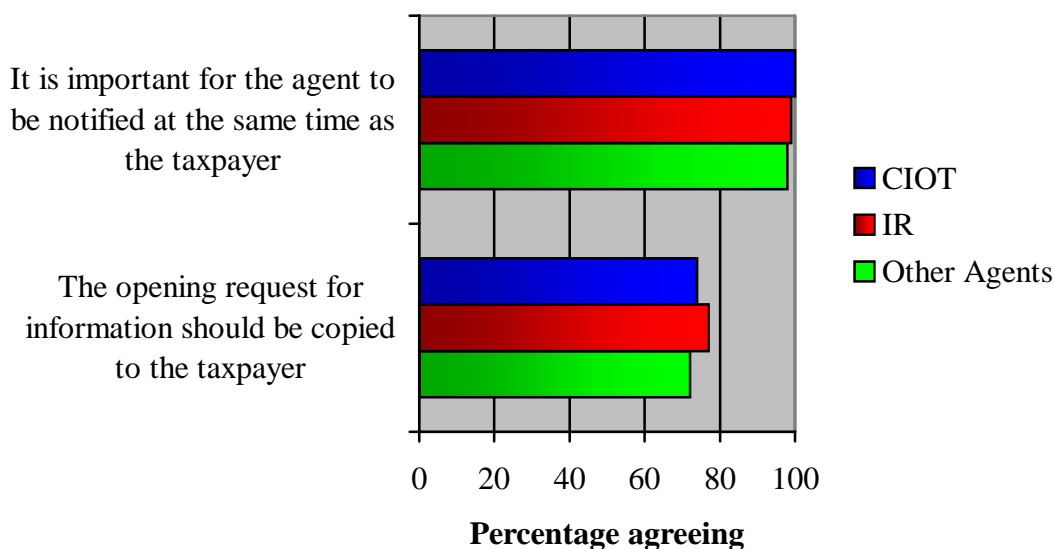
- 4.1 Notification that an enquiry is to take place,
- 4.2 Opening letters and codes of practice,
- 4.3 Interviews in the opening stages of an enquiry.

In each section the questionnaire responses are analysed, points from the group and telephone discussions are considered and finally options for change are identified. A further question in this section on the questionnaire – Private bank account details should not, as a matter of course, be requested in the opening letter – is considered together with other issues relating to private bank account details in section 5.3.

### 4.1 Notification that an enquiry is to take place

Chart 4.1 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the following statements

**Chart 4.1**



#### Further comments added to the questionnaires

- *Taxpayers need to see the opening request for information, as agents often try to stall or deflect the enquiry.*
- *An indication in the opening letter of the area(s) of concern would be mutually beneficial.*

## Outcomes of the questionnaire survey and further discussion

The precise question for IR staff differed slightly from that for CIOT/ATT members and other agents and the following table 4.1 provides an analysis of the full responses. For the first statement the top figure in each cell gives the responses of CIOT/ATT members and the bottom figure gives the percentage responses from other agents. IR staff responses are given for the second statement. For the final statement the top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from Revenue staff and the final figure gives the percentage responses from other agents.

**Table 4.1 Notification that an enquiry is to take place**

Notification that an enquiry is to take place	Str. Agree %	Agree %	No Opinion %	Dis-Agree %	Str. Dis-agree %
<b>Question for CIOT/ATT members and other agents</b>	87	13			
It is important to be notified of an enquiry at the same time as my clients	91	7	1	1	
<b>Question for IR staff</b>					
It is important to notify the agent of an enquiry at the same time as the taxpayer, if they have one	76	23	1		
Full details of the Revenue's opening request for information should be copied to the client / taxpayer, in every case.	36 37 38	38 40 34	5 5 3	16 16 16	5 2 9

The results from the survey indicate that there is wide spread agreement that taxpayers should be notified at the same time, with 100% of CIOT/ATT members, 99% of IR staff and 98% of the other agents agreeing.

The responses for all three groups were broadly similar when considering whether the opening request for information should be sent to taxpayers, with 74%, 77% and 72% agreeing, respectively. These views were reflected in the further discussions. Issuing the same detailed information to taxpayers ensures that they know the extent of the enquiry. IR staff commented that this action could have a salutary effect on less efficient Tax Advisers.

### *Options for change*

This study indicates that there is overwhelming support for Tax Advisers to be notified of an enquiry at the same time as taxpayers. Comments from Tax Advisers would suggest that this does not always happen, even though IR procedures are designed to ensure that taxpayer and Tax Adviser notifications are sent out together.

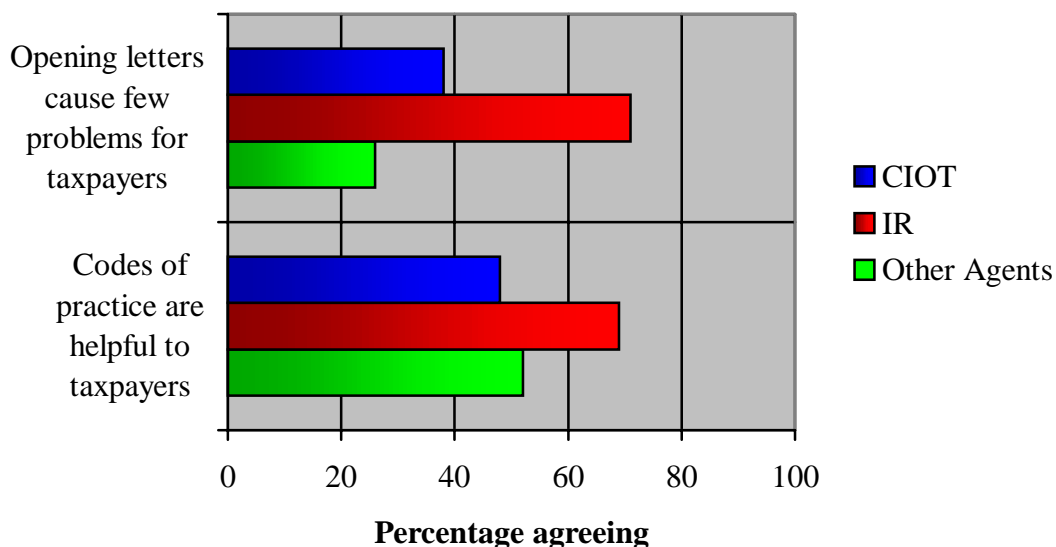
There is also clear support for a change to the current system so that full details of the Revenue’s request for information are sent to taxpayers. A further benefit of sending a copy of the opening request for information to the taxpayer would be to inform them of the nature of the enquiry as at present some taxpayers think all enquiries are full scale ‘investigations’.

Currently there is an agreement between IR Scotland and the Institute of Chartered Accountants in Scotland (ICAS) whereby a copy of the request for information is always sent to the taxpayer at the same time as to the Tax Adviser. The results from this survey support the view that this practice should be extended throughout the UK. The experience in Scotland is that this practice has been welcomed by Tax Advisers, both ICAS and non-ICAS members.

## 4.2 Opening letters and codes of practice

Chart 4.2 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the following statements.

**Chart 4.2**



### Further comments added to the questionnaires

- *Current opening letters which are sent to clients can cause a lot of unnecessary anxiety as there is no difference between [the opening letter for] aspect and a full enquiry.*
- *Many clients find dealing with the Revenue terribly daunting. If the [client is the] subject of a random enquiry, it would be reassuring for them if they knew that the enquiry was simply random. Consideration should be given to advising this in the opening letter.*

- *The opening letter should be jargon free.*
- *Perhaps a different opening letter should be issued in Aspect cases to ensure that taxpayers are aware that the enquiry is limited in scope and extent, but can be extended if areas of concern arise.*
- *Full and aspect enquiries are generally speaking fundamentally different. Although this is reflected in the particular code of practice issued, perhaps it should also be made clear in the wording of the opening letter.*
- *Maybe a sentence in the opening letter would help eg. ‘checking that everything is in order or details on the Return are correct’.*
- *I would like to see aspect enquiries stressing ‘the checking of the return’ rather than the ‘opening of an enquiry’ which should be reserved for full enquiries.*
- *Accountants do not need or want codes of practice*
- *The code of practice is rarely read by taxpayers, despite the advice to do so when issued.*
- *Perhaps the code of practice booklet could be made smaller or the booklet should be issued when requested. A simplified leaflet then could be issued in all cases.*

### **Outcomes of the questionnaire survey and further discussion**

The full details of the responses to these questions are provided in the following table 4.2., the top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from Revenue staff and the final figure gives the percentage responses from other agents.

**Table 4.2 Opening letters and codes of practice**

<b>Opening letters and codes of practice</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opinion</b>	<b>Dis-Agree</b>	<b>Str. Dis-agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
The current opening letters cause few problems for my clients/taxpayers	3	35	17	35	10
	12	59	11	17	1
	7	19	14	39	21
The codes of practice accompanying the opening letter are helpful to clients /taxpayers	5	43	32	19	1
	9	60	20	10	1
	6	46	23	24	1

There are clear differences between the perceptions of Tax Advisers and IR staff. 71% of IR staff consider that the opening letters cause few problems, which compares

with only 26% of other agents. CIOT/ATT members are more positive with 38% agreeing. The free text comments indicate that many of the respondents were concerned about the jargon used in the opening letters.

The questionnaire responses show similar differences between the views of IR staff and Tax Advisers about codes of practice. 69% of IR staff felt that codes of practice are helpful to taxpayers, which compares with 48% and 52% of CIOT/ATT members and other agents, respectively. There were more 'no opinion' responses for CIOT /ATT members with almost one third of these respondents (32%) registering 'no opinion'.

The group discussions and telephone interviews highlighted the doubts there are about the benefits taxpayers derive from the codes of practice. There was a general awareness that taxpayers don't read them and they leave that to their agents, where they have one.

### ***Options for change***

Recently the Inland Revenue in consultation with the Accountancy bodies made changes to the opening letters to address the criticism that they were too intimidating. In monitoring the revised opening letter it would be useful to enlist the assistance of the Operational Consultative Committee (OCC) and the 'Working Together' group.

The code of practice for a full enquiry is very different from that for an aspect enquiry. Few taxpayers will be aware of this difference so unrepresented taxpayers are at a significant disadvantage. In order to ensure clarity for all taxpayers, the extent of the enquiry should be made clear in the opening letter.

There was overall agreement that codes of practice are useful, but consideration should be given to the timing of their issue. Few taxpayers appear to read them at present. The opening letter could refer to them and advise the taxpayer that they are available on request. If the enquiry involves an interview then the code of practice should be sent with the agenda for the interview (see Section 4.3).

### 4.3 Interviews in the opening stages of an enquiry

The questions on interviews in the opening stages of an enquiry were different for CIOT/ATT members and other agents from those for IR staff. The following table 4.3 gives the percentage responses and for the Tax Advisers' question the top figure in each cell gives the responses from CIOT/ATT members and the bottom figure gives the responses from other agents.

