


Review of Rewritten Income Tax Legislation

Ipsos MORI on behalf HM Revenue and Customs
FINAL REPORT
Research Report Number 104



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Executive Summary

Summary

Introduction

- The Tax Law Rewrite Project (TLRP) was set up in 1996, with the aim of making the UK's direct tax legislation clearer and easier to use. The TLRP intended to make the language of tax law simpler, while preserving the effect of the existing law, subject to some minor changes. It aimed to reorder legislation, use modern language and shorter sentences, and provide consistent definitions and clearer signposting. Its remit did not cover changing the law except in minor, well-defined ways. The Income Tax Act (ITA) of 2007 completed the process of rewriting the income tax legislation which began with the Income Tax (Earnings and Pensions) Act of 2003 and continued with the Income Tax (Trading and Other Income) Act of 2005.
- Ipsos MORI was commissioned by HM Revenue and Customs (HMRC) to explore the experiences of tax professionals who have been working with rewritten income tax legislation, and to ascertain whether the Tax Law Rewrite Project (TLRP) has made the legislation easier to use. Qualitative research was conducted with a range of tax professionals.

Contextual information

- An important contextual factor, when interpreting the results of the research, is the frequency which the research participants refer to the legislation and their familiarity with it. On the whole, tax professionals referred to income tax legislation directly only when strictly necessary, for example when clarifying complex issues and when citing points in correspondence with clients. However, the extent to which it was necessary to do this varied considerably according to role; legal tax professionals had occasion to consult the legislation directly far more frequently than non-legal tax professionals.

Experiences prior to the rewrites

- Prior to the Income Tax (Earnings and Pensions) Act (ITEPA), the Income Tax Trading and Other Income Act (ITTOIA) and the Income Tax Act (ITA), tax professionals referred to the Income and Corporation Taxes Act (ICTA), which they had been trained in and knew well. For the majority, the most positive aspect of the previous legislation lay in its familiarity; despite its imperfections tax professionals were used to dealing with ICTA.
- However, the long-standing history of ICTA also brought with it disadvantages. In particular, it had been subject to years of amendments and Finance Acts, which resulted in a piece of legislation that was difficult to navigate and understand, especially for newcomers with little or no experience. Many experienced tax professionals were also critical of the language used in ICTA; and tended to describe

it as archaic and inaccessible to those without legal training. On the other hand, the majority of those with a legal background were positive about the language used in ICTA; it made them feel like experts and they thought it was more precise in its meaning.

Awareness of the rewrites and expectations

- Overall, tax professionals were positive towards the information they received about TLRP, which they felt was timely and sufficient, and also spoke highly of the consultation process.
- All tax professionals were aware of the TLRP. They heard about it through the consultation process, the industry press and discussions with colleagues. Tax professionals were also positive about the consultation process. Several were actively involved in providing feedback on sections of the exposure draft documents and those who were not felt that professional bodies such as the CBI had done a good job of representing their interests and that their comments had received proper consideration.
- Tax professionals had a clear understanding of the purpose of the rewrites, and believed that they were designed to consolidate and improve the structure and simplify the language. They were also clear that the intention was not to change the policy underlying the law. However, there was a lack of consensus over who the rewrites were designed to benefit – tax professionals or the general public.

Views on rewritten legislation

- Overall, the main benefit of the TLRP was perceived to be the consolidation and improved layout of the legislation. The majority of tax professionals were positive about the division of the income tax provisions into three acts and the way in which the legislation was laid out in a more logical and prescriptive way. In particular, they favoured the way it was split into discrete chapters, which were then broken down into smaller sections with clear signposts to other relevant parts of the legislation. This was seen to be of particular use to those entering the profession.
- The other key advantage of the rewritten legislation was the introduction of simpler language. For some, this meant that they were able to consult the legislation without always having to cross-reference with guidance texts in order to check their understanding. Tax trainers were particularly positive about the simpler language, and the benefits it brought to their teaching and students.
- However, these two benefits were only felt to be applicable to tax professionals. There was a broad consensus that the simplification of the structure and the language did nothing to make the legislation more accessible to the general public. Of the minority of tax professionals who thought that this was the aim of the rewrite, most felt that it was a misguided principle from which to work. On the whole, tax professionals were quite adamant that, in reality, if a member of the public had a query they would in the first instance consult a member of a professional body rather than turn to the primary material themselves as they lack the specialist knowledge to do so.

- Lawyers and barristers and some accountants were less positive about the benefits of the TLRP; they did not think that the simplification of the language or structure had made their jobs any easier or reduced the risk of misinterpretation. A few tax professionals were also concerned that by changing the way the legislation was written, the door had been opened to ambiguity. While they understood that the language used in ICTA was complex and, for the most part, inaccessible, the words were felt to have very definite and strict interpretations.
- Most tax professionals referred negatively to the added length of the legislation, although the majority of non-legal tax professionals felt that the advantages of a clearer structure outweighed the disadvantages of consulting a lengthier document. However, for some tax professionals, particularly lawyers and barristers, the added bulk was thought to be unnecessary and burdensome.
- Most individuals were unable to quantify any time and efficiency savings as a result of TLRP, or any costs associated with complying with the acts. Furthermore, the added length of the legislation was thought to undermine any time and efficiency savings that might have resulted from the rewrite. Interestingly, this conflicts with comments and suggestions made during consultation which recommended steps which added to the length of the legislation to make it easier to understand and navigate. Also, in contrast to the findings in 2005, the TLRP was not felt to have helped delegation of tasks to more junior members. It was thought that this was largely because the legislation was no less complex to understand, interpret and apply as the meaning had not changed.
- As a general rule, non-legal tax professionals were positive towards the TLRP. They recognised that they were still in a transitional period, and that this transition was more difficult because of their deep familiarity with ICTA. However, they also recognised the benefits of being able to navigate the legislation and understand it without as much reliance on guidance from other documents or legal expertise. In addition, there was broad consensus among these professionals that those new to or entering the profession would benefit from the TLRP. Those who were positive, did, however, consider that the benefit of having a clearer structure would not be long-lasting as Finance Acts and amendments had already started to undermine steps taken to make the legislation easier to navigate and would continue to do so.
- Finally, most tax professionals, whether positive or negative about the TLRP, felt that to an extent the rewrite process had missed the opportunity to *simplify* income tax legislation. One of the biggest problems with tax legislation was believed to be its inherent complexity and this was not related to the language or structure but rather to the underlying concepts. Consequently, many professionals questioned whether the time and resources expended on this project were put to the best use.

Introduction

1. Introduction

1.1 Background and objectives

The Tax Law Rewrite Project (TLRP) was set up in 1996, with the aim of making the UK's direct tax legislation clearer and easier to use. The TLRP intended to make the language of tax law simpler, while preserving the effect of the existing law, subject to some minor changes. It aimed to reorder legislation, use modern language and shorter sentences, and provide consistent definitions and clearer signposting. Its remit did not cover changing the law except in minor, well-defined ways. The Income Tax Act (ITA) of 2007 completed the process of rewriting the income tax legislation which began with the Income Tax (Earnings and Pensions) Act of 2003 and continued with the Income Tax (Trading and Other Income) Act of 2005.

It was perceived that one of the major benefits of the rewritten legislation would be that understanding and complying with the law would be both easier and less costly. Indeed, the Regulatory Impact Assessments (RIAs)¹ grouped the advantages as follows: time saving; reducing errors; reducing the need for specialist advice; reducing the need for training, and, reducing the number of disputes with HM Revenue and Customs (HMRC).

The RIAs also made estimates as to the likely cost savings and reduced compliance costs associated with the acts. In spite of initial set-up costs (such as retraining), it was estimated in the Income Tax (Trading and Other Income) Act (ITTOIA) RIA that there would be savings of £40m to £100m, while the ITA RIA made an estimate of between £18m and £72m.

Ipsos MORI was commissioned HMRC to conduct qualitative research amongst tax professionals from a range of backgrounds – accountancy, law, tax trainers, in-house tax managers, the voluntary sector and HMRC staff – who interact with the rewritten income tax legislation, that is Income Tax (Earnings and Pensions) Act 2003, the Income (Trading and Other Income) Act 2005 and the Income Tax Act 2007 (hereafter referred to as ITEPA, ITTOIA and ITA).

The overall aim of the research was to collect information from tax professionals in order to establish whether the TLRP has made the legislation clearer and easier to use. Looking at this matter in more detail though, the specific research objectives were as follows:

- To explore the experiences tax professionals have had when interacting with the original and revised legislation;
- To ascertain positive and negative attitudes to the rewrites;
- To understand the benefits and drawbacks of the rewrites; and

- To explore compliance costs vs. time and efficiency savings as a result of the rewrites.

The research was also intended to build on that which we conducted in 2005 which aimed to establish the success of ITEPA. Where appropriate, comparisons are drawn with the 2005 study.²

1.2 Sampling and Recruitment

A total of 35 depth qualitative interviews have been conducted with the following audiences:

- Seven with tax lawyers (including three with barristers);
- Eleven with accountants;
- Six with in-house tax managers in large firms;
- Four with tax trainers (from HMRC and private firms);
- Four paired depth interviews (i.e. two members of staff interviewed together – so eight individuals in total) with HMRC staff ;
- Two with tax advisors from the voluntary sector; and,
- One with a representative from a professional tax body.

These audiences were chosen as they worked closely with income tax legislation and, therefore, were the key groups likely to be affected by the rewrites.

The sample of HMRC staff and HMRC tax trainers was provided by the Department itself. The sample for all other groups was compiled from a range of sources, including the OneSource database, the Revenue Bar association, and commercial sample providers.

Prior to commencing recruitment an advance letter, which was drafted by Ipsos MORI in collaboration with HMRC, was sent to all selected individuals in order to provide information about the study and inform them that Ipsos MORI would be contacting them. A copy of this letter can be found in the Appendix.

We employed strict recruiting procedures to ensure that participants were familiar with at least one of ITEPA, ITTOIA and ITA and, as such, were able to make comment based on actual, rather than hypothetical, experience. Illustrative of these procedures is that all potential recruits took part in a screening interview over the telephone prior to being recruited for this study to allow us to check that they used ITEPA, ITTOIA or ITA and, furthermore, were able to discuss their views on it in depth. We also ensured that a range of company sizes and regions were included in the research.

¹ These can be found at <http://www.hmrc.gov.uk/ria>

² This can be found at <http://www.hmrc.gov.uk/rewrite/itepa-final-report.pdf>

A number of difficulties were experienced when recruiting participants, due to the time of year and the fact that some of the target audiences had been approached for other research for HMRC, in particular the Large Business Survey. In order to resolve this, changes were made to the quotas (i.e. reducing the target number of interviews with tax managers and making up the shortfall by conducting more interviews with other groups). Fieldwork was extended until January 2010, and the final interviewees were arranged through snowballing, referrals and face-to-face recruitment.

1.3 Methodology

A qualitative approach was used for this study, involving face-to-face and telephone depth interviews. Qualitative research provides a depth of understanding which cannot be achieved from a structured questionnaire. The free-flowing format of the discussions provides an insight into participants' views and concerns, seeking to identify not only *what* they know and think, but also *why* they do so. It is an interactive process and, therefore, it is possible to respond to the individual circumstances of each participant and is flexible enough to bring to light new insights.

Qualitative research is particularly useful when exploring attitudes towards and perceptions of new developments or initiatives. It can often be the case that when talking about an issue that is relatively unfamiliar, such as the rewritten income tax legislation compared to ICTA, qualitative research works much more effectively than a quantitative approach. It allows participants the freedom to express the issues that are salient with them and they are not restricted in their thoughts by a structured questionnaire.

However, it is important to mention that qualitative research deals in *perceptions* and not *facts*. Nonetheless, perceptions *are* facts to those that hold them and, as such, are important to bear in mind and to uncover what drives these views even if the information is, technically, incorrect. Furthermore, qualitative research does not allow for the production of statistics from the data it produces. As such, throughout this report we have used terms such as 'majority' to mean a commonly held viewpoint across all tax professionals and 'minority' to mean an opinion that was only expressed by a small number.

Fieldwork was conducted between October 28th 2009 and February 25th 2010 in London, the South East, York, Leeds and Manchester. The interviews were mainly conducted face-to-face, with a small number of telephone interviews, and lasted up to an hour in length. Whilst face-to-face interviews have the advantage of helping the interviewer build a good rapport and degree of trust with the participant, some of the participants had a lot of demands on their time, so offering a telephone interview helped secure appointments with these busy tax professionals. This was particularly important in securing interviews with accountants, who were working hard to meet the personal tax return deadlines.

Prior to each in-depth interview, participants were asked to fill in a proforma designed to quantify any time or efficiency savings or costs that have resulted from the rewrites. As discussed later in the report, participants encountered difficulty in providing this information. Many felt that although there were costs associated with getting to grips with the rewritten Income Tax legislation (for example retraining, time costs

in becoming familiar with the legislation, and updating documents), these were experienced on an ongoing basis as legislation is updated, and so they could not split out specific costs incurred by the rewrites. Savings were also difficult to quantify, although most felt that there had not been any significant savings overall. Those who had experienced savings felt that to date these had been cancelled out by the extra time spent reading and becoming familiar with the rewritten legislation (although many also said that these were one-off costs rather than ongoing). Further details on cost and saving estimates are provided in Chapter 5.

The interviews were structured by a discussion guide, designed by Ipsos MORI in conjunction with HMRC, and a copy of this can be found in the Appendix of this report. It is important to remember that a discussion guide is just that – it is not a list of questions to be rigidly adhered to but, rather, is an *aide memoire* for the moderator and is designed to be flexible enough to allow new insights relevant to the participant's own experiences to come to light during the course of the interview. It does, however, ensure that there is commonality on the key points between the interviews.

In terms of analysis of the data, all our interviews were recorded digitally, and then transcribed. Once the transcripts were received, we explored issues emerging from the data, including comparisons based on, for example, tax professional type.

The project team met at the beginning of the analysis stage to discuss and agree the key themes and findings and drew up the chart or code frame for the data. The purpose of this was for the project team to decide the key themes and findings from the interviews and create a code frame for the data, so as to 'code up' the transcripts systematically and chart the key findings within each theme, using verbatim comments to illustrate important points.

We then compiled a thematic framework, summarising and synthesising the large amount of data contained in transcripts into a more coherent and practical form using Excel. Following on from this, the team met for a second and third time to explore the links between the data and associations with it looking for patterns therein. These key issues informed this written report.

1.4 Interpretation of findings

It is important to note that findings of this report are not statistically representative of the views of tax professionals. Qualitative research is designed to be illustrative, detailed and exploratory. It provides insight into the perceptions, feelings and behaviour of people rather than conclusions from a robust, quantifiable valid sample. The perceptions of participants make up the evidence in this study, and it is important to remember that although such perceptions may not be accurate, they are facts to those who relate them.

