



**Understanding avoidance scheme users'  
decision making, customer experience and  
future compliance intentions when settling their  
enquiry with HMRC**

Research Report 582

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# Executive Summary

This summary outlines findings from 20 in-depth interviews with users of tax avoidance schemes who had settled their enquiry with HMRC. Previous research conducted in 2015 by Kantar Public (formerly TNS-BMRB) with users of tax avoidance schemes about the decision-making process for entering and exiting tax avoidance schemes provides important context for this research<sup>1</sup>.

This research sought to gather insight into scheme users' decision-making, their experiences of the settlement process, and any implications of this experience on their future compliance intentions. Findings from this study will be used to inform HMRC activities aimed at improving the experience of settlement and reducing the stock of users involved in tax avoidance schemes, protecting tax revenue and preventing lengthy litigation through tax tribunals.

Participants were sampled from an HMRC database of users of marketed tax avoidance schemes who had settled with HMRC in the last two to three years. Due to the sensitivity of the topic and anticipated low response rate, no recruitment criteria were set prior to fieldwork. Instead, progress against key criteria (region, scheme type, early/late settlement) was continually monitored during fieldwork. 18 of the interviews were conducted face-to-face and two were carried out by telephone due to accessibility/participant request.

## ***Influencers and motivations to entering and using tax avoidance schemes***

People were motivated to enter and use tax avoidance schemes for a number of both personal and external reasons:

- **Perceptions of the scheme** – The most obvious reason for entering a tax avoidance scheme was for personal financial gain. This was acknowledged by participants, and particularly valued by those experiencing financial difficulties at the point of entry. Further advantages related to specific schemes; for example, members of contractor schemes valued the time and effort saved from not having to set up their own limited company in order to receive payments.
- **Credibility of scheme introducers** – None of the participants in the research sought out a tax avoidance scheme. Rather, they were approached by individuals and organisations – promoters, accountants, colleagues, peers and friends – all of whom were influential in users' decisions to take up a scheme. Schemes were deemed to be more credible if influencers had: specialist knowledge (e.g. accountants, legal counsel); normalised behaviour (e.g. peers, colleagues); or made reference to 'accreditation' (e.g. DOTAS listing).
- **Tax environment** – The political and social environment at the time of take up was influential for participants; specifically, that prior to 2008, tax avoidance schemes were perceived to be fairly commonplace and more socially acceptable.

## ***Experiences of the settlement process***

Within our sample, it was possible to categorise scheme users according to their understanding of their scheme as a form of avoidance, and the strength of their attitudes towards participation in tax avoidance schemes. This resulted in three fluid categories – Unaware / Justifiers / Deliberates. Differences between these categories were noted in how they responded to the challenge from HMRC, and their subsequent approach to settlement:

- Those who were unaware that their scheme was a form of tax avoidance (**Unaware**) were more likely to think they were in the wrong and needed to take action quickly.
- Those who were aware their scheme was 'on the edge of tax law', but that this was at least partially justifiable on the grounds of technical legality and perceived fairness (**Justifiers**) were not especially surprised by the legitimacy challenge by HMRC. For them, it was more about the principle of the scheme having been

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/496906/Understanding\\_individuals\\_decisions\\_to\\_enter\\_and\\_exit\\_marketed\\_tax\\_avoidance\\_schemes-2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/496906/Understanding_individuals_decisions_to_enter_and_exit_marketed_tax_avoidance_schemes-2.pdf)

permissible at the time of sign up. They were more likely to try to negotiate for better terms, or to contest HMRC's views.

- Those who were actively avoiding tax and viewed this as entirely legitimate (**Deliberates**) were, like the Justifiers, more likely to try to negotiate or contest HMRC's views.

After learning about the challenge, users' subsequent actions were also influenced by both personal and external factors.

- Personal perceptions of the financial, reputational and emotional costs of a drawn out settlement process were sufficient to drive some participants to settle early; although, some participants opted for litigation as they did not have the funds available to pay at the time.
- Influencers played a key role, with scheme users all claiming to have sought advice from a range of people at the point of challenge by HMRC. Differences emerged between types of influencers in the advice they gave to scheme users:
  - Spouses, other family members, and accountants typically encouraged users to reach an earlier settlement.
  - Scheme promoters, action groups, and legal counsel tended to encourage users to dispute the settlement.

Overall, settlement experiences were described as difficult and drawn out. Users were often critical about their contact with HMRC, highlighting limited signposting, inconsistent customer service and lack of clarity as key criticisms. In particular, participants described disjointed telephone and written contact with HMRC, which was seen to prolong the settlement process.

Participants suggested a number of improvements, including:

- Clearer signposting at the point of challenge – about who to contact within HMRC and options for discussing payment arrangements.
- More tailored customer service during the settlement process – if possible, a single point of contact (or 'case worker') to handle the settlement process and better cross-team communication within HMRC.
- Greater clarity throughout the process – for example, about how settlement figures are calculated, the current status of the case, and confirmation of final settlement.

### ***Impact of settlement on attitudes towards tax avoidance and future compliance***

After settlement, participants were generally more suspicious of opportunities that appeared to bring about tax efficiencies, and of individuals promoting such opportunities. However, the extent to which their experiences influenced their attitudes towards tax avoidance and HMRC varied across the different categories of scheme users:

- **Unaware** – These participants showed limited change in attitudes towards avoidance (they were previously unaware they were acting outside the spirit of the law), but were more wary of opportunities to manage their tax affairs. They did not fault or criticise HMRC for challenging the status of their scheme, but felt HMRC could do more to help clarify scheme status for unsuspecting individuals.
- **Justifiers** – Settlement had the greatest impact on this group's attitudes towards tax avoidance. The experience of being challenged by HMRC helped to confirm the changed tax environment and many now saw avoidance as 'morally wrong'. Difficult settlement experiences also undermined perceived financial benefits of schemes.
- **Deliberates** – These participants were likely to continue to look for ways to 'gain tax efficiencies'. They were also most likely to be critical of HMRC, questioning what they perceived to be 'retrospective' action on schemes that were considered legitimate at the point of entry (seen as HMRC 'moving the goalposts').

### ***Conclusions and considerations***

Overall, settlement was viewed as a challenging, drawn-out process. This was seen to be a result of limited signposting and access to information about their case, and a lack of clarity about the steps involved in settling. For some, the burden of the settlement process (specifically, the discomfort, attention and resource that this required) had the greatest influence in decisions to not engage with a tax avoidance scheme in the future.

To encourage earlier settlement, it is useful to view the findings through a behavioural lens – drawing on behaviour change theory – enabling us to identify insights relating to subconscious, rational, social and environmental drivers of attitudes and behaviour:

- **Subconscious drivers** – To counteract the view that HMRC acts retrospectively and to leverage the emotional drivers to early settlement:
  - Persuade users through education and communication that tax avoidance usually involves an attempt to subvert the law and HMRC does not act retrospectively. This may help to break the belief held by users contesting settlement that they are entitled to the gains from their scheme use, and that their confidence in winning against HMRC in court is unfounded.
  - Provide users access to a named and informed HMRC contact at the point of challenge, to help reduce the time taken for individuals to settle their affairs early.
  - Deliver clear, consistent and supportive communication from HMRC, that reinforces the reputational damage of scheme users; this may help underpin the risk of scheme use amongst individuals.
- **Rational drivers** – To support people's intrinsic risk aversion to unknown costs (both financial and non-financial) associated with settlement:
  - Review written communication (e.g. challenge letter, 'spotlight' articles) with the view to highlighting that known implications of early settlement are better for the user than the unknown of contested settlement, thereby helping to nudge users to settle earlier.
  - Emphasise the likely repercussions, beyond the financial consequences, for those contesting settlement. For example, highlight the lengthy timescales, the personal drain (e.g. stress, anxiety) and professional implications (e.g. damaged reputation) from a contested settlement to particularly influence high net worth users who may deem the amount owed negligible.
  - Create more opportunities for users to have earlier discussions with HMRC to explore feasible terms for users to pay the amount owed in agreed timescales.
- **Social drivers** – To tackle some users' dependency on the 'expertise' of influencers:
  - Continue to cover successful cases in the media, and signpost users to these at the point of challenge, to reinforce the early settlement message. Media coverage may help to dispel myths and challenge other sources of (mis)information.
  - Provide users with pathways to support, such as named, trusted accountants, or HMRC contacts, to give users the information they need to make a decision to settle earlier and to undermine the influence of scheme providers and promoters.
- **Environmental drivers** – To aid users in making a more efficient decision to settle early:
  - Provide further explanation in the challenge letter, and on the HMRC website, about the key information and stages involved in settlement, including: details of the scheme being challenged (relevant tax year and description); estimated length of settlement process; next steps; signposting to other sources of information; relevant HMRC contact details.

# 1. Introduction

## 1.1 Background

In 2015, Kantar Public (formerly TNS-BMRB) conducted qualitative research with 20 users of tax avoidance schemes who had settled their enquiry with HMRC between 2003 and 2013. The findings from that research provided an important context for research with users of tax avoidance schemes. It found scheme users could be categorised according to the strength of their attitudes towards participation in tax avoidance schemes, and that financial benefit was inevitably the main motivation for individuals entering schemes. It also found users either settled immediately or pursued other avenues prior to settling, and that the experience of the settlement process affected scheme users differently.<sup>2</sup> This current research seeks to update the findings from the previous research and focuses on users' experience of the settlement process and the impact of those experiences on future compliance.

This current research will also update findings from the earlier study in view of changes to the regulatory environment since 2013, as well as changes in the social and political landscape and increased public interest around the issue of tax avoidance. In terms of the regulatory environment, HMRC introduced Accelerated Payment Notices (APN), which empowers HMRC to collect monies owed from taxpayers found to be avoiding tax prior to going to court. HMRC also launched Promoters of Tax Avoidance Schemes (POTAS) in 2014, to more closely monitor and regulate organisations promoting and individuals using high-risk tax avoidance schemes, with the aim of raising customers' awareness of these schemes before entering them.<sup>3</sup> In August 2016, the government published a consultation seeking views on proposals for sanctions for those who 'design, market or facilitate' the tax avoidance arrangements which are defeated by HMRC, and to change the way the existing penalty regime works for those whose tax returns are found to be inaccurate as a result of using such arrangements.<sup>4</sup>

Within the context of a changing social, political, and regulatory environment, the marketplace for tax avoidance has also changed in recent years. Some promoters have left the marketplace, with those that continue to operate attempting to do so 'under the radar' of HMRC. As a result, it is likely that the way in which tax avoidance schemes are being marketed to potential clients is also changing, in order to avoid scrutiny from HMRC.

## 1.2 Research aims

In the light of these changes, HMRC commissioned Kantar Public to conduct research to provide updated insight into scheme users' decision-making processes, their experiences of the settlement process and the impact of the settlement process on their attitudes towards tax avoidance and future compliance. The findings from this research may feed into HMRC's Promote, Prevent and Respond Compliance Strategy<sup>5</sup> and inform activities aimed at encouraging settlement and sustaining future compliance. The primary research aims were to:

- Explore participants' experience of the HMRC Settlement Process:
  - What motivated them to settle – either early or later.
  - Experience of the settlement process (timings, easy/hard).
  - Contact experience with HMRC (positive/negative).

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/496906/Understanding\\_individuals\\_decisions\\_to\\_enter\\_and\\_exit\\_marketed\\_tax\\_avoidance\\_schemes-2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/496906/Understanding_individuals_decisions_to_enter_and_exit_marketed_tax_avoidance_schemes-2.pdf)

<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/454865/POTAS.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454865/POTAS.pdf)

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/546589/Strengthening\\_Tax\\_Avoidance\\_Sanctions\\_and\\_Deterrents-discussion\\_document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/546589/Strengthening_Tax_Avoidance_Sanctions_and_Deterrents-discussion_document.pdf)

<sup>5</sup> <https://www.gov.uk/government/speeches/hmrcs-compliance-strategy>

- Ways to improve the process.

The secondary aims of the research were to:

- To understand the role of influencers – friends and family, business partners, agents/advisors, scheme promoters – and their impact on scheme users’ decision-making, including entering, experiencing, and settling avoidance schemes
- To fully explore the impact the settlement experience and interactions with HMRC had on participants’ attitudes toward tax avoidance and future compliance
- To identify and explore key barriers and levers for changing attitudes and behaviours about tax avoidance to promote future compliance

### 1.3 Methodology

Twenty depth interviews were conducted between February and March 2017 with users of tax avoidance schemes that had settled their affairs with HMRC. Scheme users entered schemes between 2001 and 2013.<sup>6</sup>

#### 1.3.1 Recruitment and sample

Participants were sampled from an HMRC database of users of marketed tax avoidance schemes who had settled with HMRC in the last two to three years. HMRC sent a letter introducing the research and detailing what they needed to do to opt out. All of those who remained in the sample following the opt-out period were potentially eligible for inclusion.

Recruitment was undertaken in two stages. As there were concerns that participants might be disengaged from the research, no recruitment criteria were set initially and instead the sample was monitored in terms of selected criteria (region, scheme type, early/late settlement); criteria were then noted during the interviews. As a result, the regional distribution of participants reflects the locations where there were a higher proportion of avoiders to recruit (e.g. London and South East England). Following an opportunity to reflect on the emerging sample, the decision was made to proceed as before, without setting any prescriptive quotas. Figure 1 summarises the achieved sample frame, capturing the settlement type and region in England the discussions took place (see appendix D for a list of the types of schemes featured in this research). Figure 2 summarises the timeline for each participant entering and exiting their scheme (in years), and the settlement type (early, late) of each participant.<sup>7</sup>

Figure 1: Achieved sample frame

Monitoring Criteria		Participants
Region	<i>Northeast</i>	-
	<i>North West</i>	1
	<i>Yorkshire &amp; Humber</i>	-
	<i>East Midlands</i>	-
	<i>West Midlands</i>	1
	<i>East of England</i>	-
	<i>Greater London</i>	12
	<i>South East</i>	6
	<i>South West</i>	-
Settlement Type	<i>Early</i>	11
	<i>Late</i>	8
	<i>Other</i>	1
<b>Total</b>	<b>20 participants</b>	

<sup>6</sup> 18 interviews were conducted face-to-face, two were carried out by telephone, due to accessibility or when requested by participant.