**Table 4.3 Interviews in the opening stages of an enquiry**

<b>Interviews in the opening stages of an enquiry</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opinion</b>	<b>Dis-Agree</b>	<b>Str. Dis-agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
<b>Question for CIOT/ATT members and other agents</b>					
I would advise my clients <b>not</b> to agree to an interview in the opening stages of an enquiry	21	49	12	16	2
	24	45	10	17	2
<b>Question for IR staff</b>					
I would prefer to have an interview in the opening stages of an enquiry	20	38	16	24	2

#### **Further comments added to the questionnaires**

- *Interviews should not be mandatory but failure to permit oneself to be interviewed should be viewed as potential non-cooperation for penalty purposes.*
- *They have seized on the pre interview discussion [with faster working] as a means of "preparing" clients for subsequent interview questions, which can then become meaningless.*
- *We now have the situation where accountants/agents are refusing to allow their clients to attend interviews for fear that they incriminate themselves. In addition Investigators are now faced with a large increase in requests for an agenda which is causing bad feeling because each side have a different idea as to what an agenda is.*
- *Much depends on client circumstances in determining whether interviews and statements are necessary.*

- *Agents are being called in to interview where there is no indication of any problem and being faced with a barrage of questions which do not relate to a return entry. We should be informed prior to the interview if this is the intention.*
- *There is strong resistance in some quarters to an interview with the taxpayer even where the grounds of concern have been explained*

### **Outcomes of the questionnaire survey and further discussion**

There were clear differences of opinion. 70% of CIOT/ATT members and 69% of other agents agreed that they would advise clients **not** to agree to an interview in the opening stages of an enquiry, whereas 58% of IR respondents would prefer to have an interview in the opening stages. In the free text comments the changing attitude towards interviews and their perceived function was a concern to many respondents.

These issues were taken up in the group discussions and telephone interviews. There is a clear distinction between the perspective of the two main groups:

Comments from IR staff:

- Overall it was felt important to meet with the taxpayer
- It was an 'expectation' of the Revenue to hold an interview in order to conduct a 'full enquiry'
- Interviews speed things up
- Interviews are cost effective
- IR should not be constrained by a detailed agenda
- Interviews are an opportunity to find out how businesses operate

Comments from CIOT/ATT members:

- Interviews should still be optional and used only when things cannot be negotiated
- Should not be automatic. IR should look at the circumstances
- IR attitude is wrong. They treat interviews as though they should be won or lost
- Would like to see inspectors follow the code of practice for consistency because at the moment they follow their own code
- Would like to see agendas and should be more specific
- Should only be used towards the end of the investigation when records inspected and everyone is familiar with the accounts

The result of these differing views is that some Tax Advisers are encouraging their clients not to attend interviews. This development is of significant concern to IR staff who feel they are unable to perform their job satisfactorily without recourse to an interview.

It must be recognised that interviews are intimidating for many taxpayers. Tax Advisers commented on the benefits of holding mock interviews first and the resulting reduction in anxiety felt by many taxpayers. There was concern that if they

refuse to attend an interview then there will be larger penalties at the conclusion of the enquiry as this might be viewed as non co-operation.

### *Options for change*

In considering options for change in this section it must be remembered that interviews are routine procedures for IR staff and Tax Advisers but they can cause great anxiety to taxpayers. Taxpayers need to know what to expect at an interview and there should be an addition to the code of practice to cover in more detail how the interview will be conducted e.g. who will be there, the format, what the taxpayer will be expected to sign etc.

A Revenue interview can be likened to a business meeting where it is standard practice to provide an agenda. Like any other business meeting the agenda for an ITSA enquiry interview should specify the areas that the IR wishes to cover, based on the areas of concern that have been identified through the risk assessment exercise. An agreed agenda prior to the meeting ensures a timely discussion with full information available for all parties. It also ensures a fairer treatment for unrepresented taxpayers who do not have the support of an experienced Tax Adviser. Clear agendas should be standard practice.

The perception of attendance at an interview and the effect on any penalties is a problem area. There is fear amongst some taxpayers that non-attendance will constitute non co-operation and so increase penalties. Clearer IR guidance on this would be useful.

This review has highlighted the fact that the timing of the request for an interview is crucial. Final interviews are covered in Section 7.1 and this shows that 59% of CIOT/ATT members and 58% of other agents agree that final interviews can resolve any outstanding issues. This contrasts with 70% and 69% respectively of CIOT/ATT members and other agents agreeing that they would **not** advise their clients to attend an interview in the early stages. The support for an interview from Tax Advisers appears to depend on whether it is seen, in their view, as an opportunity to resolve issues efficiently.

Overall, IR staff raised the strongest concerns about interviews. Some felt their effectiveness was being eroded with the increasing reluctance of Tax Advisers to bring their clients in for interview since the introduction of ITSA. This is a further issue that would benefit from detailed consideration by the Operational Consultative Committee (OCC) and the 'Working Together' group to identify an acceptable way forward to all parties.

## 5 The enquiry process

This section considers three main areas:

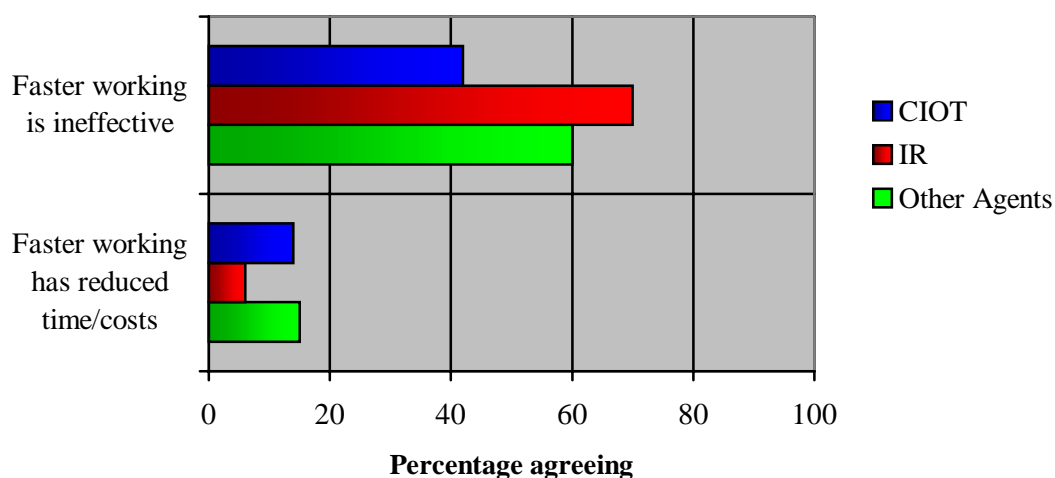
- 5.1 Faster Working,
- 5.2 Litigation of a particular point whilst the enquiry is in progress
- 5.3 Private bank accounts.

In the following tables all figures are given in percentages. In each section the questionnaire responses are analysed, points from the group and telephone discussions are considered, where appropriate, and finally options for change are identified.

### 5.1 Faster Working

Chart 5.1 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the statements.

**Chart 5.1**



#### Further comments added to the questionnaires

- *The whole concept should be withdrawn and replaced by something like best practice, which isn't so prescriptive.*
- *Faster Working isn't working and should be withdrawn.*
- *Faster Working is never offered to my clients as it seems to be very unpopular with the Inspectors.*
- *Faster Working should not be offered but replaced by better practice and closer working with co-operative accountants. No small trader should have enquiries hanging over them for more than a year.*

- *Not necessarily Faster Working, but agree a timetable for the period of enquiry.*
- *Faster Working has been overtaken by working practices in enquiry cases and should be dropped.*
- *If Faster Working has reduced elapsed times this is only because other enquiries have had to be delayed to accommodate a Faster Working enquiry.*
- *Any changes should not complicate the enquiry regime. There should only be one regime, be it faster working or 'normal', two types is an unnecessary complication.*

### **Outcomes of the questionnaire survey and further discussions**

Full details of the responses to the questions are provided in the following table 5.1. For the first statement the top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from Revenue staff and the final figure gives the percentage responses from other agents. For the second statement the top figure in each cell gives the responses from CIOT/ATT members and the bottom figure gives the percentage responses from other agents. IR staff responses are given for the final statement.

**Table 5.1 Faster Working**

<b>Faster Working</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opinion</b>	<b>Dis-Agree</b>	<b>Str. Dis-agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
In practice, 'Faster Working' has proved ineffective.	13 47 25	29 23 35	47 26 28	10 3 7	1 3 5
<b>Question for CIOT/ATT members and other agents</b>					
When 'Faster Working' has been offered it has resulted in a reduction in time and costs for clients	1 2	13 13	63 48	19 28	4 9
<b>Question for IR staff</b>					
When 'Faster Working' has been offered it has resulted in a reduction in time taken to resolve the case	1	5	45	35	14

70% of IR staff agreed that 'Faster Working' has proved ineffective, as compared to 42% and 60% of CIOT/ATT members and other agents, respectively. There was a large number of 'no opinions', with nearly half, 47% of CIOT/ATT members,

registering no opinion. When the figures for disagree and strongly disagree are considered, CIOT/ATT and other agents totalled 11% and 12%, respectively, compared to 6% of IR staff.

When considering whether 'Faster Working' had reduced the time and costs involved in working an enquiry, 14% of CIOT/ATT members and 15% of other agents agreed that it had as against only 6% of IR staff. For this question the levels of 'no opinions' were higher, with 63% of CIOT/ATT members and 48% of other agents registering 'no opinion'. These results suggest that many of the respondents had had no practical experience of 'Faster Working'.

These issues were taken up in the group discussions and telephone interviews. Although there had in some cases been interest in the 'Faster Working' arrangements at the outset of an enquiry, this had not been maintained to the conclusion. Very few IR staff had seen a 'Faster Working' case through to completion. There were differences in the perspectives of the two main groups:

Comments from IR staff:

- the original purposes for 'Faster Working' had been superseded by the changes to the enquiry regime brought about by ITSA.
- they were experiencing a shorter time frame for the production of books and records and so faster working has occurred organically.

Comments from CIOT/ATT members:

- Principle is good but not in the current form.
- Does not reduce costs because still need to do the same amount of work.
- Faster working was not being offered in their region – letters had been received saying that the local Revenue office would no longer offer it.
- Like 'Faster Working' because of the time limits in it.