Throughout the report, use is made of verbatim comments from participants from across the in-depth interviews. Where this is the case, it is important to remember that the views expressed do not always represent the views of the sub-group as a whole. However, in each case the quotation is reflective of, at least, a small number of participants.

1.5 Report Outline

The rest of this report is organised into eight six main chapters. Firstly, Chapter 2 provides some contextual information to aid interpretation of the findings. Following this, Chapter 3 looks at experiences of legislation prior to the rewrites. Awareness of the rewrites and expectations are then discussed in Chapter 4, and Chapter 5 looks at views on the rewritten legislation. Chapter 6 provides some illustrative pen portraits, and finally, conclusions are drawn in Chapter 7.

Contextual information

2. Contextual information

In order to provide context to the following chapters, this section describes the types of professionals that we spoke to, their level of experience, and how they use the legislation.

The majority of tax professionals interviewed were highly experienced, and had been working in their field for between 10 and 30 years. As a consequence, most were highly familiar with the previous legislation.

Individuals used the legislation in different ways. Lawyers and barristers tended to consult it on a daily basis, treating it as their first point of reference when dealing with cases and, as a result, were the most familiar with it. On the other hand, tax managers and voluntary sector tax advisors were the least knowledgeable about the new legislation. Accountants varied most in the extent to which they used the legislation, depending on their job roles and responsibilities. Understanding how the different professions used the legislation is important given that this appeared to significantly inform their views on how it was written and presented.

As part of this study we spoke to a range of tax professionals including tax lawyers, barristers, accountants, HM Revenue and Customs (HMRC) staff, tax trainers (HMRC and private), tax managers of private companies, voluntary sector tax advisors and a member of staff from the Chartered Institute of Taxation (CIOT). The majority of the tax professionals we spoke to were highly experienced and typically had been working in their field for between 10 and 30 years. Moreover, there was not always a clear distinction between the professions; several individuals had worked previously as lawyers or accountants and moved into a different area of tax practice. As a consequence, most were trained in the Income and Corporation Taxes Act (ICTA) and were very familiar with the previous legislation.

2.1 How the legislation is used by tax professionals

Whilst the tax professionals were all highly experienced, due to their differing job roles the ways and extent to which they interacted with the legislation differed considerably. At one end of the spectrum, lawyers and barristers were immersed in the minutiae of the legislation. They consulted it on a daily basis and it was usually their first point of reference when dealing with a client's case.

"You can't do anything without checking it and the statutes first; it's always the first port of call". Tax lawyer

As tax lawyers regularly consulted all three pieces of the legislation, they arguably had the deepest understanding of it. They had to apply this understanding of it to complex legal cases and also to contest incorrect interpretations of the law. Indeed, the impression that they conveyed of their profession was that they were *real* experts in the legislation. In contrast, while some accountants consulted the legislation as regularly as lawyers, they were more concerned with the *application of specific sections* of it whereas tax

lawyers focussed on the *interpretation* of it and tended to have to read more sections of it in order to be able to do this. In essence, there appeared to be similarities between lawyers and some accountants in how frequently they consulted the legislation, but differences in the depth of their understanding.

“I’ll get a set of instructions about a matter, and the instructions may refer me to the relevant provision...the subject of the question that might be in dispute, and I will then go to that piece of information, open the page, read it, consider what I think is the correct interpretation of it, compare it to the interpretation that’s been put forward by those I’m advising and either agree with them, or offer an alternative interpretation”.

Tax lawyer

Accountants varied most in the extent to which they used the legislation. In part, this variance could be explained by differences in their job roles and responsibilities. Some accountants, for instance, had more narrowly defined responsibilities and so had less need to consult the legislation frequently or to examine a wide range of sections. To illustrate, one accountant was responsible for the compliance staff in his company and so would consult the legislation three or four times a month to ensure that tax returns were accurate. In contrast, another accountant was the tax director for the company with overall responsibility for understanding changes to the tax system and another dealt largely with personal tax for individuals. In dealing with clients, these accountants had greater diversity to their work as each client’s financial circumstance would differ and would require reference to various parts of the legislation. As a result, these accountants referred to the legislation more frequently – as they explained; *‘it’s the backdrop of everything we do’*. Accountants tended to be more familiar with Income Tax (Earnings and Pensions) Act (ITEPA) than with the other acts, either because they focused on employment tax, or simply because it was introduced before the Income Tax (Trading and Other Income) Act (ITTOIA) and the Income Tax Act (ITA) so they had had longer to get used to it. However, a few of the accountants focussed on personal taxation for entrepreneurs and were therefore more familiar with ITTOIA and ITA and one who focussed heavily on compliance and self-assessment used ITA more.

Accountants were divided in the extent to which they consulted the primary legislation prior to the guidance documents and text books. Some preferred to consult the legislation first; they thought it was better to go straight to the legislation and then refer to interpretative documents if they needed clarification. These tended to be the accountants who used the legislation more frequently and were more confident in their understanding.

“Legislation is my first port of call for technical queries when I want to understand the rationale for a transaction. My personal preference is for legislation ahead of text books and guidance because the answer should be in black and white, it’s gospel, which is good enough for me, rather than relying on someone else’s interpretation which may be contestable”.

Accountant

Other accountants preferred to consult text books and HMRC guidance before looking at the legislation. To an extent, they did this because it was the way they had always worked and had become habit.

“I prefer to look at the interpretation and see if I agree with the interpretation. It's the way my mind works”.

Accountant

However, a minority of accountants did not consult the legislation frequently because they did not think they had the level of understanding necessary to interpret it accurately. Interestingly, although these accountants acknowledged that the rewrites were easier to understand than ICTA they *still* said they were not more likely to consult the legislation first; they believed that it remained too complicated without reference to guidance.

“My initial contact is with the revenue manuals. These give you an insight as to how the revenue interpret the legislation. The legislation is complicated; there are so many ifs and buts. It's far too complicated because it has evolved over years...I feel very uncomfortable looking just at the legislation, there are so many loopholes”.

Accountant

Among HMRC staff, the technical advisors predominantly worked with ITEPA. They were very familiar with certain sections of the legislation as their role was to advise HMRC network officers, solicitors and policy teams on points of the legislation that needed clarification. These solicitors and policy teams had to liaise with external customers about the legislation, so in order to give accurate advice to these HMRC staff, it was imperative that the technical advisors had a detailed understanding of the legislation. However, they explained that given the legislation is so complicated and incorporates such a lot of detail, it is not feasible to advise on the whole of ITEPA hence their familiarity with specific elements of it.

“The job involves being a specialist about particular provisions in ITEPA, advising other people within HMRC who've got more direct contact with our external customers... Advising, supporting our solicitors, and working with our solicitors on litigation. But the other area that we both have interaction with...is in supporting our policy colleagues if they're looking at does the legislation do what we want it to do, or what the government wants it to do?”

HMRC technical advisor

In contrast, HMRC caseworkers very rarely consulted the legislation. While they were specialists in a particular area such as shares or termination of employment, they did not have the same degree of knowledge that technical advisors had. Technical advisors were required to have a more detailed knowledge of specific areas of the primary legislation so that they could advise HMRC legal professionals, network officers and policy staff on the technical aspects of the legislation, whereas caseworkers dealt with queries from the public which tended to be less complex. They relied on the HMRC guidance documents and if the issue was still not clear to them then they would typically pass the query onto technical specialists in the head office than rely on their interpretation of the legislation. However, they did acknowledge that they

were more likely to do some analysis using ITEPA than ICTA88 because they found it more detailed and easier to navigate.

“ICTA88 left too much to interpretation whereas ITEPA explains in more detail...ITEPA is broken into parts and each part is broken in to chapters. I would say I’m happier going into ITEPA and doing some analysis than going to ICTA”.

HMRC caseworker

In-house tax managers and voluntary sector tax advisors were the least likely to be familiar with the details of the rewritten legislation or to have occasion to consult it regularly. For in-house tax managers, the reason for this was that their role was more strategic and high-level than operational; they had responsibility for managing the tax practices of the whole company and were answerable to the board of directors. Moreover, they tended to focus more on other pieces of tax legislation, particularly corporate tax. That said, in-house tax managers also tended to be trained accountants and at earlier stages of their careers, had consulted ICTA more regularly. However, in their current positions, they would only consult the legislation if there was a particularly complex issue and they wanted to ensure that the tax team had properly understood the matter.

The voluntary sector tax advisors were both highly experienced; one had previously worked as a lawyer and the other as an accountant, so they were very familiar with ICTA. However, as tax advisors in the voluntary sector, they had neither the time nor the need to consult the legislation often, due to the limited number of advisors and types of queries they received. Instead, they would typically consult tax tables, for example, to check what a personal allowance or a tax rate was. The reason for this was that the vast majority of queries from the general public were not too complicated; they tended to relate to PAYE, tax debt, Self Assessment or self-employment problems, and the advisors had enough knowledge to answer these queries without needing to consult the legislation. Moreover, this group was perhaps the least likely to cite sections of the legislation to their clients in correspondence, as their clients would be unlikely to want this information and would find it difficult to understand. However, there were occasions when tax advisors needed to research issues that had not arisen before and this was when they might consult the legislation (often ITEPA). Due to the fact that they do not consult the legislation regularly, they either started by consulting guidance texts such as Tolley’s or using the Table of Destinations to identify the relevant section in the new legislation.

“Sometimes, having been around a long time in tax, I can remember what the old section was but I don’t know what the new law is. So I might just pick up a Table of Destinations, in one of the commercial publishings, where I can look up the old provision in one column and see where it’s gone”.

Tax advisor

It is important to remember throughout this report that the way in which tax professionals used this legislation, to a significant extent, appeared to inform their views on how it was written and presented.

Tax professionals who used the legislation a lot in their work tended to feel there was less need for a rewrite. This was related to the fact that they had the greatest understanding of the previous legislation (ICTA) and faced the most inconvenience in adapting to the rewritten legislation.

Conversely, some of those who used the legislation less and therefore tended to have less knowledge of ICTA were more favourable towards the rewrite project. A few also stated that because it was something they had to do infrequently, it was of little concern to them how it was worded and structured.

Experiences prior to the rewrites

3. Experiences prior to the rewrites

This chapter looks at attitudes towards the previous legislation, and perceptions on the need for a rewrite.

The majority of tax professionals were experienced in using the previous legislation – the Income and Corporation Taxes Act (ICTA) – and felt that although it was highly complex and cumbersome, it had the advantages of familiarity, precision, and for lawyers, a great deal of case law. Largely for these reasons, legal tax professionals were most favourable towards ICTA. Non-legal tax professionals held more negative attitudes towards ICTA, and felt that the language was archaic and inaccessible to tax professionals without legal training.

As in 2005, the majority of tax professionals found it hard to identify the need for a rewrite retrospectively. However, now that the rewrite has taken place, many felt that the rewritten legislation was easier to navigate, particularly for new tax professionals who would not have the difficulty of adjusting to the new legislation.

Tax professionals stated that the major benefit of the rewrite had been the consolidation of the legislation. It was felt that the legislation was now easier to navigate and, as such, easier to use. Therefore, in this sense, they said that the rewrite was much needed and overdue. However, it was recognised that this benefit would be temporary due to amendments in Finance Acts.

There was a strong sense among tax professionals that the rewrite had been something of a missed opportunity for simplification of tax legislation.

3.1 Legislation used prior to rewrites

As mentioned previously, the majority of the professionals interviewed as part of this research had been practising in their chosen tax field for around fifteen to twenty years and as such, were highly familiar with the previous legislation – i.e. the Income and Corporation Taxes Act (ICTA). Indeed, for many, the most positive aspect of ICTA was its familiarity; tax professionals had to spend less time referring to the legislation because they knew its structure well. Moreover, legal tax professionals were highly confident in their understanding and interpretation of ICTA.

3.2 Attitudes towards income tax legislation prior to the rewrite

When exploring attitudes towards the old legislation, lawyers and barristers emerged as the most favourable due to their detailed understanding of it. As highlighted in the previous chapter, legal tax professionals were the most likely to be involved in the minutiae of the legislation as they consulted it on a daily basis and, as such, they had thorough knowledge of the structure and terminology used within ICTA, as well as a clear

sense of when to apply it. Other tax professionals who used the legislation frequently tended to share these positive attitudes, for example, senior accountants who dealt predominantly with private client tax and employment issues. Experienced lawyers and accountants accepted that the structure and language of ICTA was complex, but they were so used to dealing with it that this complexity was no longer an obstacle to them in the way it would be to someone less familiar with it.

One of the accountants who preferred ICTA also suggested that the intense training based on ICTA which tax accountants went through when qualifying contributed to their positive attitudes towards it. He explained that as a result of his training he was able to cite specific section numbers, and that parts of ICTA would just 'slip off the tongue'. During his training he was immersed in ICTA and, consequently, it became ingrained in his memory. Conversely, as a practitioner he did not have to consult the legislation as frequently or in such depth, which made it difficult to adapt to the rewrite.

"Over time, we're having to wean ourselves off what we were taught. As students you have intense periods of learning, where you are immersed in legislation. In practice, you don't have that intensity".

Accountant

It is likely that this view is not specific to ICTA, and that tax professionals who were trained on previous versions of legislation would have felt similarly, and that those trained on ITEPA, ITTOIA and ITA will hold similar views about these acts (although it is not possible to ascertain this as all those interviewed were trained on ICTA).

For lawyers and barristers, another positive aspect of ICTA was that during its lifespan there had been a great deal of directly related case law. The presence of this case law was considered to leave little room for misinterpretation; professionals could refer to it as and when they needed to, in order to check how the law had been applied in the past and whether they were offering their clients the correct guidance in light of it. Though the rewrite had not changed the law (except in minor and agreed ways) and case law continued to apply to the rewritten legislation, it appeared that a few of the tax professionals were very uncertain about whether or not it applied in the same way.

"All the cases are on the old notions. So now the cases are no longer helpful in construing the current legislation. So any case now before the courts, you're going to have to find the old principle which is the subject of the new legislation, and you're going to have to work your way backwards".

Tax lawyer

"Tax legislation, statutory legislation in general is supplemented in English law by court decisions, and court decisions obviously look at the statutory basis and interpret it... Being the subject of judicial decisions, which then form the basis for interpreting that or similar forms of the statute data. If you then rewrite the statute you take away something of the basis for the judicial decisions that have been guided and interpreted what has gone on before and that can cause confusion".

Accountant

Lawyers and barristers were also likely to favour the language in ICTA; whilst they recognised that it was complex it was this very complexity that appealed to them. To an extent, they felt that the language used in ICTA befitted their profession and expertise; they recognised that it was largely inaccessible to others but this made them feel specialist in what they did. In addition, they felt that the complexity of the language resulted in a very exact meaning, which meant that there was minimal room for misinterpretation. The term ‘emoluments’ was mentioned on several occasions as an illustration of this precision in the language used whereas, in contrast, its replacement ‘earnings’ was felt to be much broader in its meaning.