<sup>7</sup> Participant numbers go beyond 20 (the total number of interviews) due to participants being assigned numbers for anonymity reasons at the point of recruitment and where someone was no longer able to take part, the next participant number was recruited.

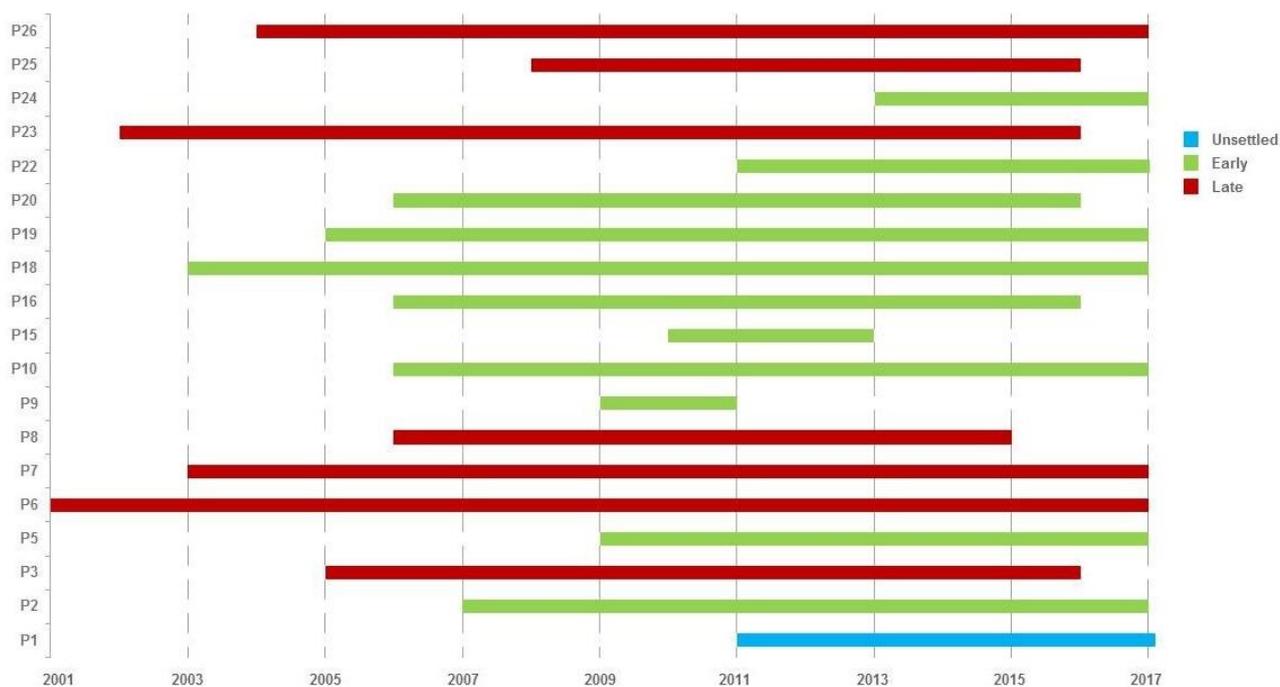


Figure 2: Timeline for scheme use and settlement type of each participant<sup>8</sup>

Further details of the methodology used are outlined in Appendix B. This includes the approaches used to sample and recruit respondents, as well as reasons participants gave for taking part in the research (which was collected to inform any future research). As some of the tax avoidance schemes were entered into many years ago – and in some cases settled some time ago – Appendix B also provides further details of how the study enabled participant recall of the events surrounding entering and settling a tax avoidance scheme.

### 1.3.2 Approach

Due to the sensitive nature of the topic and to assist participants in recalling details of events that took place up to fifteen years ago, both cognitive interviewing and customer journey mapping techniques were used. A topic guide was designed to cover participants' entire tax avoidance journey, and the complete topic guide is included in Appendix A. The topic guide was structured as follows:

- Initially capturing important contextual information about the participant's personal and financial circumstances
- Entering and experiencing a tax avoidance scheme
- Learning of an HMRC challenge
- The settlement process (using customer journey maps to help focus the interview)
- The impact of settlement on attitudes towards tax avoidance and future compliance
- Potential HMRC improvements to the settlement process.

While the topic guide captured participants' entire journey, the interview time was weighted to focus on the settlement process.

Interviews were digitally recorded, with participant consent. The material was thematically organised and analysed using a 'Matrix Mapping' approach. This involved summarising all the recorded material into an analytical framework, allowing systematic thematic analysis. This robust analytical method allows researchers to draw out the diversity of opinions expressed by individual participants, as well as identifying common themes across interviews.

<sup>8</sup> One participant, P11, did not have sufficient recall of the timings of the settlement process for it to be accurately recorded and included in the timeline

## 1.4 Reading this report

The report is structured to mirror the key stages of a tax avoidance user's decision-making journey, as summarised by Figure 3 below.

Figure 3: Overview of remaining report structure



The report draws on findings from qualitative research. The flexible and open nature of qualitative methods enabled researchers to be responsive to participants, to tailor the structure and content of discussions as necessary and to explore unanticipated issues relevant to the research questions. The research does not seek to quantify or be generalisable to the overall population of tax avoidance scheme users but reflects a range of attitudes and behaviours of scheme users.

Throughout the report, verbatim quotes are used to illustrate particular findings. In order to provide context, scheme users' quotes are labelled with participant number, type of avoidance scheme, year of entry into the scheme, and whether the settlement was early or late. For example: "Quote." (P2, Film Scheme, 2007, Early)

Finally, it is important to bear in mind that scheme users' journeys spanned decades, and, as a result, users' experiences of settlement and interactions with HMRC may not reflect current HMRC policy or practice.

## 2. Influencers and motivations to entering and using tax avoidance schemes

This chapter begins with a discussion about the factors that influenced the decision to enter a tax avoidance scheme, including personal perceptions of the scheme, the political and social environment at the time of take up, and the credibility of the introducer (Section 2.1). The chapter concludes with a discussion of the types of scheme users (Section 2.2) and experiences of being in a tax avoidance scheme (Section 2.3).

### 2.1 Factors that influenced the decision to enter a tax avoidance scheme

None of the participants in the research sought out a tax avoidance scheme. Rather, they were approached by individuals and organisations – promoters, accountants, colleagues, peers and friends – all of whom were influential in users' decision to take up a scheme. However, introducers alone were not sufficient to encourage take-up amongst scheme users. Overall, there were three sets of factors that influenced decision-making:

- Personal perceptions of the scheme; the perceived financial advantages of the scheme and the practical implications of taking up the scheme,
- The political and social environment at the time of take up, and
- The credibility of the introducer.

#### 2.1.1 Personal reasons for using a tax avoidance scheme

The most important reason for entering a tax avoidance scheme was for financial gain. Depending on how the scheme worked, this could mean the user either retaining more of their income or obtaining a rebate. For example, to retain more of his income, a contract worker with inconsistent work was 'desperate' to avoid receiving benefits and to earn more. The way in which the tax avoidance scheme worked was by the contract worker becoming an employee of an offshore registered company and receiving a small salary that was taxable through PAYE, then receiving the balance as a loan, ultimately increasing his take-home income.

Users with a high income saw a scheme as an opportunity to reduce their tax:

*"It just felt [like] we were paying what felt like an extortionate amount of tax. I was making about a million pounds a year at that stage or close to it anyway, and it just felt like [I was] paying away half [of my income] in tax and in PAYE...People like us were absolutely paying the full amount of tax on everything and, in fact, it's really funny when I read about people in the city; people avoiding tax, I just think 'what a load of rubbish.'"* (P18, Gilt Strip Scheme, 2003, Early)

To obtain a tax rebate, a user of a Gift Aid scheme purchased shares from a company trading on the Guernsey stock exchange, and the shares were inflated before being gifted to a charity resulting in the user benefiting from a rebate (e.g. purchased at 3p a share, then tax claimed back on a share valued at 55p).

The practical implications that appeared to be driving take up of tax avoidance schemes were most relevant for contractors – these schemes were seen as saving them time and effort, since the scheme meant being able to avoid setting up their own limited company:

*"What I was sold on was that I didn't have to do all the taxes and all of that....that was the main reason..."* (P5, Contractor Scheme, 2009, Early)

Users described how their personal circumstances led them to believe the practical implications of taking up a scheme were beneficial. Personal circumstances included the need to retain as much untaxed income as possible in order to pay alimony, provide expensive education for their child, or the potential bankruptcy of a business in which the individual was

a partner. In the light of the individuals' difficult personal circumstances, the use of a tax avoidance scheme seemed particularly appealing.

### 2.1.2 Political and social environment at the time of entering a tax avoidance scheme

Scheme users who were specifically seeking to gain a tax advantage were often influenced by the political and social environment at the time. This was predominantly pre-financial crisis, at a time when the social and political environment was more accepting of tax avoidance and something that was seen to be quite commonly used.

*"I think it's very difficult now to understand 2006-2008 in today's... This is an environment where everyone went "I'll have a piece of that" cause that's just where we were." (P16, Gift Aid Scheme, 2006, Early)*

These scheme users perceived that at the time 'everyone was doing it' but believed that the public's views on tax avoidance have changed since they initially entered tax avoidance schemes:

*"I thought it was legitimate when I went into it, I still feel it was. The world doesn't hold those views any more, it's like it's a really frowned upon thing now and judged under a different lens if you start to avoid tax like that." (P18, Gilt Strip Scheme, 2003, Early)*

### 2.1.3 Credibility of the introducer at the time of entering a tax avoidance scheme

Influencers such as accountants and scheme promoters were highly influential in the decision to enter a tax avoidance scheme. They were trusted, credible and helped to allay any concerns a potential participant may have had. Influencers were confident in the success of their tax avoidance schemes, many emphasising that the scheme was long running and had not been challenged.

Influencers were often armed with information to convincingly demonstrate the perceived validity of the scheme. A typical example is that a reputable agency promoted the scheme, suggesting the scheme was 'above board' because, as users saw it, a major financial institution would not risk its reputation by associating with questionable tax avoidance schemes. In other cases, the expertise of the promoter or promoting organisation further reassured users; this was demonstrated through supporting evidence, such as detailed financial modelling about how the individual's investment would result in financial benefits.

However, as participants in the research indicated, the language used to describe the complex mechanisms enabling a scheme to benefit the user was often vague and used buzzwords, leaving users feeling confident in a scheme's legitimacy. For example, schemes were described to users as the 'diversification of legitimate investment planning', a form of 'asset protection', a mechanism that 'looks to bend tax rules to get the best outcome for people', and 'a construct that enables you to have more money of your own'.

For other research participants, the fact that the scheme was not listed on HMRC's website as tax avoidance suggested that the opportunity was legitimate and endorsed by HMRC. For others, the scheme was listed with a disclosure of tax avoidance scheme (DOTAS) reference number, which they interpreted as an indicator of credibility. However, a DOTAS reference number does not mean HMRC endorses a scheme.

*"It was a scheme which had a number, on your tax return you had to say...so I mean I'm going to have to say, to me that said it had some credibility. To me that meant the government had looked at the scheme or the proprietors, they'd proposed it to the government and they'd said that seems OK. If it wasn't a government approved scheme I probably wouldn't have bothered..." (P8, Capital Gains Scheme, 2006, Late)*

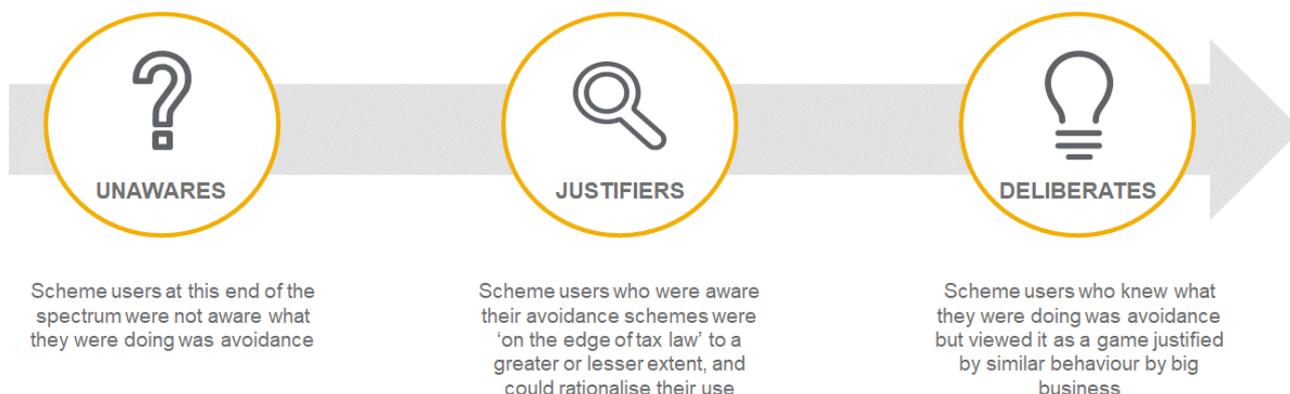
A final indication of a schemes' perceived credibility was the use of solicitors or Queen's Counsel (QC) to endorse the legitimacy of the scheme. In these instances the schemes were highlighted as 'exploiting a loophole' in tax law and 'clever' of the scheme designer. Participants described how Queen's Counsel endorsement was received second hand, from letters or quoted by the promoter of the scheme, rather than first hand.

