

MINUTES

MID-TIER AGENTS FORUM

Tuesday, 8 December 2015 (10-12)
Room G44, 100 Parliament Street, London SW1A 2BQ

Chair:	Jeremy Tyler	HMRC (Business Customer & Strategy)
Secretariat:	Michele York	HMRC (Business Customer & Strategy)
Attendees:	Andrew Hubbard Jonathan C. Riley Mark McGarry Tim Lyford Stuart Weekes David Porter Oliver Toop Phil Gilbert	RSM UK Grant Thornton Saffery Champness Smith and Williamson CroweClarkWhitehill BDO HMRC (Central Policy) HMRC (Counter Avoidance)
Speakers:	Marian Kitson Ian Moules David Harris Geraldine Beazley Veronica Fell	HMRC (Mid size business) HMRC (BC&S Agents strategy) HMRC (Corporation Tax, International and Stamps) HMRC (BC&S Comms & Stakeholder Engagement) HMRC (BC&S Comms & Stakeholder Engagement)
Apologies:	Anna Thomas Ian Stewart Andy Leggett Theresa Middleton Andy Butterworth Stephen Nixon David Barton Chris Simpson Hugh Hedges Chris Williams	HMRC (BC&S Agents strategy) HMRC (Indirect Tax) HMRC (Local Comp) HMRC (Business Customer & Strategy) BDO CroweClarkWhitehill RSM UK Counter Avoidance Central Policy Mazars

1. Welcome and introductions

Jeremy Tyler (JT) welcomed attendees to the meeting and introductions were made.

2. Minutes of last meeting, matters arising/ action points

The September minutes were agreed.

3. Making tax Digital

Geraldine Beazley (GB) and Veronica Fell (VF) provided an update on Making Tax Digital: Business and the recent Autumn Statement announcement. Using a slide pack (attached) Geraldine explained HMRC's Strategic Objectives and core principles whilst Veronica outlined the next steps post Autumn Statement and the development of the Business Tax Account through the Digital Platform.

The overall feeling from the forum was that HMRC was broadly moving in the right direction of travel on MTD but practicalities and admin burdens were a concern. HMRC needed to be mindful that there could be loss of business especially amongst the smaller agent community. Although the wider agent community expressing views against aspects of MTD developments were vocal, members of this forum felt that the 'minority' should not hold back development of MTD.

VF advised that HMRC had undertaken a series of stakeholder informal discussions on MTD and had noticed that the tenor of the meetings had changed with a number of agents for example, previously vocal against the MTD developments, seeking training at the end of the sessions. From engagement thus far it was felt that the level of reticence about MTD changes had decreased since September 2015 but there were still challenges to overcome.

The issue of the MTD timetable was also raised with a number of agents requesting clarity on dates falling under the new and current regimes. A key question was the actual time period when the first returns under MTD would be affected? This needed to be clearly highlighted through the MTD Road map, as there is often disconnect between the tax year and the accounting year the agent is actually working on.

During the discussions a number of other issues were raised;

- The in-year reporting in reality would mean a minimum of 4 updates rather than actual tax returns.
- There was a concern about the £10,000 threshold and whether this would mean that the VAT threshold might be superseded, however it was clarified that this threshold only related to the exemption for letting income (landlords) and secondary self-employed income.
- The phrase "maximising revenue" - whilst the forum understood the context it was felt that it didn't fully reflect HMRC's objectives.
- Whether a third party, such as an agent, was an intermediary.

AP 1 – GB and VF to ensure clarity on date of returns affected by the new regime are clearly referenced on the Making Tax Digital Road map.

4. Patent Box Consultation

David Harris updated the forum on the recent consultation which concerned changes to the Patent Box rules. The consultation closed w/c 30.11.15. Draft legislation will be published on 9.12.15. The legislation is ultimately due to be included in the Finance Bill 2016.

The main change to the rules concerns weighting the amount of profit eligible for reduced CT rate by the proportion of R&D spend underlying the patents incurred directly by the company. This implements new rules agreed by OECD to prevent IP regimes (like the Patent Box) encouraging profit shifting.

A number of issues were especially problematic and not addressed in the 9 December draft – for example the position when a “trade” acquires a company which has R&D history.

These were issues where input had been particularly sought in the consultation.

The forum had a couple of queries on the proposed changes including the position on pending patents. DH confirmed that the new rules would apply from 1.7.16 and all patents applied for by this date by companies already in the Patent Box then would be treated as per the existing rules (grandfathered) for a 5 year period up to 1/7/21.