“Whereas it used to say, there’ll be income tax charged on emoluments from office employment conducted in the United Kingdom in the following three cases, and then there’d be three little subsections...And that encapsulated everything....Now there’s a section which deals with somebody who is resident, but not ordinary resident, and domiciled. Or somebody who is resident and resident and domiciled, and...”

Tax lawyer

“You’ve really got to read it, because you don’t know from the outset whether they’re thinking about emoluments being general earnings or special earnings. You’ve actually got to get under that....And it’s utterly tedious...So you have to read about 40 to 50 sections to really understand how benefits in kind might be treated. And then see how, if you’re general earnings or special earnings, and how are they actually taxed... You actually have to read the whole of it really to find the proper answer”.

Tax lawyer

As mentioned above, non-legal professionals who were also deeply familiar with the details of ICTA shared some of the positive attitudes towards it, particularly in terms of how concise it was in comparison to the rewritten legislation. However, the most positive attitudes towards the language in ICTA were specific to the legal professionals. It seemed likely that this was related to the way lawyers and barristers perceived that they had a special role as *interpreters* of the legislation. It fell within their remit to discern and formulate arguments based on their deep understanding of the law, in a way that non-legal professionals were not required or trained to do.

Generally, non-legal tax professionals held more negative attitudes towards ICTA. They tended to characterise its language as cumbersome, archaic and inaccessible to tax professionals without legal training. For example, tax trainers explained that when working with ICTA they would have to consult guidance documents or colleagues prior to referring to the legislation in order to grasp its meaning, particularly when dealing with complex areas such as anti-avoidance legislation or areas that they were not familiar with. As these tax trainers had been working in their field for many years, the inaccessibility of the language did not often form a significant barrier but they did convey a sense of frustration that without legal training tax professionals were more dependent on secondary texts.

“I’m not a lawyer, so before I came into tax I’d never read law so I found it very difficult to understand unless someone explained it first”.

Tax trainer

Several accountants and tax managers explained that they too tended to use supplementary sources before looking at ICTA, particularly when looking at an area of income tax they were not familiar with. There were two main reasons for this: first, the schedular language was unhelpful if you were not deeply familiar with it, for example, tax professionals had to know that schedule D1 referred to trading income; and second, because there were so many amendments and Finance Acts it was difficult to navigate the legislation.

Interestingly, the voluntary sector tax advisors, who were both highly experienced and trained tax professionals said the language in ICTA was extremely difficult to understand. The tax advisor who had been a lawyer mentioned that convoluted sentences and double negatives meant that they often lacked confidence as to whether they had grasped the meaning.

On the whole, tax professionals were most critical of the structure of ICTA. As ICTA was so old, there had been a multitude of Finance Acts and amendments to the legislation, which had resulted in an act full of postscripts, concessions and annexes. This, in turn, made it difficult and time-consuming to navigate.

“There would be certain areas where you could find an answer quite straightforwardly, there would be other bits that would have you running around in circles. Often I think, as the legislation builds up, there was so many cross-references back to other pieces of legislation and back to other sections and sub-sections that there was a trail to follow...”

Tax trainer

Moreover, non-legal tax professionals explained that the structure of ICTA meant that those using the legislation had to be familiar with *all* of it to understand it; it was not something one could dip into to understand a section but, instead, it was felt that one needed comprehensive training and experience to identify the correct parts to examine.

“...to have got the best out of the old legislation, you had to be familiar with it...you could be reading one section, and four sections or ten sections further on, it could give you the exception”.

Accountant

One accountant, who worked for a small firm was highly critical of ICTA and how difficult it was to understand. Largely, this was because of its structure. However, this accountant was also negative about the lack of guidance documents that accompanied ICTA. They had used Tolley’s Tax Guides but they felt that there had not been enough guidance produced by HMRC to help them interpret the legislation. As a result of this, on several occasions this firm had sought independent legal advice.

In summary, the key factor that accounted for why some tax professionals had positive attitudes towards ICTA was familiarity: those who had consulted ICTA on a daily basis for years knew the legislation so well that they no longer encountered problems of interpretation or confusion and despite its complex structure, they knew where to locate specific sections. Those who were less familiar with it found it much more difficult to use.

3.3 Perceptions on the need for a rewrite

As in 2005, the majority of tax professionals found it hard to identify a need for a rewrite retrospectively. They stated that when using ICTA they did not feel, at the time, that it needed a rewrite; they were aware of its limitations and had learnt to work with them. Several tax professionals were able to reflect, however, that whilst they saw no reason for a rewrite from their perspective as highly experienced professionals they did recognise that there was more of a need for a rewrite for those who were less familiar with the legislation, or those new to the profession.

“Well for people who are familiar with it and practitioners, probably not (any need for a rewrite), because I think we all knew what it meant, or rather we all thought we knew what it meant. But for somebody coming at it afresh maybe it’s easier to pick up what it’s going on about”.

Tax lawyer

Looking more deeply at this issue though, there was broadly a difference of opinion between legal tax professionals and non-legal professionals, with lawyers and barristers less likely to acknowledge *any* need for a rewrite. There appeared to be two main reasons that account for this divide: first, legal professionals used the legislation more frequently and in a more detailed way and, as a result, they were deeply familiar with it and felt that adapting to any new legislation would require a lot of time and effort for themselves (although they recognised that this would not be a problem for new people entering the profession). Second, there was something distinct in the attitude of the legal tax professionals and their view of themselves. At the most basic level, they favoured ICTA’s complex language because this gave them a special status as tax professionals who had an unrivalled ability to interpret and understand the legislation. From their perspective, ICTA’s language, whilst complex was also concise and clear in its meaning and they were concerned that simplifying the language would open the door to ambiguity and vastly increase the length of the legislation.

“I’m frustrated by the legislation because it is no longer written in a manner which requires understanding”.

Tax lawyer

Interestingly, legal professionals did not mention any concern that simplifying the language might reduce demand for their specialist knowledge. In fact, one lawyer claimed that they thought there would be an *increase* in the number of income tax related queries they received because there is more ambiguity and uncertainty embedded in the rewritten legislation.

“For the established practitioner that there’s little benefit (of the rewrites) other than the need for people to come to see us really. There’s a commercial benefit perhaps as opposed to an operational benefit. People do need to get to grips with the legislation, but I think, from ITEPA I think that will bring new work...”

Tax lawyer

Aside from this though, tax professionals stated that the major benefit of the rewrite had been the consolidation of the legislation. It was felt that the legislation was now easier to navigate and, as such, easier to use. Therefore, in this sense, they said that the rewrite was much needed and overdue.

In the 2005 review of ITEPA, a range of tax professionals suggested that the rewrite was undertaken with the general public in mind, and that, for them, it was the right thing to do. They felt that the State had an obligation to make its laws comprehensible to everyone, especially laws such as income tax which affect people so directly. However, in the current research, the majority felt strongly that the aim of the rewrite was not to make the legislation accessible to the public. Only a minority of tax professionals acknowledged that, in theory, it would be desirable for the general public to understand the basics of tax legislation.

“It’s reasonable, bearing in mind that nobody is to be excused from doing his duty by saying that he did not know the law, it’s reasonable that people should be able to understand what their fiscal obligations are”.

In-house tax manager

Of the minority of tax professionals who thought that this was the aim of the rewrite, most felt that it was a misguided principle from which to work. They felt that the rewrite was a politically motivated project and that HMRC was striving to be ‘politically correct’ by making the legislation readable to those without tax training and that this was a misconceived aim.

“I think it was driven slightly for the wrong reason. Politically someone wanted to be seen making the legislation more accessible to the man on the street, when it has in fact done the opposite so it’s not an achievement”.

Tax lawyer

One tax manager, however, was positive about the attempt, as they perceived it, to make the legislation accessible to the layman. She reflected that since 1998 and the introduction of Self Assessment, individual tax payers have been legally responsible for their own tax situation. While they might have employed a tax professional to advise them on their other sources of income, ultimate legal responsibility lay with the individual and if they were wrong they could be charged penalties. As a consequence, the tax manager thought it was correct that HMRC simplified the language. Moreover, she suggested that it was the correct time to do so because when ICTA was introduced, some of the tax principles were not well established, and so required very precise legalistic definitions. Now, however, she thought the principles were well defined and so could be expressed in more intelligible, everyday language.

This, however, was a minority view. On the whole, tax professionals were quite adamant that, in reality, if a member of the public had a query over the amount of tax they pay they would, in the first instance, consult a member of a professional body rather than turn to the primary material themselves, as they lack the specialist knowledge to do so. This view was based on their experience in dealing with clients. Moreover, they insisted that even if a member of the public was capable of *reading* the legislation in its rewritten form, they would still not *understand* the concepts and the meaning.

“Let’s take income tax; to introduce the charge to income tax you have to read 40 sections...Definition after definition and then I think at Section 34 it imposes the charge to income tax....There’s absolutely no way a member of the public is going to have the wherewithal to understand that actually these are just definitions and actually that doesn’t tell you whether or not you’re charged a tax”.

Tax lawyer

Moreover, with the tax legislation in its current complex form, a few tax professionals stated it would not be desirable for the public to try and understand it, and could even be ‘dangerous’ for them to do so, because even if they were able to digest the content of the relevant sections, they would not have enough specialist knowledge to realise that there are an array of other provisions that they would have had to consult to get a full understanding, and they may misinterpret the rules and make a mistake. Indeed, even the tax manager who was positive about the aim of making the legislation intelligible to the public thought it was very unlikely that they would be able to identify all the relevant sections.

“I think it’s quite dangerous for a lay person looking into it because... it’s difficult to know all of the legislation, even in an area of specialism. And, therefore, you could perhaps look up, say, what the rules are on, say, capital gains on disposing of a property, but you might not be aware that in another act somewhere else, there’s rules on, anti avoidance rules to stop you avoiding the tax if you dispose of the property. And you need to know the whole picture to be able to get the right answer”.

CLOT staff member

“The layman providing they know the basics could read the legislation through and understand it. But it is difficult to even know where to start. Essentially there are three different laws they might need to look at as legislation from several different sources applies and things change every Finance Act”.

Tax Manager

Without exception, there was a strong sense that the rewrite had been something of a missed opportunity and that the need for a *rewrite* of the income tax legislation came second to the need for the *simplification* of it. For the majority, tackling the structure and language of the legislation did nothing to tackle the *real issue*, which is the inherent complexity of UK tax legislation. This message came across particularly strongly from

private-client tax lawyers and voluntary sector tax advisors, who tended to have a deep understanding of the effect that tax legislation had on individuals and an appreciation of the level of the public's lack of understanding.

"The language has been... simplified but the actual, underlying tax rules have not, generally ... changed at all, as tax is still as complicated as it ever was.... We hoped that large chunks of this could just be removed and have much clearer, simpler rules".

Private sector tax trainer

"It's not a question of language, but the obscure complexity of the system as a whole that's really the problem".

Voluntary sector tax advisor

"There's a great deal to be done that has not been attempted by the rewrite. I think the rewrite is a futile exercise. The overwhelming difficulty with tax legislation is that most of it is extremely badly written, which springs from muddled policy and what we actually need is a fundamental look at tax law from the policy aspect which should then be translated into a much more coherent body of law...There are great chunks of legislation that cry out for reconsideration not in a marginal way but in fundamental way. Wholesale reform should have happened...it is possible with sufficient political will".

Tax lawyer

A minority of tax professionals expanded on their feeling that the rewrite project missed an opportunity to simplify the legislation; they explained that they thought that it would have been beneficial to adopt the American approach to consolidations whereby Finance Acts are not self-standing documents, but rather, amendments are integrated into one statute.

"One of problems has always been, although the legislation has been consolidated from time to time, you had to be able to know where to find bits in Finance Acts. We should have gone into the American system, where you have changes, numberings and insertions into a single statute, rather than doing the Finance Acts as self-standing and individually. Each Finance Act should have amended a global structure. The rewrites haven't cured this problem".

Tax lawyer

In summary, tax professionals were highly familiar with the previous legislation, and as such, did not feel there was a need for a rewrite. However, many of them were able to identify benefits, particularly for newly qualified tax professionals in the future. Beyond this though, it was thought that a rewrite could only go so far and that an overhaul of UK tax legislation would be desirable in order to simplify it.

Awareness of rewrites and expectations

4. Awareness of rewrites and expectations

This section looks at how tax professionals became aware of the Tax Law Rewrite Project (TLRP), their attitudes towards the consultation process, and their expectations about the rewrites.

All tax professionals were aware of the TLRP, and felt that the information they received about it was timely and sufficient. The majority were also aware of the Corporation Tax Act (CTA) rewrite and understood that this was to be the last of the rewrites. Whilst tax trainers tended to be disappointed that the CTA would be the last of the rewrites because they experienced the benefits of teaching with the rewritten legislation, other tax professionals seemed quite relieved that CTA would be the last rewrite.

Tax professionals spoke highly of the consultation process. Many had been involved directly, and others stated that they had the opportunity to give their views but had chosen not to, largely due to time constraints or the feeling that there were other people (such as HMRC staff and professional associations) who were better placed to comment.

The main aim of the rewrite was perceived to be to consolidation and simplification of language. Whilst this aim was felt to be commendable, many participants felt that it could not be achieved through a rewrite alone, but required simplification of UK tax legislation.

4.1 Awareness of TLRP

All of the tax professionals who participated in this programme of research were aware of the Tax Law Rewrite Project (TLRP). In the main, they heard about it through the widespread coverage it received in trade press, through consultation, and through informal channels of communication at work. Overall, the information they received about the TLRP was felt to be timely and sufficient.

Unsurprisingly, HMRC staff knew the most about the TLRP and were among the most pro-active in keeping up to date on its progress. In particular, they were interested in the areas that were relevant to their work. For example, one of the caseworkers dealt predominantly with termination of employment issues and so made sure he knew about developments in this area.

However, the tax professionals gave the impression that the TLRP received broader coverage prior to the introduction of the Income Tax (Earnings and Pensions) Act (ITEPA) and that there had been less publicity of the Income Tax (Trading and Other Income) Act (ITTOIA) and the Income Tax Act (ITA). This may not be surprising given that there is likely to be more coverage when a project is new and less once people are aware of it. Tax professionals suggested that they found most information about ITTOIA and ITA from trade journals and updates from the 'big four' accountancy firms as well as HMRC's website.