*"I was certainly comforted a lot by this letter from this QC saying 'yes', quoting obviously acts of parliament, and saying 'in my legal opinion' blah, blah...[My personal tax advisor] gave me comfort; him and the QC I think were the two that gave me comfort on the fact this was legitimate." (P2, Film Scheme, 2007, Early)*

## 2.2 Tax avoidance scheme users: a categorisation

The findings from this research reinforce the findings from previous research with users of tax avoidance schemes conducted in 2015, and deepen our understanding of the types of people who use tax avoidance schemes. Previous research suggested that there were three types of individuals that use tax avoidance schemes: Unawares, Justifiers, and Deliberates. The findings from this recent research echoes this finding, adding strength to the idea that scheme users fall into three categories (see Figure 4 for a summary of the types of scheme users). The users' understanding of their scheme as a form of avoidance played a role in how they responded to the challenge from HMRC about the legal basis of the scheme, and subsequently their approach to settlement. This is discussed in more detail in Chapter 3.

Figure 4: Categorisation of scheme user types



Generally, the Unawares were confused when challenged by HMRC and sought expert advice. They were more likely to think they were in the wrong and needed to take action quickly.

*"I thought, 'What? How?' and wondered whether someone had used my details. I didn't want to believe it [because] I did not know how I could owe that much money. I didn't understand."* (P5, Contractor Scheme, 2009, Early)

In contrast, the Justifiers (most of our participants) were not especially surprised by the legitimacy challenge by HMRC. For them, it was more about the principle of the scheme having been permissible at the time of sign up. They were more likely to try to negotiate for better terms, or to contest HMRC's views.

*"It sounded incredibly fishy in the context of paying no tax as it didn't sound right but when they explained it to me and I looked at the HMRC website, the double taxation rules, it seemed to be a loophole..."* (P15, Contractor Scheme, 2010, Early)

Deliberates knew what they were doing and went into it with their eyes open. Like the Justifiers, they were more likely to try to negotiate or contest HMRC's views.

*"It was sold to me as an aggressive form of tax avoidance without a shadow of a doubt, you know."* (P18, Gilt Strip Scheme, 2003, Early)

## 2.3 Experience of being in a tax avoidance scheme

Users predominantly had little to no engagement with a scheme promoter once the scheme had been set up. A common experience was to receive an annual statement from the scheme promoter for their records (e.g. business accounts for the company paid into by scheme user), or to update their tax return.

*"It was basically the tax information that he needed to put in my tax return, so basically two numbers."* (P2, Film Scheme, 2007, Early)

A rare experience while in a scheme was to take contingency action in the event that HMRC challenged the status of a scheme, demonstrating the users' awareness of the risk involved in using the scheme. One example of this is from a user of a Gift Aid scheme. Gift Aid rules allow charities to claim a repayment of tax on qualifying cash donations by individuals. Donors who pay higher and additional rates of tax can claim tax relief on the difference between their higher rate of tax and the basic rate of tax. In the case of a scheme exploiting this opportunity, a user bought shares on the

Guernsey stock exchange and gifted the shares to a charity, though by the time they were sold they were worth significantly less. How the value of the shares was established was seen as questionable by the user so, as recommended by the scheme promoter, the user took out a 'tax credit' (a sum that can be offset against a tax liability) two years into the scheme, in case the share value was lower than thought by the scheme promoter and the user had to pay some tax. It was viewed as a 'hedge' against the outcome of HMRC challenging the scheme. In a similar situation, a scheme user was advised to acquire 'tax certificates just in case' to avoid being charged interest following changes to tax law in 2008. The promoter positioned the advantage to the user:

*"When you give [HMRC] the money, if [you] owed any money they won't charge you any more interest. If you pay £400k, put that down in 2008 and if the scheme is unsuccessful you will only be charged interest up to 2008."* (P8, Capital Gains Scheme, 2006, Late).

Users of contractor schemes and employee benefit schemes described receiving payments as a product of their scheme use. For example, at the time of entering the scheme, a recent graduate began contracting for an IT company. She signed up for an umbrella company to help simplify receiving her income; she would be employed by the company and it would manage the taxes from her income and simply give her the salary. The user was not required to do anything other than to receive her salary by way of the umbrella company. In a similar example, a user of a contractor scheme simply received his monthly salary from a company set up on the Isle of Man, and sent invoices to the company for reimbursement of expenses from the job. The appeal was the limited involvement of the scheme user while using the scheme:

*"It was all a managed service; you didn't have to do anything..."* (P7, Contractor Scheme, 2003, Late)

### 3. Experiences of the settlement process

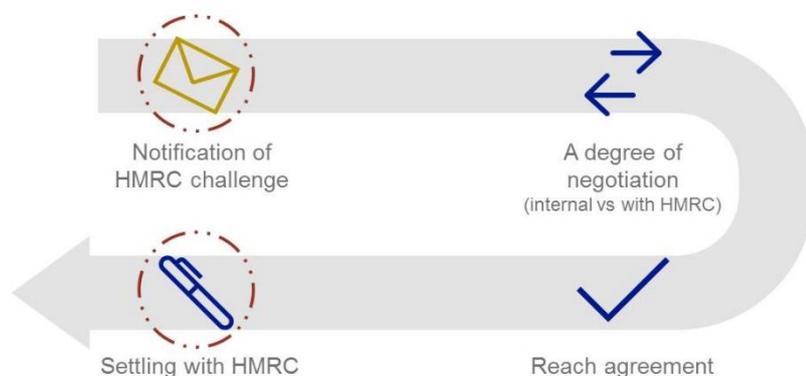
This chapter explores the journey of users of tax avoidance schemes, from learning HMRC was challenging their scheme, through to settling their tax liabilities with HMRC. Section 3.1 discusses user experiences of first learning HMRC was challenging a scheme, before exploring the factors influencing settlement approaches. Section 3.2 explores the individual factors that influenced scheme users' settlement approaches, including financial costs, personal circumstances and considerations about impact on wellbeing and reputational concerns. Section 3.3 discusses the contextual factors that influenced the settlement process, including influencers (Section 3.3.1) and contact experience with HMRC (Section 3.3.2).

The overall journey from challenge to settlement involved four elements but the experience was widely diverse and influenced by a range of factors. The four elements of the journey included:

- Notification of HMRC challenging a scheme,
- Some discussion or perceived negotiation about what this challenge meant for the user, either internal to the user or with HMRC,
- Reaching an agreement about what HMRC expected and what the user decided to do in regards to settlement, and
- Actual settling of the users' affairs with HMRC.

Figure 5 summarises this journey, and this chapter includes some examples of journeys drawn from the experiences of users from this study.

Figure 5: Summary of the journey from challenge to settlement



#### 3.1 Experiences of learning HMRC is challenging a scheme

Users learned about HMRC challenging their scheme through a range of channels, the most common being a letter from HMRC or a challenge on the users' tax return. Less common channels for learning about the challenge were by way of scheme promoters, media coverage of the same or similar scheme to the one the user was involved with, or by word of mouth through peers or colleagues.

Initial reactions to the challenge varied, and depended on the scheme user type discussed in Chapter 2 (Unawares, Justifiers, and Deliberates). The Unawares responded with surprise and worry; they were seen to accept a settlement if not immediately, then after either clarification or discussion with HMRC. Amongst the Justifiers and Deliberates were a mixture of responses from anger and resentment of being caught out, concern but otherwise calm for those with experience of HMRC (e.g. those working in tax or financial sectors), or dismissal of the challenge from those who believed strongly they had nothing to be concerned about. Most Justifiers, and the one user defined as Deliberate,

settled with HMRC after clarification of the amount owed or after discussing a payment schedule; a small number of Justifiers contested the challenge.

Regardless of how a user learned of the challenge or their initial reaction to the challenge, all users queried the challenge with someone they knew. These individuals were existing accountants, scheme promoters, legal counsel or friends, peers and colleagues. The influencers' responses to customer queries after the challenge informed initial actions taken by scheme users. Settlement approaches were more nuanced than simply settling early or late. Instead, there were four approaches described by users in this study:

1. Pay the amount owed immediately; these were users defined as Unawares or Justifiers, who had either settled early or, in one instance, did not actually know that they had settled. They had been primarily influenced by individual factors such as the impact of the challenge on their wellbeing and concerns about the impact on their reputation.
2. Pay the amount owed after clarifying the amount or what the challenge concerned; more Justifiers than Unawares or Deliberates and almost all early settlers. They were most likely to be influenced by a combination of individual factors affecting their personal wellbeing and financial situation, as well as contextual factors such as the involvement of an accountant and their experience of dealing with HMRC.
3. Discuss with HMRC the amount owed or possible options for a plan to pay off the tax owed in instalments; these were Unawares or Justifiers and a mix of early and late settlers. They were most likely to be influenced by a combination of individual factors affecting their personal wellbeing and financial situation, as well as contextual factors, as stated above.
4. Contest HMRC on its initial decision or later appeal the decision; these were Justifiers but with no commonality in terms of when they had settled. A mix of individual and contextual factors had influenced these users.

In addition to the role of influencers' responses to user queries following HMRC's challenge, two factors influenced the settlement approach taken by the user: the users' understanding that the scheme equated to avoidance, and the users' ability to settle, in terms of paying what was owed and having the clarity as to the steps required to reach a final settlement.

### **3.2 Individual-level factors that impacted on the settlement approach**

Much like motivations to enter a scheme, settlement approaches were seen to be influenced by both individual and contextual factors. Whilst these individual and contextual factors influenced scheme users' decisions to settle, either voluntarily or contested, the factors were found to manifest themselves in different ways.

Four individual level considerations influenced users' approaches to settlement. For some users, these outweighed the possible, and potentially unknown benefits of late settlement, and therefore prompted an earlier settlement.

#### **3.2.1 Financial cost**

Financial cost was an influence often cited by Justifiers who had paid after clarifying the amount owed or who had discussed the amount owed with HMRC and agreed an amount / payment schedule, as well as by one Justifier who had contested the challenge. Amongst those who preferred to make an early settlement, a unique experience was a user who opted to make an overpayment and wait for the refund, rather than risk incurring a penalty fine or a larger liability due to accrued interest. This decision was purely based on the possibility of a heavier financial burden on the user if the case was allowed to run its course; the user, an early settler in a contractor scheme, sought to avoid this.

Others took into consideration the potential financial loss they might suffer, such as tax owed, the cost of the fine and the cost of litigation should they choose to go to court. In the latter case, users asked themselves whether the money they might gain was worth fighting over, compared to the potential cost of litigation. The fear of the unknown was also an influential factor in deciding to settle early, in the belief that it is better to settle earlier, rather than prolong the process and risk a heavier financial burden.

*"I'm not going to dispute what I owe which will just take us down another rabbit hole of G-d knows how long." (P7, Contractor Scheme, 2003, Late)*

We found a small number of users who opted to settle later, simply because they were unable to pay HMRC at the very start of the process. They therefore chose to go down the route of litigation, in order to avoid having to make an immediate payment that they just did not have the funds available to pay at the time. This resulted in a delay to the payment date, as well as fuelling hope amongst these users that the final settlement amount would be lower. The option to agree an early settlement and then repay in instalments would arguably have been a palatable alternative to choosing

the litigation route, thereby avoiding the more protracted route to settlement and the inherent costs associated with this course of action.

### **3.2.2 Personal circumstances**

An early, but not immediate settlement was preferred by users who had difficult personal issues at the time. These were found to be a mix of the three user types and included:

- A user who had recently been through a divorce and was feeling quite fragile, wanting to avoid further legal proceedings,
- A user who had suffered health issues,
- A user who had a business declared bankrupt, and
- A user who was concerned that he would not be allowed back into the UK from his country of birth, unless he paid the amount owing to HMRC before he next travelled.

The implication of these findings for HMRC is that a standardised approach to settlement is unsuitable. Users' cases need to be considered and approached in a way that takes account of circumstances beyond the bare facts of the settlement amount, effectively in a more holistic manner.

### **3.2.3 Impact on wellbeing**

Two out of three users opting for immediate payment, and others who opted for early settlement after discussions with HMRC, did so in order to achieve peace of mind; they simply did not want the worry of the challenge hanging over them. Reports of stress and anxiety for themselves and their partners / spouses, plus health issues such as high blood pressure, reflected the extent to which the settlement process (i.e. learning of a challenge, being faced with a large tax liability, and settling with HMRC) impacted negatively on some users' health and wellbeing.

### **3.2.4 Concern about reputation**

A further driver to an early, and in one case immediate settlement, centred on reputational concerns. This included not wanting the business to be red-flagged by HMRC for future investigations and audits, or the potential damage to the user's professional reputation, particularly if they were to be named in the press. An earlier settlement was expected to reduce the risk of this happening. In one instance, the user, a Justifier who contested the challenge, was a late settler because he had opted to undergo one round of litigation but having lost, realised the risk to his reputation was greater than the potential benefits of further challenges.

## **3.3 Contextual factors that impacted the settlement approach**

In addition to the individual motivators that we have discussed, we also found a number of contextual factors that influenced the settlement process. Section 3.3.1 discusses this in the context of Influencers - accountants, family members, scheme promoters, action groups and Queen's Counsel. Section 3.3.2 discusses the various experiences of contact with HMRC, including signposting, customer service, transparency, letters, telephone calls, the HMRC website and personal visits from HMRC.

