Extra-statutory concessions – sixth technical consultation on draft legislation

Consultation document
Publication date: 21 December 2012
Closing date for comments: 15 March 2013

Subject of this consultation:	Consultation on amending legislation which preserves the effect of two HM Revenue and Customs (HMRC) extra-statutory concessions (ESC).
Scope of this consultation:	Draft legislation designed to preserve the effect of two ESCs, ESC A4 and ESC A10.
Who should read this:	Businesses and other taxpayers who currently benefit from the ESC and their advisors.
Duration:	21 December 2012 - 15 March 2013
Lead official	Stephanie Allistone, HMRC
How to respond or enquire about this consultation:	Responses to the consultation and queries about the content or scope of the consultation, requests for hard copies etc should be sent to: Stephanie Allistone, HMRC Central Policy, Room 1/74, 100 Parliament Street, London SW1A 2BQ. Telephone 020 7147 2394 e-mail: tap@hmrc.gsi.gov.uk
Additional ways to become involved:	As this is a largely technical issue with specialist interests this will be a purely written exercise. Where there are known representative bodies HMRC will contact them regarding this consultation. HMRC will also contact respondents to the earlier consultations to alert them to the publication of this further draft legislation.
After the consultation:	HMRC will publish a summary of responses in Autumn 2013.
Getting to this stage:	Following the House of Lords judgment in the Wilkinson case HMRC has been reviewing its ESCs. This is the sixth consultation on legislation to be made under section 160 FA 2008.
Previous engagement:	Explanatory notes on section 160 FA 2008, which provides the vires to enact existing concessions by Treasury Order, can be found on the HM Treasury website. Consultations on ESCs can be found on the HMRC website. (http://www.hmrc.gov.uk/consultations/index.htm)

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1. Introduction

Background

1.1 ESCs have been a feature of the UK's tax system for decades and will continue to be made and withdrawn as necessary. For this purpose the term 'extra-statutory concession' refers to any published concession from the statutory tax treatment. It is not limited to ESCs published in the former Inland Revenue booklet IR1[1] and the former HM Customs and Excise booklet Notice 48[2].

1.2 The House of Lords' decision in the Wilkinson case clarified the scope of HMRC's administrative discretion to make ESCs that depart from the strict statutory position.

1.3 In light of that decision, HMRC is reviewing its ESCs. The indications are that most ESCs will be able to continue in their current form as they are within the scope of HMRC's administrative discretion. Where an existing ESC exceeds the scope of the HMRC's discretion its effect will be maintained by putting it on to a legislative basis where it is appropriate to do so.

1.4 Section 160 FA 2008[3] provides an enabling power which allows the tax treatment afforded by existing ESCs to be legislated by Treasury Order. This enabling power has been used to legislate a number of ESCs. Most recently a fifth consultation on 2 ESCs to be legislated concluded on 28 February 2012[4]. ESCs from this consultation will be legislated using the S160 power in early 2013.

Scope of this consultation

1.5 The purpose of this consultation is to expose for comment additional draft legislation needed to enact the existing tax treatment of the two ESCs concerned. The consultation, which is of a technical nature, is designed to ensure that the additional legislation as drafted will ensure that HMRC maintains the purpose and effect of the existing ESCs. HMRC welcomes comments on whether the additional draft legislation will achieve that aim. A Treasury Order giving effect to these ESCs is expected to be laid in 2013.

1.6 ESC A4 is concerned with the rules in sections 337 to 339 of the Income Tax (Earnings and Pensions) Act 2003 ('ITEPA') for allowing a deduction from earnings from an employment for travel expenses. In general under the these rules, the expense of travelling from home to a normal place of work is inadmissible as a deduction but the expenses incurred on travel in the performance of the duties of the employment, or for necessary attendance at a temporary workplace is admissible. Part-time directors frequently act for a modest fee or for no fee but have their expenses of travelling from home to board meetings or for other business purposes

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[1] Former Inland Revenue booklet IR1
[2] Public Notice 48
[3] Section 160 Finance Act 2008
[4] Extra statutory concessions - fifth technical consultation on draft legislation

paid for them by the company. Under the provisions of the benefits code, such travelling expenses may be taxable as employment income of the director without any corresponding tax deduction. ESC A4 modifies the normal rules. This draft legislation aims to put the extant parts of ESC A4 onto a statutory footing, by introducing legislation for this by Treasury Order under section 160 of the Finance Act (FA) 2008.