### ***Options for change***

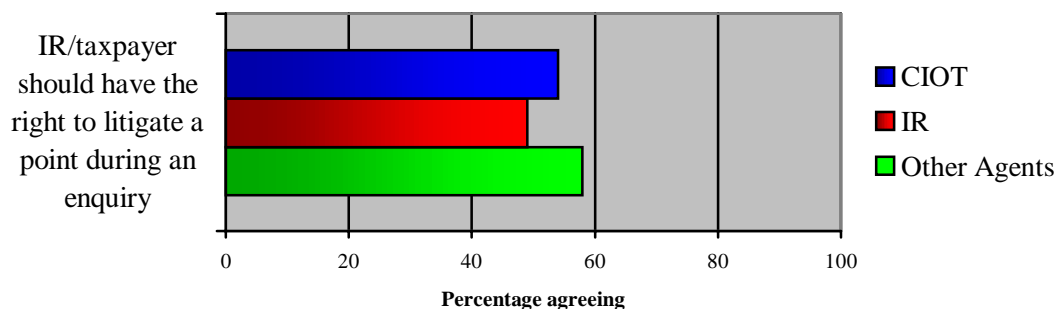
Under ITSA, enquiries are brought to settlement much more quickly than in pre-Self-Assessment days. 'Faster Working' can be viewed as a customer service issue. Where the timetable is adhered to, it can provide a clear timeframe for taxpayers and can avoid an enquiry being extended unnecessarily. However, in the current format most 'Faster Working' cases fail to be completed under the scheme.

There is very limited support from IR staff and Tax Advisers for 'Faster Working' and, unless the Operational Consultative Committee (OCC) can establish strong reasons for retention, the findings from this review suggest that it should be brought to a close.

## 5.2 Litigation of a point during an enquiry

Chart 5.2 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the statement.

**Chart 5.2**



There were no free text comments added to any of the questionnaires for this question.

### Outcomes of the questionnaire survey and further discussions

Full details of the responses to the question are provided in the following table 5.2. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from IR staff and the final figure gives the percentage responses from other agents.

**Table 5.2 Litigation of a point whilst an enquiry is still in progress**

Litigation of a point whilst an enquiry is in progress	Str. Agree	Agree	No Opinion	Dis-Agree	Str. Dis-agree
	%	%	%	%	%
Both the client/taxpayer and the Revenue should have the right to litigate a particular point whilst an enquiry is still in progress	4	50	34	10	2
	5	44	37	12	2
	13	45	29	10	3

There was more support for this from Tax Advisers than from IR staff. 54% of CIOT/ATT members and 58% of other agents agreed that there should be the opportunity to litigate as compared to 49% of IR staff.

There are large numbers of 'no opinion' responses, with a third of each group, on average, indicating they had no firm views. When the percentages of those who disagreed are considered, the amounts are closer, with 12% of CIOT/ATT members, 13% of other agents and 14% of IR staff disagreeing, to some extent.

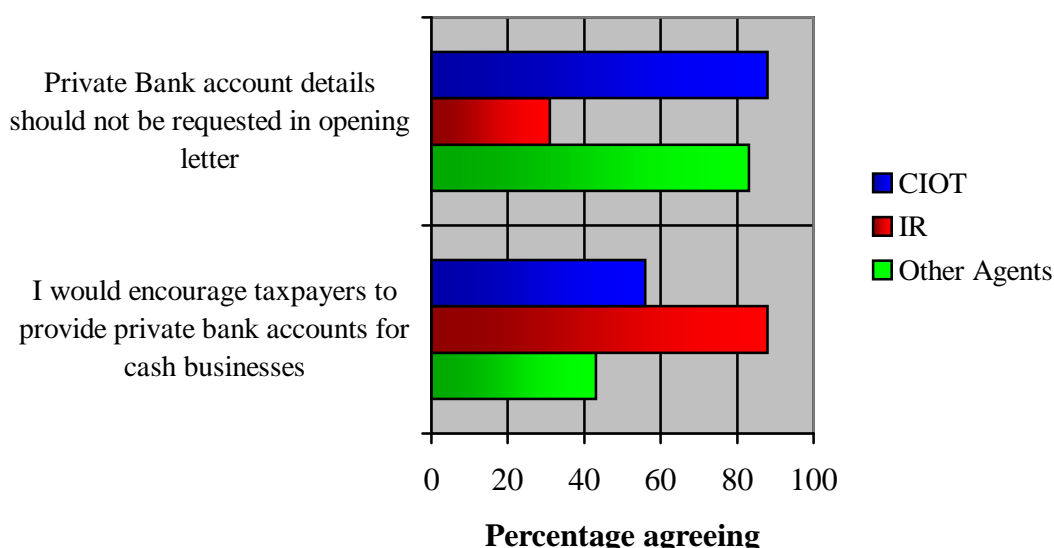
### *Options for change*

The right to litigate a point during an enquiry was not considered to be an issue for most ITSA enquiries but in larger ITSA cases and for corporation tax self-assessment (CTSA) it could be useful. Legislative changes would be required and there is concern that changes would add an additional layer of complexity that could result in delays or errors. The right to litigate during an enquiry should only be available with agreement of both parties. This issue would benefit from further discussion at the Operational Consultative Committee (OCC).

## **5.3 Requests for private bank account details**

Chart 5.3 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the statements.

**Chart 5.3**



### **Further comments added to the questionnaires**

- *On the vexed question of private bank accounts, there will be very few enquiries where they will not be required, why not then simplify and speed up proceedings and get them at the opening.*
- *I think private bank accounts shouldn't be sought at the beginning of an enquiry as they are not business records and on so many occasions the agents involved have asked why they are needed.*
- *A review of private bank accounts is essential to get a full picture of the taxpayer's economic circumstance.*

- *I ask for them as a matter of course, and have never been challenged. However, I qualify the request to ‘...where business transactions impinge upon them’.*
- *For the smaller client things need to be sharp, swift and clean – Revenue refusal to give reasons and concerns leads to misinterpretation, additions and unnecessary work. Revenue work is also often unfocused and leads to feelings of ‘fishing’ by ourselves eg. examination of bank accounts and consequentially long questions asking for explanations of every entry on statements.*

### **Comments on Cash businesses**

- *Taxpayers with a cash business should be encouraged to provide private bank account details. It would seem reasonable to extend this to all types of business, as it is not only cash businesses where diversions to private accounts could take place.*
- *The level and type of private expenditure is also vital to establishing the means position.*
- *The production of private bank accounts is not only relevant to cash businesses, their detailed examination is part of any "quality" review. It is not just cash business that we need to have access to private accounts etc.*
- *We need to look at the proprietor(s) business and private affairs as one economic entity. The production of private bank/building society accounts should be normal not exceptional and not restricted to 'cash trade' cases.*

### **Outcomes of questionnaire survey and further discussions**

Full details of the responses to the questions are provided in the following table 5.3. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from IR staff and the final figure gives the percentage responses from other agents.

**Table 5.3 Private bank account details**

<b>Private Bank Account details</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opinion</b>	<b>Dis-Agree</b>	<b>Str. Dis-agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Private bank account details should not, as a matter of course, be requested in the opening letter	47 5 62	41 26 21	6 10 8	4 31 6	2 28 3
I would encourage clients/ taxpayers to provide private bank account details during an enquiry into a cash business	6 61 6	50 27 37	17 11 9	24 1 29	3  19

There are diametrically opposed views on whether private bank account details should not, as a matter of course, be requested. 88% and 83%, respectively of CIOT/ATT and other agents agreeing as compared to only 31% of IR staff supporting that view.

The responses for the three groups for private bank accounts for cash businesses were closer with 56% and 43%, respectively of CIOT/ATT and other agents agreeing that they would encourage clients to provide private bank accounts for these cash businesses with 88% of IR staff agreeing.

These issues were taken up in the group discussions and telephone interviews. There is a clear distinction between the perspectives of the two main groups:

Comments from IR staff:

- Private Bank Accounts (PBA) allow the Revenue to see the whole picture and they are needed in order to determine whether, and if so, the extent to which the return is incorrect / incomplete.
- Enquiry cannot be closed without sight of PBAs.
- Any association with a business by definition makes the PBAs not purely private, but also business.
- Access to PBAs reduces time and so costs for taxpayers.

Comments from CIOT/ATT members:

- IR assume that figures unexplained in private accounts are suspicious and therefore taxable without having real proof
- Strongly opposed to them being requested at the start. No objection to them being requested **later** if there was good cause (rarely get a good explanation as to why they are being requested)
- If they need good cause then how do they know at the beginning?
- Don't want them given at the start because the IR uses them as a fishing exercise and this is costly to the client/taxpayer. They should give good cause.
- The cause for concern/grounds for request should be put in the letter and private accounts should not be requested by blanket approach (understand that this puts the IR in a difficult position because they don't want to give the game away early on)

Overall, IR staff and Tax Advisers agreed that there are situations where private bank account information will be required. The disagreement is based on the timing and relevance of the request.

### *Options for change*

In practice this is an area of widely divergent opinions. Any change to current practice needs to acknowledge the concerns of IR staff and Tax Advisers that have been identified in this review.

The current Enquiry Handbook (EH) guidance states that private bank accounts should only be requested once a link has been established and so should not be requested as a matter of course. This would appear to be consistent with Tax Advisers' expectations. However, this review has shown that EH guidance is not being followed on a consistent basis. This divergence from EH guidance is where the differences between the two perspectives are highlighted most – Tax Advisers accuse IR staff of undertaking a 'fishing expedition' and IR staff consider private bank accounts to be essential to complete their review.

This is an issue that would benefit from detailed consideration by the Operational Consultative Committee (OCC) and the 'Working Together' group.

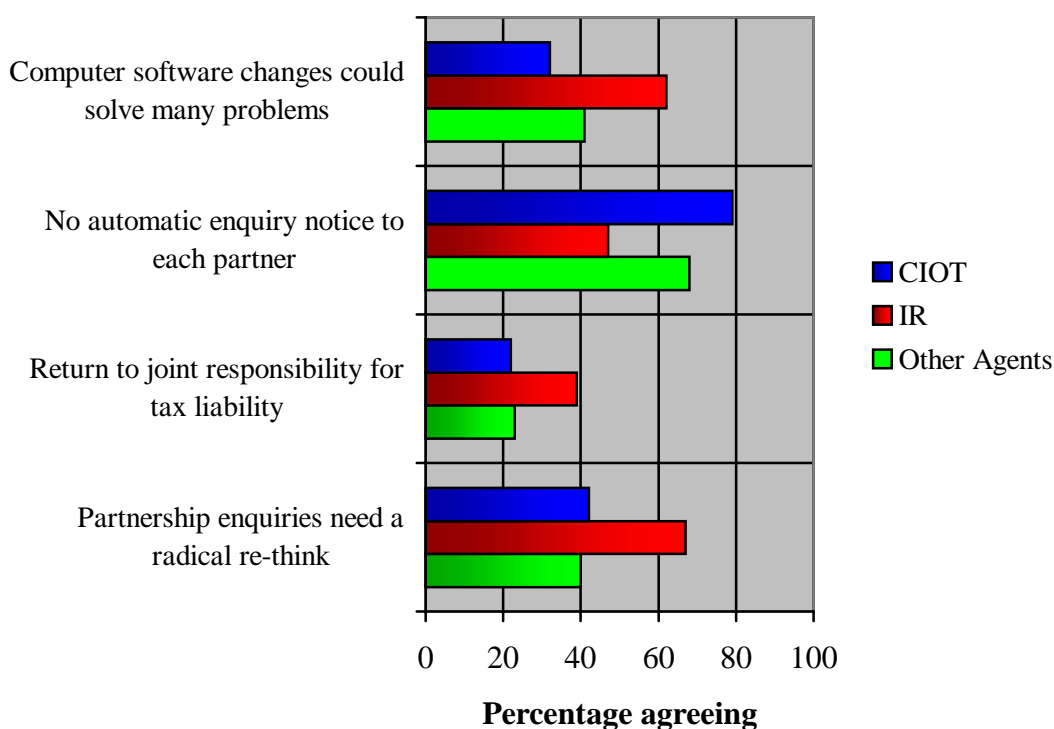
## 6 Partnership enquiries

This section considers five main areas:

- 6.1 Computer software issues for partnerships,
- 6.2 Partnership enquiries triggering a notice to each partner,
- 6.3 Partners' responsibility for the tax liability,
- 6.4 Whether there should be a radical re-think of partnership enquiries
- 6.5 The administrative burden resulting from partnership enquiries under ITSA.
- 6.6 Options for change

Chart 6.1 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the statements.

