

MINUTES

MID-TIER AGENTS FORUM

Wednesday 27 March (09:00-11:00)
Room 2/66, 100 Parliament Street, London

Chair:	Theresa Middleton	HMRC (Director, Business Customer & Strategy)
Secretariat:	Ian Quelch Mark Neal Monica Saunders	HMRC (Business Customer & Strategy) HMRC (Local Compliance) HMRC (Business Customer & Strategy)
Attendees:	David Barton Stuart Lisle Norma Chisholm Andrew Hubbard Stephen Nixon Jim Harra Chris Davidson Trevor Small Sam Mitha Richard Rogers Martin Randall Jenny Cowles Martin Trott Denise Walsh Maggie Anderson Luke Liddiard Stephanie Allistone Peter Woodham	Baker Tilly BDO Moore Stephens RSM Tenon Crowe Clark Whitehill HMRC (Business Tax Director General) HMRC (CTISA) HMRC (Large Business Service) HMRC (Central Policy) HMRC (CTISA) HMRC (Specialist PT) HMRC (Business Customer & Strategy) HMRC (Business Customer & Strategy) HMRC (Business Customer & Strategy) HMRC (RTI Programme) HMRC (Central Policy) HMRC (Central Policy) HMRC (Central Policy)
Apologies:	Paul Eagland Jacqueline Kimber Francesca Lagerberg Tim Davies Tim Lyford Richard Mannion Mark McGarry Alan Tume Ian Stewart Ann Chinner Robina Dyall	BDO Moore Stephens Grant Thornton Mazars Smith & Williamson Smith & Williamson Saffery Champness HMRC (Large Business Service) HMRC (VAT) HMRC (Local Compliance) HMRC (Cen Pol)

1. Welcome, introductions and adoption of minutes

The chair welcomed the attendees and introductions were made. Comments were invited on the previous minutes and the minutes were adopted.

2. Real Time Information

Maggie Anderson (MA) led the session and gave an update on the Real Time Information (RTI) pilot and the preparation for reporting PAYE payment in real time by 6 April – the ‘go live’ date for RTI system.

She stated that Agents were interested in the easement for small employers and that the RTI process allows for corrections and amendments to be made to information. While the process would work for vast majority of employers, some small employers who pay employees weekly but run payroll monthly may need extra time to adapt and update their business processes to comply with the requirement. HMRC has therefore announced a temporary relaxation until 6 October for small businesses (employers with fewer than 50 employees) who are unable to report every payment at the time the payment is made but to send the information by the date of their regular payroll run but not later than the end of the tax month.

She invited comments from the group. Agent representatives commented that:

- There is a danger of additional burden being put on businesses (pubs and restaurants) that pay people on a daily basis.
- There may be issues around advances of salary and loans as their clients are often unaware / not worried what the nature of payment they are making is and would only catch up at the end of the month without feeling that they are doing anything wrong.

They would like the easement to last longer or be a permanent for small businesses that are likely to employ people who would want their money more frequently.

MA responded that HMRC does not expect these employers to report on a daily basis but that weekly is reasonable and that the introduction of RTI should make the operation of PAYE more transparent but is not intended to turn compliant employers into non-compliant employers.

The chair concluded that in relation to Directors’ remuneration there is a question around the characteristics of the payment (dividend or income subject to PAYE), maybe some guidance is required. MA commented that employers need to be aware that payments falling within the definition of income subject to PAYE must be reported at the right time and not retrospectively.

Agent representatives stated that some small businesses would not have good IT or broadband connectivity due to their location, so the breathing space is welcome. However, as some businesses may need to upgrade their systems, the 6 month easement is not necessarily that helpful.

The chair stated that HMRC is willing to accept further representations to the length of the easement and citing HMRC's digital inclusion strategy and that RTI has guidance for those groups.

Update on the Proposed Penalties

Stephanie Allistone (SA) led the session with an update that Employers will be liable to late filing penalties where their information is not received by HMRC on time. This has been introduced to highlight the importance of the information and to encourage compliance.

Changes to the existing late payment and inaccurate return penalties, to allow charges to be made in-year rather than after the tax year, thereby simplify the process for both HMRC and employers.

Agent representative asked whether an employer can get a penalty even though they have paid all their taxes in full but have not reported on time. The chair pointed out that Universal Credit requires that the Department for work and Pensions (DWP) know as soon as possible about payments made, and asked if more guidance is needed.

Agent representative thought that a monthly penalty seems fair but that there is concern from elsewhere that the penalty regime from April 2014 is premature. SA clarified that filing penalties are not being introduced until April 2014, but error penalties already apply, and changes included in Finance Bill 2013 will apply from July 2013. From October 2013, notices will be sent to employers explaining when and why they would have incurred a penalty; these are designed to prompt employers to review their processes prior to the application of live penalties in April 2014. Agent representatives stated that it might not be easy for them to identify all the quirks arising, or to find out if their clients have done something wrong at the end of the month and therefore would be unable to pick up issues. They also commented that the penalty regime for not providing information is on behalf of the DWP so, where no tax is lost, it is very difficult to explain that there is a combined obligation to pay tax and to provide information.

