

Minutes of the Tax Professionals' Forum meeting on 12 December 2013

The Exchequer Secretary to the Treasury (David Gauke) chaired a meeting of the Tax Professionals' Forum on 12 December. Francesca Lagerberg sent apologies.

Autumn Statement 2013

The Exchequer Secretary opened the meeting by welcoming new members (Anita Monteith, Stephen Coleclough and Andy Richens). He invited the Forum to reflect on the recent Autumn Statement.

Some concern was expressed about the Autumn Statement announcement that the Government intended to prevent offshore contractors who lease equipment to oil and gas operators from using associate companies in tax havens to minimise their UK tax bill. It was suggested that the lack of prior consultation had caused uncertainty within the sector. The Exchequer Secretary responded that the measure involved revenue protection, which justified rapid action, and that the Government was engaging with the industry to identify any unintended impacts. Draft legislation would be published in January for consultation.

Members commented that, compared to when it was published on the HMRC web-site, it had been difficult to find some of the draft legislation and accompanying material published on 10 December on the .GOV.UK website. HMRC responded it had improved the "signposting" in response to feedback, and that it welcomed feedback on the presentation, and would follow up any concerns with the Cabinet Office (who are responsible for .GOV.UK).

Comments on specific measures

The Forum commented on a number of specific tax measures where consultation had recently taken place.

The Forum questioned whether the tax changes implementing the outcome of the Partnerships Review would prove as effective as the Government anticipated – it was felt the legislation could prove difficult for HMRC to apply to individual cases. It would be important to define the boundaries of the measure clearly to ensure that genuine commercial arrangements are not caught unintentionally. The Exchequer Secretary responded that the Government had consulted extensively on the design of the new rules, and the Office of Budget Responsibility had scrutinised and certified the revised costings.

The Forum expressed support for action to tackle high risk promoters of anti-avoidance schemes. The Forum commented on the importance of adequate safeguards to counter the perception that HMRC was acting as "judge and jury" in these cases. The Exchequer Secretary responded that the avoidance measures included appeal rights to provide

safeguards, but noted that it was necessary to discourage challenges that lacked substantive merit, and were intended primarily to delay the payment of tax that was due.

The Forum commented on the new rules on statutory residence. The process of consultation had been excellent, but members were concerned that the final legislation has turned out to be more complex than expected. The Exchequer Secretary noted that any substantive changes reflected representations received as part of the consultation.

Wider comments on tax policy making

The Forum noted that the Corporate Tax Road Map had been a great success, and queried whether a similar approach could be applied to other areas of the tax system, for example personal tax. Greater certainty in this area could, for example, help in attracting company executives to the UK, and there would be merit in limiting the overall number of policy changes in this area. If a road map for a broad area of tax was too difficult to implement, there may be more limited areas of the tax system where the Government could set out its longer term approach.

The Forum commented that the taxation of small and medium sized enterprises (SMEs) was another area that would benefit from greater certainty (for example, recent changes to the Annual Investment Allowance made it difficult for businesses to plan ahead). The Exchequer Secretary acknowledged the concern but highlighted that the Government has been very active in supporting SMEs, including through the employment allowance, action on business rates, and digitising HMRC processes.

The Forum commented that SMEs a very diverse category which does not suit a one-size-fits-all approach. Many of the Government's policies on business tax are aimed either at large corporations, or at the smallest businesses (e.g. start-ups), with little support available for mid-sized firms. The Exchequer Secretary commented that there is inevitably a trade-off between targeting reliefs and the generosity of the support provided – the Government had sought to achieve an optimal balance, within these constraints.

The Forum expressed some concern at the scale and speed of changes being worked up by the OECD on Base Erosion and Profit Shifting (BEPS). Some of the proposals could have a significant impact on the UK. There is a demand for greater clarity from Government on its objectives in this area, and the process for engaging with interested parties on policy proposals. The Exchequer Secretary agreed that the Government would consider what more could be done to meet this demand.

Finally, the Forum noted that there were a number of tax measures announced at Autumn Statement for which the fiscal impact was assessed as "negligible" and queried whether they had in fact been necessary, and if they all required primary legislation. The

Exchequer Secretary responded that the measures announced had been robustly assessed as being necessary to protect future revenue, and achieve stated objectives.