### **3.3.1 Influencers**

The involvement of some influencers, notably a spouse, other family member or accountant, meant that users were encouraged to reach an earlier settlement. In contrast, other influencers, namely scheme promoters, action groups and Queen's Counsel, were seen to encourage users to dispute the settlement, on the basis that they felt that the user's case was strong and they were highly likely to win; this resulted in some cases of early settlement, but other cases where a later settlement was reached due to disputes / legal procedures.

The following sub-sections discuss the role and attitudes of each type of influencer:

#### **Personal accountant**

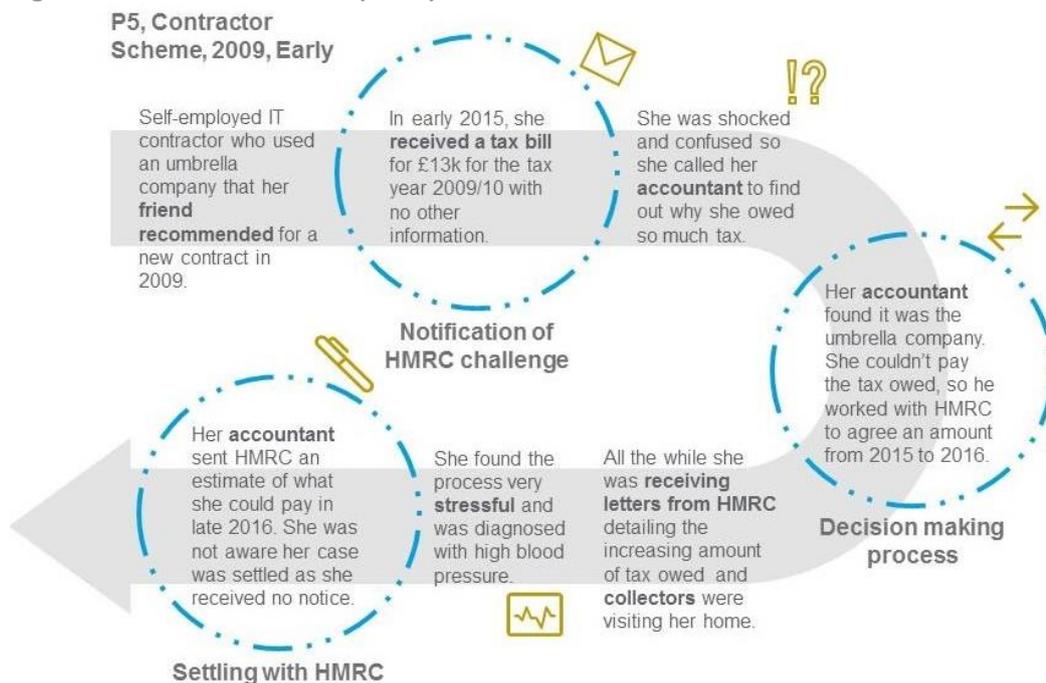
The influence of a personal accountant was apparent amongst all user types and the range of settlement approaches. Some accountants discouraged a very early or immediate settlement on the basis that not all the facts were known at the early stages of the investigation. In two instances where early settlement took place, users (one in a Gift Aid scheme,

another in a Contractor Tax Loan Scheme) had been advised by their accountants that they should not settle immediately, as they (the accountants) wanted to verify the figures first. Once verified, the accountants advised the users to settle.

*"I was just 'oh let me just pay'...and then my accountant's just like 'calm down, let's check, let's get the facts right'. Because I don't know, if you say I owe something, I just pay it...and he's saying let's just get the facts right."* (P5, Contractor Scheme, 2009, Early)

Other users reported that their accountants had facilitated an early settlement or encouraged them to settle earlier rather than contest, because the accountants realised that the settlement figure from HMRC was indeed correct. Figure 6 below shows the journey reported by an early settler in a Contractor Scheme, where the accountant was directly involved in facilitating an early settlement with HMRC; the accountant dealt directly with HMRC in order to clarify the settlement figure and agree a means of early settlement.

Figure 6: Case illustration of the journey to settlement for a scheme user



### Spouse / another family member

The influence of the spouse or another family member was far less prevalent than that of the personal accountant. The role was very much as a sharer of the stress during the settlement process, rather than the user shouldering the burden singlehandedly. As protracted settlement processes were reported to place a high level of stress and concern on the relationship or the family as a whole, there was often encouragement of the user to settle early. Having been exposed to the stress of the process, the scheme user sought to minimise it by encouraging early settlement.

*"[My wife] got very panicky and rightly so, she said pay it off if you want money from me or to sell any assets to pay it off. She said she'd sell her jewellery. We Indians have gold jewellery but I said don't be ridiculous..."* (P20, Contractor Scheme, 2006, Early)

### Scheme promoter

Scheme promoters were found to have been involved in the journey of two of the three users (an Unaware and a Justifier) who had made immediate payments. They also influenced two Justifiers, who paid after clarifying the amount owed. Scheme promoters had a number of roles; they provided users with information about a scheme, for example providing loan statements that the user needed to submit to HMRC; they kept users up-to-date during the settlement process, often providing the user with more information than HMRC were providing; they worked alongside the QC, supporting the QC's opinion of the case; they challenged HMRC on the user's behalf, in one instance to the extent of

setting up an Action Group; they helped the user to reach an early settlement, indeed one user reported that the scheme promoter had charged them a lump sum 'exit fee' to facilitate the settlement.

Where a scheme promoter discouraged early settlement, this was on the basis that not all the facts were known at the early stages of the investigation, or where the scheme promoter, sometimes in line with the QC, disagreed with the figures put forward by HMRC. In such cases, scheme promoters suggested to users that the case against HMRC was strong and should be heard before settling. In these instances, users reached a late settlement.

Two of the scheme promoters were reported to have had no involvement in the settlement process at all. One had ceased trading before the process was initiated; in this case, the user reached a late settlement, based on advice given by the accountant and scheme provider. The other had taken the user's money and absconded; in this instance, the user agreed an early settlement by paying the amount owed over a 6-month period.

### **Action group**

Two Justifiers, both in Gift Aid schemes, who had settled early, after clarifying the amount with HMRC, were found to have contacted and made use of the advice of an action group; in both cases, the scheme promoter was not involved in this decision. Action groups acted as information providers for the user / the user's accountant, for example when a closure notice was being issued by HMRC which the user was otherwise unaware of, or simply providing the accountant with information. In both instances, users reached an early settlement; in one of these cases, this was directly related to the advice received from the action group, who were strongly of the opinion that the user could win the dispute with HMRC but the process was likely to take an unacceptably long time.

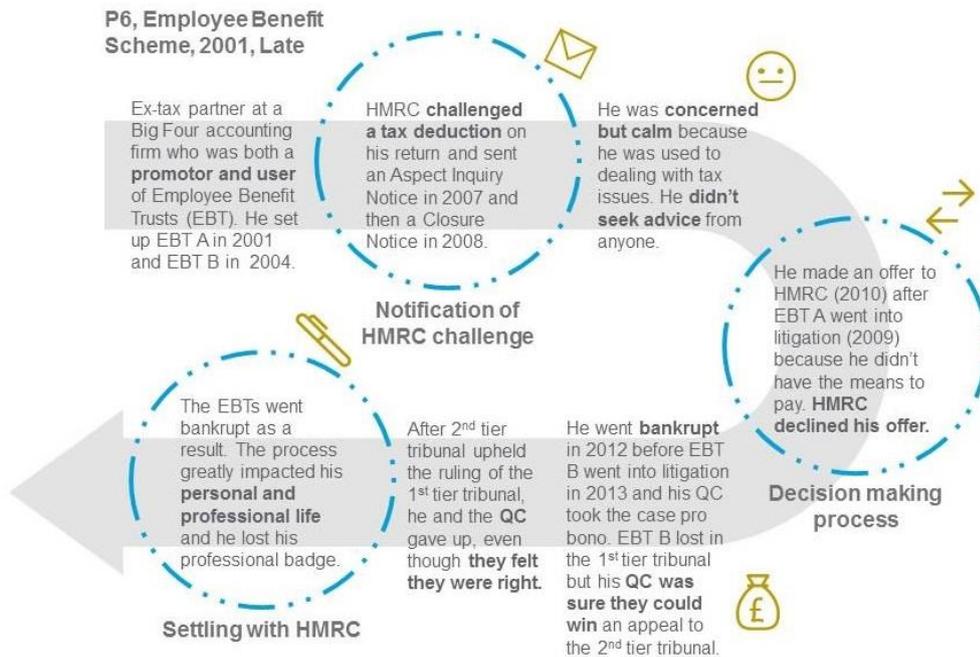
### **Queen's Counsel**

QCs were reported to have acted on behalf of the scheme promoters, echoing the sentiment of the promoter in terms of the user's case being strong and worth contesting. This did not mean, however, that all users who were influenced by a QC settled early; in fact, although some users made immediate payments, others (a mix of Unawares and Justifiers) made a late settlement to HMRC after clarification / discussion or were late in settling because they had contested the amount.

*"I kept it going because the QC was confident of winning...he had no doubts. There was no equivocation at all."* (P6, Employee Benefit Scheme, 2001, Late)

Figure 7, below, shows that for one individual, the QC first became involved in the settlement process when HMRC declined the user's offer to pay an amount less than the full amount stated by HMRC. The QC's continued involvement was based on the belief that the user's case against HMRC would be won by the user.

Figure 7: Case illustration of the role of the QC in late settlement by a scheme user



### 3.3.2 Contact experience with HMRC

Contact experience with HMRC was mixed and varied, often depending on the method of contact. Strong evidence emerged of disjointed telephone and written contact, which made settling challenging and inefficient for those who were willing to do so. This sometimes resulted in a prolonged settlement process, because users were receiving letters from or having telephone conversations with multiple HMRC departments / individuals; the time taken to then identify which HMRC individual or department the user should follow-up with therefore extended the settlement process. Users were often critical about their contact experience, noting limited signposting, inconsistent customer service and limited transparency as key criticisms. However, users noted that having a point of contact within HMRC was a positive element that should be maintained.

It is important to keep in mind that, as with scheme users' journeys, contact experience with HMRC often spanned decades, and, as a result, their interactions with HMRC may not reflect current policy or practice. The following sub-sections look in more detail at each of the elements of the contact experience raised by users:

#### Limited signposting

- It was often unclear which steps needed to be taken, if a user opted to settle with HMRC. Users wanted HMRC to tell them about the options available to them, as far as settling was concerned.
- The lack of guidance with regards to how to get in touch with HMRC meant that users were left in the dark in terms of communication. It was suggested, for example, that HMRC could tell users that if they want to settle, they should phone a specific number and speak to a member of the team dedicated to this action.
- Users complained that materials produced by HMRC did not appear to have been designed with the end-user in mind. Users would like HMRC to pay more attention in their communications as to what the user might need to know. For example, an enquiry letter states 'under investigation for the tax year 2009/10' but the letter needs to also state what exactly is 'under investigation'.

*"They're performing a task and it doesn't matter to them how technical their letter is because their task is to tell people stuff and they don't appear to have any perception of how that letter will be received."* (P11, Software Scheme, 2005, Late)

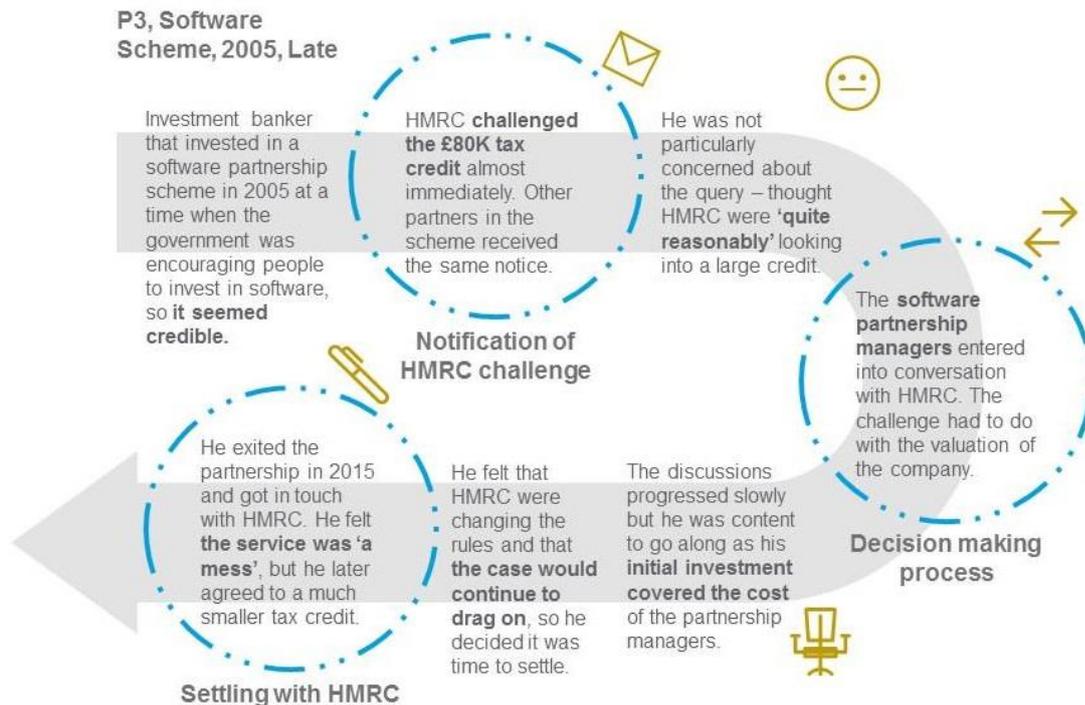
#### Inconsistent customer service

- This was an issue for some immediate, early and late settling Unawares and Justifiers. When users successfully reached an HMRC agent by phone, they were generally happy with the customer service experience; HMRC agents were considered helpful and responsive.
- However, the absence of a dedicated point of contact meant that users were often speaking to a number of different agents within HMRC, not all of whom were up to speed with the user's case. Furthermore, the perceived lack of internal communication within HMRC meant that users were left with a perception of inefficiency. The HMRC department handling tax avoidance cases was expected to be communicating with the department responsible for collecting monies; users did not necessarily feel that this was the case, based on their experiences of dealing with HMRC.