In addition to their awareness of the income tax rewrites, the majority were aware of the CTA rewrite though they mistakenly believed that CTA 2010 was to be the last of the rewrites (the final rewrite Act is will the Taxation (International and Other Provisions) Bill. The tax trainers were the most disappointed that the CTA would be the last of the rewrites because they experienced the benefits of teaching with the rewritten legislation, which their students preferred due to its logical structure and easier language. In contrast, other tax professionals seemed quite relieved that CTA would be the last rewrite. From the lawyer's perspective, it took a lot of time and effort to become accustomed with the new legislation due largely to its increased length and any more rewrites would simply serve to increase this burden. HMRC staff who had worked on the rewrites were also relieved the project had finished because of how time-consuming and difficult it had been.

However, a minority of tax professionals were unclear as to why CTA was the last of the rewrites. They thought that HMRC had not effectively communicated the rationale for why it had rewritten Income Tax and Corporation Tax but not other pieces of legislation such as Inheritance Tax.

4.2 Attitudes towards the consultation process

Tax professionals spoke highly of the consultation process. Many had been involved in the consultation process, predominantly by giving their feedback on exposure drafts. Others stated that they had the opportunity to give their views but had chosen not to, largely due to time constraints or the feeling that there were other people (such as HMRC staff and professional associations) who were better placed to comment, as they were more closely involved in the process and understood the key issues involved. Professional bodies who were involved more closely in the consultation, such as the Chartered Institute of Taxation (CIOT), provided regular updates on the rewrites and other changes to tax legislation, and this was one of the key ways tax professionals kept up to date on changes.

Voluntary sector tax advisors in particular were enthusiastic about the consultation process as it enabled them to feedback solely on sections that were of particular importance to their profession, for example, the statutory basis of concessions. Given the tight resource constraints voluntary sector bodies confront, it was felt that a more time-consuming consultation process would not have been practical.

Positively, none of the minority who were not consulted – these included a few accountants and lawyers, a tax advisor and tax manager - felt that they should have been. Instead, they believed it appropriate that a group of selected professionals were closely involved in the process and felt that professional bodies such as the Confederation of British Industry (CBI) were able to represent their profession competently.

"I felt the people who were rewriting had enough experience of using the legislation to know what people wanted."

Accountant

“The CBI...retained a lawyer to go through the draft re-write of the Employment tax law line by line and he made recommendations about what our representations should be and...generally speaking we followed those recommendations”.

CLOT staff member

HMRC staff also spoke positively of the consultation process from an internal perspective. The technical advisors observed how the TLRP team took on board external feedback and sought the opinion of technical advisors if they thought an external professional had a valid point regarding the interpretation of the rewrites. In addition, the caseworkers held the TLRP team in high regard and, in particular, the way they consulted internally on this project was praised.

4.3 Expectations of and attitudes towards the TLRP

While awareness of the TLRP was certainly high among professionals, an understanding of the project’s objectives was less clear. As stated previously, there was a common belief among tax professionals that the main objective of the project was to make the legislation more accessible through the use of simpler language. However, consensus broke down as to whom the TLRP was aimed at; the tax profession or the general public.

‘There was not enough visibility about the intention behind the rewrite project...’

Accountant

Interestingly, HMRC staff had a wider interpretation of the aims of the TLRP. Non-HMRC respondents mentioned simplifying the language and consolidating the legislation when asked what the aims of the project was. However, HMRC staff thought that the inclusion of Extra-Statutory Concessions was also an aim of the rewrite, although perhaps one that was not publicised to the same extent. Extra Statutory Concessions were published instances when HMRC had agreed not to follow the strict letter of the law. Indeed, perhaps due to their greater knowledge of the actual processes involved in rewriting the legislation, a few of the HMRC staff thought that one of the aims was to ‘tidy up’ and improve small parts of the legislation without *significantly* changing the meaning.

“The intention wasn’t to change the law in any significant or meaningful way...But there was scope for tidying it. And I think as well, if there were bits of the legislation that were contradictory, there was scope within the terms of the project for dealing with that”.

HMRC staff

There was polarisation over whether tax professionals themselves needed the legislation to be simplified. On the one hand, tax trainers were most outspoken about the need for a rewrite – they made the point that the majority of tax professionals were not legally trained and, therefore, were not able to understand particularly complex parts of ICTA without guidance, for example, sections related to anti-avoidance.

“I remember doing something with anti-avoidance and income tax and I remember having a try at it with the old legislation and then having a go with the new legislation. And yes, it is much longer so you may have 20 pages where before you had two, but it’s much easier to understand, you can actually see what it’s trying to get at”.

Tax trainer

As previously mentioned, one of the accountants who worked for a small firm had to seek external legal advice on several occasions when working with ICTA, because it was so complicated and, unlike large accountancy firms, the company did not have an in-house team of technical advisors and lawyers to whom queries could be referred. In this respect, they concurred that it would seem that a rewrite was needed. However, the accountant explained that the structure and language of ICTA was only part of the problem and that the larger problem was the inherent complexity of tax legislation as is discussed in more detail elsewhere in this report.

On the other hand, as mentioned previously, tax lawyers and barristers believed that as a result of their training they were aware of the meaning of the terms used and that their role was to provide understanding and interpretation. Furthermore, as discussed earlier in this report, there was consensus that the general public would not be able to understand income tax legislation, and indeed, that the likelihood of a member of the public picking up a piece of tax legislation *in the first instance* was so remote that if this was the primary audience for the rewritten legislation, then the need for a rewrite was largely unwarranted.

A minority of professionals also referred to earlier high expectations; at the outset they had high expectations of the rewrite project and strong agreement with its aims. Initially, they thought it was a worthwhile project to simplify the language and structure of ICTA. However, now, there was a strong sense that the process had been drawn-out, was a drain on limited resources, and as a result, their interest had waned. This linked strongly with their sense that the project had missed the opportunity to tackle any of the inherent complexity of the law, and that more substantial changes to the structure of tax legislation are necessary in order to meet the aim of making it clearer and easier to understand.

“To restate legislation without change, without substantive change in a more up to date and easily understood language. That was obviously the objective. I have sympathy for the objective, I still do have sympathy for the objective in a way, but I do think it is an impossible one to obtain without involving substantial change”.

Accountant

In summary, tax professionals were favourable towards the consultation process, even if they were not involved directly. The majority felt that the aim of simplification was a desirable one, although it was unrealistic to attempt to make the legislation accessible to the general public. However, as mentioned

previously, it was generally felt that the inherent complexity of tax legislation needs to be reduced.

Views on rewritten legislation

5. Views on rewritten legislation

This section explores attitudes towards the rewritten legislation in more detail, looking at the perceived benefits and drawbacks of the legislation, and how it compares with other legislation. Costs and efficiency savings are also discussed.

Tax professionals were generally consistent in their attitudes towards the three Acts, although several were more familiar with ITEPA, and in some cases, more positive towards it as a result. Broadly speaking, non-legal tax professionals were more positive towards the rewrites than legal professionals, reflecting their attitudes towards the previous legislation.

The perceived benefits of the legislation were the clearer language and structure, which resulted in some tax professionals stating that their own confidence in using the legislation has increased. Tax trainers in particular felt that it was logical to divide the legislation into three separate acts and felt that sections of the law (for example relating to property) were now logically grouped together and therefore easier to locate. These benefits were felt to be most relevant for newly qualified professionals.

The time required in familiarisation with the legislation was one of the main drawbacks of the rewrites. In contrast to previous consolidations, it was not simply the section numbers that had significantly changed, but the whole structure and style.

Another key drawback was the increased length of the legislation. However, opinion was divided on whether the benefits of having longer legislation outweigh the disadvantages: there was a polarisation of views between legal and non-legal professionals.

Tax professionals found it difficult to quantify any time and efficiency savings associated with the rewrites, but generally felt that these were cancelled out by the additional time required to read the legislation due to its increased length.

5.1 Overall attitudes towards rewrite as a whole and ITEPA, ITTOIA and ITA

As mentioned previously, tax professionals were polarised in their attitudes towards the rewrite. Broadly speaking, there was a division between legal tax professionals and non-legal tax professionals. Non-legal tax professionals tended to be more positive. This reflects attitudes to the previous legislation – i.e. as discussed earlier, legal tax professionals were most satisfied with the Income and Corporation Taxes Act (ICTA) and felt that the complex language resulted in precision, whereas non-legal professionals tended to view it as more cumbersome and in need of updating.

Interestingly, the majority of tax professional's attitudes towards the Income Tax (Earnings and Pensions) Act (ITEPA), Income Tax (Trading and Other Income) Act (ITTOIA) and the Income Tax Act (ITA) were consistent; they did not differentiate between the acts. To the extent that tax professionals did distinguish between the Acts, this was largely because they were more familiar with one act than the other. In particular, several professionals felt they were more familiar with ITEPA. Of course, they had worked with ITEPA for longer but also, several professionals dealt predominantly with employment related matters. In a few cases, this contributed to more positive attitudes towards ITEPA than ITTOIA and ITA, which reinforces the idea that familiarity is a crucial factor in a professional's attitudes to the rewrites.

A minority of tax accountants and lawyers were broadly favourable towards ITEPA but much more critical about ITA and ITTOIA. The main reason for this related to the structure of ITEPA, which they thought was more logical than the structure of ITTOIA and ITA. In essence, they thought it made sense for employment law to form one act but they were not clear as to why certain sections of the law were in ITTOIA but closely related sections were in ITA.

5.2 Perceived benefits of rewritten legislation

For the majority of tax professionals, the main benefits of the rewritten legislation lay in its consolidation and simpler language. Across the professions, there were positive references to the clearer language and the sense that one no longer required legal expertise to grasp the meaning. For the non-legal tax professionals, this was a clear advantage, and tax trainers were the most positive about this. They explained that they were now more likely to consult the primary legislation before referring to guidance texts, especially when researching a topic that they had to teach for the first time, whereas previously, they needed the meaning of the legislation to be clear before they consulted the text in order to have a chance of understanding it.

"I'm not a lawyer so before I came into tax I'd never read law so I found it very difficult to understand unless someone explained it first".

Private sector tax trainer

"You don't need a degree in Shakespearian English to understand it now".

Accountant

These participants claimed that the rewrite had not altered their confidence in the law; however, their behaviour indicated that they had an *increased confidence in their own understanding* of the primary legislation, and therefore had to spend less time checking against guidance manuals, which was a positive impact of the rewrite.

"What we tend to do now is you go to the legislation, you reach your own conclusion and then you check it in Simon's anyway just to check that your conclusion is the same as other experts. It's a

shift in the way we're doing things rather than a reduction...ideally you want to go to the source first, the perfect way to do it is to go to the legislation first because at the end of the day that's what's going to be used in any court of law".

Private sector tax trainer

Tax trainers and accountants gave several examples of areas of the legislation which were easier to understand due to the change in language. The most commonly cited examples were the explanations for loss relief and transactions in securities, which are now in ITA. The increased ease with which tax professionals could understand the loss relief rules was not just related to the changes in language, but also the change in structure, which is discussed below.

HMRC caseworkers felt that there was another advantage to the change in language; they explained that replacing old fashioned terms such as 'emoluments' with 'earnings' had made the language of Income Tax consistent with other areas of tax legislation. For example, National Insurance tax professionals and legislation referred to 'earnings' whereas ICTA referred to 'emoluments', which caused unnecessary confusion.

"An advantage is bringing in language that is more recognisable. Emoluments was thrown out and earnings came in. The National Insurance people always talked about earnings so the rewrites have been trying to align as well".

HMRC caseworker

However, several of those who were broadly positive about the change in language also commented that there were areas where the language had not been improved. For example, one accountant cited a section of ITA that referred to the taxing of an income stream, and explained that it had been more or less lifted from ICTA and remained very complicated. This accountant suspected that because this was an old piece of legislation and was not used much anymore, it had been left in the complex old language. However, ideally, they thought that the change in language should have applied to the acts in their entirety.

In addition, a few of the HMRC staff were not convinced that simplifying the language was an improvement. Similar to the lawyers, they felt that it was difficult to simplify the language without introducing ambiguity or greatly increasing the length of the legislation. To an extent, they were concerned that the project may have opened the door to more room for interpretation. For example, an HMRC technical advisor explained that the phrase 'whether or not' had been removed from a section of the legislation, and that they had received a number of queries about whether this changed the meaning.

The most commonly perceived benefit related to the structure and layout of the new legislation. Tax professionals, particularly tax trainers, were largely positive about this. They thought it was logical to divide the legislation into three separate acts that deal with employment and pensions, trading, property and other

miscellaneous income, and income tax. They favoured the consolidation and referred to the way sections of the law (for example relating to property) were now logically grouped together and therefore easier to locate. Whilst tax trainers tended to use course materials in their classes, on the occasions they did use the legislation, the structure of the rewritten legislation made it easier to teach. It also enabled students to use the legislation independently.

“It’s much easier to explain to people what, why, how the thing work; these are people who are subject to tax and these are the sorts of their basic income benefits... It’s much easier to understand as a structure if you’re trying to teach it to somebody from scratch as to why things follow on”

Tax trainer

A few lawyers also indicated that they felt the rewritten legislation would encourage trainees to consult the legislation prior to the guidance documents more frequently, because they acknowledged that it was easier to navigate and understand than ICTA for those who were not already familiar with ICTA. They explained that it was best practice to do this but that it was a constant challenge to try and ensure that trainees did not rely overly on guidance and secondary texts.

“I think it is possibly easier for law students now, or accountancy students because you can find pretty much everything on employment related securities in one place. I think it is easier, overall, although the rules themselves have got more complex”.

Tax lawyer

“When people first start in tax...unless they really are of quite an intellectual bent they find it difficult and they’d rather go off and read someone else’s interpretation, which takes me back to my personal frustration which is getting your new trainees to read the legislation...and then backing up what they think from the legislation with the interpretation...the rewrite probably makes it easier to get them to look at the legislation”.

Tax lawyer

However, lawyers were not unanimous in their views on whether the rewritten legislation would be easier for trainees to use. A minority actually thought that the extra length and new structure would make it harder for them.

“I think it’s particularly difficult for people learning the system now because I know where the various tax codes come from and I know that there must be another bit that does something. But if you were reading it for the first time, you wouldn’t be able to get it from the statute. You would have to look at text books and try and figure out how the statute fits together”.

Tax lawyer

Tax trainers were also positive about the step-by-step structure of the rewrites, for example, the way in which the way to calculate loss relief was now broken down into stages, whereas under ICTA, there was nothing but the legal narrative and little guidance on the practical application of the rule. Loss relief was an area of law used frequently in tax practice so, notwithstanding that as drafted in ICTA it was extremely complex, trained professionals understood how it should be applied. In their classes and the materials they used tax trainers would not have made direct reference to ICTA but now do use ITA. Furthermore, they commented that their students preferred the structure and language of the new legislation because they are able to understand it, the definitions are clear and it has a logical coherent structure. HMRC tax trainers did point out that tax inspector students are not actually required to cite the legislation in the exams, so are actually able to gain their qualifications without referring to the primary legislation. Nonetheless, tax trainers felt that the step-by-step approach in the rewritten legislation would help their students when they became practising tax inspectors.

