IR35 FORUM MINUTES – 5th November 2014, 11:00am

Location: 1 Horse Guards, London

Attendees

Rowena Fletcher	(HMRC) (Chair)
Robert Burton	(HMRC)
Joanna Were	(HMRC)
Julie Campbell	(HMRC)
Jacqueline Gray	(HMRC)
Mike Brown	(HMRC)
Philip Lloyd	(HMRC)
Tom Hadley	(REC – Recruitment and Employment Confederation)
Jason Piper	(ACCA – Association of Chartered Certified Accountants)
Simon McVicker	(IPSE –The Association of Independent Professionals and the Self-Employed)
Julie Stewart	(IPSE – The Association of Independent Professionals and the Self-Employed)
Lesley Fidler	(CIOT – The Chartered Institute of Taxation)
Kate Cottrell	(IR35 Specialist)
Samantha Hurley	(APSCo – Association of Professional Staffing Companies)
David Kirk	(ICAEW – The Institute of Chartered Accounting in England and Wales)

Apologies

Lewina Farrell	(REC – Recruitment and Employment Confederation)
Julia Kermode	(FCSA – The Freelancer and Contractor Services Association)

Welcome and Introduction

1. Rowena Fletcher opened the meeting and thanked everyone for coming.

2. A review of the action points from the minutes of the previous meeting was undertaken. All previous action points closed. **(See Annex 1 for Action Points (AP))**.

Administrative Burden

3. The House of Lords Select Committee on Personal Service Companies recommended that HM Revenue & Customs (HMRC) carry out and publish a detailed assessment of the current Exchequer protection figure and of the costs that taxpayers incur in dealing with IR35. The meeting discussed the work that has been done so far, and the following points were discussed:

- the overall number of personal service companies and how best to estimate this as there is no statutory definition;
- how detailed costs, including working out the deemed payment were arrived at; and
- costs incurred by agencies in advising members on IR35 issues.

HMRC agreed to consider the comments raised by the Forum and respond to these when the final estimate is published. **AP 1**

The IR35 Administrative Review report

4. The IR35 Administrative Review draft report covering five strands of the IR35 administrative review process has now been brought together into a single cohesive report. Points raised in discussion:

   HMRC will let the Forum know when the IR35 guidance is published on GOV.UK. **AP 2**

HMRC IR35 Helpline and Contract Review Service

5. Following discussion of the details of a specific case, Forum members agreed that, although there have not been any breaches in confidentiality, there is scope for continuing concerns about perceptions of that risk where people use HMRC's Contract Review Service. HMRC agreed that in the light of these continuing concerns, this is the right time to look again at the way HMRC provides help and guidance to customers in line with other non-statutory clearances and helplines. HMRC agreed to update the Forum at the next meeting. **AP 3**

Improving awareness and understanding of IR35

6. HMRC's responses to the recommendations are in line with its digital by default strategy. There was agreement that webinars can be a useful way of informing people about IR35.

Compliance

7. It was agreed that it would be helpful to amend the report to make it clearer why HMRC could not extend the period for information notices for IR35 cases, explaining that it needs to be consistent across all taxes. HMRC confirmed that they do apply appropriate discretion to reflect particular circumstances.

8. HMRC confirmed that they are increasingly using email.

Business Entity Tests (BETs)

9. Following the previous Forum meeting it was publicly announced that the BETs will be withdrawn. Government departments are now aware that the Business Entity Tests (BETs) will be withdrawn with effect from 6th April, following the announcement in October. The BETs will continue to be online until 5th April 2015.

10. The scenarios previously contained in the BETs could be useful to raise awareness and understanding. Although these cannot be moved to GOV.uk, there are examples in the Employment Status Manual. HMRC will consider using examples in guidance in future when appropriate.

Terms of Reference and membership

11. Following the previous Forum meeting, draft Terms of Reference have been circulated.

12. It was agreed that in future the minutes would be shorter, recording key points raised and actions.

13. There were some suggestions of additional representation. It was agreed to have a substantive discussion at the next meeting. **AP 4**

    Final points raised from the Administrative review discussion:
    It was agreed that all comments raised would be considered and HMRC will amend the Administrative Review report. A new draft version will be sent back to Forum members after agreement in due course. **AP 5**

Statistics

14. HMRC explained that there was no update available for this meeting but as soon as the latest available statistics had been through internal sign off processes, they would be given to the Forum.

AOB

15. Update on tribunal cases: HMRC confirmed that they have opinions outstanding and cases are proceeding to tribunal.

16. Concerns were expressed about HMRC's failure to tell all Forum members about the consultation on the return requirements for the intermediaries' legislation. It was agreed to hold a separate meeting for Forum members to discuss this. **AP 6**

17. The next meeting will be held on the 11 February 2015 at 11am, 100 Parliament Street.

Annex 1 Action Log – IR35 Forum

ACTION POINT 17 HMRC to send an electronic version of the request to external Forum members to comment on calculating the administrative burden of IR35.	Sophia Harrington	Closed
ACTION POINT 18 HMRC to write to Forum members on feeding into the review of questions on the SA and RTI returns.	Sophia Harrington	Closed
ACTION POINT 19 HMRC to consider having a section on the 'public sector' within the IR35 Forum Report.	Robert Burton	Closed
ACTION POINT 20 HMRC will get further details from Kate about the specific case with a view to fully identifying the issues and how conflicts of interest, actual or perceptual, can be addressed effectively.	HMRC	Closed
ACTION POINT 21 HMRC will look at the extent to which Contract Review Statistics can be broken down further.	Philip Lloyd	None of the opinions given were verbal. If opinions are given they are in writing. Closed
ACTION POINT 22 Redrafts of some of the review reports to be completed by the Forum Members and referred back to HMRC by 22 August 2014.	Robert Burton	Closed
ACTION POINT 23 Forum members to comment on the TOR (including membership) by 22 August 2014.	Robert Burton	Closed

New action points arising

ACTION POINT 1 To consider the comments raised by the Forum on the administrative burden and respond to these when the final estimate is published.	Robert Burton	Open
ACTION POINT 2 Let the Forum know that guidance has gone on GOV.uk	Jacqueline Gray	Closed
ACTION POINT 3 HMRC will look at how best to provide guidance and support for IR35 recognising members concerns about confidentiality. An update will be provided at the next meeting.	Robert Burton/ Mike Brown	Open
ACTION POINT 4 To have a substantive discussion on the draft terms of reference at the next meeting.	Robert Burton	Open
ACTION POINT 5 Further comments raised by the Forum on the Administrative Review report to be considered. HMRC will amend the report to reflect these and send back to Forum members for any further comments prior to publication.	Robert Burton	Closed
ACTION POINT 6 HMRC agreed to have a separate meeting to discuss the return requirements.	Robert Burton	Closed. A technical consultation meeting booked after the Forum meeting for 20/11/14