*"The people you talk to are nice enough at the time, but they're either incompetent or the system is deliberately set up this way...there's no incentive to get on and finish a case. They're getting paid one way or the other, it's their job, whereas it costs us [taxpayers] money and we pay them."* (P3, Software Scheme, 2005, Late)

Figure 8, below, tracks the journey of a user whose late settlement was attributed, in part, to the time that was spent contacting multiple departments and individuals within HMRC.

Figure 8: Case illustration of the late journey to settlement for a scheme user unsatisfied with customer service



The tone adopted by some HMRC agents was described as 'combative', and whilst not expressed by participants, the research team believes that this may be linked to the timing of cases, such as where a payment deadline was approaching.

### Limited transparency

- The most common factor contributing to a negative customer experience was limited transparency. Users of all scheme types and settlement approaches discussed their criticisms of what they described as limited transparency in HMRC's approach to settlement. Users sought detail about how the amount owed had been calculated, including interest rates and penalties; this information was not immediately forthcoming from HMRC, despite users directly asking for it. Users also reported that it was difficult to get status updates from HMRC, because HMRC agents were either seemingly unable or unwilling to give such information.

*"The person I was speaking to did not even have any update on the case. I thought ok, no, this is a bit disappointing, how do I trust the money I have to pay, where is that coming from...how did they arrive at that thirteen grand?" (P5, Contractor Scheme, 2009, Early)*

- Transparency was also sought with regards to users wanting an acknowledgement from HMRC of communications they have sent to HMRC, payments made to HMRC by users, and confirmation that the settlement payment has been received by HMRC.
- The impact of limited transparency was one of less efficient settlement journeys for those individuals who wanted to settle immediately.

### Letters

- Overall, the greatest variation in experience was in response to letters received from HMRC, an oft-cited influence on a critical customer experience amongst a mix of user types who had paid after clarification or discussion with HMRC. Users discussed receiving a range of letters from HMRC, often originating from different names / departments and not always clear in terms of the content.

*"The way they sent it was just higgledy piggedly. At one time I sent it to my accountants and asked what the hell they are talking about."* (P8, Capital Gains Scheme, 2006, Late)

- While views of the type, content and tone of different letters did not appear to directly drive a particular settlement approach (early or late), letters did contribute to drawn out settlement processes. Users who were unclear what their letters meant or what, if any, action they should take found some letters served to stall progress of settlement.

Types of letter included:

- What were described as 'holding' or 'for your information' letters about their scheme being challenged by HMRC. Holding letters were perceived to have a 'matter of fact' tone, simply notifying the user that their scheme was under investigation and suggesting that nothing would be done until HMRC wins the legal case against the scheme promoter. An initial 'holding' or 'for your information' letter did not always tend to trigger a negative reaction from the user, since it was regarded as for information only. However, the volume of letters was alarming to some users (up to 6 in a calendar year), as was the amount said to be owed increasing with each additional letter received, resulting in increased levels of anger and frustration amongst users. Letters without explanation as to why HMRC was challenging a scheme were particularly difficult for the user to deal with; their first instinct was to ask why they were facing a request for payment. The fact that, when challenged by users, HMRC was often unable to provide reasons for the scheme being challenged heightened levels of frustration.
- Enquiry letters requesting information from the user. Like holding letters, enquiry letters were viewed as factual and generally non-confrontational. Rather, they were simply requesting further information from the user, such as information relating to a company's profit and loss, company payments, and trustee details. These were not seen as out of the ordinary by users and therefore did not trigger a negative reaction; simply 'just HMRC doing its job, asking for financial information'. One user explained that his first letter was framed as a 'random check' by HMRC, and was polite in tone.
- 'Warning' letters flagging that HMRC is likely to expect payment soon.
- What were described by users as 'threatening' / 'aggressive' letters citing the possible instruction of bailiffs. Such letters often triggered settlement delays, as users felt bullied by the tone of these letters and responded defensively.
- Closure letters requiring immediate payment.
- Some letters were hand-written and contained estimates rather than accurate figures, both of which were considered unacceptable by users. Furthermore, the source and therefore subject of the letter being visible to all was criticised as being unnecessary and potentially embarrassing.

*"The only thing they put on it of course, on the back of the envelope is Tax Avoidance Unit, Newcastle or wherever it was, there's no need for that is there. Why do they put that on the back? Because you feel, you don't, I just don't think they should do that, that's an envelope that's seen by the postman, potentially by your wife and I don't think that's right, on the outside of the envelope."* (P10, Gift Aid Scheme, 2006, Early)

### **Telephone calls**

The most positive user experiences were from phone calls with an HMRC official, since they were able to discuss their case and clarify areas of uncertainty.

That said, negative experiences were also reported, more so amongst users who had needed to talk to HMRC in order to clarify or discuss the amount owed. Negative experiences focussed on waiting times to talk to an advisor, HMRC agents being unable to give an accurate settlement figure over the phone, and the feeling that the HMRC agent was working to a script rather than dealing with the specifics of the user's individual case.

"You think HMRC is this soulless place, but I found when I called the guys up and said 'My affairs are a complete mess, how do I fix this?' they were generally quite helpful..." (P18, Gilt Strip Scheme, 2003, Early)

## HMRC website

Compared to contact with HMRC through letters and telephone, very little use was found amongst users of the gov.uk website during the settlement process. Two users visited the site for specific information: one sought a definition or explanation of the term 'windfall' that HMRC had referenced in an inquiry letter to the user. Another looked up the status of court proceedings on his scheme; proceedings were ongoing and the scheme promoter used this as the reason to advise the user not to settle (although the user settled early due to wanting to 'just do what was right').

### 3.4 User suggestions for improving contact with HMRC

Having discussed their experiences of the settlement process, users suggested a number of improvements which they felt would have made their experience more acceptable, more efficient and, for many, far less daunting. These suggestions are summarised in the following sub-sections.

Caution should be taken when considering user suggestions. Experiences of settlement suggest that the difficulty of the process (the length of time it takes to settle<sup>9</sup>, the stress and anxiety associated with interactions with HMRC) is a key driver of future compliance for users following settlement (discussed further in Chapter 4). However, the impact of implementing the feedback may help to streamline the settlement process and serve to make users feel more enabled to settle.

#### 3.4.1 Greater signposting

Users made a number of suggestions with regards to how HMRC might improve signposting. The impact of greater signposting would be that, having received an investigation notification, users would have options in terms of the actions they could take from there. HMRC could:

- Send an initial courtesy letter advising the user that they are under investigation, including an explanation of why they are under investigation. This approach would mean that users would feel informed and less threatened.
- Provide contact details of professional bodies / independent helplines. By providing details of organisations that are able to advise the user, HMRC takes the more positive stance of facilitator, recognising that the user may look to independent external organisations for advice.
- Provide users with direct contact details for the HMRC agent / department dealing with their case. Again, this offers HMRC the opportunity to be perceived as a facilitator, empowering the user with access to information that will enable them to make direct contact with the agent / department dealing with their case.
- Make the user aware that there is an option to discuss payment arrangements. Currently users understand an HMRC notification to mean that payment is immediately due, for the amount stated in the notification. Opening a dialogue between HMRC and the user about a payment schedule encourages the user to respond to the notification (rather than potentially ignore it or reject it outright), as well as offering a means of addressing external factors and circumstances that may affect the user's ability to make a settlement.

#### 3.4.2 Timely and tailored customer service

User suggestions for improvement also focused on customer service issues, based on their frustrations and negative experiences when dealing with HMRC during the settlement process:

- In order to encourage more cases of early settlement, HMRC could consider offering the user a range of payment options; such as paying by instalments (with a realistic timescale for payment), changing the user's tax code to reflect the amount owed, or payment through PAYE. Users would appreciate the certainty of knowing that HMRC does not expect them to repay the entire amount immediately, and that there is some flexibility with regards to when the settlement is completed. Given that some users reported having paid by instalments, this would suggest that greater consistency is required from HMRC, so that all users are offered repayment options.

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<sup>9</sup> The length of time needed to process avoidance cases and reach settlements is often not in HMRC's control. This is often dictated by the timings associated with taking a case to Tribunal and any ensuing delays, lack of co-operation from scheme users and promoters in providing information and documents, active disruption from promoters, and the need for annual returns to come in, etc.

*"If they'd spoken to me in 2007/8 and said look, it's going through the courts, however if you want to sit down and talk about it, we'll work out a payment plan and we'll take it out of your pay for the next 5 years..."* (P7, Contractor Scheme, 2003, Late)

- HMRC communications could be clearer in meaning and definition; for example, reference to possible 'future windfalls' as a means of payment were considered vague by the user and, when challenged, HMRC was unable to offer an acceptable definition of the term. With greater clarity and certainty from HMRC, the user will feel informed, less confused and ultimately more confident in the settlement process.
- HMRC written communications could be more accurate and formal; users reported receiving estimated and hand-written letters relating to the amount they owed. Again, this relates to the degree of confidence and clarity conveyed by HMRC which impacts on user's attitudes to and behaviour during the settlement process.
- HMRC could allocate a dedicated 'case worker' to the user. This would enable direct contact between the user and HMRC, during a process that it perceived to be complicated and stressful. A direct contact would mean time saving for the user when contacting HMRC, as well as the confidence of knowing that a dedicated agent has been allocated to their case and is fully informed about all the elements. If the allocation of a dedicated 'case worker' is not feasible, HMRC should ensure that all agents working on a case have up-to-date access to information about the user's case.
- HMRC could commit to more frequent and clearer communication internally, across teams dealing with a case; teams dealing with payment, account settlement and personal tax were perceived to be disconnected and uncommunicative. This again relates to user confidence in HMRC and in the settlement process. Examples were cited of users having to talk to multiple departments, not all of whom were aware of the actions that other departments had taken.
- The tone of communications between HMRC and users could benefit from being more neutral / non-judgemental. Users sometimes felt that the telephone manner or tone of a letter implied they were guilty, regardless of the individual circumstances.
- Written communications from HMRC sent through the public domain should be anonymous in terms of subject matter. A user felt highly uncomfortable when the postman delivered an HMRC letter that clearly showed the subject matter of the letter on the envelope. In such a sensitive area, users sought a degree of discretion from HMRC.
- Faster response times to queries and a faster process overall is expected from HMRC; a number of users talked about a time period of 10-12 years from HMRC's initial notification to 'early' settlement. Perceived delays in HMRC answering queries and a protracted process overall led to higher amounts of interest having to be paid by users, something that could have been avoided with greater HMRC efficiency and responsiveness.

*"The Revenue's delaying strategy of never getting anywhere with negotiations."* (P3, Software Scheme, 2005, Late)

### **3.4.3 Greater transparency**

Users also sought improvements from HMRC with regards to the transparency of their dealings, including ongoing information and clarity throughout the settlement process:

- HMRC providing the user with an explanation / breakdown of how the amount owed has been calculated would increase user understanding and enable them to make a more informed response / decision. Receiving a letter simply stating an amount owed was considered inadequate and highly likely to prompt the user to question the amount. Providing an explanation / breakdown at the notification stage would also mean users would be more informed from the start of the process, therefore reducing the likelihood of the initial contact with HMRC to ask how the amount has been calculated.
- Regular updates to the user from HMRC. If HMRC agents had access to a database showing the current status of each user's case, such as which user's documents have been received, the user would be able to verify with HMRC exactly where they are in the settlement journey. This is particularly relevant where there are deadlines / time sensitive issues.

- When the case has been finally and officially settled, HMRC issuing a confirmation of such, in writing, to the user would mean that the user knows that the case has been closed. It has been seen that the settlement process may have a negative impact on the health and wellbeing of the user; this approach would go some way towards recognising the need for confirmation of closure in this respect.
- HMRC advising users of the likelihood of follow-up letters, post-settlement, in the event of there being uncollected interest on the debt would also offer greater clarity for the user. One user reported receiving an unexpected letter from HMRC regarding additional interest, despite being previously told that the full settlement amount had been paid; again, an example of where clarity and transparency would benefit both HMRC in terms of customer service performance and the users in terms of their expectations of the process.

## 4. Impact of settlement on attitudes toward tax avoidance and future compliance

This chapter discusses the impact of a users' settlement experience on their attitudes towards tax avoidance and HMRC (Section 4.1). Following this, the chapter discusses the impact of settlement on users' views of their approach to tax planning and their future compliance (Section 4.2).

### 4.1 Impact of settlement on attitudes towards tax avoidance and HMRC

After settlement, all users of tax avoidance schemes were generally more suspicious of opportunities that appeared to bring about tax efficiencies, and of individuals promoting such opportunities. They were more likely to view schemes as risky, to be more suspicious of opportunities that brought them tax efficiencies and of individuals promoting schemes. Views of HMRC following settlement were mixed, with some users viewing HMRC as simply doing its job while others were critical and distrustful of HMRC's efforts to encourage compliance.