1.7 ESC A10 is largely obsolete, following the introduction of Part 7A Income Tax (Earnings and Pensions) Act 2003, as part of Finance Act 2011[5]. However some aspects of ESC A10 remain relevant, for example A10 continues to apply in respect of payments of lump sum relevant benefits, rights to receive which accrued to employees before 6 April 2011, whenever the lump sum is paid. This draft legislation aims to put these aspects of ESC A10 onto a statutory footing, by introducing legislation for this by Treasury Order under section 160 of the Finance Act (FA) 2008. Once these aspects of ESC A10 have been legislated it will be possible to withdraw ESC A10 as it will be obsolete.

Impact of the proposed changes

1.8 As the primary intention is to do no more than ensure that the existing concessionary tax treatment is put on a statutory basis, there should be no, or only a negligible, impact as a result of the proposed legislation.

Way forward

1.9 The review by HMRC of its ESCs has identified the need to legislate the two ESCs which are referred to in this technical consultation. As the review continues we expect further such consultations on other ESCs that appear to exceed the scope of HMRC's discretion. In each case, we will consult on the draft legislation to ensure it gives effect to the existing concessionary tax treatment.

1.10 This document sets out:

(a) The text of the existing ESC;

(b) Draft legislation needed to give full legislative effect to the tax treatment afforded by the ESC; and

(c) An outline explanation of the draft legislation.

ESCs to be legislated by order under section 160 FA 2008	Tax/Duty	Page
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[5] Section 26 and Schedule 2 Finance Act 2011

2. Text of ESCs and draft legislation

ESC A4: Travelling expenses of directors' and employees earning £8,500 a year or more

ESC text

The general rule is that the cost to a United Kingdom resident taxpayer of travelling to and from his UK place of business is not allowable as a deduction in computing his tax liability; consequently, the full amount of an allowance paid by a company to a director or senior employee in respect of such expenses is chargeable to tax under the benefits code. The rule is modified in the following types of case: -

(a) a director (whether whole or part time) of two or more companies within a group of parent and subsidiary or associated companies, whether or not entitled to separate remuneration from each of the companies of which he is a director, is regarded as having one place at which he normally acts as a director of companies within the group, and is entitled to a deduction (or a notice of nil liability under s65 of the Income Tax (Earnings and Pensions) 2003 - for expenses necessarily incurred in travelling within the United Kingdom from that place to other places on the business of the group in the course of his duties as a director. The same principle is applied to an individual who is an employee of one company and a director of another company within the same group of companies. (By "associated company" is meant a company on whose board the group is represented because of the group's shareholding or other financial interest.);

(b) a director who gives his services without remuneration to a company not managed with a view to dividends (e.g. a company owning a hall or sports ground, or running a club) is not treated as assessable in respect of any travelling expenses paid to him;

(c) where a directorship is held as part of a professional practice (and not, for example, because of some direct or indirect financial interest in the company), expenses incurred by the director in carrying out his duties are allowed as deductions in assessing the profits of the practice under Schedule D, whether the practice is carried on alone or in partnership. Reasonable expenses paid to the director by the company are accordingly not assessed upon the director as employment income, provided no claim is made to a deduction under Schedule D;

(d) where a director or an employee who is paid at the rate of £8,500 a year or more goes abroad on a business journey and, although fit to carry out his duties at his normal place of work, takes his- spouse or partner with him because his health is so precarious that he cannot undertake foreign travel unaccompanied, no charge is made in respect of expenses of the wife which may be borne by the employer.

"Travelling expenses" includes in all cases reasonable hotel expenses necessarily incurred.

Draft Legislation

Exemption or deduction for travel expenses

1.—a. The Income Tax (Earnings and Pensions) Act 2003([6]) is amended as follows.

(2) After section 241 insert—

"Travel by unpaid directors of not-for-profit companies

241A.—(1) No liability to income tax arises in respect of a sum if or to the extent that it is paid wholly and exclusively for the purpose of paying or reimbursing travel expenses in respect of which conditions A to C are met.

