

Minutes of the Tax Professionals' Forum meeting on 15 October 2012

The Exchequer Secretary chaired the fifth meeting of the Tax Professionals' Forum on 15 October 2012. Malcolm Gammie QC sent apologies. All other members of the Forum were present.

The Exchequer Secretary opened the meeting, noting that this was the third autumn under the Government's new approach to tax policy-making. Over the summer, HM Treasury and HM Revenue and Customs had been seeking the views of interested parties on over 35 of the tax policies announced at Budget 2012. Responses to these consultations would be published on or before 11 December. Draft legislation for inclusion in Finance Bill 2013 would also be published for technical consultation on 11 December, supplemented by Explanatory Notes and Tax Information and Impact Notes.

General comments on the tax-policy making process

Members of the Forum welcomed the Government's continuing commitment to earlier consultation and to publishing legislation in draft wherever possible.

The Forum suggested that the Government could make more frequent use of informal consultation with trusted stakeholders ahead of launching a formal consultation. This could help to identify difficult issues early, and target the consultation more effectively. There are examples of where this has worked well in the past, e.g. the gift aid small donations scheme.

The Forum commented that the Corporate Tax Roadmap had been very successful in giving clarity about the future direction of policy on corporation tax, and played an important role in presenting the UK as an attractive location for foreign investment. It was suggested that a similar roadmap could be developed for other areas of the tax code, though the Forum acknowledged that this would be more challenging in some areas (e.g. personal tax).

Comments on specific policy areas

Concern was expressed that the recent announcement on tax-advantaged share ownership for employee-owners did not fit the normal tax policy-making cycle. The Exchequer Secretary explained that the new employee-owner status was primarily a change in employment law, and that the tax aspects were secondary and driven by the timetable for the wider measure.

The new regime for Controlled Foreign Companies was discussed. The Forum felt this was a good example of "best practice" consultation in line with the tax policy-making principles. However, there was concern that the legislation had subsequently become very complex. While the legislation had also been consulted on in draft, some members felt the drafting was needlessly technical, and that more intensive involvement of

external parties during the drafting process would have improved the clarity of the final product.

The Forum discussed the new annual charge and capital gains tax regime for high-value properties held by non-natural, non-resident persons. This was an operationally complex reform and some of the policy details were still in the process of being formulated. Members expressed concern that the timescales were very challenging, which partly reflected the complexity of the subject-matter. Some members also questioned whether the proposed changes to capital gains tax were an appropriate mechanism to tackle what was essentially an avoidance risk associated with stamp duty land tax.

The Forum also discussed the new General Anti-Abuse Rule (GAAR). The Forum felt that this should be focused on schemes which were clearly artificial and abusive, and expressed some concern that the scope of the GAAR could be drawn more widely. Having clear guidance would be crucial to enable a robust assessment of transaction prior to the new legislation gaining Royal Assent.

Tax simplification

The Forum briefly discussed tax simplification. It was observed that the Government's commitment to simplification had not resulted in a reduction in new legislation – Finance Act 2012 was nearly 700 pages long. The Exchequer Secretary commented that progress towards simplification could not be measured solely by the volume of legislation, but acknowledged that this remained a challenge. In addition to legislation, there is scope to go further on the simplification of tax administration – the recent moves to introduce cash accounting for SMEs are an example of this.

Concerns were also raised about implementing the cap on child benefit for higher earners. This was administratively complex and timescales were very tight. The Exchequer Secretary commented that HMRC were working intensively on delivering the changes in time for January 2013.

Retrospection

The Forum commented that the 2011 protocol on unscheduled announcements of changes to tax law was a positive development, but suggested that the wording could be tightened up to give greater clarity about the circumstances in which the Government would consider retrospective legislation, particularly in light of action taken earlier this year. This would help provide certainty to taxpayers and send a signal that retrospective legislation would only be used in exceptional circumstances..

Next meeting

The Forum will hold its next meeting in the new year.