**Chart 6.1**



In each of the results sections, 6.1 – 6.5, the questionnaire responses are analysed and points from the group and telephone discussions are considered. The options for change are reviewed in the final section 6.6.

## 6.1 Computer Software

### Further comments added to the questionnaires

- *Cut down on the complicated computer systems for closing cases.*
- *The amount of time taken preparing the paperwork and dealing with the computer systems required to open an enquiry is out of proportion to what it aims to achieve, particularly in partnership enquiries.*
- *Software support is required for calculating the revised partnership statement.*
- *There should be a computer facility to enable us to recompute the partners individual liability during an open partnership enquiry.*
- *A lot of time consuming problems will be solved with the introduction of the workbench. The main procedural problems are on the computer side. To actually settle a partnership enquiry is a minefield! There needs to be a link between the partnership and the partners Returns beyond the capture stage. Amending the partnership details should automatically update partners.*

### Outcomes of questionnaire survey and further discussions

Full details of the responses to the question are provided in the following table 6.1. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from IR staff and the final figure gives the percentage responses from other agents.

**Table 6.1 Computer Software**

<b>Computer Software</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opinion</b>	<b>Dis-Agree</b>	<b>Str. Dis-agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
More effective computer software would solve many of the problems relating to partnership enquiries	7 27 12	25 35 29	57 31 47	9 6 8	2 1 4

62% of IR staff agreed that more effective software would solve many of the problems relating to partnership enquiries, as compared to 32% and 41% of CIOT/ATT members and other agents, respectively. There was a large number of 'no opinions', with over half, 57% of CIOT/ATT members, registering 'no opinion'. IR staff are more familiar with the computer system which probably explains why their level of 'no opinion' was lower. When the figures for respondents who disagreed and strongly disagreed are considered there is greater consistency with 11% of CIOT/ATT members, 12% of other agents and 7% of IR staff.

In further discussions there were more comments on the computer system from IR staff and these are considered together with other partnership issues in sections 6.5 and 6.6.

## **6.2 Partnership enquiries triggering a notice to each partner**

### **Further comments added to the questionnaires**

- *It is a cumbersome mechanism for the Inspector enquiring into the partnership return having to get permission from the District responsible for each individual partner's file before opening the enquiry.*
- *The current system, particularly with partnerships, is very cumbersome. A formal notice to the nominated partner should be sufficient.*
- *The Revenue's commitment to give notices to all partners should be withdrawn. This is very cumbersome, particularly as regards aspect enquiries into large partnerships.*
- *The number of notices of closure needed to settle a partnership enquiry are excessive and confusing to all parties.*
- *Amend the legislation to reduce the number of notices required in partnership cases.*
- *As the nominated partner is responsible for the partnership return I feel the correspondence should only be sent to that person and the nominated agent.*
- *Issue of letters to all partners discourages enquiries into partnerships, especially the larger ones. Problems arise when there has been a partnership split especially if it was not amicable*
- *It is quite ridiculous the amount of paper we issue in a partnership aspect enquiry for a substantial partnership. The Tax partner does not want it as all the Partners are then ringing him up to find out what is going on and we do not want it as it is a tremendous waste of resources to no good effect.*
- *Make it sufficient to just issue a Section 12 notice to the lead partner and do away with the notice to individual partners advising that their own return remains 'open' etc. It should be taken as read that any uplift to partnership profits would reflect on the individual partners' returns.*

## Outcomes of questionnaire survey and further discussions

Full details of the responses to the question are provided in the following table 6.2. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from Revenue staff and the final figure gives the percentage responses from other agents.

**Table 6.2 Notice to each partner**

Notice to each partner	Str. Agree %	Agree %	No Opinion %	Dis-Agree %	Str. Dis-agree %
Enquiries into partnership returns should not automatically trigger the issue of a notice to each partner	23	55	12	9	1
	16	31	19	29	5
	31	37	9	15	8

78% of CIOT/ATT members and 68% of other agents agreed that enquiries into partnership returns should not automatically trigger the issue of a notice to each partner. This compared to 47% of IR staff. When the figures for disagree and strongly disagree are considered, CIOT/ATT total 10%, other agents 23% and IR staff 34%.

The overall view of IR staff in further discussions was that one notice should be sent to the nominated partner and individual notices only on request. This was considered to be the more practical approach providing good customer service in line with the wishes of nominated partners generally. However, there are practical difficulties for partnerships in dispute and there was concern for retired partners. This raises the issue of the responsibilities of the nominated partner (see section 6.6 for further discussion on the options for change).

## 6.3 Partners' liability

### Further comments added to the questionnaires

- *A return to joint and several liability would assist, but the whole partnership regime is a dogs' breakfast and requires radical revision.*
- *I don't believe that going back to joint and several liability would be fair or an improvement.*
- *[A return to joint and several liability] would be a retrograde step. Joint and several liability caused great unfairness particularly when husband and wife partnerships break up.*
- *Very important not to return to joint partnership assessments. We are STILL dealing with payment allocation problems from 1996/97 when there were 'mixed' liabilities.*

## Outcomes of questionnaire survey and further discussions

Full details of the responses to the question are provided in the following table 6.3. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from IR staff and the final figure gives the percentage responses from other agents.

**Table 6.3 Partners' liability**

Partners' liability	Str. Agree	Agree	No Opinion	Dis-Agree	Str. Dis-agree
	%	%	%	%	%
There should be a return to each partner being jointly responsible for the tax etc. liability of the partnership as a whole	5	17	27	30	21
	14	25	34	21	6
	7	16	22	29	26

22% of CIOT/ATT members and 23% of other agents agreed that there should be a return to each partner being jointly responsible for the tax etc. liability of the partnership as a whole, with 39% of IR staff agreeing. When the figures for disagree and strongly disagree are considered, the distinction between views becomes more apparent with over half of CIOT/ATT members (51%) and other agents (55%) disagreeing as compared to 27% of IR staff.

There appeared to be little support for a further change back to joint and several liability.

## 6.4 A radical re-think of partnership enquiries

### Further comments added to the questionnaires

- *The legislation on the whole in respect of partnership is confusing.*
- *I would like to see a change in the partnership returns (with appropriate changes in the law). In any partnership of 6 or fewer individuals while a nominated partner should be responsible for making the return ALL partners should have to sign a certificate [ to indicate that] they had seen the return and believed it to be correct. In larger partnerships all partners should have to sign a nomination form agreeing who is responsible.*
- *[There needs to be] a way to cut down on the paperwork involved in registering and settling partnership cases to simplify matters for both ourselves and the taxpayers and their representatives.*

- *I have no problem in investigating partnership returns. However, I do have a serious problem with the overbearing time consuming, clerical, bureaucratic procedures of setting up an enquiry.*

### **Outcomes of questionnaire survey and further discussions**

Full details of the responses to the question are provided in the following table 6.4. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from IR staff and the final figure gives the percentage responses from other agents.

**Table 6.4 A radical re-think of partnership enquiries**

<b>A radical re-think of partnership enquiries</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opin- ion</b>	<b>Dis- Agree</b>	<b>Str. Dis- agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
There should be a radical re-think of partnership enquiries	12 38 20	30 29 20	55 26 48	3 7 9	  3

67% of IR staff agreed that there should be a radical re-think of partnership enquiries, as compared to 42% and 40% of CIOT/ATT members and other agents, respectively. There was a large number of ‘no opinions’, with over half, 55% of CIOT/ATT members and 48% of other agents, registering no opinion. When the figures for disagree and strongly disagree are considered, CIOT/ATT total 3%, other agents 12% and IR staff 7%.

In further discussions with CIOT/ATT members they felt partnership enquiries should not be extended unnecessarily into a personal enquiry into every individual partner.

## **6.5 Administrative burden**

### **Further comments added to the questionnaires:**

- *The amount of correspondence required to open an enquiry, particularly with medium and large partnerships, complicates what should be a simple and relatively easy process. To the recipients of this correspondence it must seem that the revenue has increased its level of bureaucracy. Is there room for simplification?*
- *I think that partnership enquiries should be radically reviewed in view of the amount of paperwork/letters issued at the start and finish of an enquiry. I believe this would also help the partners to understand what is happening during the enquiry.*

- *In a partnership enquiry the Revenue usually fail to focus on the risks but adopt a standard scattergun approach in an attempt to find something, anything on any one return. Lack of focus in an enquiry is generally a problem but in partnership enquiries this becomes more so.*
- *Lack of statistical recognition and the additional work involved in not only the preparatory work but also the time taken to work and settle the cases has developed the reluctance to take up large or complex partnerships given the pressures on targets.*

### **Overall outcomes of the questionnaire survey into partnership enquiries and further discussions**

The comments provided in these sections 6.1 – 6.5 represent approximately 3% of the total comments that were included for partnerships. In reviewing all the comments on the questionnaire, those relating to partnership were by far the most numerous. In total, 49 pages of comments were received for partnerships, as compared to 15 pages of comments for private bank accounts, the next most popular subject for respondents. In analysing the partnership comments 47 pages were from IR staff with only two pages of comments from Tax Advisers.

This imbalance was reflected in the discussions with IR staff and CIOT/ATT members following the analysis of the questionnaire responses. IR staff, being more aware of the administration required, had been reluctant to select partnership cases for investigation having experienced the cumbersome nature of the process. Most CIOT/ATT members questioned had little experience of partnership enquiries.

There was only one specifically designated group for partnership discussions with IR staff, but most of the other groups mentioned them when asked to identify anything that needed to be considered in more detail. Most comments and concerns relate to the procedures involved in partnership enquiries.

In the specific partnership group there was an overwhelming recognition of the administrative burden involved in opening partnership enquiries. Currently this is resulting in few being taken up by IR staff in 'general' districts. IR staff in offices that deal with some of the very large partnerships have developed their own practical solutions to some of those problems that are discouraging other offices from opening enquiries into partnerships.