(2) Condition A is that—

(a) the employee is obliged to incur the expenses as holder of the employment, and

(b) the expenses are attributable to the employee's necessary attendance at any place in the performance of the duties of the employment.

(3) Condition B is that the employment is employment as a director of a not-for-profit company.

(4) Condition C is that the employment is one from which the employee receives no employment income other than sums to which Chapter 3 of Part 3 applies (expenses payments).

(5) In this section—

(a) "director" has the same meaning as in the benefits code (see section 67), and

(b) "not-for-profit company" means a company whose constitution requires any surplus income or gains to be reinvested in the company and does not permit any distribution of company assets, in cash or in kind, to members or third parties.

Travel where directorship held as part of trade or profession

241B.—(1) No liability to income tax arises in respect of a sum if or to the extent that it is paid wholly and exclusively for the purpose of paying or reimbursing travel expenses in respect of which conditions A to D are met.

(2) Condition A is that the employee is obliged to incur the expenses as holder of the employment.

(3) Condition B is that the employment is employment as a director of a company.

(4) Condition C is that the employee carries on a trade, profession or vocation (alone or in partnership).

(5) Condition D is that, in calculating the profits of that trade, profession or vocation for income tax purposes, a deduction is allowed under ITTOIA 2005 for the expenses, but no such deduction is to be made.

(6) In this section "director" has the same meaning as in the benefits code (see section 67)."

(3) After section 340 insert—

"Travel between linked employments

340A.—(1) A deduction from earnings from an employment is allowed for travel expenses if conditions A to E are met.

(2) Condition A is that the employee is obliged to incur and pay the expenses.

(3) Condition B is that the travel—

(a) takes place within the United Kingdom, and

(b) is for the purpose of performing duties of the employment at the destination.

(4) Condition C is that the employee has performed duties of another employment at the place of departure.

(5) Condition D is that—

(a) at least one of the employments is as a director of a company (company X), and

(b) the other employment is also with a company (company Y) but not necessarily as a director of it.

(6) Condition E is that—

(a) the employee's appointment as a director of company X was made by company Y or by a company in the same group as company Y, and

(b) the right to make that appointment exists because company Y or a company in the same group as company Y has a shareholding or other financial interest in company X.

(7) This section needs to be read with section 359 (disallowance of travel expenses: mileage allowances and reliefs).

(8) In this section—

"director" has the same meaning as in the benefits code (see section 67), and

"group" means a company and its 51% subsidiaries."

Consequential amendment

2. In section 72(3) of the Income Tax (Earnings and Pensions) Act 2003, after "section 340 (travel between group employments);" insert "section 340A (travel between linked employments);".

Application

3. The amendments made by articles 2 and 3 have effect in relation to expenses incurred on or after 6 April 2013.

Explanation

ESC A4 is concerned with the rules in sections 337 to 339 of the Income Tax (Earnings and Pensions) Act 2003 ('ITEPA') for allowing a deduction from earnings from an employment for travel expenses. In general under the these rules, the expense of travelling from home to a normal place of work is inadmissible as a deduction but the expenses incurred on travel in the performance of the duties of the employment, or for necessary attendance at a temporary workplace is admissible. Part-time directors frequently act for a modest fee or for no fee but have their expenses of travelling from home to board meetings or for other business purposes paid for them by the company. Under the provisions of the benefits code, such travelling expenses may be taxable as employment income of the director without any corresponding tax deduction. ESC A4 modifies the normal rules as follows:

ESC A4(a)

This part of the concession applies in the case of a director (whether full or part time) of two or more companies which are "associated" by virtue of the fact that one of the companies, or one of its group company members if part of a group of companies, has a shareholding or other financial interest in the other company.

The concession modifies the normal expenses rules by treating the director as having one permanent workplace place at which he normally performs the duties of the associated employments. The director is therefore entitled to a deduction for expenses necessarily incurred in travelling within the United Kingdom from the permanent workplace to another place in the performance of his duties as a director of the associated company. Without this concession such travel would be regarded as ordinary commuting for the purposes of section 338 ITEPA because the director would be travelling from a place which is not a workplace to a permanent workplace.

This draft legislation inserts a new section 340A into ITEPA to allow a deduction from employment income in the circumstances above, allowing the concession to be withdrawn.