The improved structure of ITEPA and the benefits this brings to trainers and trainees was also mentioned by one of the lawyers. They explained that one of the partners in their firm had explained how much easier it was to teach about employment law using ITEPA than ICTA because of the inherent logic in the structure of ITEPA and the way that one section relates to the next.

“It is very positive because ICTA was just impossible to explain, you’d say, well yeah if you want to know about this it’s in this section, if you want to know about this it’s in this section, whereas now you can actually just look at ITEPA as a whole, you can see logically it’s working, why it’s been put together like it has been put together. And that is, as I say, that is easier to explain to people who’ve got no background to it at all....There’s one of the partners here who does more of a PSL type role here now who does a lot of the basic training for the trainees on this sort of stuff and he said it takes about half the time to show the employment trainees how ITEPA basically works and where things are and why it’s where it is, whereas teaching the old ICTA stuff was just here’s a list of sections you might find useful one day”.

Tax lawyer

In addition, some tax trainers, tax advisors and accountants were broadly positive about the increased use of formulae, which they found easier to interpret than verbal explanations because they were numerical in their thought processes. However, tax professionals were not unanimous in their preference for formulae. A few accountants, who perhaps would be expected to be positive about the use of formulae, found them confusing. For example, one accountant cited the provisions of ITEPA relating to Share Schemes as a case in point – they claimed that the overuse of formulae made it difficult to understand whereas in ICTA its meaning had been clear.

“Striving after clarity it sets out formulaic provisions which become intensely confusing for those of us who don’t have degrees in higher mathematics”.

Several accountants and the HMRC staff made explicit reference to the improvements that have been made to HMRC's guidance over recent years. They were not clear whether this was a direct result of the rewrite but were very positive about the accessibility of the guidance available on the internet, which they thought was now more detailed, clearly written and regularly updated.

"The guidance manuals are well-improved since 2003 definitely. On a daily work basis I am not reading the legislation, I'm using the guidance. There are certain aspects I've not looked at looked at in years, for example some guys using their home as an office because the factory shut, this can be an involved issue. The guidance on any main point is really quite detailed and better than it was. A knock on effect of legislation becoming clearer is guidance is clearer".

HMRC caseworker

Interestingly, the HMRC staff and a few tax professionals mentioned that an *indirect* benefit of the rewrites was that it had required tax professionals to refresh their knowledge and understanding of Income Tax legislation. Related to this, HMRC's technical advisors commented that one of the main benefits from their perspective was that all the analysis that formed part of the rewrite process was now a body of work to which they could refer.

Across the professions, the majority of tax professionals commented that the main benefits of the rewritten legislation would be experienced by those who were in the early stages of their tax careers, or those who were yet to enter the profession, as they would benefit from the clearer language, and would not have the problem of having to adapt to the new legislation. Many of the tax professionals we spoke to were able to reflect that the difficulties they experienced with the new legislation were largely a result of their familiarity with ICTA, and the time that it was taking to adapt to change.

"As far as the new legislation is concerned and I suspect you'll get this from a lot of people, particularly from a lot of people who have been at the game as long as I have, that what you'll get is people saying the people who primarily benefit from the re-write are people who are being trained now".

In-house tax manager

Interestingly, in 2005, a range of tax professionals referred to the increased ease of delegation that resulted from the introduction of ITEPA or, at the least, that they *anticipated* would happen in due course. However, in this study, none of the tax professionals felt that the rewritten legislation allowed them to delegate to more junior members. The main reason given was that the meaning of the legislation had not changed; junior professionals still had to understand the concepts. One lawyer claimed that it made delegation more difficult

because the length of the rewritten legislation and the ambiguity (in their view) of the language actually meant junior lawyers were more likely to make errors.

The lawyer had asked one of the firm's associates to research the timing of an income tax charge to an individual. After consulting ITTOIA, the associate said that it was the earlier of the dated payments or entitlements. The tax lawyer checked this interpretation against ICTA and found that the associate had misinterpreted ITTOIA, and in their opinion, thought that this was because of the length and simplistic non-technical language. The lawyer believed that *'If I were not there with superior knowledge of what had gone before, the error could have been made'*.

The HMRC caseworkers did think that more junior members of their teams would be more likely to understand the legislation and guidance as a result of the rewrite. As it was protocol to refer queries from unrepresented tax payers to specialist case workers, the rewrites would have no difference on the number of submissions they received. However, they said that, as the rewritten legislation was easier to understand, junior caseworkers increasingly provided their own interpretation and would seek more senior caseworker's approval rather than simply passing the work to the specialists.

Many tax professionals felt that the benefit of the revised structure of the legislation would be *short-lived* because of the inevitable process of amendments. For example, one lawyer characterised the rewrite project as having mistakenly treated tax law as 'static' when it was actually a moving target because it was constantly growing and evolving. Indeed, a few cited the almost immediate amendment to ITEPA (the Finance Act 2003) after it was introduced to illustrate their point. They felt that this reinforced their case for the need not just for a rewrite, but a simplification of the law.

"But the problem always is that Consolidations, by their very nature, lose that benefit over time as more and more changes are made to the legislation. We saw, the worst example we saw of that was the rules in relation to share based payments because the Consolidation in ITEPA only lasted, it only lasted about a month, if that, before it was changed wholesale by Finance Act 2003".

CIOT staff member

The benefits discussed above related to how the rewrites impacted on tax professionals and the way they went about their work. However, in addition to these, a few tax professionals mentioned other less tangible benefits of the rewrite. For example, an accountant, tax advisor and a few HMRC staff mentioned the improvement that had been made to the legislation through the inclusion of extra statutory concessions. It was felt that this enhanced the protection of the tax payer because legislating these extra statutory concessions meant that there was a formal legal interpretation of them and therefore there was less room for HMRC to be flexible in their interpretation of them to suit their interests. Some of the HMRC staff cited the House of Lords' decision in *R v HM Commissioners of Inland Revenue ex p Wilkinson* [2005] UKHL 30

(“the Wilkinson case”), which clarified the scope of HMRC’s administrative discretion to make concessions that depart from the strict statutory position.

“It was a case that basically said that HMRC’s power to apply concessionary treatment is not as wide as HMRC had thought it was. There is still, that it still has some administrative care and management power, but it doesn’t necessarily have power to confer concessionary treatment willy nilly.”

HMRC staff

Interestingly, several tax lawyers and an accountant who were critical of the extra length of the legislation and the way ITTOIA and ITA had been divided into two acts, were positive about the signposting in the rewritten legislation. They found this a useful drafting technique to help them navigate the new structure.

“One thing they do which is useful is signposting, it gives you a feeling for the structure of the legislation. You might have ten sections that deal with a particular topic and signposting might have a provision in section one and then makes reference to another relevant element in the legislation, for example it says see section eight”.

Tax lawyer

In summary, the introduction of simpler language and the new structure of the legislation were the benefits mentioned by the majority of tax professionals. Other benefits mentioned by a minority of tax professionals included the use of sign-posting, formulae and the introduction of minor changes to the legislation.

5.3 Perceived drawbacks of rewritten legislation

Across the professions, the most commonly mentioned drawbacks related to the time it took to get used to using the new legislation. Indeed, for some, this was perceived as the *only* drawback although still quite a significant one. In contrast to previous consolidations such as the change from ICTA70 to ICTA88, it was not simply the section numbers that had significantly changed, but the whole structure and style. Experienced tax professionals suggested that these changes required a lot of time to get used to.

“I think the only drawback is what you always get on the Consolidation. It’s that for those of us who were not actually trained on this legislation, we’ve got to find our way round it afresh”.

Tax manager

“We were accustomed to having consolidation acts, and for the numbers to change....But this is quite different from that. This is a rewrite. And our memories are very important to us. ...And part of your understanding and your memory is actually how it’s all laid out, and how it’s introduced, what the concepts are”.

Tax lawyer

One tax manager was less experienced than the other tax professionals; she had completed her studies just before the introduction of ITEPA. She said that initially she had found the transition to ITEPA difficult because she was more familiar with ICTA, and initially had to rely on the table of derivations. However, through her work she soon became familiar with ITEPA and is now more comfortable with it.

Without exception, the increased length of the legislation was felt to be a drawback. However, opinion was divided on whether the benefits of having longer legislation outweighed the disadvantages: there was a polarisation of views between legal and non-legal professionals. Some tax professionals stated how there was much repetition in the rewritten legislation; definitions were not listed once, but throughout the acts as and when the term was used. This appealed to some as they stated that it cut down on the time searching for the meaning of any given term. In particular, tax trainers were positive about this as they thought it made it easier for their students to consult the legislation independently. However, for others, this was perceived to be unnecessary. Lawyers and barristers, in particular, felt that once a definition had been included once, then that was sufficient. Repeating it throughout simply added weight to an already lengthy piece of legislation. They resented having to read pages of definitions in order to get to the legal rule and preferred the way that the schedular system used in ICTA cross-referred to the place where the rules were originally stated.

“It's the same complex ideas just written out in a very verbose manner, in a manner which actually irritate me, because I've got to spend a lot longer reading the stuff to find the very piece to tell the client, this is the provision you're relying on”.

Tax lawyer

A minority of tax lawyers were passionately against the rewrite; they stated that it has made their job far more frustrating and time-consuming and that this is largely due to the length of the rewritten legislation. For these highly experienced lawyers, adapting to the new structure is a significant hurdle to overcome, and one that from their personal perspective, was entirely unnecessary. In contrast to the tax trainers, who found the step-by-step nature of the rewritten legislation the key benefit, tax lawyers found this the main drawback.

“It's actually every damn thing is spelled out, and so you can't go to this section and say, look at this one, look at these facts, and say, right, the law is as follows.... It's totally unhelpful to me to have to read 600 pages of legislation rather than one section.”

Tax lawyer

A couple of lawyers and one accountant did, in fact, differentiate between the three acts and explained that they while they felt ITEPA was a relative improvement, they thought that ITTOIA and ITA were 'dreadful'. As ITEPA dealt predominantly with employee benefits and remuneration they felt it had a clear internal structure and it made sense for these areas to be in one Act. In contrast, they were critical of the way

subjects have been split up in ITTOIA and ITA. For example, one lawyer cited the scrip dividend tax treatment, which used to be in one place in ICTA but was divided into four or five different sections in the rewritten legislation. They argued that this made it impossible to use unless you already knew the answer to the client's problem in advance.

"It's impossible to use effectively unless you already know the answer before you look at those acts. There are two things wrong; the first is the splitting up of subjects because often if you put a tax code in place it will have effect for the company in paying the dividend and the person who is receiving it. Now, if you have those two things in one place the person really can understand the code and if they are not they are unreadable".

Tax lawyer

Similarly, another lawyer questioned why the transactions in securities rules were in ITA rather than ITTOIA and one of the accountants was confused as to why the tax treatment of property business had been split between ITTOIA and ITA. He explained that the legislation relating to the calculation of business profits were in ITTOIA but the rules around how profits were assessed were in ITA. Based on his professional experience, this division was illogical because when he dealt with property business tax he had to consult both acts. Instead, he believed that it would have been more helpful to users if these provisions had been laid out sequentially in the same act.

Overall, some tax professionals preferred ICTA because it was compact and they stated that the legislation tended to be in one place. They acknowledged that HMRC had aimed to make the legislation more readable but argued that HMRC did not appreciate the way that some tax professionals depended on and used the structure. It is important to note that these tax professionals were in the minority and that their views on the structure differed significantly from those of tax trainers. And again, this criticism could diminish as tax professionals become more familiar with the legislation.

Several lawyers and a couple of accountants explained how they still, in fact, consulted ICTA *and* the rewritten legislation. In effect, they were still in a period of transition in which they felt they were having to speak 'two languages'. HMRC's technical advisors also commented on how many tax professionals within HMRC and externally were not used to the new concepts and continued to refer to various 'schedules' in their correspondence and conversations.

"Sometimes we'll even get out the old legislation too, because you look at something and think, I don't think I've got the whole story here and you'll know that there's more to it and it's probably somewhere else because it's been split up".

Tax lawyer

“My mind works to ICTA, the references slip off my tongue straight away; usually I go to ICTA and then to the relevant rewrite”.

Accountant

“All of us I think look back at old legislation to see what the rewritten legislation is meant to mean”.

Accountant

Another drawback mentioned by a minority of lawyers, was that under the old legislation they felt comfortable and confident with parts of ICTA that they did not use frequently because it had a history of case law to support it, its meaning was more precise due to the legal type of language and because it was more concise and did not require as much time to read. However, with the new legislation they do not see how it will be possible to be familiar with the legislation in its entirety due to its vast length as well as the ever increasing complexity of tax law. For example, private client tax lawyers were familiar with the whole ICTA and now tended to have a deep understanding of ITEPA, but had less need to refer to ITTOIA because the issues that their clients faced related more to ITEPA. Linked to this, a minority of tax managers felt that a further drawback of the rewrite was that it would require tax professionals to specialise at an earlier stage in their careers; whereas under ICTA, it was possible to have a broad understanding of the whole legislation due to its shorter length, it is practically impossible to be familiar with ITEPA, ITTOIA and ITA. They explained that tax professionals need to be expert in their area and that with such vast amounts of income tax it was unrealistic to expect young professionals to become experts in all three acts.

5.4 Unexpected consequences of rewrites

Tax professionals recognised that the purpose of the TLRP was to make the law simpler to understand and easier to use, rather than to change the content and the way in which it is applied. And, on the whole, tax professionals did not feel that the way in which they applied the legislation had changed, or that the content had changed.

“There have been slight changes, but I don’t think there’s anything major that I would say is worthy of note.”

Accountant

However, a few tax lawyers and barristers did refer to parts of the legislation where there was now more scope for interpretation and contestation over the meaning. According to them, it was a by-product of simplifying the language; they questioned whether the replacement terms actually mean the same thing or whether they had opened the door to ambiguity. Several lawyers and barristers cited the term emoluments as a case in point; whilst they recognise it is an antiquated word, they also felt that its meaning was strictly defined in a way that ‘earnings’ is not.

“Tax legislation, statutory legislation in general is supplemented in English law by court decisions and court decisions obviously look at the statutory basis and interpret it. So consequently you get terms that are used in the statutory language and used in the statutory sense at any given time. Being the subject of judicial decisions, which then form the basis for interpreting that or similar forms of the statute data. If you then rewrite the statute you take away something of the basis for the judicial decisions that have been guided and interpreted what has gone on before and that can cause confusion”.