The administrative arrangements existing between Tax District Offices (TDOs) and Tax Service Offices (TSOs) create problems when bringing cases to a conclusion. There is, in practice, insufficient liaison between the two to ensure that all individual partners' records have been amended to reflect agreed figures.

## 6.6 Options for change

This section considers the range of partnership issues that have been raised during the review and set out in sections 6.1 – 6.5. There are limitations to the recommendations as, although there have been extensive comments on the problems relating to partnership enquiries, there have only been a limited number of comments from respondents that set out clear options for change. The majority of IR staff are clearly reluctant to embark on the lengthy and unwieldy procedures involved in a partnership enquiry under ITSA.

The procedural issues that have been raised include:

- There is no statutory requirement to issue a notice to each partner but IR has undertaken to do this on the basis of good customer service. This is rarely appropriate for large partnerships. In practice IR staff and Tax Advisers have arrived at compromise solutions and EH guidance needs to be updated to reflect current practice.
- There are practical problems in managing enquiries into partnerships involving large numbers of partners. IR staff are very keen to create better links between the office dealing with the partnership enquiry and the offices dealing with individual partners. The move to splitting the work between Tax District Offices (TDOs) and Tax Service Offices (TSOs) has caused logistical problems and this is particularly so for large partnerships. For these large partnerships careful consideration should be given to centralising records in one office. They would benefit from specialist treatment.
- The computation of gains on disposals of partnership assets can be particularly cumbersome. Offices dealing with large partnerships have found, in practice, that it is easier for the partnership office to deal centrally with all aspects of the computation. They then provide each individual partner's office with full details of the gain, leaving that office simply to offset any CG exemptions, losses brought forward etc.

To facilitate this for the future, consideration should be given to having a statutory requirement for the partnership return to also include details of the acquisition of the asset, currently it only requires disposal details.

Detailed discussions are urgently needed between the Revenue and the Accounting bodies, initially through the Operational Consultative Committee (OCC), to start to unravel the problems with partnerships. As a starting point EH guidance needs to reflect current best practice. The informal agreements that have developed between IR staff and Tax Advisers need to be investigated further to disseminate best practice and develop further EH guidance.

## 7 Concluding an Enquiry

This section considers four main areas:

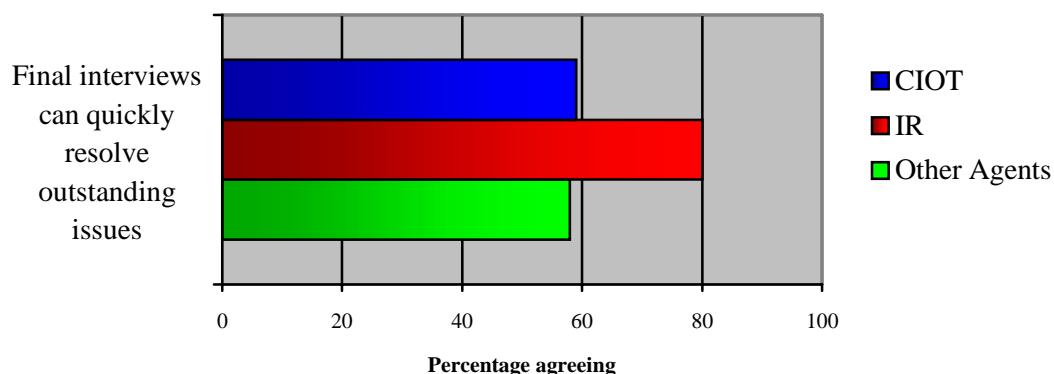
- 7.1 Final interviews to resolve outstanding issues
- 7.2 Collection of duty etc via statement of account rather than by contract settlement
- 7.3 Contract settlements involving instalment arrangements
- 7.4 Possible revision to Section 28A(3) and Section 28A(4) TMA

In the following tables all figures are given in percentages. In each section the questionnaire responses (except 7.4) are analysed, points from the group and telephone discussions are considered and finally, where appropriate, options for change are identified.

### 7.1 Final interviews to resolve outstanding issues

Chart 7.1 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the statement.

**Chart 7.1**



#### Further comments added to the questionnaires

- *Although I agree with the statements about final interviews I do think they should only be used in cases where necessary. Sometimes, depending on the circumstances of the case, holding a final interview only has the effect of rubbing salt into a wound and this can lead to animosity and a breakdown of communication in final stages. This can then delay the settlement of the case unnecessarily.*
- *Final interviews are not always needed. It depends on the case. Small cases can often be wrapped up at one interview.*

- *Final interviews as a rule are not wanted by either taxpayer or accountant, as it increases costs and wastes their time. Most prefer that the final figure is discussed over the telephone.*
- *Final interviews seldom necessary and should be undertaken where there are still areas to be discussed and agreed at length. In most cases (where agent experienced) settlement negotiations could be by correspondence and phone.*

### **Outcomes of the questionnaire survey and further discussion**

Full details of the responses to the question are provided in the following table 7.1. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from IR staff and the final figure gives the percentage responses from other agents.

**Table 7.1 Final interviews**

<b>Final interviews</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opinion</b>	<b>Dis-Agree</b>	<b>Str. Dis-agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Final interviews between clients and the Revenue can quickly resolve any outstanding issues	6 19 9	53 61 49	25 13 14	14 7 23	2  5

The benefits of a final interview were acknowledged by all three groups, with 59% of CIOT/ATT members and 58% of other agents agreeing with the statement. The level of support from IR staff was 80%.

The free text and IR discussion group comments were mainly in favour of final interviews but not as a matter of course. They should only be held if the circumstances of the case require it. There was a general feeling that in many cases the settlement negotiations could be concluded by correspondence.

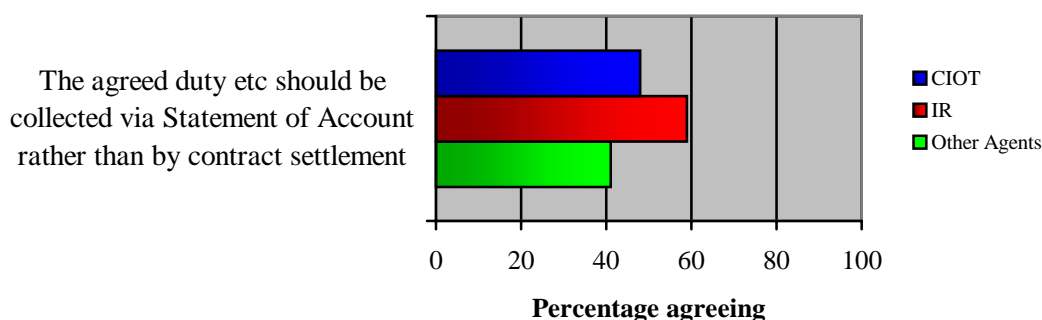
### ***Options for change***

This is an area of ITSA enquiry work that seems to be working quite satisfactorily with a general consensus that final interviews do have a part to play in the settlement negotiations. There was no evidence to suggest that Tax Advisers are resisting requests for their clients to attend final interviews as was the case with interviews at an early stage of the enquiry (see Section 4.3 above). However, interviews should not be mandatory. They are not always needed and in many cases the settlement negotiations could be concluded by correspondence. It is important that IR staff should consider the circumstances of the particular case before requesting such an interview.

## 7.2 Collection via the Statement of Account

Chart 7.2 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the statement.

**Chart 7.2**



### Further comments added to the questionnaires

- *A contract settlement clearly identifies the enquiry duties for all concerned. It allows the Collector to target priority recovery of the duty and the taxpayer to see the result of their default.*
- *Collection of the duty, interest and penalty arising from an enquiry via the statement should ensure action by the best qualified Revenue officer in respect of ALL outstanding liabilities.*
- *Contract settlements are often the cleanest method of concluding cases but both legislative and internal procedures have become confused since the introduction of SA. The whole contract settlement procedure needs to be reviewed including the interaction with statements and taxpayer SA records.*
- *From an administrative viewpoint, the easiest settlement method would be collecting tax and interest through the statement of account, with the penalty being dealt with by a contract settlement.*
- *I am of the opinion that contract settlements are still the best way to recover duties etc. To include these within the statements without a contract would be similar to settling cases by way of assessments which was done pre self assessment (ie due to lack of means etc) and which I understand caused additional work in Collections.*
- *I believe that a contract settlement will be more meaningful to the taxpayer than merely adding the amount to the statement. After all these are the more serious cases and offences generally.*

- *Taxpayer is less likely to default with a contract settlement. It brings more finality.*

### **Outcomes of the questionnaire survey and further discussion**

Full details of the responses to the question are provided in the following table 7.2. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from IR staff and the final figure gives the percentage responses from other agents.

**Table 7.2 Collection via the Statement of Account rather than by contract settlement**

<b>Collection via the Statement of Account rather than by contract settlement</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opinion</b>	<b>Dis-Agree</b>	<b>Str. Dis-agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
The agreed duty, interest and penalties should be collected through the Statement of Account rather than by contract settlement	4	44	22	26	4
	23	36	16	20	5
	13	28	17	34	8

48% of CIOT/ATT members and 41% of other agents supported this statement whereas 59% of Revenue staff were in favour. The subject was considered at some length in the IR group discussions. There was a strong feeling that contract settlements no longer had a role to play within the SA era but the practical difficulties in bringing all settlement duties etc on to the statement of account were recognised namely:

- the need for a closure notice which would considerably delay final settlement,
- the need for a formal penalty determination with its own appeal period which would further delay settlement,
- the problem with ring-fencing any voluntary payments on account made in advance of the settlement,
- problems over allocation of payments intended for the settlement which the computer would set against on-going liabilities.

The discussions were taken a stage further in considering whether, if contract settlements were retained, it would be practical to arrange for collection of the contract debt via the statement of account. Again there would be problems, not least in the way the computer would charge interest in the event of the taxpayer defaulting on the contract.

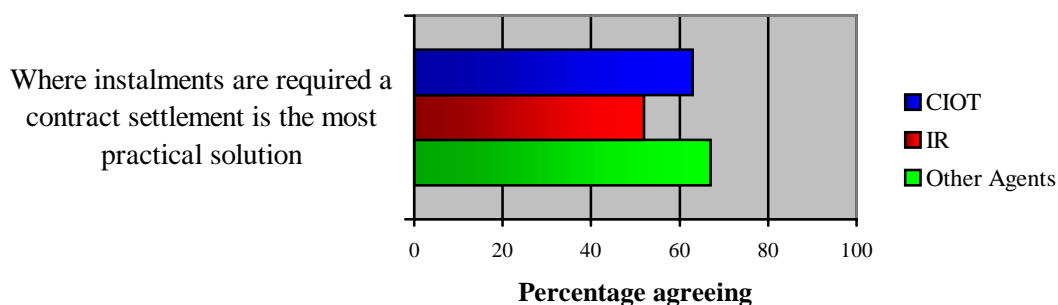
## Options for change

Much of the pressure for a change in this field comes from within the Revenue rather than from the Accountancy bodies. As far as a settlement involving several years liability is concerned, the problems with the statement of account that have been identified in this review outweigh the potential benefits of having the tax liabilities, interest and penalties all set out in one statement. However, further consideration should be given to introducing collection via the statement of account for a one year settlement where all the amounts for tax, interest and penalties have been agreed by both parties.