Agent representatives asked if penalty levels apply to the number of employees in the month. SA responded that HMRC will use the best information they have to determine the size of the employer, and so the size of the late filing penalty. Only one penalty will apply per month even if an employer pays staff weekly.

3. Mid-Sized Businesses Project

Martin Trott (MT) presented a paper to update the forum on the Mid-Sized Businesses Project. The aim is to establish if there could be benefits from a different approach. He explained that while the project team is building a more sophisticated portfolio of indicators, for research purposes they have started by looking at turnover between £10m and £200m and/or greater than 20 employees. About 55,000 businesses were found to be within the criteria.

A programme of research has been undertaken to identify key characteristics and there is an emerging model of “Complex and / or non-compliant Businesses”. The project team will be researching further to see if the characteristics are realistic and what other risks / interests need to be taken into account. The next phase would also look at what system or process would be required to assure the segment and the resource capability. There is the expectation that businesses within the scope will be big enough to be able to have in-house tax experts or buy in tax competent advice.

The chair asked the meeting for their views and thoughts on the emerging trends and a discussion followed.

4. Budget 2013 Update

The chair asked if there were issues or things that the meeting would like to focus on.

Agent representatives selected items on hybrid structures (LLPs), self-employment, IHT provisions etc. and asked whether ordinary straightforward partnerships are under the microscope.

Sam Mitha (SM) mentioned that there had been considerable interest in the media and professions about the Budget announcements, in particular those relating to the reduction in the Corporation tax rate, corporate avoidance, General Anti-Avoidance Rule etc. The draft legislation had been improved by consultation with professional advisers, and he thanked the group for their help and support.

Partnership review

Richard Rogers led the discussion on the upcoming consultations where the scope includes the:

1. Use of LLPs for avoidance purposes by disguising employment and use of LLP to reward very new and inexperienced trainees – e.g. accountants and lawyers; but not experienced and senior genuine partner level staff.
2. Manipulation of profit share could be LLP or general partnership. Trying to arbitrate difference in CT rates / IT rates or use of losses.
3. Review of loans to partnerships in closed companies.

Agent Representatives stated that there is a general concern on loans in values of the estates and asked whether this would come into the issues being consulted –

Action point 1. HMRC to advise whether loans in values of the estates would come into the issue being consulted upon.

JH said that he recognises that there are some issues on loan arrangements to be reconciled. There is high political pressure on avoidance from the Prime Minister downwards and the International agenda being pursued separately.

Agent representative asked whether the announcement regarding Procurement and Tax would be applicable to local authority procurement.

SM said the measure was only applicable to procurement undertaken by central government. He added that the Anti-Avoidance Group, which had been closely involved in the development of the policy, had taken over responsibility for the measure.

Chris Davidson cited the SDLT measures as an example of the Government's clear warning to 'keep off their grass' – if people don't do that, retrospective actions may be considered. Consultation document on High Risk Promoters is expected by the end of April(ish).

JH explained that the Government has completed its Corporation Tax measures.

5. HMRC Agent strategy work

Jenny Cowles (JC) led the session and explained that the Agent Strategy is about putting agents more in the driving seat for their clients through a more robust online enrolment process that gives an agent firm one unique reference for all clients and all major taxes. The new platform will give them access to digital customer self-services. HMRC aims to reduce processing costs for HMRC and agents, support a good customer experience and improve customer compliance.

Jenny's team is also running a pilot and will shortly start other pilots to test out what HMRC's data ('client' statistics) can tell us about identifying performance problems and then whether educational support raises subsequent performance. JC stated that she is happy for people to discuss issues directly with her and to talk to firms about the agent strategy.

Agent representatives pointed out password security issues and a concern about fraud if there is a single reference code for an organisation or firm. JC explained that there is a lot of work going on around risk / security both internally in HMRC and in conversations with agent firms and professional bodies.

JH clarified that the unique reference helps HMRC to link the agent with all their clients' data.

JC stated that initial versions of the new digital enrolment process and agent platform will be in testing within a few months for full roll out by March 2015. The question is then where might we go in the future, leveraging the potential of the system beyond 2015.

6. Any Other Business

IQ mentioned a review of the Terms of Reference for the group, its format and contributions from the next meeting.

Provisional dates for forthcoming meetings in 2013:

28 June
13 September all between 10:00 – 12:00 a.m.
13 December

Meeting organiser: Large Business Customer & Strategy Team (020 7147 3556)