Tax lawyer

Another concern lawyers had related to whether the meaning of legal terms would remain the same when they had not been replaced, or whether there would be grounds for interpreting them in their non-legal way. For example, one lawyer explained that there was a section of ITEPA that was set out in plain English, and that it contained the word ‘consideration’. However, they explained that this word had a technical legal meaning and that there was nothing in the statute which indicated that it did not have its technical legal sense even though the section was written in plain English. In this case, there was disagreement between their client and HMRC over whether the word ‘consideration’ should be interpreted as a legal term.

“...there’s one word which has quite a particular legal sense, consideration, and there is nothing to indicate in the statute that it doesn’t have its technical legal sense even though the rest of that chapter is written in fairly plain English. And the inspector we’re dealing with just will not accept that the technical implications of the meaning of that word”.

Tax lawyer

A minority of non-legal tax professionals also cited cases where there was confusion over the meaning of terms in the new legislation. For example, an HMRC tax trainer explained that under ITTOIA the concept of ‘property business’ has caused confusion. To illustrate, it was stated that people are confusing the word ‘business’ with ‘trade’, and think that those with a property business are eligible for tax relief which is available for traders, which is not the case. In line with this, HMRC tax trainers also discussed instances where words been taken out and professionals were concerned that the meaning had changed.

“..although the Tax Law Rewrite wasn’t intended to change the legislation, there is always the risk, or certainly, if not the risk, at least the potential for it appearing to have changed it, just because of the wording, the way things link together, it’s changed. So we have had perhaps more queries about, well, does this now work in this way compared to that?”

Tax trainer (HMRC)

These examples of where the meaning had inadvertently changed were also mentioned by the CIOT staff member, who acknowledged it was ‘very difficult to reword something and keep the meaning exactly the

same'. Indeed, this was discussed by the HMRC technical advisors who explained that the rewrite team had endeavoured to keep the meaning the same, but that this had been immensely challenging.

In general, it was tax professionals who used the legislation a lot who were aware of unintended consequences of the rewrites. On the whole, they felt that it was highly unlikely that such a vast body of law could be rewritten without introducing some elements of ambiguity. Nonetheless, this ambiguity did increase the need for them to pay extra attention to the rewritten legislation and that in turn, this added to the time it took to adapt to the rewrites.

“To get yourself comfortable you had to read everything, you couldn't just say this is a rewrite, it still does the same thing as the old one did, because maybe they've stuck an 'and' instead of an 'or', which completely changes the interpretation of it”.

Tax lawyer

5.5 Comparison between income tax legislation and other legislation

Several tax professionals, particularly tax trainers, hoped the rewrite project would continue, and cited Inheritance Tax and VAT legislation as areas they would like to be rewritten as they are incredibly complex and difficult to read in their present format. They thought the drafters had done a good job of structuring the new legislation and would like this to style to be used in future legislation, so that there was a consistent format which would help people who join the profession, although they were aware that no rewrites are planned after the Corporation Tax Act and the Taxation (International and Other Provisions) Act. On the other hand, some tax professionals felt that the costs of a rewrite outweighed the benefits; they thought the rewrite project took a long time to complete and was not a valuable use of tax payer's money. However, their attitudes towards and relationship with HMRC had not significantly changed as a result of the TLRP, and several tax professionals spoke positively about how they thought the income tax guidance on the HMRC website had improved.

5.6 Views on time and efficiency savings and pro-forma

A further aim of the research was to attempt to quantify any time and efficiency savings experienced as a result of the TLRP, along with any costs associated with complying with the legislation. Participants were sent a pro forma in advance of the interview to help them provide this information (a copy is included in the appendices).

The 2005 research revealed that tax professionals felt that the language of ITEPA was more accessible and that given time, the consolidation would make the legislation more easily navigable. It seemed to follow logically that tax professionals would save time in their roles. However, it was also recognised that companies and organisations might incur costs as a result of training or administrative tasks. In order to

assess these costs, tax professionals were asked to fill in a pro-forma prior to the interview to provide an indication of costs and savings experienced as a result of the TLRP.

However, tax professionals found it difficult to quantify time and efficiency costs and savings. Many felt that although there were costs (for example retraining, time costs in becoming familiar with the legislation, and updating documents), these were experienced on an ongoing basis as legislation is updated, and they could not split out specific costs incurred by the rewrites. Savings were also difficult to quantify, although it was felt that there had not been any significant savings overall. As a result the pro-forma was ultimately used as a qualitative tool to prompt the discussion.

Without exception, tax professionals claimed that they have not experienced any significant time or efficiency savings. Whilst the majority agreed that the legislation was easier to understand, they found that any time savings due to ease of interpretation were cancelled out by the extra time it took to actually read the legislation, which had greatly increased in length. In fact, a few tax lawyers and tax barristers explained that they thought they had to spend *more time* using the rewritten legislation. In part, this time loss was because lawyers and barristers were highly experienced in ICTA, and so now felt like they had to be 'bilingual'.

In terms of costs, tax trainers had experienced the most out-goings as they had to update all their course materials. However, they found it difficult to identify exact costs as updating materials was something that they had to do annually due to changes to tax rates. There had also been significant changes to the exams, which had required materials to be updated accordingly; and this made it more difficult to differentiate between costs incurred as a result of the rewrite and costs due to changes in the exams and syllabus. However, in light of the rewrites, the process of updating materials was a far more time-consuming task, which required more man-hours. In a few instances, this meant that training companies were required to employ freelance staff to help update the distance learning materials and guidance documents.

A few of the accountancy and law firms had incurred training costs, however, they found it difficult to provide an exact figure as these additional training costs had been absorbed by large internal training budgets. One large accountancy firm estimated that the costs retraining their staff amounted to half a million pounds; this figure was based on the price of the training course and the average rate that accountants would charge for half a day of client work. Interestingly, they thought that the training was beneficial as it required accountants to refresh their knowledge and in some instances to learn things they might not have known.

"It has involved people up-skilling to use the new rules and to become familiar with them and also the way that the words are phrased...So yeah, there is a training issue. Is it bad that we've had to do that? Actually I don't feel particularly awful about that because there's some people probably never knew it in the first place".

Accountant

One individual from a small accountancy firm was able to quantify costs associated with re-training and purchasing books. He estimated that around £600 had been spent on books and £700 on private training courses. However, he explained that every year they had to spend some money on new resources and training and that considering the scope of the change following the rewrites, these one-off costs were not unreasonable.

In contrast, barristers, tax managers and tax advisors claimed that they had not incurred any formal additional costs. Barristers are registered as self-employed and so are responsible for their own training and do not have any responsibility for training staff. Tax managers of large companies explained that they have not put their staff on any extra training as they employ high calibre professionals, whom they expect to be more than able to familiarise themselves with the rewritten legislation without formal training. The tax managers also explained that they run in-house training sessions when necessary, in order to share knowledge within the company but that the costs for these were negligible. However, for these private companies, there had been no internal training on the income tax rewrite; it was more likely there will be training following the introduction of the rewritten Corporation Tax provisions because more of their staff had to be familiar with these.

Tax managers mentioned the materials produced by the big four accounting firms, which are used by tax teams to keep up to date on the latest developments.

Voluntary organisations have a limited budget, and so tax advisors tended to restrict training to instances where there are substantive changes to the law.

There was recognition across the professions that students who entered the profession would be trained in the new legislation, and so any training costs would be one-off. However, several tax lawyers mentioned the 'hidden costs' that were related to the additional time it had taken them to use the rewritten legislation. As lawyers were more familiar with ICTA, some of them were consulting both ICTA and the rewritten legislation, in order to check their understanding.

Moreover, the sheer length of the rewritten legislation meant that it had taken lawyers longer to do their job. This extra time translated into a cost because they explained they were unable to charge this time to their clients.

"You've got to put in the hours to get yourself acquainted. You can't charge the client...It just takes longer and longer to do the same thing".

Tax lawyer

In contrast, one accountant claimed that extra costs were in fact being passed on to clients. They said that, ultimately, tax professionals have to make a profit and so the extra time taken to use the rewritten legislation is passed on as a direct cost to the client.

“People are having to digest new forms of interpreting established law, you know people expect that certain principles would remain pretty constant and you would say well yes in every way pretty constant but we have to look at the new act and make sure there hasn’t been any changes. That adds to compliance cost so if you want a conclusion I would say that overall this has increased the cost to clients because anything that requires new legislation to be appreciated by professional advisors is a direct cost to clients because we have all got to make profits”.

Accountant

In summary, tax professionals were divided in their views towards the rewrites, with non-legal professionals most favourable. The significant main benefits tax professionals perceived were the clearer language and structure of the rewrites. However, the increased length and the time required for familiarisation were major drawbacks. Feedback from participants suggests that time and efficiency savings associated with the rewrites are difficult to quantify and are not extensive.

Pen portraits

6. Pen portraits

This section summarises the main similarities and differences in attitudes to the rewrites according to the tax professional's job role.

Tax professionals had different views on the benefits and drawbacks of the rewrites. Many of these differences were connected to how often tax professionals consulted the legislation and the depth of understanding that was required in order for them to do their job effectively.

Legal tax professionals were most concerned about the increased length of the legislation, and felt that the simplified language had opened the door to ambiguity.

Accountants were the most diverse group, reflecting the fact that they differed in terms of how frequently they used the legislation.

Voluntary sector tax advisors did not use the legislation frequently, but were fairly positive about the changes, particularly in terms of the simplified language.

Tax trainers were the most positive group, and felt that the new structure was easier to understand and therefore to teach.

HMRC staff were mixed in their views, and had the greatest level of understanding of the aims of the rewrites.

Tax managers were less likely than other groups to consult the legislation. Although they did not perceive a personal benefit from the rewritten legislation, they recognised that it could be beneficial to tax professionals at the start of their career.

6.1 Tax lawyers

- **Used the legislation most frequently**
- Most **positive about ICTA** and were particularly favourable towards language in ICTA, which was something very particular to legal professionals. They were positive because they thought it was precise in its meaning and because they felt their ability to understand the language gave them a special status
- **Critical about the rewrites**; from their perspective the drawbacks of the rewrites outweigh any benefits
- In particular, the **added length** was seen a **drawback**. Lawyers had to spend far longer reading through the legislation to identify the relevant provision. They saw no need for the elaborate sign-posting and repeating definitions throughout
- Some concern that **rewritten legislation had opened the door to ambiguity** and promoted confusion over the meaning. They felt that this was related to the change in language and the fact that ITEPA, ITTOIA and ITA currently lack the vast amount of case law that ICTA had accumulated (although they were not challenged about the applicability of that case law to the rewrite acts)
- However, some were able to recognise the **benefits to trainees**. Colleagues had mentioned how ITEPA was easier to teach than ICTA.

6.2 Accountants

- One of the most **diverse groups** in terms of the way they interact and use the legislation and also in relation to their views towards the rewrite
- Those who used the legislation more frequently tended to consult the legislation first, prior to referring to secondary texts
- Those whose job required them to consult the legislation frequently were closely aligned with the lawyers in their attitudes. In contrast, those who used it less frequently were more likely to identify with the views of the non-legal tax professionals
- Those who were **client-facing** tended to be more familiar with the legislation. They also identified issues concerning the **ambiguity of the language** and were frustrated by the **vast length** of the rewritten legislation.
- Divided over the use of **formulae**; those who are numerical in their thought processes found them useful
- Those who worked predominantly with ITTOIA and ITA were more critical about the rewrites; they thought the structure was less logical than ITEPA

6.3 Voluntary sector tax advisors

- Did not use the legislation frequently because they did not cite sections of the legislation in their correspondence and as the meaning had not changed they did not need to increase the amount they used it after the rewrite.
- Broadly positive about the changes, particularly regarding the use of **language**
- Have not noticed a decline in the number of queries from public. **Do not think the rewrite makes the legislation any more accessible to the public.**
- Found the extra length a drawback but recognised that it would become easier as they became more used to it

6.4 Tax trainers

- **Most positive** of all the tax professionals
- Due to changes in language and layout thought that legal expertise was no longer a necessary prerequisite to understand complex areas, e.g. loss relief
- Were most **positive about the structure** of the rewritten legislation – based on their **experience as teachers and feedback from students**
- Favoured the **step-by-step format**, which gave more instruction on how the law should be applied
- Think the main benefits of the rewrites would be experienced by those who were **new to or still to enter the profession**
- Noticed that their **students prefer the rewrites** to legislation that has not been rewritten, such as VAT and Inheritance Tax

6.5 HMRC staff

- Had **mixed views** on whether the rewrite was necessary and could be considered a success
- Had a more **detailed level of understanding** of the TLRP's **aims and objectives and the complexity of the project**
- Positive about the inclusion of **extra statutory concessions**
- Tended to have a high level of **expertise in one section** of the legislation
- Think that the **HMRC guidance material has significantly improved** as a by-product of the rewrite
- Technical advisors are **not sure that the benefits match the costs** in terms of time and resources that were put into the project

6.6 In-house tax managers

- Highly experienced tax professionals and very familiar with ICTA; had senior strategic roles therefore **less likely to consult the legislation** frequently in their current roles
- Less inconvenienced by the extra time taken to consult the rewritten legislation, perhaps because they did not have to do this often
- Did not think there was a need for a rewrite based on their position and perspective, but able to recognise the benefits to tax professionals at the start of their career
- Have a more detailed level of understanding of the TLRP's aims and objectives
- Tended to have a high level of expertise in one section of the legislation

Conclusions

7. Conclusions

This section summarises the main findings from the review of the Tax Law Rewrite Project (TLRP).

Tax professionals had mixed views about the benefits and drawbacks of the rewritten legislation. In general, tax professionals were most positive about the clearer structure of the rewritten legislation. However, tax lawyers were less positive about this because of the increased length of the legislation, which made their jobs more time-consuming.

The easier language was thought to be a benefit, particularly by tax trainers who felt it was possible for tax professionals to understand the rewritten legislation without legal training. There was consensus that the main benefits would be experienced by new tax professionals or those who are yet to enter the profession.

As highlighted throughout this report, tax professionals were divided on the benefits and drawbacks of the TLRP. Broadly, opinions were polarised between legal and non-legal professionals and between those who interacted frequently with the legislation and those who had less need to be familiar with the minutiae of the legislation.

However, most tax professionals did objectively recognise that the rewritten legislation had brought benefits at least for some within the profession; namely, the logical structure and simpler language. In particular, the language was perceived to help those who did not have legal training and as this covered the majority of tax professionals, this was, indeed, a significant benefit.

As mentioned throughout this report, the tax professionals who took part in this research were highly experienced, and as such, had spent many years working with Income and Corporation Tax Act (ICTA). Therefore, they were still getting used to working with the rewritten legislation and most of them were able to recognise that doing so would get easier given time.