Until 6 April 1998 ESC A4(a) also applied to travel by a director of two or more group companies (a parent and a 51% subsidiary). This element of the concession was legislated in Finance Act 1998 and is now contained in section 340 ITEPA.

ESC A4(b)

This part of the concession applies to out of pocket expenses incurred by a director who gives his services without remuneration to a not-for-profit company. Without this concession such individuals would be taxable on travelling expenses paid to them by the company to which they give their services for free as they would not be regarded as travelling in the performance of their duties for the purposes of section 337 ITEPA or travelling to a temporary workplace for the purposes of section 338.

The draft legislation inserts a new Section 241A into ITEPA to exempt from income tax expenses paid or reimbursed in the circumstances above, allowing this part of the concession to be withdrawn.

ESC A4(c)

This part of the concession applies where the sole proprietor or partner in a professional practice has been appointed to the board of a company to carry out a specific function and not because of any financial interest in the company. Under the normal employment income rules any travelling expenses paid or reimbursed to the director by the company would be taxable employment income and, depending on the circumstances in which the expenses are incurred, may qualify for a deduction under sections 337 to 339 ITEPA. In such situations, because the director would be acting in the business interests of the professional practice, the practice may be entitled to claim a deduction for the travelling expense in assessing the profits of the practice under the business deductions rules in Chapter 5 of ITTOIA. The concession applies by exempting from income tax any expenses paid or reimbursed to the director by the company in cases where the practice could have claimed deduction for travel expenses in computing its profits but does make such a claim.

This draft legislation, inserts a new Section 241B into ITEPA to exempt from income tax expenses paid or reimbursed in the circumstances above, allowing this part of the concession to be withdrawn.

Although the wording of the concession refers to a directorship being held as part of a “professional practice”, which is undefined, the new legislation applies to a director carrying on a trade, profession or vocation.

ESC A4(d)

If a director is accompanied by a spouse on a business journey any expenses paid or reimbursed by the company to the spouse or partner constitute taxable employment income of the director. The concession permitted a deduction for the expenses of an accompanying spouse or partner where a director or an employee takes his spouse or partner with him because his or her health is so precarious that he cannot undertake foreign travel unaccompanied.

This part of ESC A4 is not being legislated. It pre-dates the travel expenses rules introduced in 1998, when the “wholly, exclusively and necessarily” test was removed for travelling expenses and replaced with “necessary attendance”. Where a spouse or partner accompanies a director or employee because the director is too sick to travel on his or her own, the spouse or partner’s attendance will be necessary for the proper performance of the director’s duties, and the expenses will be covered by the existing legislation in section 338 ITEPA.

ESC A10 - Lump sums paid under overseas pension schemes

ESC text

ESC A10 is largely obsolete, following the introduction of Part 7A Income Tax (Earnings and Pensions) Act 2003, as part of Finance Act 2011. See http://www.hmrc.gov.uk/budget-updates/march2011/pensions-esc-a10a11.pdf

However some aspects of ESC A10 remain relevant, for example A10 continues to apply in respect of payments of lump sum relevant benefits, rights to receive which accrued to employees before 6 April 2011, whenever the lump sum is paid.

Proposed draft legislation

Lump sums paid under foreign pension schemes

4.—b. Part 6 of ITEPA 2003([7]) (employment income: income which is not earnings or share-related) is amended as follows.

(2) In Chapter 2 (employer-financed retirement benefits), after section 395A insert—

“395B Exemption or reduction for foreign service

(1) This section applies if—

(a) a benefit to which this Chapter applies is provided to or in respect of an employee or former employee in the form of a lump sum,

(b) the employer-financed retirement benefits scheme under which the lump sum is provided is established in a country or territory outside the United Kingdom,

(c) the lump sum is received by the employee or former employee or a related person,

(d) all or part of the lump sum (“the relevant part”) would, but for this section, count as employment income by virtue of section 394(1) or be chargeable to income tax under section 394(2) (account having been taken of section 394(4B) and section 395), and

(e) the service in respect of which rights to receive the relevant part of the lump sum accrued (referred to as “reckonable service”) is or includes foreign service.

(2) Section 394(1) or, as the case may be, section 394(2) does not apply to the relevant part of the lump sum if the condition in subsection (3) is met.