### 7.3 Contract settlements involving instalment arrangements

Chart 7.3 provides an analysis of the numbers of respondents agreeing and strongly agreeing with the statement.

Chart 7.3



#### Further comments added to the questionnaires

- *Even if instalments are required why can this not be done through the statement as well?*
- *Even with instalments would still need contract, ie 'agreement to pay'. Once contract negotiated could then collect through statement of account.*
- *I believe that all duties should be shown on the one statement so that the taxpayer is in no doubt at any time of the amount owed by him or her. Amounts under instalment arrangements could perhaps be included too on the statement for those who wish to pay by instalments, such as you would see on a credit card where a monthly bill is sent out with a minimum payment and a date to be paid by. Any problems in arranging this might be resolved with a nominated Collector being involved in the process locally and direct debits being more easily set up by the taxpayer.*

- *Inspectors are more likely to agree to a settlement by instalments over say 24 months when Collection staff would not have the power under present guidelines to agree to instalments, especially if the taxpayer had County Court Judgments. Perhaps both inspectors and Collection staff need more guidance and flexibility on the payment of arrears.*
- *A paid-up statement of account is a thing of beauty. Once it starts going even slightly exotic, you have had it. Instalments? Interest? Forget it. I am in total awe of the folk at Shipley and Cumbernauld who can make sense of them in the space of a phone call.*
- *The Collector of Taxes has far more expertise at arranging instalment plans. For this reason it would be better to include all sums on the SA statement and let the specialist recovery services of the Collection office do their work.*
- *I can't think of a way around avoiding the necessity of a contract settlement for instalment arrangements but if all settlements could be incorporated into the taxpayer statement I am sure it would be easier for the taxpayer to follow, and it would give a true picture of his/her tax position.*
- *I feel that where an instalment arrangement has been requested then a contract settlement should still be arranged.*

### **Outcomes of the questionnaire survey and further discussion**

Full details of the responses to the question are provided in the following table 7.3. The top figure in each cell gives the responses from CIOT/ATT members, the second figure gives those from IR staff and the final figure gives the percentage responses from other agents.

**Table 7.3 Contract Settlements involving instalment arrangements**

<b>Contract Settlements involving instalment arrangements</b>	<b>Str. Agree</b>	<b>Agree</b>	<b>No Opinion</b>	<b>Dis-Agree</b>	<b>Str. Dis-agree</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Where instalment arrangements are required a contract settlement is the most practical solution.	6	57	28	9	
	12	40	25	20	3
	9	58	19	10	4

There was support for the continuation of contract settlements involving instalment arrangements, particularly from the agents with 63% of CIOT/ATT members and 67% of other agents in favour as against only 52% of IR staff. The fact that 23% of IR staff disagreed with the statement is very much in line with their attitude to the future of contract settlements generally, as set out in section 7.2.

The IR group discussions generally supported instalment contract settlements even though they considered the process to be somewhat cumbersome particularly for a small case. There were some doubts expressed but the groups failed to come up with any workable alternatives.

### ***Options for change***

Although there were some doubts expressed, mainly by IR staff, on the future of contract settlements involving instalment arrangements, those doubts do not seem sufficiently strong to justify any change in the current Revenue practice. There was general recognition that these contract settlements provide the best option for taxpayers with difficulties in funding a cash offer.

## **7.4 Issues relating to Section 28A(3) and Section 28A(4) TMA**

There are no charts or tables to support this subject heading because it was not specifically included within the questionnaires. The matter was first raised at a stage when it was too late to include within the questionnaires but it was raised by a number of different IR respondents and it did figure very strongly in IR group discussions. It was considered to be of such significance as to merit inclusion in this report.

The proposal that was put forward was:

- that the legislation should be amended to eliminate the 30 day period allowed to the taxpayer under Section 28A(3) for amending their self-assessment following receipt of the IR closure notice under Section 28A(5) and
- that the 30 day period allowed to the IR under Section 28A(4) should also be eliminated.

This would mean that the taxpayer would be allowed 30 days from the closure notice in which to appeal against the figures included in that notice. In the absence of an appeal, the figures would become final and the self-assessment would be amended accordingly.

### **Comments added to the questionnaires by IR staff**

- *Where contract settlement is not appropriate but a change in the self assessment is needed, another layer of unwanted red tape has been inserted in the form of the taxpayer amendment. Going through the 30 day taxpayer amendment then 30 day Revenue amendment route only extends the enquiry unnecessarily. Why not just amend at the outset and allow the taxpayer to appeal.*
- *The requirement for a taxpayer to amend his self assessment should be abolished. Agents consider it a chore and often refuse to take any action, preferring to wait for a Revenue amendment (which gives an outside chance of matters being over-*

*looked completely). The taxpayer's right of appeal would adequately protect his position.*

- *The whole area is too cumbersome and long-winded where it does not need to be for the majority of cases. The conclusion of enquiry by amendment is particularly involved. We should scrap the 30 days for the taxpayer amendment, then 30 days for us etc procedures. Once agreement has been reached, we should make the amendment and the taxpayer has the right to appeal.*
- *The procedure at the conclusion of an enquiry is cumbersome if there is not to be a contract settlement. Whilst it is understood that this is a self assessment system, the request to amend a self assessment is futile if it is known that the taxpayer does not agree with the Revenue and an unnecessary step if it is believed that they do.*
- *Re-issue a closure notice, and a request for a taxpayer amendment. Very often, agents do not respond; and we have to go through the formal procedures which take over 60 days. This can delay repayment or, where there is an increased charge, generate a higher interest cost to our customer. We should be able to shortcut the procedure, with agreement, and subject to a right of appeal.*

### **Outcomes of further discussions with IR staff**

The number of free text comments reproduced above indicates the level of interest in this subject amongst the IR respondents and it was also discussed at some length at the IR discussion groups. As yet there has been little discussion of the subject with any Tax Advisers.

The concerns expressed at the IR discussion groups centred on three main areas.

- The self-assessment belongs to the taxpayer and, at the conclusion of the enquiry, they should be given an opportunity to amend the figures. Against that, the evidence would suggest that very few taxpayers do in fact take advantage of the opportunity given to them.
- The taxpayer does not have the right to amend the self-assessment whilst an enquiry is in progress and they therefore need this opportunity to amend the figures to reflect any amendments that they might have indicated to the Inspector during the course of the enquiry. But in the normal course of events it is reasonable to assume that the IR officer would have taken these amendments into account when drawing up the figures in the closure notice. If not, the taxpayer will be able to correct the position on appeal against the closure notice.
- It would limit the appeal rights because taxpayers would only have the one opportunity to amend the self-assessment instead of the two currently available but nonetheless the appeal rights would still be adequately protected.

### *Options for change*

This review has not included any detailed consideration by Tax Advisers of Sections 28A(3) and 28A(4), and so suggestions for change at this stage would be premature. However, following the significant level of support from IR staff for changes there would be benefit in further consideration – initially by the Operational Consultative Committee (OCC). If the amendments were adopted they would require legislative change and this could simplify what is acknowledged to be a rather cumbersome closure procedure.

## 8 ITSA enquiries from the viewpoint of the taxpayer

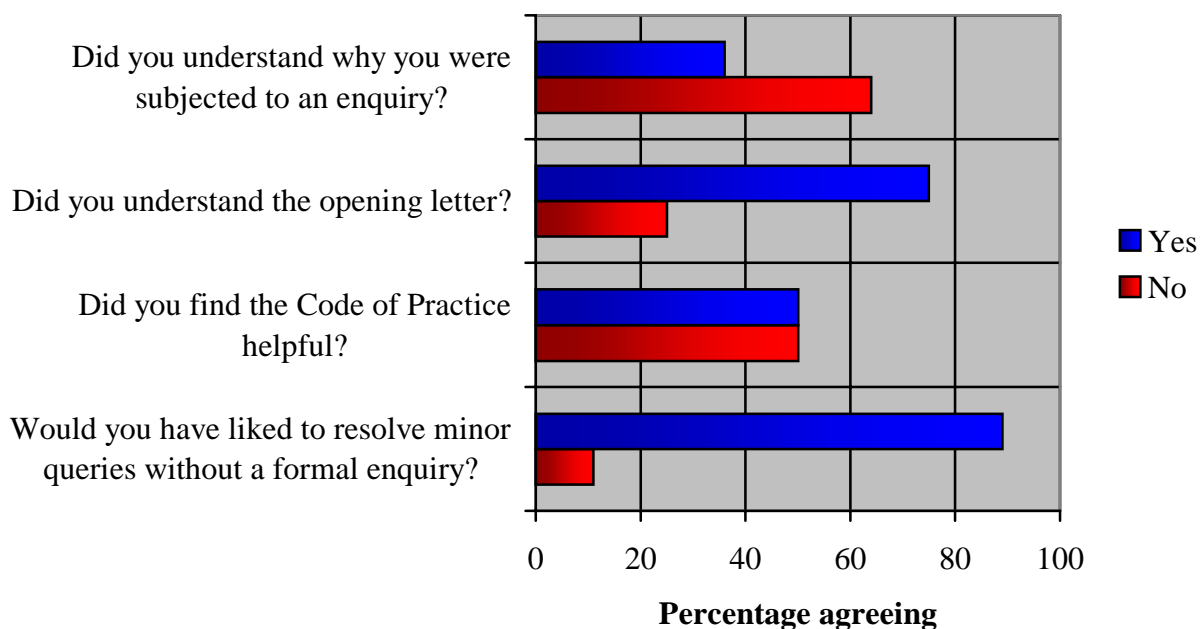
This section considers the responses to the specific questionnaire that was prepared for completion by taxpayers who had been the subject of an ITSA enquiry. This was a much simpler and more straightforward questionnaire than the other versions prepared for agents and IR staff and was designed to discover what sort of an impact the Revenue enquiry had had on the taxpayer. There are four main sections:

- 8.1 Opening the enquiry
- 8.2 During the enquiry
- 8.3 Partnership enquiries
- 8.4 Concluding the enquiry.

### 8.1 Opening the enquiry

Chart 8.1 provides an analysis of the percentage of respondents agreeing and disagreeing with the following statements. When considering these results it is important to remember that they are based on a very small number (28) of respondents but these were all taxpayers who had first hand experience of an ITSA enquiry.