Following the challenge to and subsequent settlement of tax avoidance schemes, users expressed a range of attitudinal responses to tax avoidance and towards HMRC. Attitudes varied across the type of scheme user – Unaware, Justifier or Deliberate – though some commonality in attitudes between user types was found, albeit with the strength of those attitudes differing.

Unsurprisingly, **Unawares** showed limited change to their attitudes towards avoidance because upon entry to a scheme they were unaware they were acting outside the spirit of the law. Following settlement, their attitude remained the same as before their scheme use; they should stay above board with their tax requirements. Having been caught out by HMRC, they were more wary of opportunities to manage their taxes. As a result of their circumstances, these individuals were also more likely to blame themselves for utilising a scheme and having to settle their tax affairs with HMRC.

*"If I'd known what this was I'd never have signed up for it. Never."* (P24, Unknown, 2013, Early)

**Unawares** were also more likely to see HMRC as doing its job, which is to rectify situations in which individuals have acted outside of the spirit of tax law. They did not fault or criticise HMRC for challenging the status of their scheme, as the Justifiers and Deliberates did. However, this group felt there was more for HMRC to do to help unsuspecting individuals engaging with schemes, such as formally disapproving of all schemes unless otherwise stated.

Settlement for **Justifiers**, the user type characterising many of our participants, had the greatest impact on their attitudes towards tax avoidance. Heavily influenced by the changes to the tax environment post-financial crisis, Justifiers had greater moral reservations towards tax avoidance. HMRC's 'clamping down on schemes' was seen as useful because it introduced a 'proper notion of avoidance'; to say anything 'engineered' is viewed as wrong. These individuals acknowledged the use of tax avoidance schemes was less acceptable, and expressed strong reservations about the use of such schemes in the future. Both **Justifiers and Unawares** expressed the view that they were more likely to advocate that others should not use tax avoidance schemes because they now saw tax avoidance as morally wrong.

*"Really it was like, you know, it is fairy dust, really, let's face it. It was all very much concocted. Looking back on it and viewing it sort of the way people view it today, it just looks very wrong. It does. I wouldn't do it again."* (P18, Gilt Strip Scheme, 2003, Early)

Additionally, those who found the settlement process so difficult now viewed tax avoidance schemes as not worth the benefits the schemes were initially thought to bring the user.

*"What's the point of taking that hassle and stress for 10%? It's not worth it."* (P20, Contractor Scheme, 2006, Early)

Going beyond reservations to avoidance schemes, a unique view amongst **Justifiers** was to be more wary of government promoted schemes. Though tax avoidance schemes were never sanctioned by the government, one user feared 'the rules changing again' and explained their reluctance to use schemes such as Enterprise Investment Schemes (EIS), Venture Capital Trusts (VCTs) or Individual Savings Accounts (ISAs).

*"It makes you think, 'can I rely on any of this tax [schemes]? Are they suddenly going to change the rules on ISAs tomorrow?' because there was no difference between an ISA, a VCT and this thing. It makes me think I don't trust them, really."* (P2, Film Scheme, 2007, Early)

The attitude that HMRC 'retrospectively pursued action' was one expressed by Justifiers, and more strongly echoed and felt by **Deliberates**. This attitude appeared to come from the user, reinforced by promoters, rather than initiated by promoters. The view that HMRC acted retrospectively emerged due to users' initial belief in the validity of the scheme at the time of entering, having been reassured, by introducers, of the scheme's legitimacy. For example, in what appears to be an attempt to justify their use of a scheme, some users of film schemes and contractor schemes believed what they did was legitimate, having been reassured by solicitors employed by themselves or by the scheme promoter of the legality of the schemes.

*"A scheme that had been set up by the government with laws and rules and so on, which you had followed and the promoters had followed, with QC and the rest of it, then suddenly you're told seven or eight years later, 'you know these rules, they don't apply'. No reason, no nothing and you knew damn well the government did it at the time in order to promote films. They knew exactly what was going on...that did make me quite pissed off frankly because you can't do that."* (P2, Film Scheme, 2007, Early)

The view that HMRC had 'changed its mind' about the status of schemes was felt to be allowed, but not if it meant going back to existing schemes and penalising those who had used a scheme that they had perceived to be aligned with the tax rules.

*"It felt just like a dirty trick to me because HMRC knew there was a loophole there and clarify as they said, which is a play on words frankly, it's not a clarification, it's a correction and I'm fine with a correction, with tax, whatever rules I have to follow, no problem at all, the dirty trick was saying, 'by the way, that's what we always meant' and that's what's thrown everybody...."* (P7, Contractor Scheme, 2003, Late)

Film schemes were viewed as established and endorsed by the Government, and like those who condemned HMRC 'going after' people after closing loopholes in tax law, users expressed frustration with the way the Government seemingly 'moved the goalposts'. So while HMRC were reviewing schemes and closing tax loopholes they identified, **Deliberate and some Justifiers** perceived these actions as HMRC changing its mind about available schemes.

*"We felt that, we were surprised that HMRC were pursuing our scheme and [were] saying [to ourselves], 'why is it a very aggressive scheme?'....because HMRC had decided to throw lots of resource at these type of schemes and whereas in the past these schemes had settled, they throw lots of resource at things and had actually changed their mind about the tax treatment of these schemes."* (P23, Film Scheme, 2002, Late)

Views of HMRC as 'unfair' and 'heavy handed on the little guys' were echoed by both **Justifiers and Deliberates**. 'The little guys' was a term expressed by individuals with a relatively small amount invested (e.g. a couple of thousand pounds) as well as users of schemes with tens of thousands of pounds invested. This left these users as less trusting of HMRC's approach to its job.

*"I don't want to be risky with the tax, it's made me cautious of the information I can get from HMRC and really do I trust their website and the information because the double taxation rules, it doesn't say 'warning! Some companies offer this kind of thing. You should be more careful, beware, and phone this number to find out more..."* (P15, Contractor Scheme, 2010, Early)

#### 4.2 Impact of settlement on future compliance

Users were also less likely to use schemes since settling their affairs, although the extent of these attitudes and behaviours was dependent on the type of scheme user – Unaware, Justifier or Deliberate. Unawares were most likely to be risk adverse in their approaches to tax planning and to strongly refuse any type of tax planning. Justifiers were more

mixed in the impact their settlement had on their future compliance. While more likely to be 'conscientious' or 'creative', this language suggests they will still seek out opportunities to reduce their tax bill, though they will avoid tax avoidance. Deliberates were likely to continue to look for ways to 'gain tax efficiencies'.

The most risk adverse of the users were those that were unaware or naïve when entering a scheme. The difficulty of the settlement means they will 'avoid use' of any tax planning tools in future.

*"I think you just keep it to the very vanilla, ISAs, I'm not going through all that again...it's just not worth it, the sheer time and uncertainty that hangs over while the thing's being done..."* (P10, Gift Aid Scheme, 2006, Early)

The users with a more 'high risk appetite', such as the Justifiers group, have also become more cautious as a result of the settlement experience; users 'don't need the hassle'.

*"I get offered them all the time. I see it very often, not all the time but I certainly see a few in a year and I have just never bothered. I say forget it. How does this work? You say you've got Queen's Counsel advice on this and I've got to pay a load of money up front then you'll get this back and then there's going to be a load of test cases and I'm going to get more of a headache...not interested."* (P18, Gilt Strip, 2003, Early)

While more cautious, these scheme users will now seek legitimate tax reliefs. Amongst these users, personal circumstances alongside settlement experience have driven a more careful approach to tax planning. For example those nearing retirement or now with families have looked towards 'safer investments' such as an investment secured against a property.

The perception of the tax environment as 'ever changing' has also driven future compliance, with users unlikely to engage in schemes for fear of the repercussions.

*"I think at the moment...the government is stopping everything so it's basically any money that you get the government [will] do their best to get hold of. I'm fairly conservative [now]..."* (P8, Capital Gains Scheme, 2006, Late)

# 5. Conclusions and considerations

This chapter summarises key findings in relation to the aims of the research, and then considers some of the implications of these for future HMRC activity and communications around the tax avoidance.

## 5.1 Influencers and motivations to entering and using tax avoidance schemes

It's clear from these findings that participants had not actively searched for tax avoidance schemes. Rather, schemes were introduced to them by third parties in circumstances in which the benefits were seen to outweigh any potential risks (whether or not participants were aware of those risks at the time). While the primary benefit was acknowledged to be personal financial gain, other factors that supported a positive view of schemes included a relatively permissive tax environment, and normalised and credible sales approaches from peers or 'experts'.

## 5.2 Experiences of the HMRC settlement process

Experiences of the settlement process were wide ranging, and could be grouped into three fluid categories - Unaware / Justifiers / Deliberates. Each of these groups responded differently in their reaction to HMRC's challenge:

- Those who were unaware that their scheme was a form of tax avoidance (**Unaware**) were more likely to think they were in the wrong and needed to take action quickly.
- Those who were aware their scheme was 'on the edge of tax law', but that this was at least partially justifiable on the grounds of technical legality and perceived fairness (**Justifiers**) were not especially surprised by the legitimacy challenge by HMRC. For them, it was more about the principle of the scheme having been permissible at the time of sign up. They were more likely to try to negotiate for better terms, or to contest HMRC's views.
- Those who were actively avoiding tax and viewed this as entirely legitimate (**Deliberates**) were, like the Justifiers, more likely to try to negotiate or contest HMRC's views.

Subsequent actions were influenced by people's perceptions of the financial, reputational and emotional costs of a drawn out settlement process, their ability to pay, as well as the people they sought advice from. For example, family members and accountants typically encouraged participants to reach an earlier settlement, whereas scheme promoters, action groups and legal counsel typically encouraged participants to dispute the settlement.

Overall, settlement was clearly a difficult process for users, taking much longer than anticipated, regardless of whether the user settled voluntarily or contested their settlement. This was largely blamed on limited signposting and access to information about their case, and a lack of clarity in the steps involved in settling. Postal communications from HMRC often exacerbated the discomfort felt by users, due to limited clarification of information needed to make decisions about settlement and an impersonal tone. Once a user was able to speak directly with an HMRC official, their contact experiences became more positive – that one-to-one support was found to be professional, personalised and effective. Users who recognised that the schemes were not legitimate were largely motivated to settle quickly because of the consequences of contested settlement, namely risks to reputation and financial costs that would be incurred. However, it is interesting that it was the 'drawn out' nature of the settlement process – the discomfort, attention and resource that this required – that had the greatest influence in users' decisions to not engage with a tax avoidance scheme in the future.

## 5.3 Impact of settlement on attitudes towards tax avoidance and future compliance

The settlement experience clearly had an impact on participants, some more so than others. So while participants were generally more suspicious of opportunities that appeared to bring about tax efficiencies and of individuals promoting such opportunities, the extent to which this influenced their attitudes and behaviours varied across the different categories of scheme users. For example, settlement had the strongest impact on the 'Justifiers', challenging their attitude towards tax avoidance and undermining perceived financial benefits. By contrast, the 'Unaware' and 'Deliberates' groups appeared

more wary, but largely unaffected in their attitude towards avoidance schemes (with consistent negative/ positive views, respectively).

## 5.4 Implications for HMRC

A key aim for this research was to identify barriers and levers for changing attitudes and behaviours about tax avoidance to promote future compliance. Viewing the findings through a behavioural lens – drawing on behaviour change theory – allows us to identify barriers and levers relating specifically to environmental, social, rational and subconscious drivers of attitudes and behaviour. Figure 9, below, summarises the findings in this way and the rest of this section drills further into each of these drivers, highlighting suggested implications in relation to each.

Figure 9: Summary of the barriers and levers for user's decisions to settle early



### 5.4.1 Subconscious drivers

The decision to settle either voluntarily or to contest the settlement was in part driven by the emotional responses of users – how they felt in response to the challenge. The habits users had formed in situations related to finances and tax such as a dependency on accountants, and the entrenched views about government acquired over time, also proved to be powerful subconscious drivers, especially for the Deliberate scheme user type.

Amongst the users were those who disagreed with what they saw to be HMRC retrospectively changing tax law and challenging users of schemes perceived to be previously unchallenged by HMRC. This view fuelled distrust of HMRC and the government more widely, as they were seen by users to be disregarding the rights and circumstances of individual taxpayers. HMRC and government were seen to be following different policies and approaches 'as they liked', which fuelled and reinforced the view that HMRC had 'changed its mind' about the legal status of tax avoidance schemes. For others, such as seen amongst the Justifiers scheme user type, the habit of deferring responsibility and decisions to a long-standing accountant and accepting their judgement without question was a subconscious driver, closely linked to the role of influencers discussed below under social drivers.

Another subconscious driver was the fear of possible consequences of contesting HMRC's challenge. Users were motivated to settle early because of concerns about damage to their personal and professional reputations. They were also motivated by the likely costs associated with procuring a solicitor to represent them in court if they were to contest settlement, or the costs of fines or penalties HMRC may apply if they did not settle quickly.

Users' emotional responses to productive conversations with informed HMRC officials after they learnt of the challenge were another subconscious driver. Users who experienced good one-to-one contact with an HMRC official felt reassured and informed, having received professional and timely input at a time when they were deciding whether to settle straight away or contest the challenge.

### ***Suggested implications for HMRC:***

To counteract the view that HMRC acts retrospectively and to leverage the emotional drivers to early settlement, consideration should be paid to:

- Persuading users through education and communication that tax avoidance is not legitimate and HMRC does not act retrospectively. This may help to break the belief held by users contesting settlement that they are entitled to the gains from their scheme use, and that their confidence in winning against HMRC in court is unfounded.
- Providing users access to a named and informed HMRC contact at the point of challenge, to help reduce the time taken for individuals to settle their affairs early.
- Deliver clear, consistent and supportive communication from HMRC that reinforces the reputational damage of scheme users; this may help reinforce the risk of scheme use amongst individuals.