Positively, most tax professionals acknowledged that the main benefits of the rewrites (in terms of the simplified language and structure), would be experienced by those who were new or yet to enter the profession, and therefore would not have difficulty in adjusting to the new legislation.

Overall, tax professionals were positive towards the information they received about TLRP, which they felt was timely and sufficient, and also spoke highly of the consultation process. Although there were both benefits and drawbacks associated with the rewrites, these findings suggest that there is a desire among

tax professionals for a more substantial overhaul of the UK tax regime, which is felt to be inherently complex and in need of simplification.

Appendices

Appendices

Advance letter

«TITLE» «NAME» «Surname»
«Address_Line_1»
«Address_Line_2»
«City»
«Postal_Code»

21 September 2009

Dear «TITLE» «Surname»

We are writing to ask for your help with a review of the Government's Income Tax Law Rewrite Project. HM Revenue and Customs has commissioned Ipsos MORI to explore whether the rewritten legislation is clearer and easier to use for tax professionals like you. More information on the Tax Law Rewrite project can be found at <http://www.hmrc.gov.uk/rewrite/index.htm>.

This study will draw on the experience, views and insight of a select group of tax professionals across the country. As such, we would like to invite you to take part in a face-to-face interview with an independent Ipsos MORI researcher. This will provide you with an opportunity to give your thoughts about the rewritten legislation.

The discussion will last up to one hour, and will take place at a venue, date and time convenient to you. As a thank you for your time and contribution to this important study, we would like to offer you a £50 donation to a charity of your choice.

The discussion will cover a number of issues relating to your experience of tax legislation. In particular, the discussion will focus upon whether you feel that the rewritten ITEPA, ITTOIA and ITA legislation is clear and easy to use. The interview will be a free-flowing conversation allowing you the opportunity to shape the agenda of the discussion.

This study will form the basis of a published report, which will collate and summarise the views of the contributors. We would be pleased to share an executive report, outlining the findings of this research, with you. However, we would like to reassure you that all your comments will remain completely confidential. Ipsos MORI abides strictly by the Market Research Society Code of Conduct; we will treat all views in complete confidence, and will not attribute any comments to you or your office.

One of our colleagues from Ipsos MORI will be in touch with your office in the next few weeks to identify the relevant person to speak to within your organisation, and if you are willing to take part, arrange a suitable appointment. Alternatively, if you have any questions about the study, please contact my colleague Ruth Lightfoot on 020 7347 3134 or ruth.lightfoot@ipsos.com. If you would like to speak to someone at HMRC, please contact Katharine Pottinger on 020 7438 4226.

We hope that you will feel able to participate in this important study and that you will take this opportunity to express your views.

Yours sincerely



Nick Pettigrew

Deputy Managing Director, Social Research Institute, Ipsos MORI

Discussion guide

HM Revenue and Customs – Post-implementation and compliance cost review of rewritten income tax legislation

Discussion Guide FINAL

Core objectives

To understand whether the three income tax rewrites (ITEPA, ITTOIA and ITA) have made the law clearer and easier to use

- Exploring the experiences tax professionals have had when interacting with the original and revised legislation
- Ascertaining positive and negative attitudes to the rewrites
- Understanding the benefits and drawbacks of the rewrites
- Exploring compliance costs vs. time and efficiency savings as a result of the rewrite

Outline of the research programme

- *Seven depths with tax lawyers (including three with barristers);*
- *Nine depths with accountants in accountancy firms;*
- *Seven depths with in-house tax managers in larger firms;*
- *Four depths with tax trainers (from HMRC and private firms);*
- *Four paired depths with HMRC staff;*
- *Two depths with tax advisors from the voluntary sector*
- *Two additional depths to be allocated at a later stage*

Interview sections	Notes	Approx timing
1. Introduction and participant background	Warm up and introduction, collect details of participant	5 mins
2. Contextual information	Looking at how they use the legislation and the extent to which they are aware of the changes	5 mins
3. Overall attitudes to income tax legislation	To gain an idea of what income tax legislation used to be like. Understanding this will help us to evaluate the extent to which the situation has changed for tax professionals	10 mins
4. Awareness of the tax rewrites	Ascertaining the extent to which tax professionals were aware of the rewrite process and whether they were informed of the changes that occurred as a result	10 mins
5. Post rewrite review	Exploring how the rewrites have impacted on tax professionals. This section will examine the benefits and drawbacks of the rewrite process, including assessments of time and efficiency savings	15 mins

6. Cost compliance assessment (non HMRC staff only)	Exploring tax professionals views on any costs associated with compliance vs. any efficiency savings	10 mins
7. Conclusion and key messages	Summary and key messages	5 mins

TOPIC AREA, QUESTIONS & PROBES	NOTES	TIMING
1. Introduction and participant background		
<p><u>1.1 Welcome:</u></p> <p>Thank participant for agreeing to be interviewed, mention should take up to an hour.</p> <p>Introduce self and Ipsos MORI as an independent research company.</p> <p>Research commissioned by HMRC with the aim of understanding tax professionals' attitudes to the tax legislation rewrites (ITEPA, ITTOIA and ITA) – particular focus on whether it has made the legislation clearer and easier to use and any costs or savings associated with rewrites.</p> <p>Anonymity of participant and MRS (Market Research Society) code of conduct</p> <p>Permission to audio record – only for analysis, no attribution of comments</p> <p><u>1.2 Participant introduction:</u></p> <p>CONFIRM: Name, job title</p> <ul style="list-style-type: none"> - Area of expertise? - How long they have worked in that area? - What they do on a day-to-day basis? 	Warm-up	5 mins
2. Contextual information		
<p>Before we start discussing ITEPA, ITTOIA AND ITA Are you aware of any changes to Income Tax legislation in recent years? What were these changes? What difference have they made? Why do you think these changes were made?</p> <p>PROBE FULLY TO GET SPONTANEOUS AWARENESS OF TLRP AND TOPLINE VIEWS OF INCOME TAX LEGISLATION.</p> <p>INTERVIEWER NOTE: THROUGHOUT, CLARIFY WHICH PIECE OF LEGISLATION RESPONDENT IS REFERRING TO. IN FOLLOWING SECTIONS FOCUS ON THE REWRITE OR REWRITES THEY ARE MOST FAMILIAR WITH.</p> <p>MODERATOR EXPLAIN THAT GOING TO CONCENTRATE NOW ON ITEPA, ITTOIA AND ITA.</p> <p>Thinking about the work you do, do you use all three pieces of legislation? Can you give me some examples of how you use them?</p> <p>PROBE FULLY TO GET CONCRETE EXAMPLES</p> <p>And how often would you say you use the legislation?</p> <p>How familiar do you feel with it? PROBE FOR WHICH OF THE THREE ACTS THEY KNOW MOST/LEAST, WHETHER THEY ARE CONFIDENT IN USING THE LEGISLATION.</p> <p>Can you tell me exactly how you use the legislation? PROBE TO SEE WHICH SPECIFIC SECTIONS ARE USED, WHAT KIND OF AUDIENCES IT IS USED WITH, WHY THEY CONSULT THE LEGISLATION ETC.</p> <p>Which legislation do you use the most? Why is this?</p> <p>Which, if any of the Acts do you feel you need to know more about to help you</p>	Confidence in using the legislation should not be an issue as the interpretation has not changed. However, it will be interesting to probe as confidence may differ depending on the length of time in the role.	5 mins

<p>do your job properly? What else do you need to know? Why would this be useful? PROBE FOR PRIMARY LEGISLATION, SECONDARY GUIDANCE, ADMINISTRATIVE FORMS</p> <p>What form would you like this help to take?</p> <p>Are there any differences between the three pieces of legislation in terms of how easy you find them to use? If so, why?</p> <p>And how do these Acts compare with other tax legislation you use? IF POSSIBLE, ASK PARTICIPANTS TO CONTRAST AND COMPARE.</p>		
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3. Attitudes to income tax legislation		
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<p>INTERVIEWER NOTE: MAKE SURE YOU ARE CLEAR WHICH PIECE OF LEGISLATION THE RESPONDENT IS REFERRING TO AND YOU PROBE ABOUT ALL THREE REWRITES/OR THE PIECE(S) OF LEGISLATION THEY WORK WITH THE MOST</p> <p>I would now like to discuss with you your experiences of UK income tax legislation prior to the rewrites. As you may know the Tax Law Rewrite Project (TLRP) was set up in 1996 in order to make the UK's direct tax legislation clearer and easier to use. ITEPA was introduced as a result of this in 2003, followed by the ITTOIA in 2005 and the ITA in 2007.</p> <p>Can you tell me, in broad terms, what it was like to use income tax legislation prior the rewrites? Can you give me some examples of how you used it? PROBE FULLY</p> <p>How easy was the legislation to use in its original form? PROBE FOR LANGUAGE, CONTENT, CLARITY ETC</p> <p>Which aspects of the legislation worked particularly well? PROBE FOR SPECIFIC SECTIONS</p> <p>Why do you say this? What exactly was it that made it work well? PROBE FULLY FOR SPECIFIC FACTORS</p> <p>And what aspects of it did not work as well? Why do you say this? PROBE FULLY FOR SPECIFIC FACTORS</p> <p>Did you face any challenges/problems when applying income tax legislation prior to the rewrite? Can you give me some of examples of these?</p> <p>To what extent did you feel there was a need for a rewrite? Why do you say this?</p> <p>INTERVIEWER NOTE: MAKE SURE YOU ARE CLEAR WHICH PIECE OF LEGISLATION THE RESPONDENT IS REFERRING TO AND YOU PROBE ABOUT ALL 3 REWRITES/OR THE PIECE(S) OF LEGISLATION THEY WORK WITH THE MOST</p>		10 mins
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4. Awareness of the tax rewrites		
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<p>INTERVIEWER NOTE: MAKE SURE YOU ARE CLEAR WHICH PIECE OF LEGISLATION THE RESPONDENT IS REFERRING TO AND YOU PROBE ABOUT ALL 3 REWRITES/OR THE PIECE(S) OF LEGISLATION THEY WORK WITH THE MOST</p> <p>How much would you say you know about the Tax Law Rewrite Project (TLRP) in general? PROBE FULLY ON HOW THEY BECAME AWARE, WHAT THEY KNOW ABOUT IT, UNDERSTANDING OF ITS PURPOSE AND WHETHER IN FAVOUR OR AGAINST</p> <p>And how much would you say you know about the separate three income tax rewrites (ITEPA/ITTOIA and ITA)?</p> <p>How did you find out about these? PROBE FULLY TO ESTABLISH SOURCES.</p> <p>What do you think the purpose of the rewrites was? PROBE ON PURPOSE FOR THE THREE REWRITES/OR THE REWRITE THE RESPONDENT KNOWS AND USES MOST</p> <p>To what extent have the rewrites met these expectations? Why do you say this? In what ways have they been successful/ unsuccessful?</p> <p>To what extent are you aware of difference the legislation has made? PROBE SPECIFICALLY ON ADMINISTRATIVE COSTS TO DETERMINE GAP BETWEEN EXPECTATIONS AND REALITY</p> <p>Were you consulted prior to the changes being made?</p> <p>IF NO Do you feel you should've been consulted? Why do you say this? What form should this take? Why would this be most effective?</p> <p>IF YES What form did this consultation take? Was your feedback taken on board? How useful did you find this process?</p>		10 mins
5. Post rewrite review		
<p>INTERVIEWER NOTE: MAKE SURE YOU ARE CLEAR WHICH PIECE OF LEGISLATION THE RESPONDENT IS REFERRING TO AND YOU PROBE ABOUT ALL THREE REWRITES/OR THE PIECE(S) OF LEGISLATION THEY WORK WITH THE MOST</p> <p>Thinking about the tax rewrites, is it clear what changes have been made to the legislation?</p> <p>In what particular ways is it different? PROBE FULLY FOR SPECIFIC EXAMPLES FOR ITEPA, ITTOIA AND ITA OR FOCUS ON REWRITE THE RESPONDENT KNOWS/USES</p> <p>And how has this affected how you use ITEPA/ITTOIA/ITA?</p> <p>What difference has it made to other staff within your organisation? PROBE FULLY</p> <p>To what extent have the rewrites made it easier to delegate tasks to more junior professionals? Why do you say this? Can you give me some examples?</p> <p>How far do you agree that the rewritten legislation easy to understand? Why do you say this? PROBE FOR FACTORS WHICH CONTRIBUTE TO THIS – AND ASK FOR COMPARISONS WITH THE OLD LEGISLATION</p> <p>And to what extent do you think that the legislation easy to apply? PROBE FOR DRIVERS/BARRIERS OF THIS</p> <p>To what extent have the rewrites reduced the likelihood of errors being made? What else could be done to lessen the risk?</p>		15 mins

<p>Can you tell me the extent to which you feel the number of errors/misinterpretations made has gone up or down since the introduction of ITEPA/ITTOIA/ITA?</p> <p>And to what extent has the time you spend resolving these errors/misinterpretations increased or decreased?</p> <p>To what extent do you think the rewrites have helped reduce the number of issues on which specialist advice is required? Can you give me some examples of this?</p> <p>What would you say are the main benefits of the rewrite for you? PROBE FULLY FOR EXAMPLES</p> <p>How far do you feel these benefits will be long lasting? Why do you say this? To what extent do you think the benefits of the rewrites will become more apparent over time? Why do you say this?</p> <p>IF MENTION TIME AND EFFICIENCY SAVINGS PROBE ON ESTIMATE OF HOW MUCH TIME SAVED (E.G AN HOUR PER WEEK/MONTH) AND WHETHER THEY THINK THEY WILL SAVE MORE/LESS TIME IN FUTURE</p> <p>IF NOT MENTIONED, ASK: Have you noticed any changes to the signposting in the legislation? What are these changes? Have you found this helpful? Why/ why not?</p> <p>How have the rewrites affected your confidence in the law? Why do you say this?</p> <p>And to what extent have the rewrites affected your relationship with HMRC if at all?</p> <p>How have the rewrites affected your relationships with your clients? Why do you say this? PROBE ON COMMUNICATIONS IF NOT MENTIONED SPONTANEOUSLY</p> <p>Do you feel your clients have noticed any benefits as a result of the rewrites? PROBE FOR IMPROVED CONFIDENCE IN THE LAW</p> <p>Of all the benefits we have talked about, which would you say is most important to you? Why is this?</p> <p>And what are the main drawbacks of the rewrites? How has this impacted on how you work?</p> <p>Of all of these drawbacks, which would you say is most significant? Why is this?</p> <p>Have there been any unexpected consequences of the rewrites? PROBE FULLY, ASK FOR EXAMPLES.</p> <p>Why do you think this happened? What, if anything, do you think can be done about this?</p> <p>Looking forward, how, if at all, do you think these rewrites might affect you in the future? Why do you say this?</p>		
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6. Cost compliance assessment (non HMRC staff only)

INTERVIEWER NOTE: MAKE SURE YOU ARE CLEAR WHICH PIECE OF LEGISLATION THE RESPONDENT IS REFERRING TO AND YOU PROBE ABOUT ALL 3 REWRITES/OR THE PIECE(S) OF LEGISLATION THEY WORK WITH THE MOST

IN THIS SECTION MAKE SURE YOU ARE CLEAR THAT THERE WILL BE NO FURTHER REWRITES. THE IMPACT OF THE REWRITES IN THE FUTURE REFERS ONLY TO ITEPA, ITA AND ITTOIA.