**Chart 8.1**



#### Further comments added to the questionnaires

- *I have no ideas whether it was relevant, since I still do not know why I was investigated.*

- *We were not told why we were being investigated. We did not know whether this was routine enquiry or there was a specific problem or area of our accounts that the Inspector wished to examine.*
- *It is silly not to state for people like me who have never tried to avoid tax, and who are small fry, what it is that prompts the enquiry – I would have no reluctance whatsoever to co-operate with a transparent investigation.*
- *The enquiry was to supply supporting documentation for FSAVC. It was phrased in a formal somewhat aggressive way. I feel that such supporting documentation should be requested and supplied as part of the tax return rather than in this way.*
- *The language used by the enquirer was that of the tax legislation rather than common usage.*
- *Everything was full of jargon. I wasn't given in-depth explanations. The whole thing turned out to be a waste of everyone's time. It would have been better dealt with by a less formal approach.*
- *The initial letter caused me to panic as I did not realise that we had been picked out at random.*
- *Codes of Practice are nice but not if they don't stick to them.*

### **Outcomes of the questionnaire survey**

The fact that, under ITSA, there is no requirement for IR staff to explain their reasons for opening an enquiry is the most likely explanation for the fact that 64% of the taxpayers failed to understand why they were the subject of an enquiry. Despite this, 75% did confirm that they had understood the opening letter but some of the free text comments did suggest that there was room for improvement in the wording of that letter. There were complaints that it was too aggressive, too full of jargon and too closely linked to the legislative wording.

The taxpayers reflected the views of both the Tax Advisers and IR staff in strongly supporting (89%) the idea of being given an opportunity to resolve minor queries without the formality of a Section 9A enquiry.

### ***Options for change***

The issues raised reflect areas already covered in previous sections. They are:

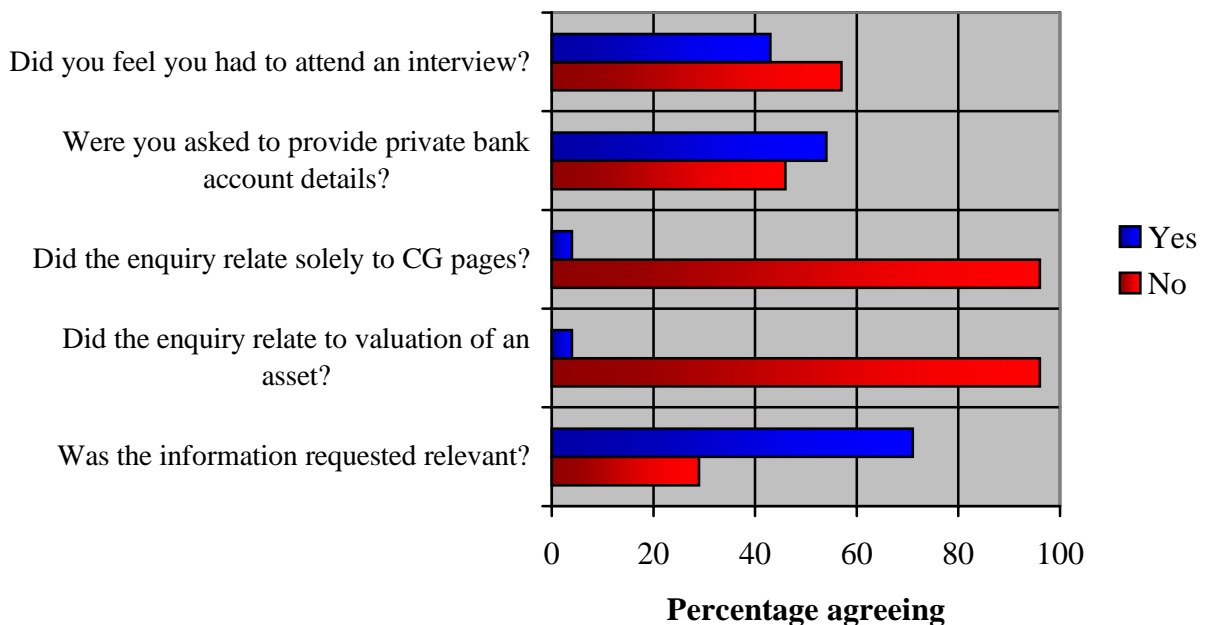
- issuing full details to the taxpayer of the opening request for information should reduce the uncertainty over the reason for the enquiry (Section 4.1)
- the revisions already made to the opening letter should resolve many of the current criticisms (Section 4.2)

- proposals already set out earlier in this report should reduce the number of occasions on which formal enquiries have to be opened simply to resolve very minor queries (Section 3.1).

## 8.2 During the enquiry

Chart 8.2 provides an analysis of the percentage of respondents agreeing and disagreeing with the statements included in the questionnaire.

**Chart 8.2**



### Further comments added to the questionnaires

- *I felt it was unfair to ask me to provide details of a friend's bank statements.*
- *Continual demands for an interview.*
- *In principle I would have been quite willing (to attend interview) but accountant advises that inquisitorial nature of interviews in his experience would merely create more problems. Advice leaflet emphasises the good faith side of the investigation, which does not concur with my accountant's experience.*
- *I felt that a lot of the questions were an invasion of my privacy and civil rights.*

- *Payments into my private bank account (held jointly with my husband) are being minutely investigated and they have no relevance to my professional earnings.*

### **Outcomes of the questionnaire survey**

The responses would suggest that many of the enquiries were settled without an interview with only 43% suggesting that they had been persuaded into attending, but a majority (54%) were required to provide private bank account details.

Only one respondent had experience of an enquiry into CGT liability and so little can be learnt on this subject from the questionnaire responses. It was reassuring that 71% of respondents considered that all the information requested was relevant to the enquiry.

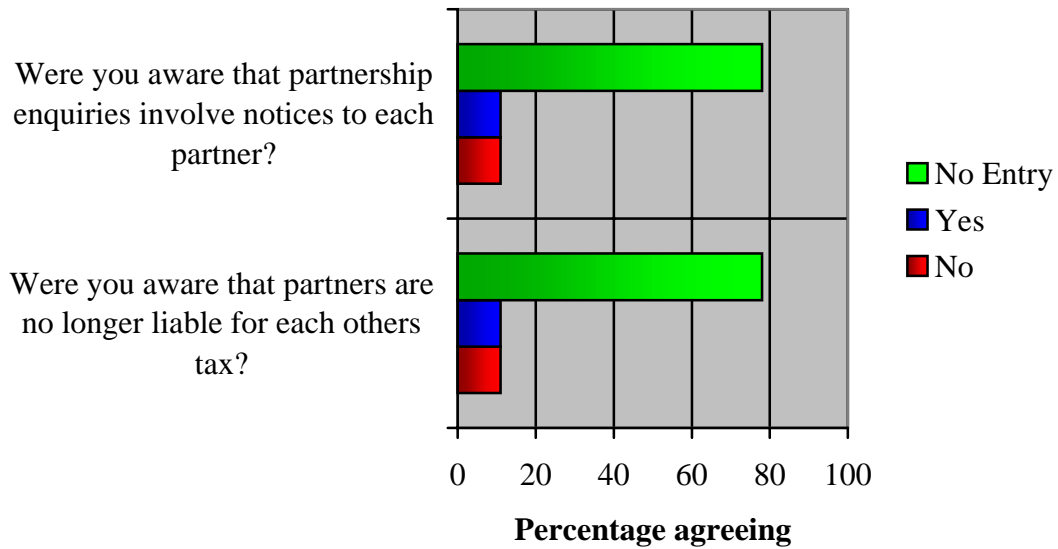
### ***Options for change***

There is little to be added here because of the small number of respondents (28) and the points made on interviews and private bank accounts have been covered in the main body of the review (Sections 4.3 and 5.3).

### 8.3 Partnership enquiries

Chart 8.3 provides an analysis of the percentage of respondents agreeing and disagreeing with the two statements below.

**Chart 8.3**

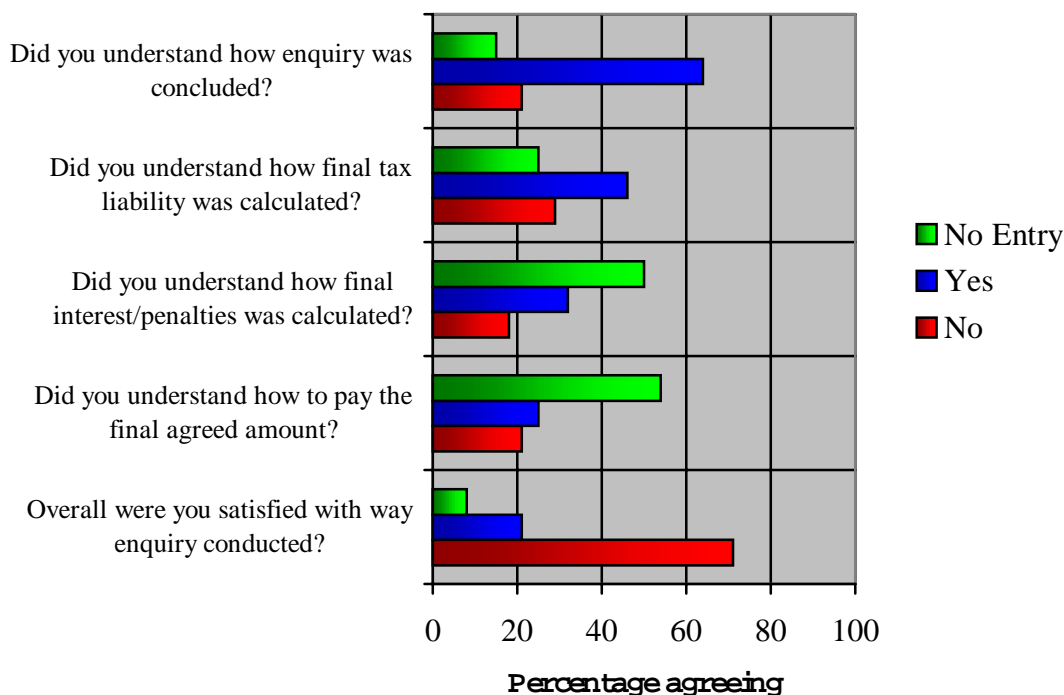


Only three out of the 28 respondents completed the section and only one partnership enquiry was involved. The issues raised within these questionnaires have been covered in chapter 6 – Partnership enquiries.

## 8.4 Concluding the enquiry

Chart 8.4 provides an analysis of the percentage of respondents agreeing and disagreeing with the five statements below.

Chart 8.4



### Further comments added to the questionnaires

- *I felt afraid to consult the tax office myself. My accountant said everything had to be done through him. I would have liked a helpline to telephone where someone could answer my general questions before I replied to the enquiry.*
- *I was required at each stage to respond to Revenue letters within 30 days or, by not responding, to accept the details and conclusion in those statements; however I have on two occasions waited more than 30 days for my dissenting responses to generate anything (acknowledgement, answer etc). I feel that if 30 days applies to the recipient it should also apply to the Revenue.*
- *I feel it is an infringement of basic human rights to be launching large scale enquiries that cost a lot of time and money without telling people the grounds for the investigation.*
- *The enquiry was dealt with by a level of staff that was inadequate to respond fluently or cogently to the issues.*

## Outcomes of the questionnaire survey

Full details of the responses to the questionnaire are given in table 8.4 below.