### **5.4.2 Rational drivers**

Users' approach to settlement can also be influenced by more rational drivers. Their judgements, weighing up the opportunities and risks of a type of settlement, when coupled with personal circumstances have the ability to nudge users towards contested settlement. Their capability to understand and engage with the settlement process, including ability to pay also influenced their decisions to settle.

The view that users could try for better settlement terms if they contested, was expressed by those with available funds to challenge HMRC in court. These users had enough money not to worry about the financial consequences of challenging even where they perceived the potential gain to be minor. Amongst these users the rationalisation was that 'they had nothing to lose' by waiting to see the outcome of litigation between the scheme promoter and HMRC. The belief that the terms offered by HMRC may improve, or at least not worsen, following court proceedings was enough for these users to 'wait and see'. Another barrier to settlement was the inability to pay the amount owed when HMRC challenged the scheme. Users who no longer had sufficient money to pay the tax owed, or whose finances were tied up in investments and could not be quickly liquidated to meet HMRC's timescales, could not afford to pay the amount owed.

### ***Suggested implications for HMRC:***

The judgement that the known options were better than the unknown implications of fighting, motivated some users to settle early; the 'logical decision' was described as 'cutting losses' early on and settling early. The belief that the financial cost of securing legal counsel and contesting settlement with HMRC in court, which may incur unknown additional costs, was enough for some users to think 'it doesn't make financial sense to fight'. These rational drivers to settlement suggest HMRC may consider:

- Reviewing written communication (e.g. challenge letter, 'spotlight' articles) with the view to highlighting that the known implications of early settlement are better for the user than the unknown implications of contested settlement, thereby helping to nudge users to settle earlier.
- Emphasising the likely repercussions, beyond the financial consequences, for those contesting settlement. For example, highlight the lengthy timescales, the personal drain (e.g. stress, anxiety) and professional implications (e.g. damaged reputation) from a contested settlement to particularly influence high net worth users who may deem the amount owed negligible.
- Creating more opportunities for users to have earlier discussions with HMRC to explore feasible terms for users to pay the amount owed in agreed timescales.

### **5.4.3 Social drivers**

Social norms reinforced by the behaviour of peers and colleagues or expert advisors such as a credible solicitor, accountant or action group legitimise the decision of the user to contest settlement. Even users working in the financial or

tax arena found the complexity of tax law underpinning tax avoidance schemes complicated and thus placed their trust in others they viewed to be better informed and skilled to respond to HMRC's challenge.

Influencers played a key role in individual's entering avoidance schemes, as well as users' approaches to settlement. Confident and credible solicitors, accountants and action groups help dismiss the concerns of users considering contesting HMRC's views, driving them towards a contested settlement. Business partners and peers technical support was particularly influential in motivating two users to a contested settlement, without which the user would have likely settled early. In contrast, accountants, and friends and family encouraged early settlers to avoid complications and the stress of a late settlement by settling early. Accountants were particularly effective; they were seen to have the expertise required to understand the financial situation, HMRC's ways of working and the experience to inform a sound judgement on what settlement approach a user should take. A common feature of influencers was their trustworthiness; users either knew them well or felt confident enough in their opinion that users frequently followed their advice.

Media coverage of high profile tax avoidance cases was another social lever that strongly influenced users who were aware of the coverage. The coverage succeeded in playing up users' emotional responses – fear and anxiety – and served to demonstrate the changing tax environment, one that is less accepting of tax avoidance.

### ***Suggested implications for HMRC:***

The lack of familiarity most people have with tax legislation and loopholes mean that great weight is placed on the expertise of trusted individuals like accountants. In tackling this lack of awareness consideration should be paid to:

- Continuing to cover successful cases in the media, and signposting users to these at the point of challenge to reinforce the early settlement message. Media coverage will also dispel myths and provide both users and their friends and family with information to challenge the information provided by other 'expert' sources, reducing the influence of social norms.
- Providing users with pathways to support, such as named, trusted accountants, or HMRC contacts, to give users the information they need to make a decision to settle earlier and to undermine the power of scheme providers and promoters over users of schemes.

#### **5.4.4 Environmental drivers**

The effect of external environmental factors, such as the wider social and political system underpinning tax avoidance, and the mechanics of the process to settle ('the system'), were influential in decisions to settle. Changed social and political environments, and the accompanying loss of social acceptability towards tax avoidance schemes over time, were key environmental levers influencing users' decisions to settle. The social and political environment shifted dramatically for users due to the timescales between entering a scheme and having it challenged, in some cases, spanning more than a decade. Awareness and acceptance of the changed environment was driven by an understanding that HMRC was prioritising compliance and 'going after' people who were not seen to pay sufficient tax owed.

### ***Suggested implications for HMRC:***

While not a barrier to settlement, the 'process and system' to settlement was felt to introduce an additional layer of difficulty to settlement. Confusion about what settlement means for the individual and their circumstances (e.g. their company, future tax affairs etc.), how tax owed was calculated, and what the process of settlement will or can look like were all identified as undermining the efficiency and effectiveness of how a user could settle. In light of this, HMRC may consider the following to aid users in making a more efficient decision to settle early:

- Further explanation in the challenge letter, and on the HMRC website, about the key information and stages involved in settlement. Details users may find useful include clarity about what an initial query or challenge from HMRC is referring to (e.g. the year of the relevant tax return and a description of the scheme), the likely years that it will take to settle their case, the steps users may take in response to the challenge (e.g. contact HMRC, accountant or solicitor for advice), where users can find more information about the scheme being challenged (e.g. HMRC website for 'spotlight' series), and who to contact with general enquiries or queries specific to their case (e.g. named helpline or HMRC advisor, including contact details). This greater signposting may reduce the number of simple queries to HMRC early on in settlement, and may improve awareness of the difficulties of a contested settlement.

# Appendix A – Topic guide

Below is a complete version of the topic guide (Version 3) designed by Kantar Public. The topic guide was used by researchers during fieldwork in February and March 2017. The cover page of the topic guide describes the aims of the research and also provides guidance for interviewers on how to use the topic guide. The guide is divided into eight sections, each with a particular research aim in mind and a recommended amount of time in parentheses. Researcher notes are included throughout the guide where necessary.

## Avoidance Settlers Topic Guide

**About the research:** HMRC has commissioned this research to understand more about the decision making processes that lead to use of tax avoidance schemes, participants' experiences of the HMRC settlement process and the impact of these experiences on future compliance.

Primary aims:

To explore participants' experience of the HMRC settlement process:

- What motivated them to settle - either early or later?
- Experience of the settlement process (timings, easy/hard)
- Contact experience with HMRC (positive/negative)
- Ways to improve the process

Secondary aims:

- To understand the role of influencers – friends and family, business partners, agents/advisors, scheme promoters – and their impact on scheme users' decision-making, including entering, experiencing, and settling avoidance schemes
- To fully explore the impact the settlement experience and interactions with HMRC had on participants' attitudes toward tax avoidance and future compliance
- To identify and explore key barriers and levers for changing attitudes and behaviours about tax avoidance to promote future compliance

**Understanding of the schemes:** Although this research is considering the use of tax avoidance schemes, participants may not be aware that they were using a tax avoidance scheme; they may not think of themselves as avoiding tax and may not understand that terminology. Therefore it will be important to reflect the terminology participants' use, whilst ensuring they are talking about the Tax Avoidance Scheme and not tax planning more generally. Throughout, remind participants that they are off the record if they appear nervous answering any questions.

**Using this guide:** The following guide does not contain pre-set questions but rather lists the key themes and sub-themes to be explored with each participant. It does not include follow-up questions like 'why', 'when', 'how', etc. as participants' contributions will be fully explored in response to what they tell us throughout in order to understand how and why views and experiences have arisen. Likewise, questions will be adapted depending on what the participant reveals. The order in which issues are addressed and the amount of time spent on different themes will vary between interviews; the key areas for discussion are the same.

Throughout, researchers will reassure participants of confidentiality and anonymity and that the discussion does not affect their tax treatment. This is not included throughout the guide as it clutters the guide.

Cognitive interviewing will be used throughout. This involves taking the respondent back to the situation in which decisions were made so that they can remember not only what they did but also the surrounding context and influences

on their decisions. We will use detailed questions about the respondent's circumstances and experiences at the time in question, to help them 'relive' the situations we are exploring in their minds, and to recall events and actions that may have been forgotten or seemed less significant but which nonetheless have a part to play in the wider story. These questions are not included here as they are assumed researchers will follow up with questions like "And what was going on in your life at that time? What were you thinking? How were you feeling?"

## 1. Introduction (3 mins)

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- **Thanks & Introduction:** Introduce yourself and Kantar Public
- **Purpose and length of the interview:**
  - **About the client:** HMRC
  - **Aims of the interview:** to understand their experience of using a scheme determined by HMRC to be a Tax Avoidance Scheme and their experience of the settlement process
  - **How their info will be used:** to better support tax payers, we want to know about what happened when they decided to use the scheme, what information they received or looked into and their experience of settling with HMRC.
  - **Duration:** 60 minutes
- **Ethical considerations:** Anonymity, confidentiality, consent to record
- **Reassurances:** (If needed) stress the limited nature of sample data that has been passed over, and that nothing discussed will be passed back to HMRC on specific users. Discussions do not affect tax treatment.
- Any **questions/concerns** before starting?

– Start Recording –

## 2. Background & Context (5 min)

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**Section aim:** *To ease the participant into the discussion and gather contextual details about the participant's personal and financial circumstances and their understanding of tax avoidance to inform the rest of the discussion*

- **Explore how they spend their time**
  - Job
  - Hobbies
  - Family/living arrangements
- **Explore personal financial circumstances**

RESEARCHER NOTE:

*Participant may mention previous or existing avoidance schemes. Researcher to make note of this and move on.*

- Sources of income / Investments / Other assets
- How assets are managed (incl. any agents or advisors)
- General approaches to managing tax bill
- **Briefly discuss the scheme that was used that incurred a liability**
  - Nature of the scheme, incl. language used to describe it
  - Whether scheme was described to them as a tax avoidance scheme by HMRC
- **Briefly discuss nature of settlement process**

- Approach to settlement with HMRC
- Whether settled with/without litigation
- Whether settled tax avoidance dispute with HMRC using a defined settlement opportunity

## JOURNEY FROM HEARING ABOUT SCHEME TO SETTLEMENT

**Overall section aim:** *To explore in depth participant's decision making processes and their experience of using a scheme, including motivators, understanding of risks, and experience of settling with HMRC. Discuss from the point that the participant first heard about the investment scheme through to their settlement.*

### RESEARCHER NOTE: HOW TO USE THE MAP

- *Establish rough timings for each stage and record this on the map.*
- *Fully explore all the participant can remember happening between each of the stages, including people involved and record on the map.*
- *Underneath the map, record the participants' understanding / perception of the scheme and how they felt about what was happening for each stage.*

### RESEARCHER NOTE: INTRODUCING THE JOURNEY MAP

Tell the participant that during the interview you will be creating a journey map together to understand their experience of being on a tax avoidance scheme, starting at the beginning of the process through to the end. The map will be used to establish relative timings of key events and can be added to or amended throughout the discussion.

## 3. Journey Mapping – Entering Tax Avoidance Scheme & Experience of Tax Avoidance Scheme (10 min)

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**Section aim:** *to understand the participant's scheme and how the participant was introduced to the scheme, by whom, and the information considered prior to the decision to take up the scheme*

RESEARCHER NOTE: *As entering a tax avoidance scheme and the experience of the scheme is not the primary focus of this research, be conscious of time and keep this part of the interview to 10 minutes to allow enough time to explore the settlement process in depth (Sections 4 & 5).*

*Explore with the participant the following themes, probing for the motivations behind decision-making and establishing timings throughout*

### Brief overview of their scheme

- Description of scheme
- Key motivators
- Timing/Milestones
- Outcome of settlement

### Introduction to the scheme

- **Explore how they became aware of the scheme**
- **Explore circumstances of their introduction to the scheme**
  - Timing of introduction – month/year
  - What was going on in their life at the time

- **Explore intermediaries who introduced them to the scheme**
  - Friends, family, colleagues
  - Agent/Advisor with whom they had an existing relationship
  - Scheme promoter
  - Other trusted advisors (e.g. estate agent, solicitor)
  - Other advisor/organisation (e.g. accountancy firm) with whom they did not have an existing relationship
- **Explore their recall of what they learned about the scheme**
  - Content of messages
  - Reaction to messages
  - Language used
- **Explore what steps they took after first talking/meeting with intermediaries**
  - Online research
  - Discussed with friends, family, colleagues, agent/advisor, scheme promoter
- **Explore their initial assessment of what they learned about the scheme**
  - Likes/dislikes, reasons
  - understanding of the scheme
  - Questions they had
  - Risk/benefits

#### Understanding of the scheme

- **Main reason for joining the scheme**
- **Outcomes (opportunities and risks) expected by joining the scheme**
- **How was the scheme presented e.g. presented as offering a tax advantage**
  - Whether something they had thought about before hearing of the scheme
- **Explore understanding of the scheme** – encourage them to think back to the language used to describe it to friends and family
  - Nature of the scheme
  - Value of the scheme
  - Risks associated with the scheme
  - Awareness of the tax status of the scheme
- **Questions/ concerns they had**
- **Whether any conditions placed on the investment**
  - Minimum investment
  - Secrecy clause
  - Fighting fund
  - Using for a minimum number of years

