

Managing significant tax disputes



We are making a number of changes to the way we manage the settlement of significant tax disputes, following a report by the Public Accounts Committee in December. This briefing sets out our approach, as well as the changes we are making to introduce even greater transparency, scrutiny and accountability.

Our approach to all taxpayers

We manage our different customers by allocating our resources to those groups which need more support or present higher risks of not meeting their tax obligations. Contrary to recent media reports, we do not give any of our customers favourable treatment or allow them to settle for less than the full amount due – whether they're large multinational companies or individual taxpayers. That is why we assign expert customer relationship managers with detailed oversight of tax and avoidance risks to the biggest and most complex businesses. We also aim to make it as easy as possible for willing and able small and medium-sized enterprises (SMEs) and for individual taxpayers to manage their tax affairs and pay the tax that is due, while providing additional help for those customers that need it. Our aim is to support all our customers to get their tax right quickly, easily and cheaply.

Our approach to litigation

There are occasions when disagreements we have with customers over the amount of tax due cannot be resolved by discussion alone and we, or the taxpayer, feel the best way forward is to go to the courts for a decision. Our aim is always to agree what tax is due under the law without having to litigate. Settling the amount of tax due by agreement has a firm statutory basis, meaning we do not accept less than we would reasonably expect to obtain from litigation.

These agreements are very effective in almost all cases, provided there are opportunities to test arguments and evidence thoroughly. They also reduce the time it takes to decide tax liabilities and ultimately save the public purse additional expense by avoiding costly legal action. There are of course cases where we do have to resort to court action and we currently win about two-thirds of the disputes which appear before specialist tax tribunals.

Changes to how we manage tax disputes

We published our Litigation and Settlement Strategy in 2007 and refreshed it in 2011. The strategy explains how we go about resolving issues with all taxpayers of any type or size. The National Audit Office (NAO) last year endorsed our strong governance arrangements and our achievement in recent years of bringing in substantial revenues while tackling tax avoidance. We agree with the Public Accounts Committee that public confidence in HMRC is important, so we've put in place a number of changes to make how we operate the UK tax system even more transparent.

These changes include a new assurance role at Commissioner level; more large settlements being reviewed and agreed by tax-experienced Commissioners; an enhanced role for HMRC's Audit and Risk Committee – which is chaired by a non-executive director and includes representation from the NAO – to increase independent oversight; and increased transparency through our annual report and publication of a code of governance for tax disputes.

The assurance Commissioner

The new assurance Commissioner will ensure that all proposed large settlements secure the right amount of tax efficiently and treat taxpayers even-handedly. The new Commissioner will also ensure that our internal governance procedures have been followed. Settlements for high value cases will only be accepted once the assurance Commissioner and two other Commissioners are content with the outcome.

We are also introducing a programme of reviews of settled cases to check that our policies and procedures were correctly applied. This will not involve re-opening settled cases, but instead will concentrate on learning lessons for the future and improving our processes. Our Audit and Risk Committee will oversee this programme.

The assurance Commissioner will be an experienced tax professional who will remain independent from many of our day-to-day operations, such as dealing with taxpayers on their individual tax affairs or having line management responsibility for case workers. This will guard against any perception of possible conflicts of interest.

Advances in transparency

We will publish a code of governance for tax disputes to provide clarity about our internal processes for reaching settlements.

We will also include a statement in our annual report and accounts on tax settlements, covering the outcomes of tax dispute work. The Audit and Risk Committee will sign-off the final statement. While the statement will talk in general about tax settlements, to protect taxpayer confidentiality it will not contain any details about individual cases.

Taxpayer confidentiality

We take our obligation to protect taxpayer information very seriously so that our customers, whether individuals or businesses, can be confident we will keep their information safely. This is at the very heart of what we do. Given the importance of our work to the UK economy, it is quite right that we are held to account before Parliament, but we cannot breach taxpayer confidentiality.

This means we cannot talk about the details of large tax settlements or comment on confidential material that has been leaked and is in the public domain. We treat all taxpayers even-handedly and there is no legal basis for treating tax information relating to large businesses differently from other taxpayers. Parliament has repeatedly confirmed the importance of taxpayer confidentiality for maintaining taxpayers' trust and safeguarding voluntary compliance.

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