**Table 8.4 Concluding the enquiry**

<b>Concluding the enquiry</b>	<b>Yes %</b>	<b>No %</b>	<b>No Entry %</b>
Did you understand the basis on which the enquiry was concluded?	64	21	15
Did you understand how the final tax liability was calculated?	46	29	25
Did you understand how the final interest and penalties (if appropriate) were calculated?	32	18	50
Did you understand how you were to pay the final agreed amount of tax, interest and penalties?	25	21	54
Overall, were you satisfied with the way in which the enquiry was conducted? If 'no' please give details below.	21	71	8

After eliminating the 'no entries' there were substantially more respondents who had understood the basis on which the enquiry was concluded than those who had not understood. Similar results were seen in relation to understanding how the final tax liability, interest and penalties were calculated and how payment of the agreed amount was to be made.

The most noticeable result from this section of the report was the very high percentage (71%) of taxpayer who were dissatisfied with the overall handling of the enquiry. It is reasonable to expect that many people who have been the unwilling subject of an enquiry will express dissatisfaction but nonetheless 71% is a high figure. Some of the reasons for the dissatisfaction were set out in the comments added to the questionnaire, given above.

### *Options for change*

Although the majority of matters raised have already been covered in the report, the responses here do suggest that some dialogue between the Revenue and those bodies acting for the unrepresented taxpayer would be helpful with a view to improving the communication with taxpayers about the nature of the enquiry. Many of the complaints suggested that the unrepresented taxpayers had little or no idea of what was involved or what to expect. The blame for this can rest partly with their failure to read the code of practice that was given to them at commencement but there is probably more that the Revenue could do to improve matters.

## 9 Conclusions

There were three main objectives for this study. They were to carry out a review of all the processes and procedures involved in an Income Tax Self Assessment (ITSA) enquiry, to highlight those areas that are working well and those where improvements are required and to make recommendations on improvements that could be put in place. The result sections, 3-8 in this report, set out where and how changes could improve the current position.

The following table 9.1 summarises the main findings and recommendations. They fall into four basic categories, those involving possible changes in legislation, those involving changes in procedures, those requiring further discussion within the OCC or “Working Together” forum (OCC/WT in table 9.1) and those that appear to be working well and which require no change. The ‘\*’ in table 9.1 indicates which of the four categories applies to each of the sections of the report.

**Table 9.1 Summary of report recommendations**

Section	Legis-lation	Proce-dural	OCC /WT	No change
3.1	Resolution of minor queries	*	*	
3.2	‘Giving of notice’ and ‘date of issue’	*		
3.3	Separate CGT enquiry power	*	*	
4.1	Opening request for information to be copied to taxpayer/client		*	
4.2	Opening letters and codes of practice		*	*
4.3	Interviews in the opening stages		*	*
5.1	Faster Working		*	
5.2	Litigation of a particular point whilst the enquiry is in progress	*		
5.3	Requests for private bank details		*	*
6	Partnership enquiries	*	*	*
7.1	Final interviews to resolve outstanding issues			*
7.2	Collection of duty etc. via statement of account rather than by contract settlement		* (<1 year)	* (>1 year)
7.3	Contract settlements involving instalment arrangements			*
7.4	Possible revision to Section 28A(3) and 28A(4) TMA	*	*	

Preliminary discussions have already taken place within the OCC sub-committee to consider the findings from the report, with further work planned involving representatives of the interested bodies and the Inland Revenue. In this way it is anticipated that the original objectives of the study will be met, in full.

## Appendix 1 Demographic information – CIOT/ATT members

Please indicate:

	%
ATII/FTII	78
ATT	22

What percentage of the work you control relates directly to income tax self assessment?

	%
0 - 25%	13
26 – 50%	18
51 – 75%	28
76 – 100%	40

What is your working environment?

	%
'Big 5' practice	11
Tax Consultancy	9
Medium size international practice	6
National/ Regional practice	36
Legal practice	1
Tax training practice	1
Sole practitioner	36

What is your age?

	%
Under 30	8
30-45	46
46-60	35
Over 60	11

Please indicate:

	%
Male	68
Female	32

## Appendix 2 Demographic information – IR staff

What is your working environment?

	%
B1	3
B2	7
C1	22
C2	68

What is your age?

	%
Under 30	2
30-45	54
46-60	44
Over 60	

Please indicate:

	%
Male	66
Female	34

### Appendix 3 Demographic information – Other agents

Please indicate your qualifications:

	%
ATII/FTII/ATT	33
ACA	22
ACCA	7
ICAS	5
AAT	6
By experience in professional firm(s)	23
By experience in the Inland Revenue	4

What percentage of the work you control relates directly to income tax self assessment?

	%
0 - 25%	24
26 – 50%	16
51 – 75%	31
76 – 100%	29

Please indicate:

	%
Male	81
Female	19

What is your age?

	%
Under 30	3
30-45	45
46-60	46
Over 60	6

What is your working environment?

	%
'Big 5' practice	7
Independent Consultancy	8
Medium size international practice	8
National/ Regional practice	34
Legal practice	3
Training practice	2
International Company	
National Company	2
Sole practitioner	36

## Appendix 4 Demographic information – Taxpayers

	%
Male	64
Female	36

What is your age?

	%
Under 30	0
30-45	39
46-60	61
Over 60	0

What is your working environment?

	%
Professional	64
Managerial	14
Clerical	0
Administrative	4
Skilled	7
Semi-skilled	0
Not in paid employment	0
Retired	4
No Entry	0
Other	7

## **Appendix 5      Pre-session information**

5th June 2000

Re: ITSA Enquiries

Dear Member of the Review Group,

Thank you for agreeing to be part of the review group in Stockport on Thursday 8<sup>th</sup> June. We are now at the stage in the study where we need to review the findings of the questionnaire survey – and this is where you come in. The objectives of the group review on Thursday are to consider the attached findings and then to formulate practical, realistic and achievable options for change, where these are required.

This is the first of a series of five review groups over the next month and it represents a very important stage of the research study into ITSA enquiries. It would be very helpful to us if you could have considered the attached findings prior to Thursday. The results are given in the following table for the three groups surveyed, with all figures given in percentages. Each cell gives three percentage responses, the top figure being from CIOT respondents, the second figure from Revenue staff and the final figure from other (non-CIOT) agents.

A further issue has been raised following the distribution of the questionnaire:

There has been a suggestion that there should be a change to the closure procedure by eliminating S28A (3) and (4) and moving straight from the issue of the closure notice to the commencement of the taxpayers' appeal period.

Your thoughts on this would also be appreciated.

Any further details about the study, the findings or the review group on Thursday can be obtained from Barry Jefferies or Ann Hansford ([Ann.Hansford@uwe.ac.uk](mailto:Ann.Hansford@uwe.ac.uk)).

We look forward to seeing you on Thursday,

Ann Hansford and Barry Jefferies

Appendix 5 ITSA enquiries – selection of questionnaire responses

	Str. Agree	Agree	No Opinion	Dis-Agree	Str. Dis-agree
	%	%	%	%	%
There is a 'strait-jacket' approach to many enquiries – when a short telephone discussion or brief letter to the adviser could solve the problems	50 37 53	37 40 27	8 7 4	5 14 9	2 7
I would like the opportunity, either by telephone or otherwise, to resolve minor queries without the formality of a Section 9A enquiry.	62 48 56	33 37 27	6 2	4 8 9	1 1 6
All references in the legislation to the 'giving of notice' should be amended to the 'date of issue'.	25 40 24	38 35 30	35 23 31	2 2 6	9
Enquiries that relate solely to the Capital Gains (CG) pages should be the subject of a separate enquiry power, not directly linked to any enquiry on the Income Tax pages	24 15 27	42 32 34	14 30 15	17 19 14	3 4 10
Enquiries are often opened into the CG pages solely because of the lack of an agreed valuation of an asset in cases where a post-transaction valuation could have been obtained using form CG34	12 11 13	40 33 35	44 53 43	4 3 7	2
Many of the above enquiries into valuations of assets result in no adjustment to the tax liability	7 9 12	46 24 30	42 58 49	5 8 8	1 1
I would advise my clients not to agree to an interview / * I would prefer to have an interview / in the opening stages of an enquiry	21 *20 24	49 *38 45	12 *16 10	16 *24 17	2 *2 4
Final interviews between clients and the Revenue can quickly resolve any outstanding issues	6 19 9	53 61 49	25 13 14	14 7 23	2 5
Private bank account details should not, as a matter of course, be requested in the opening letter	47 5 62	41 26 21	6 10 8	4 31 6	2 28 3
I would encourage clients / taxpayers to provide private bank account details during an enquiry into a cash business	6 61 6	50 27 37	17 11 9	24 1 29	3 19

\* indicates a different question for tax practitioners and other agents than that for Revenue staff

Appendix 5            Free text comments  
(key words: capital gains, interview and telephone)

*Capital gains – money is lost because CG enquiries have been downgraded in importance so that they don't count for the main enquiry stats., meaning that we cannot give them the time they deserve despite the valiant attempts of our only inspector bringing in lots of culpable monies. Loss of Revenue to the Exchequer is surely to deserve our equal attention no matter where it is lost from.*

*Given the lack of information on Returns about the acquisition of assets, the Capital Gains schedule may be the first indication of ownership. Any attempt to separate Income Tax Enquiries from CG Enquiries would mean two enquiries if we were not satisfied that there were sufficient means to acquire the asset in the first place, and had to enquire into sources of income.*

*There is no realistic training available on capital gains tax at all, how many millions of pounds per year is the department losing? Even after taking into account the cost of training inspectors/officers properly the extra yield would be very considerable.*

*Interviews should not be mandatory but failure to permit oneself to be interviewed should be viewed as potential non-cooperation for penalty purposes.*

*They have seized on the pre interview discussion [with faster working] as a means of "preparing" clients for subsequent interview questions, which can then become meaningless. The other main problem is the "strait jacket" approach that is imposed in terms of S19A use.*

*We now have the situation where accountants/agents are refusing to allow their clients to attend interviews for fear that they incriminate themselves. In addition Investigators are now faced with a large increase in requests for an agenda which is causing bad feeling because each side have a different idea as to what an agenda is.*

*If a more informal approach is going to be allowed on minor issues, this should not create a situation where the taxpayer/agent is able to wriggle out of a later full enquiry on the grounds that the informal query constitutes the single enquiry opportunity. Therefore any letter or telephone call dealt with on an informal basis for the benefit of the profession and taxpayers should be "without prejudice".*

*(Practitioner comment) The idea of dealing with minor queries over the telephone whilst practical concerns me. If telephone queries were raised would that effectively amount to a Section 9A enquiry or would that route still be open to the Inland Revenue if they wished to pursue other items in the client's Tax Return?*