DH advised that HMRC were still very interested in stakeholders opinion especially with regards to the practicality of implementing this change and would like to engage with all businesses and not just the larger companies. Please see accompanying document for further information.

5. Employer Duties and Mid-size agents

Marian Kitson (MK) updated the forum on HMRC’s approach to “employer duty risk” in the Mid-size Business directorate. MK advised that HMRC to strengthen the commercial knowledge in this area had employed senior colleagues with relevant external experience to assist in the “up-skilling” of HMRC staff.

Recently MK had been approached by the senior tax specialists (STA) advising that there has been a noticeable increase in the number of challenges to HMRC’s investigations.

The challenges, amongst others, by the agents have included;

- the reasons why HMRC were asking those particular questions,
- whether the question was the correct question to actually ask,
- whether “Policy” had been consulted, often an insistence on obtaining policy advice despite a lack of facts being provided and
- agents suggesting meetings in lieu of paperwork which although useful HMRC still require documentary evidence.

MK outlined an anonymous case study to demonstrate the challenges being encountered. Highlighting that at each stage of the enquiry the tax agent had challenged the caseworker asking for a review by a more senior tax specialist who had confirmed the appropriateness of each request. Despite this the agent had still withheld the requested information which had culminated with the STA contacting the agent to firm advise on the appropriateness of the questions asked and the need for the information to be provided before the case could be resolved. The agent agreed that the questions were appropriate for the issue being reviewed.

MK advised that unfortunately this was not an isolated case but was happening on an increasingly frequent basis and sought the forums assistance in addressing this worrying trend.

Whilst the forum highlighted that it is sometimes necessary when responding to enquiries requesting a lot of information (which can be costly) to seek clarification it was agreed that this shouldn’t be done automatically and definitely not as a delaying tactic.

Although it was agreed that HMRC have a number of tools that they can use to reduce these delaying tactics, a widely supported suggestion was that HMRC should refer the “offending” agent/ representative to their senior partner (including the accountancy firm’s represented at the forum) to review and assist in progressing the case. MK thanked the forum for their suggestions and would feedback to her staff and if any of the agents had further suggestions then she would be happy for the feedback.

6. Assured Agents

Ian Moules (IM) introduced the topic of what services might be of interest to assured agents. IM mentioned that HMRC had spoken to a number of ICAEW members and at a recent talking points agents dialling in had chosen from a small selection of options. HMRC was now keen to gather the views of other agents.

IM explained that in developing a set of options, HMRC was trying to find services that would benefit assured agents commercially.

The agents advised that they would be interested in their customer service and being able to advise their clients so they could "sleep at night".

It was suggested an enquiry window would be useful however IM advised that there had been no traction for this suggestion from other discussions.

It was agreed by the agents, that clients would pay for a premium price for a service that provides a definitive opinion from HMRC on a client's affairs, greater transparency with a subject expert would, all agreed, definitely be a game changer but describing it as an enquiry / service window was wrong because it was too simplistic.

The actual details of when and for how long an agent could be an assured agent had yet to be agreed but it was unlikely HMRC would seek to require agents to reseek to be an assured agent annually.

In terms of possible services IM outlined that HMRC was considering whether a version of the large-business CRM model might be desirable for agents.

In terms of the Talking Points questionnaire, IM reported that there was greatest support for assured agents having greater and quicker access to subject matter experts and HMRC helplines. (The other two options was a HMRC kite mark and a shorter inquiry window}.

There ensued a brief discussion on what a kite mark, which had been reasonably popular in the talking points findings, would actually mean, its appeal and for what it could actually be useful.

It was agreed that a shorter wait whether telephone or digital would be very welcome as would access to a subject expert.

It was agreed that due to the size of the subject matter of other services that HMRC may be able to provide would be best pursued outside of the meeting.

Digital Progress

JT advised that the online system was taking a long time but as soon as it was ready the agents would be provided with it.

CT segmentation

During the September meeting Anna Thomas (lead on the Agents strategy) had advised the forum on the CT segmentation. It is proposed that a segmentation on VAT will be available in the next 12 months but still being developed.

Questionnaire

IM advised that he will send the questionnaire to the agents.

**AP 2 IM to email the questionnaire to the agents.

7. Extension of forum participants

It had been proposed by an attendee following the September meeting that the forum might be extended to include additional agents. This was discussed and agreed that the forum would not be extended for the time being and kept under review.

8. Any other business

It was agreed that possible areas of interest for the next meeting included;

1. National minimum wage

2. Apprenticeship Levy
3. Budget feedback
4. Buy to let field – how the regime will work
5. BEPS finance cost - it was agreed that a bespoke meeting would be most appropriate.

Next meeting: 6 April 2016