(3) The condition is that—

(a) three-quarters or more of the period of reckonable service is made up of foreign service,

(b) if the period of reckonable service exceeds 10 years, the whole of the last 10 years of that period is made up of foreign service, or

(c) if the period of reckonable service exceeds 20 years, one-half or more of that period, including any 10 of the last 20 years, is made up of foreign service.

(4) If the condition in subsection (3) is not met, the amount that counts as employment income by virtue of section 394(1) or, as the case may be, is chargeable to income tax under section 394(2) is to be reduced by the appropriate proportion.

([7]) 2003 c. 1.Section 394 was amended by section 249 of the Finance Act 2004 (c. 12), paragraph 595 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5), S.I. 2010/536 and paragraph 14 of Schedule 2 to the Finance Act 2011 (c. 11). Section 395A was inserted by S.I. 2009/730.

(5) The appropriate proportion is a proportion of the relevant part of the lump sum equal to the proportion that the period of foreign service included in the reckonable service bears to the period of reckonable service.

(6) In determining the service in respect of which rights to receive the relevant part of the lump sum accrued—

(a) service in a previous employment or with a previous employer is to be taken into account if rights to receive the relevant part of the lump sum also accrued in respect of that service, and

(b) it does not matter if the rights originally accrued under a different employer-financed retirement benefits scheme (whether one established in the United Kingdom or in a country or territory outside the United Kingdom).

(7) "Related person", in relation to an employee or former employee (E), means any of the following—

(a) E's spouse or civil partner or E's widow or widower or surviving civil partner,

(b) a person who is financially dependent on E, whose financial relationship with E is one of mutual dependence or who is dependent on E because of physical or mental impairment (or, if the lump sum is paid after E's death, anyone who was such a person at the time of E's death), and

(c) E's personal representatives.

(8) In this section, "foreign service" has the meaning given by section 413(2)."

(3) In Chapter 3 (payments and benefits on termination of employment etc)—

(a) in section 401(2)([8]) for "413A" substitute "414A", and

(b) after section 414 insert—

"414A Exception for payments and benefits under section 615(3) schemes

(1) This Chapter does not apply to a payment or other benefit provided in the form of a lump sum under a section 615(3) scheme.

(2) In this section, "section 615(3) scheme" means a superannuation fund to which section 615(3) of ICTA([9]) applies."

5. The amendments made by article 2(2) and (3) have effect in relation to lump sums that a person receives on or after the date on which this Order comes into force.

Explanation

ESC A10 relieves an employee from income tax on lump sums received from:

- certain retirement benefit schemes established outside the UK, to the extent that the lump sum rights accrued in respect of foreign service; and
- superannuation funds to which section 615(3) of the Income and Corporation Taxes Act 1988 applies ('section 615(3) scheme').

On 31 March 2011 the Government announced that ESC A10 would not apply in relation to lump sums chargeable to tax by virtue of Chapter 2 of Part 7A of the

([8]) Section 401 was amended by S.I. 2005/3229 and 2011/1037.

([9]) Part 1 of Schedule 1 to the Income Tax (Earnings and Pensions) Act 2003 ("ITEPA") provides that "ICTA" means the Income and Corporation Taxes Act 1970 (c. 1). Section 615 of ICTA was amended by paragraph 11 of Schedule 10 to the Finance Act 1999 (c. 16), paragraph 9 of Schedule 3 to the International Development Act 2002 (c.1), paragraph 85 of Schedule 6 and Part 1 of Schedule 8 to ITEPA and paragraph 140 of Schedule 1 to the Income Tax Act 2007 (c. 3).

Income Tax (Earnings and Pensions) Act 2003 ('ITEPA').[10] Part 7A was inserted into ITEPA by section 26 and Schedule 2 of Finance Act 2011.

Taxation of such lump sums may however be relieved by section 554Z4 of ITEPA if the value of the relevant step is for a period in which the employee is not resident in the UK and is in respect of duties performed outside the UK.

Section 554W of ITEPA excludes employment income tax charges from applying by virtue of Chapter 2 of Part 7A to lump sum relevant benefits paid in respect of rights accrued before 6 April 2011.