IF DO NOT MENTION TIME AND EFFICIENCY SAVINGS ASK:

Have you noticed any time and efficiency savings as a result of the rewrites?

IF YES

- What kind of savings?
- How much time have you saved?
- How beneficial is this to you?

IF NO – Would time and efficiency savings be beneficial to you? Why do you say this? Is there any indication this may happen over time?
REFER TO DATASHEET ANSWERS IF THEY HAVE COMPLETED THIS

I would now like to discuss with you any costs you may have incurred with complying with the rewritten legislation, as well as any areas where you may have saved on costs.

6.1 ITEPA

What costs, if, any have you incurred as a result of the ITEPA? In what areas? E.G. STAFF TIME, TRAINING, UPDATING DOCUMENTS

Are you able to estimate these costs? IF YES: How did you come up with that estimate? How accurate do you think these estimates are? IF NO: What are the difficulties in coming up with an estimate?

Do you think you will experience any additional costs in the future? IF YES: In what areas? Why do you say this?

And what savings, if any, have you seen as a result of the ITEPA? In what areas? E.G. LESS STAFF TIME RESOLVING ERRORS, EASIER TO TRAIN NEW STAFF, LESS QUERIES

Are you able to estimate these cost savings? IF YES: How did you come up with that estimate? How accurate do you think these estimates are? IF NO: What are the difficulties in coming up with an estimate?

Do you think there are likely to be any further cost savings in the future? IF YES: In what areas?

6.2 ITTOIA

What costs, if, any have you incurred as a result of the ITTOIA? In what areas? E.G. STAFF TIME, TRAINING, UPDATING DOCUMENTS

10 mins

Are you able to estimate these costs? IF YES: How did you come up with that estimate? How accurate do you think these estimates are? IF NO: What are the difficulties in coming up with an estimate?

Do you think you will experience any additional costs in the future? IF YES: In what areas? Why do you say this?

And what savings, if any, have you seen as a result of the ITTOIA? In what areas? E.G. LESS STAFF TIME RESOLVING ERRORS, EASIER TO TRAIN NEW STAFF, LESS QUERIES

Are you able to estimate these cost savings? IF YES: How did you come up with that estimate? How accurate do you think these estimates are? IF NO: What are the difficulties in coming up with an estimate?

Do you think there are likely to be any further cost savings in the future? IF YES: In what areas?

6.3 ITA

What costs, if, any have you incurred as a result of the ITA? In what areas? E.G. STAFF TIME, TRAINING, UPDATING DOCUMENTS

Are you able to estimate these costs? IF YES: How did you come up with that estimate? How accurate do you think these estimates are? IF NO: What are the difficulties in coming up with an estimate?

Do you think you will experience any additional costs in the future? IF YES: In what areas? Why do you say this?

And what savings, if any, have you seen as a result of the ITA? In what areas? E.G. LESS STAFF TIME RESOLVING ERRORS, EASIER TO TRAIN NEW STAFF, LESS QUERIES

Are you able to estimate these cost savings? IF YES: How did you come up with that estimate? How accurate do you think these estimates are? IF NO: What are the difficulties in coming up with an estimate?

Do you think there are likely to be any further cost savings in the future? IF YES: In what areas?

7. Conclusion and key messages

Thinking about everything we've discussed today. What would you say the main benefits of the tax rewrites are?

Which rewrite has had the most benefits for you? ASK IF USES ALL THREE REWRITES

And what, if any, are the main drawbacks?

And are there any other messages that you would like us to pass on to HMRC about the issues we have discussed?

THANK AND CLOSE

NON HMRC STAFF ONLY: We will be making a £50 donation to a charity of their choice as a 'thank you' for taking part. Please confirm the details of their chosen charity.

5 mins

Proforma

Income Tax Law Rewrites Review - Datasheet

INTRODUCTION

The purpose of this form is to provide an estimate of any costs you may have incurred as a result of the Income Tax Rewrites (ITEPA, ITTOIA and ITA), and any time and efficiency savings associated with the Acts.

We would like you to **complete this before your interview** and bring it with you, as the Ipsos MORI interviewer would like to discuss your answers. Please **do not send it back** to Ipsos MORI or HMRC.

If you have any queries about completing this form, please contact Ruth Lightfoot at Ipsos MORI on 020 7347 3134 or ruth.lightfoot@ipsos.com

The information you provide will be kept confidential, and your personal details will not be passed on to anyone outside of Ipsos MORI.

A – Background Information

Name

Job Title

Organisation

Which of the following Acts do you work with?

PLEASE TICK ALL THAT APPLY

- ITEPA (Income Tax (Earnings and Pensions Act) 2003)
- ITTOIA (Income Tax (Trading and Other Income) Act 2005)
- ITA (Income Tax Act 2007)

IF YOU WORK WITH ITEPA PLEASE COMPLETE SECTION B

B – ITEPA

As a result of the ITEPA rewrite, for each of the areas where you or your business incurred costs, please provide an estimate of the total cost

- Retraining staff £
- Updating documentation £
- Other areas [PLEASE SPECIFY FOR EACH AREA] £
- No costs incurred

And as a result of the ITEPA rewrite, for each of the areas where you or your business saved time, please provide an estimate of the cost savings involved

- Forms being easier to complete £
- Reduced time in familiarising new staff with the legislation £
- Less time resolving queries/ correcting errors £
- Any other ways [PLEASE SPECIFY AMOUNT SAVED FOR EACH] £
- No cost savings

IF YOU WORK WITH ITTOIA PLEASE COMPLETE SECTION C

C – ITTOIA

As a result of the ITTOIA rewrite, for each of the areas where you or your business incurred costs, please provide an estimate of the total cost

Retraining staff		£
Updating documentation	£	
Other areas [PLEASE SPECIFY FOR EACH AREA]	£	
No costs incurred		<input type="checkbox"/>

And as a result of the ITTOIA rewrite, for each of the areas where you or your business saved time, please provide an estimate of the cost savings involved

Forms being easier to complete		£
Reduced time in familiarising new staff with the legislation		£
Less time resolving queries/ correcting errors		£
Any other ways [PLEASE SPECIFY AMOUNT SAVED FOR EACH]		£
No cost savings		<input type="checkbox"/>

IF YOU WORK WITH ITA PLEASE COMPLETE SECTION D

D – ITA

As a result of the ITA rewrite, for each of the areas where you or your business incurred costs, please provide an estimate of the total cost

Retraining staff		£
Updating documentation	£	
Other areas [PLEASE SPECIFY FOR EACH AREA]	£	
No costs incurred		<input type="checkbox"/>

And as a result of the ITA rewrite, for each of the areas where you or your business saved time, please provide an estimate of the cost savings involved

Forms being easier to complete		£
Reduced time in familiarising new staff with the legislation		£
Less time resolving queries/ correcting errors		£
Any other ways [PLEASE SPECIFY AMOUNT SAVED FOR EACH]		£

No cost savings



Recruitment screener

Recruitment Questionnaire – J36739

Ipsos
MORI/J367
39

Tax Law Rewrites

RESPONDENT RECRUITED FOR:

Depth Interviews

RESPONDENT NO:

Specification - This questionnaire recruits people with the following characteristics

Depths 1-9:	Date:	TBC	Code: 1
	Time:	TBC	
	Details:	9 depth interviews in total Accountants All must have at least 'a fair amount' of experience of working with ITEPA, ITTOIA or ITA Minimum quotas as follows: ITEPA: 2 ITTOIA: 2 ITA: 2	
Depths 10 – 16:	Date:	TBC	Code:
	Time:	TBC	

	Details:	7 depth interviews in total In-house tax managers All must have at least 'a fair amount' of experience of working with ITEPA, ITTOIA or ITA Minimum quotas as follows: ITEPA: 2 ITTOIA: 2 ITA: 2	2
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Depths 17- 20:	Date:	TBC	Code: 3
	Time:	TBC	
	Details:	4 depth interviews in total Tax Lawyers All must have at least ‘a fair amount’ of experience of working with ITEPA, ITTOIA or ITA Minimum quotas as follows: ITEPA: 1 ITTOIA: 1 ITA: 1	

Depths 21- 23:	Date:	TBC	Code: 4
	Time:	TBC	
	Details:	3 depth interviews in total Barristers All must have at least ‘a fair amount’ of experience of working with ITEPA, ITTOIA or ITA Quotas as follows: ITEPA: 1 ITTOIA: 1 ITA: 1	

Depths 24- 25:	Date:	TBC	Code: 5
	Time:	TBC	
	Details:	2 depth interviews in total Tax Trainers in private firms All must have at least ‘a fair amount’ of experience of working with ITEPA, ITTOIA or ITA	

Depths 26-27:	Date:	TBC	Code: 6
	Time:	TBC	
	Details:	2 depth interviews in total	
		Voluntary Sector All must have at least 'a fair amount' of experience of working with ITEPA, ITTOIA or ITA	
Depths 28-29:		2 additional depth interviews to be confirmed	Code: 9

Good morning/afternoon/evening, My name is from Ipsos MORI, the independent research agency. You should have received a letter in the last two weeks asking for your help with a study we are conducting for HM Revenue and Customs. We have been commissioned to explore the views of tax professionals on the Income Tax Law Rewrites Project, and we would like to speak to you about your experience of working with the legislation. Are you the best person to speak to about this?

We would like to invite you to take part in a face-to-face depth interview with an independent Ipsos MORI researcher. The discussion will last up to an hour and will take place at a time, date and venue which is convenient for you. I wonder if you could help me?

To say thank you for your time, we will make a £50 donation to a charity of your choice.

We just need to check that we are speaking to the right people, therefore I would like to ask some questions about the work you do. All information collected will be anonymised.

Q1.

Would you be interested in taking part? **SINGLE CODE ONLY**

Yes	1	CONTINUE
No	2	CLOSE – RECORD REASON

ASK QUOTA 1 – ACCOUNTANTS ONLY. ALL OTHERS GO TO Q3.

Q2.

Can I just check what organisation you are accredited by? **SINGLE CODE ONLY**

ACA	1	
ACCA	2	CONTINUE
CIMA	3	THANK AND CLOSE
Other (please specify)	4	

ASK ALL

Q3. As you may know the Tax Law Rewrite Project (TLRP) was set up in 1996 in order to make the UK's income tax legislation clearer and easier to use. The Income Tax (Earnings and Pensions) Act (ITEPA) was introduced as a result of this in 2003, followed by the Income Tax (Trading and Other Income) Act (ITTOIA) in 2005 and the Income Tax Act (ITA) in 2007. Can I just check whether you worked with the UK's direct tax legislation prior to 2003?

SINGLE CODE ONLY

Yes	1	CONTINUE
No	2	THANK AND CLOSE

ASK ALL

Q4A

How much experience do you have of working with ITEPA (The Income Tax (Earnings and Pensions) Act 2003)? **SINGLE CODE ONLY**

A great deal	1	CONTINUE
A fair amount	2	
Not very much	3	
None at all	4	
Don't know	5	

ASK ALL

Q4B

How much experience do you have of working with ITTOIA (The Income Tax (Trading and Other Income) Act 2005)? **SINGLE CODE ONLY**

A great deal	1	CONTINUE
A fair amount	2	
Not very much	3	
None at all	4	
Don't know	5	

ASK ALL

Q4C

How much experience do you have of working with ITA (The Income Tax Act 2007)?

SINGLE CODE ONLY

A great deal	1	CONTINUE
A fair amount	2	
Not very much	3	
None at all	4	
Don't know	5	

RECRUIT TO QUOTA. IF CODES 3 TO 5 AT ALL OF Q4A TO Q4C, THANK AND CLOSE.

Q5.

Can I just check, were you personally involved in the consultation about the Tax Law Rewrite Project? **SINGLE CODE ONLY**

Yes	1	CONTINUE
No	2	
Don't know	3	

Q6.

How long have you been in your current role? **SINGLE CODE ONLY**
BY THIS WE MEAN HOW LONG THEY HAVE BEEN AN ACCOUNTANT/ TAX
TRAINER/ TAX MANAGER ETC, RATHER THAN CURRENT JOB.

Less than two years	1	
Two to five years	2	
Five to ten years	3	CONTINUE
More than ten years	4	
Don't know	5	

Q7.

Which of the following statements comes closest to how you would talk about HMRC?
SINGLE CODE ONLY

I would speak highly of HMRC without being asked	1	
I would speak highly of HMRC if I was asked	2	
I would be neutral towards HMRC	3	
I would be critical of HMRC if I was asked	4	CONTINUE
I would be critical of HMRC without being asked	5	
Don't know	6	
Refused	7	

Q8.

Finally, we would like to send you a short form to complete in advance of the interview, which involves answering a few questions about your experience of working with the rewritten income tax legislation. This will be used as a guide for your discussion with the interviewer. Would you be happy to do this? And can I take your email address to send you the form? **COLLECT EMAIL ADDRESS. EXPLAIN THAT THEY SHOULD BRING THE FORM TO THE INTERVIEW WITH THEM, AND THEY SHOULD NOT RETURN IT TO IPSOS MORI OR HMRC.**

CONTINUE

Interviewer number:

Interviewer name (CAPS):

I confirm that I have conducted this interview **face to face/by telephone (DELETE WHERE APPROPRIATE)** with the named person of the address attached and that I asked all the relevant questions fully and recorded the answers in conformance with the survey specification and within the MRS Code of Conduct and the Data Protection Act 1998.

Interviewer Signature:

Date:.....

THIS MUST BE THE LAST PAGE OF THE QUESTIONNAIRE AND MUST BE SINGLE SIDED

Tax Law Rewrites

IpsosMORI/J367
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Recruitment Questionnaire

RESPONDENT RECRUITED FOR:

Depth Interview

RESPONDENT NO:

PERSONAL IDENTIFIERS

Details

Location:
Time:

Date:

Name/Initial/Title: Mr/Mrs/Ms/Miss

Address:

Full

**Tel. Number (WRITE IN
INCL. STD code)**

Home/mobile	1
Work	2
Refused/Ex-directory	3

e-mail address (WRITE IN)

	1
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**Is respondent willing to take part
and available?**

Yes	1
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No	2
----	---

Respondent attended?

Yes	1
No	2
