

Office of Tax Simplification Board Meeting

3 February 2012

Present

Rt Hon Michael Jack – Chairman
John Whiting – Tax Director
Adam Broke
Teresa Graham
Edward Troup – HM Treasury
Dave Hartnett – HM Revenue & Customs

Secretary

Jeremy Sherwood

1. Minutes of the last meeting

The minutes of the 8 December 2011 meeting were formally agreed.

2. Final report of the small business taxation review

The Board discussed the progress of the small business review and its likely recommendations. The final report would comprise three separate strands;

- 1 improving HMRC's administration of the tax system for small businesses,
- 2 exploring simplified methods for taxing small unincorporated businesses, and
- 3 a possible new tax relief to allow incorporated businesses to "disincorporate" without an immediate tax charge.

Overall, the small business report was likely to present a menu of simplification proposals for ministers, drawing on evidence the Office of Tax Simplification had collected over the course of the review.

Teresa Graham said that it would be important to define clearly the size and types of small businesses that the different proposals would be targeted at. Dave Hartnett thought it would be simplest to use existing definitions, such as the VAT threshold (currently set at businesses with a turnover of £73,000).

The OTS should draw on previous behavioural research HMRC had conducted around changing turnover thresholds and ceilings, for example around the impact of the most recent increase in the turnover limit for three line accounts. Edward Troup thought the OTS might consider offering ministers a range of options for targeting the simplification proposals at different sizes of business, as the feasibility of different options might depend on detailed cost projections.

There was a discussion over whether it was better to propose simplifications that were optional or compulsory. The general view was that the best compromise between fairness and simplification would be to present the simplest method as the default option, but leave it open to businesses to choose to use a more complex treatment.

Michael Jack was keen that the report should not be presented as a “cure-all” for small businesses. Some small businesses would inevitably continue to encounter complex tax issues in particular situations, for example, capital gains tax on disposing of business assets.

On the possible disincorporation relief, Edward Troup suggested the report should take into account the recent legislation replacing the previous extra statutory concession C16. Adam Broke pointed out that this presented a simpler and cheaper route for companies to be wound up, but did not address the tax barriers targeted by the potential relief. The Board also discussed the likely take up of the relief, how best to target it, and whether it should be a temporary or permanent relief.

Michael Jack pointed out that there was a link between a possible disincorporation relief and the ideas for simplifying tax for small unincorporated businesses. Removing barriers to disincorporation would allow some small businesses to take advantage of simplified systems for unincorporated businesses, if these were taken forward.

Summing up, Michael Jack noted that the Board approved the general direction of travel of the small business review.

3. Interim report on employee share schemes

The Consultative Committee for the share schemes review had met earlier that morning and Michael Jack reported back on the discussion. The group had been generally supportive of the emerging OTS proposals for simplifying individual schemes, but had mixed views on more ambitious changes around merging schemes. There was more support for major changes to the discretionary schemes (CSOP, EMI) than for the all-employee schemes (SIP, SAYE).

The evidence for the impact of tax advantaged share schemes was mixed, but there was likely to be some new academic research published shortly into UK schemes (but too late to be included in the OTS report). The Consultative Committee members generally believed that the schemes did have a positive impact, based on their experience. Adam Broke thought this was a crucial question that the report needed to address – did the tax advantaged schemes achieve their stated policy aims?

One key administrative issue that the review was looking at was the whole issue of whether new share schemes needed to be approved by HMRC in advance, or whether it would be possible to move to a self-certification process. Although the Consultative Committee was largely in favour of this move and recognised it could deliver significant simplification, others thought it could lead to reduced certainty for scheme advisers.

Generally the Board thought the review was a very thorough piece of work, with the right combination of emerging proposals. Looking at the overall package of proposals, the OTS needed to bear in mind its remit to be broadly tax neutral, whilst ensuring that the proposals were likely to deliver worthwhile simplifications.

4. Interim report on pensioner taxation

John Whiting set out the current progress of the review. At the moment, in line with the terms of reference for the first stage of the review, the OTS team had done a good job in identifying and categorising the different tax complexities facing pensioners. The possible solutions to these complexities would be considered in the second stage of the review, after the Budget. The Consultative Committee would be meeting later in the day to assist the team in prioritising the areas for further review. It would be important for the interim report to set out a robust methodology to justify the prioritisation of areas for further review.

5. Update on tax complexity project

Adam Broke gave an update on the review into underlying complexity – currently the OTS team was applying the usability model to the tax rules for leasing. It had also just published an article in Tax Journal on the length of legislation, and discussed with Parliamentary Counsel the underlying reasons for tax complexity. The Board put on record their thanks to Caroline Turnbull-Hall and Richard Thomas for their work on this project.

6. OTS resources

The OTS was currently forecasting that it would complete its programme of work for 2011/12 to the planned timetable and budget. Edward Troup asked the secretariat for a more detailed financial report and forecast for 2012/13.

The team would be losing a number of staff at the end of March, with Anish Mehta and Tunde Ojetola due to move on to new jobs and Caroline Turnbull-Hall, Angela Williams and Andy Richens were all due to come to the end of their secondment contracts. Michael Jack expressed his enormous thanks for the work they had all done for the OTS.

7. Next stage of reviews

The OTS envisaged starting on the next stage of the share schemes review, into unapproved schemes, after the March 21st Budget, and would seek formal clearance to do so from David Gauke, the Exchequer Secretary to the Treasury. The second stage of the pensioner review would depend on the Chancellor's response to the interim report, identifying possible areas for further study.

8. Publication plans

Current plans were to publish reports on all three reviews around the end of February/early March.