However, without ESC A10, income tax charges on lump sum relevant benefits received under an employer-financed retirement benefit scheme ('EFRBS') may still arise under section 394 of ITEPA if:

- the right to receive the relevant benefits accrued before 6 April 2011; or
- the employer or former employer provides the relevant benefits directly to the employee or former employee.

Similarly, without ESC A10, income tax charges on payments of lump sums by section 615(3) schemes may still arise under section 403 of ITEPA if the right to receive the payment accrued before 6 April 2011.

The draft legislation will incorporate the reliefs provided by ESC A10 into legislation, enabling ESC A10 to be withdrawn.

The impact of the draft legislation on the taxation of EFRBS

The insertion of section 395B into ITEPA by the draft legislation will reduce or remove any liability to income tax under section 394 of ITEPA if the right to receive the lump sum accrued in respect of foreign service.

A period of employment counts as foreign service if the earnings from the service are not "relevant earnings". Earnings are relevant earnings if they fall within section 15 of ITEPA. The new section 395B adopts the definition of foreign service in section 413 of ITEPA and will reflect any amendments that may be made to sections 15 and 413 by the Finance Act 2013: draft Finance Bill 2013 clauses including proposed amendments to those sections were published on 11 December 2012.[11]

If specified conditions are met relating to the employee's aggregate periods of foreign service and reckonable service, section 395B of ITEPA will provide a full income tax exemption for lump sums provided under the non-UK retirement benefit schemes, provided that the scheme is not a registered pension scheme and that the lump sum is not chargeable to income tax under Schedule 34 to the Finance Act 2004.

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[10] http://www.hmrc.gov.uk/budget-updates/march2011/pensions-esc-a10a11.pdf .

[11] Complete Draft Legislation published at http://www.hmrc.gov.uk/budget-updates/11dec12/complete-draft-legislation.pdf : see paragraph 49 of the Draft Schedule "Statutory Residence Test" (on page 35) and paragraph 38 of the draft Schedule "Ordinary Residence" (on page 117)

If the proportion of foreign service falls below the specified limits, section 395B of ITEPA will reduce the income tax liability in respect of the lump sum proportionately, but the liability will not removed altogether.

In line with the announcement on 31 March 2011, periods of reckonable service or foreign service after 5 April 2011 will not be taken into account when operating section 395B of ITEPA in a case where the provision of lump sum relevant benefits constitutes the taking of a relevant step by a relevant third person (as those terms are defined in Part 7A of ITEPA).

The draft legislation will not prevent a lump sum from being a relevant benefit for the purposes of section 393 of ITEPA. However the new section 395B will remove the charge that would otherwise arise under section 394.

The impact of the draft legislation on the taxation of Section 615(3) schemes

The insertion of section 414A into ITEPA by the draft legislation will mean that lump sums paid under section 615(3) schemes out of rights accrued before 6 April 2011 are fully exempt from income tax.

It is a condition of being a section 615(3) scheme that the sole purpose of the scheme is to provide retirement benefits in respect of service outside the UK.

The taxation of pension income is not relieved by the draft legislation

ESC A10 applies to “relevant benefits”. Since 6 April 2006 the statutory definition of relevant benefits has not covered amounts charged to tax under Part 9 of ITEPA (pension income). ESC A10 has therefore not covered lump sums charged to tax as pension income since that date and, in particular, did not do so when section 160 Finance Act 2008 came into force. The draft legislation, which will be made under the section 160 power, cannot therefore relieve any amounts chargeable to income tax as pension income.

3. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework.

There are 5 stages to tax policy development:

Stage 1 Setting out objectives and identifying options.

Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 Drafting legislation to effect the proposed change.

Stage 4 Implementing and monitoring the change.

Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 3 of the process. The purpose of the consultation is to seek views on draft legislation in order to confirm, as far as possible, that it will achieve the intended policy effect with no unintended effects.

How to respond

Responses should be sent by 15 March 2013, by:

e-mail to tap@hmrc.gsi.gov.uk

or by post to: Stephanie Allistone, HMRC Central Policy, Room 1/74, 100 Parliament Street, London SW1A 2BQ.

Telephone enquiries 020 7147 2394

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When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public

authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HMRC.

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website: http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance

If you have any comments or complaints about the consultation process please contact:

Amy Burgess, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.