#### Taking up the scheme and experience of scheme

- **Explore decision to take up the scheme**
  - Establish timing
  - Steps taken
  - Ease of decision – difficult/easy
  - Speed of decision – fast/slow

- Feelings about decision to join scheme
- Fees required to join scheme
- Who was involved
- **Explore experience of scheme**
  - Length of time on scheme
  - Monitoring of scheme – whether checked on its status, queried with anyone
  - Support/contact provided while on scheme
  - Information/communications received
  - Feelings about being on scheme – whether concerned at any point

*Explore role of influencers if not sufficiently covered above*

## 4. Journey Mapping – Initial Awareness of HMRC Challenge (10 mins)

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**Section aim:** *to understand how participants learned that HMRC was challenging their scheme and their experience of that process*

RESEARCHER NOTE: *On average communication with HMRC will be through agent/advisor or scheme promoter*

*Explore with the participant the following themes, probing for the motivations behind decision-making and establishing timings throughout*

- **Explore how they first learned their use of the scheme was being challenged**
  - Agent/Advisor
  - Scheme Promoter
  - Media coverage
  - Formal letter from HMRC
  - HMRC Inquiry on a tax return
  - Receiving bill from HMRC for tax due
  - Other (e.g. through friends/family)
- **Explore how participant responded to HMRC challenge**
  - First steps/subsequent action taken
  - Information sought
  - Feelings about challenge
  - Feelings about introducer (e.g. agent/advisor/scheme promoter)
- **Explore advice they were given during the challenge**
  - Advice to settle, to fight the challenge, other
  - Source of advice
  - Timing of advice
  - Assessment of advice
  - Feelings towards advice – anxious, worried, confident etc.
- **Explore communication with HMRC at this stage, if any:**
  - Content of communications

- Tone of communications
- Key messages
- Channels of messages e.g. letter, email, phone call
- Reaction to communications

## 5. Journey Mapping – Exiting Tax Avoidance Scheme/HMRC Settlement Process (20 min)

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**Section aim:** *to understand the participant's experience of settling with HMRC, their motivations for settling, and those involved in the settlement process*

*Explore with the participant the following themes, probing for the motivations behind decision-making and establishing timings throughout*

- **Overview of settlement experience with HMRC**
  - Key milestones
  - Length of time between HMRC challenge and settlement
  - Fees/penalties incurred from scheme promoters
  - Emotional response to process
- **Explore decision to settle**
  - At what point they decided – timings
  - How they reached that decision
- **Explore their information needs at the time**
  - Content of info they needed/wanted
  - Format of information they needed/wanted
  - Tone of information they needed/wanted
- **Explore what influenced their decision to settle**
  - Risks/benefits considered
  - Influence of others incl. friends, family, colleagues, agent/advisor, scheme promoter, HMRC
  - Influence of media
- **Explore participant's reasons for settling early (before litigation), if applicable**
  - Influence/advice of scheme promoter
  - Influence of agent/advisor
  - Influence of HMRC
  - Financial reasons
  - Hassle of other routes
  - Reputation management
  - Views of colleagues, associates, friends and family
  - Press / media
  - Views about going to court
  - Anything else / personal reasons e.g. health, family, work obligations

- **Explore participant's reasons for settling later (after litigation), if applicable**
  - Influence/advice of scheme promoter
  - Influence of agent/advisor
  - Influence of HMRC
  - Views of colleagues, associates, friends and family
  - Press / media
  - Awareness that scheme was going to court
  - Assessment of likelihood to win in court
  - Anything else
  
- **Explore who was involved in settlement process, in what way and at what stages**
  - Friends, family, colleagues
  - Scheme promoter
  - Agent/Advisor
  - Legal professionals
  - HMRC
  
- **For those individuals NOT involved, explore reasons for this**
  - Reputation management e.g. didn't want family to know what was happening
  - Logistics e.g. couldn't access those they wanted to
  - Costs e.g. couldn't afford legal support
  
- **Explore influence of those involved in settlement process on experience of settlement at each relevant stage**
  - Whether supportive/unsupportive
  - Whether informative
  
- **Explore contact with HMRC at this stage, if any:**
  - Content of communications
  - Tone of communications
  - Key messages
  - Channels
  - Reaction to communications

## 6. Impact of settlement process on future behaviour and compliance (10 min)

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**Section aim:** *to understand the impact of settlement process and interactions with HMRC had on participants' attitudes toward tax avoidance and future compliance*

*Refer back to previous statements and discuss:*

- **Explore how the settlement process shaped views**
  - On HMRC
  - On themselves
  - On tax avoidance schemes

- On people using tax avoidance schemes
- **Explore any changes to tax planning approach**
  - Use of legitimate tax relief programmes
  - Use of alternative approaches to reduce tax bill
  - More/less risk averse
- **Explore current tax planning activities (if any)**
  - Types of products used
  - Reasons for choice of products
  - Sources of advice
- **Explore attitude to risk of tax planning activities**
  - Current attitude to risk
  - Influence of settlement experience on attitude to risk
- **Explore likelihood of taking up similar schemes**
  - Reasons
  - Risks/benefits

## 7. Potential HMRC improvements (5 min)

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**Section aim:** *to identify ways for HMRC to improve the settlement process from the participant's point of view to encourage behaviour change and compliance*

- **Explore how the settlement process can be improved**
  - Upon learning liable, incl. to encourage early settlement
  - During settlement process
  - Concluding process
- **Explore how HMRC communications can be improved to encourage early settlement**
  - Channels for communication
    - e.g. email, phone, website, letter, via agent/advisor, via scheme promoter
  - Content of communications
  - Tone of communications
  - Timing of communications
  - Additional information they would have wanted – at what point, reasons, implications
  - Customer service related to settlement process

## 8. Thank & Close (2 mins)

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**Section aim:** *to wind down the interview, provide the opportunity for participants to share anything they have yet to, and express gratitude and complete remaining housekeeping tasks.*

- Final messages
- Thanks, and reminder of confidentiality and anonymity

# Appendix B – Further details on methodology

## Sampling and recruitment

Participants for this research were sampled from an HMRC database on tax avoiders who had settled with HMRC in the last two or three years, and who had not chosen to opt out of participating in the research. Individuals from the HMRC database were sent an opt-out letter explaining the research, which stated they should call or email HMRC if they did not wish to be contacted to take part in the research. The letter provided an opt-out phone number and email address and gave two weeks to respond. The opt-out letter emphasised that Kantar Public is an independent social research agency, that researchers would not have the details of participants' tax affairs, and assured participants of anonymity and confidentiality. Contact details for the project manager at HMRC were provided should the recipient wish to verify the letter is genuine and contact details for the project manager at Kantar Public should the recipient have questions about what the research involved.

Due to the sensitivity of the subject area and the limitations of the sample provided, recruitment for this research represented a significant challenge. The field recruitment team drew on experience working with HMRC on similar sensitive studies and succeeded in meeting recruitment goals by taking the following steps.

Because there were no recruitment restrictions or criteria, the screening document (Appendix C) served primarily as a script for recruiters to use when telephoning participants from the sample provided by HMRC. The script indicated that Kantar Public is an independent social research agency, and emphasised the very limited information HMRC provided to Kantar Public and gave assurances about confidentiality and anonymity.

Of a sample of 705 cases, 142 were contacted to recruit 20 participants to the study – a participation rate of 14%. Users were either not available to take part in the research during the fieldwork period, were not interested in the research because they wanted to “put the experience behind them”, or were too busy with business and family commitments.

The sample was cleaned and postcode information was used to sort the sample into geographical clusters to allow the recruitment team to target participants in a particular area so that interviews could be clustered. However, due to the geographically dispersed nature of the sample and being limited to the participants that agreed to take part, in the end it was not feasible to cluster interviews.

It is not surprising that because the sample included many high net worth and busy individuals, there was also a high number of cancellations and requests to reschedule interviews. This was accommodated by adding additional researchers to the study and having researchers increase their availability to more days than were needed to conduct interviews in order to accommodate busy individuals and any last minute requests for appointment changes.

## Supporting engagement and recall

Cognitive interviewing involves taking the participant back to the situation in which decisions were made so that they can remember not only what they did but also the surrounding context and influences on their decisions. Interviewers used detailed questions about the participant's circumstances and experiences at the time in question, to help them 're-live' the situations we were exploring in their minds.

Customer journey mapping involves working with the participant to list out every interaction and decision point they can remember, and using this chronology as stimulus for deeper discussion about the influences on decisions and alternatives open to them. Mapping out the journey in this way helped prompt participants to recall events and issues that would not otherwise have been remembered. The design of the research materials also drew upon established behavioural models.

## Reasons for taking part

Motivations for individuals to take part in the research were varied, and provide insight in to how best to position this type of research in the future to encourage participation by users of tax avoidance schemes. Reasons for taking part included:

- Belief that social research that may benefit others like them is worthwhile, and they acknowledge it can be difficult to get participants so they want to help

- Want HMRC to hear their story and consider it in their approaches to reducing tax avoidance
- Want to know more about the type of research HMRC does to inform their approaches to reducing tax avoidance
- Saw the interview as an opportunity to reflect on their experience and gain closure on what was seen to be a difficult process

# Appendix C – Recruitment screener

The recruitment screener was used by the recruitment team when making calls to encourage individuals to take part in the research. It captures information about the participant needed to arrange an interview and carry out the research.

## **B001: KANTAR PUBLIC QUAL - HMRC AVOIDANCE SETTLERS SCREENER**

**Begin block**

### **Q001 - INTRODUCTION:**

**Open**

"Good morning/afternoon, I'm calling from Kantar Public, an **independent social research organisation**. We have been commissioned by HM Revenue and Customs, or HMRC, to carry out **research on marketed tax avoidance schemes**.

You may remember receiving a letter from HMRC earlier this year, which mentioned this research.

The only information HMRC have provided is your name, contact details and that you **settled a tax enquiry that HMRC considered avoidance**.

*If necessary-* "HMRC would have notified you or the scheme promoter that they were contesting the scheme. Some scheme users would have attempted to settle their tax liabilities with HMRC independently and early in the enquiry process. Others will have waited to see if their promoter conceded or if HMRC's challenge to the scheme was upheld by a tribunal."

We'd like to arrange an interview with you to learn about your views and experience of using this scheme and settling your case with HMRC.

This research is completely anonymous, and you can choose whether or not you would like to take part. Any of the information you share with Kantar Public will be kept completely confidential - HMRC will not know that you have taken part in the research, and we won't report any identifiable information about your tax affairs to HMRC.

Your participation in the research is important for **improving the ways HMRC interacts with and serves customers** like you.

I just want to check that you remember what happened and are happy to talk about it?

Do you recall settling a tax enquiry that HMRC considered avoidance in the last two years? If so, around what year did you settle with HMRC?

The interviews will be conducted in a location you are comfortable with a researcher from Kantar Public – this could be in your home or another location of your choosing.

If you are happy to speak with us about your experience, may we confirm the **address of the location for the interview** and the best **phone number** to reach you on in order to schedule the interview?"

If necessary

"To clarify, the scheme may have been badged as a Disclosure of Tax Avoidance Schemes (DOTAS) and you may have been given a Scheme Reference Number (SRN) which you were required to include on your Self-Assessment (SA) tax return or other relevant returns to HMRC"

## RECRUITER INFORMATION

If participants have any **concerns or want more information about the study**, please give them [name redacted] [phone number and she will call them back. [contact details redacted from publication]

## REMINDER FOR REFUSALS

If respondent does not want to participate could you ask them to **please provide a reason as to why** and record their answer (where appropriate). This will help will understanding this population and any future research.

**B002: RESPONDENT DETAILS**

**Begin block**

**Q002 - NAME:**

**Open**

SURNAME, FIRST NAME:

**Q003 - SETTLEMENT:**

**Open**

[Not back](#)

APPROXIMATE TIME OF SETTLEMENT (MONTH, YEAR):

**Q004 - INTERVIEW\_ADDRESS:**

**Open**

ADDRESS OF INTERVIEW:

**Q005 - PHONE\_NUMBER:**

**Open**

[Not back](#)

PHONE NUMBER:

**Q006 - REFUSAL:**

Open

[Not back](#)

REASON GIVEN FOR REFUSAL

**Q007 - RECRUITMENT\_METHOD:**

Single coded

[Normal](#)

1 From Client Provided Sample

**Q008 - RECRUITER\_DECLARATION:**

Open

The person named above has been recruited by me in accordance with the instructions and within the Market Research Society Code of Conduct.

**SIGNED****NAME****DATE****BACKCHECKED: YES / NO****B002: RESPONDENT DETAILS**

End block

**B001: KANTAR PUBLIC QUAL - HMRC AVOIDANCE SETTLERS  
SCREENER**

End block

## Appendix D - List of tax avoidance schemes included in the research

Table 1 summarises the different tax avoidance schemes used by participants in this research. Where possible, researchers used their understanding of the scheme to group a scheme with similar schemes. In two cases, due to lack of participant recall, there were not enough details about the mechanism of the tax avoidance scheme to determine the type of scheme; these schemes are referred to as 'Unknown'.

**Table 1 Scheme types featured in the research**

Scheme Name/Type	Participants
Capital redemption policy	1
Contractor scheme - Umbrella Company	3
Contractor scheme - Double Taxation	2
Contractor scheme - IOM partnership	1
Contractor scheme - IOM shared partnership	1
Employee Benefit Scheme	2
Film scheme	2
Gift aid scheme	2
Gilt strip scheme	1
Interest relief avoidance scheme	1
Software	1
Software - online gambling partnership investment	1
Unknown - related to Capital Gains Tax	1
Unknown - third party loan to pay off other loan	1
<b>Total</b>	<b>20</b>