



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Chris Sanger
Chair, Tax Professionals Forum

16 July 2021

Dear Chris

RESPONSE TO THE TAX PROFESSIONALS FORUM 2021 REPORT

Thank you to the Tax Professionals Forum for all of your work in producing this report. As ever, it is a valuable contribution to the tax policy making process and I am delighted to respond as below.

Thank you and other panel members for a decade of effective and meaningful scrutiny of the Government's tax policy making against the framework.

Recommendations based on policy development between November 2017 and up to the General Election in December 2019

1. Consultation ahead of international tax legislation

As you will be aware, the OECD issued a Statement on 1 July 2021 announcing that 130 members of the Inclusive Framework have agreed to a two-pillar plan to reform international taxation rules and ensure that multinational enterprises pay a fair share of tax wherever they operate. Reaching a two-pillar solution through the OECD has been a long-standing priority for the UK, and the Government is delighted that the G7 agreement it secured on global tax reform has formed the basis for this historic agreement. In addition to OECD-led consultations on this work, the Government has engaged extensively with stakeholders to ensure that the impact of the proposals is understood and to ensure that stakeholder ideas and concerns are reflected in the Government's negotiating position. The Government also recognises that issues in relation to domestic implementation and administration of such agreements call for domestic consultation. That is why the Government consulted extensively before implementing the recommendations of the original OECD BEPS project, including in relation to the corporate interest restriction and anti-hybrid mismatch rules. The Government also intends to consult with domestic stakeholders prior to implementing the Pillar 1 and 2 proposals.

2. Guidance vs legislation

The Government recognises the importance of legislating for tax reforms to provide taxpayers with certainty and clarity, as well as allowing scrutiny by Parliament. Guidance is a necessary complement to legislation so as to ensure that the tax system and administration remains relevant and up to date. It has been especially useful for updating stakeholders ahead of EU Exit and as part of the Government's coronavirus pandemic support package when rapid reforms were required to respond to changing economic conditions. However, the Government remains open to discuss in further detail areas where you feel greater clarity through legislation would be needed.

3. Alternative mechanisms delivering the five-stage model

The Government strongly supports the principles set out in the *Tax Consultation Framework*, including the five stages to the development and implementation of tax policy. However, there are instances where it is appropriate to conduct some of the early stages of this process internally. In particular, where external engagement pre-announces a reform (e.g. via a consultation or review), this can result in unintended market consequences where forestalling activity occurs before commencement; a recent reform that had such forestalling risks was the super deduction announced at Spring Budget 2021. In such cases, the Government may rely on informal channels for engagement, which allows for more flexible tax policy making; this has been particularly effective over the last year as the Government rapidly developed measures to mitigate the impact of the pandemic on livelihoods and businesses.

The report refers to three specific areas, where the Forum believes insufficient consultation was undertaken. It may be helpful to address each of these specifically. On DAC6, the Government held a full 12-week consultation period which informed final regulations. The Off-payroll working reforms were subject to four consultations which considered wider impacts and options. Lastly, on the consultation on VAT secondary legislation for Making Tax Digital, there has been an extensive two stage consultation over a 14-week period. Ahead of consulting on the draft Statutory Instrument, HMRC consulted for 8 weeks on draft legislation to provide earlier certainty to taxpayers and software providers. The draft VAT Notice consulted on over Christmas was consulted on further with the industry, as well as having a soft-landing period for MTD with VAT to allow businesses to familiarise themselves with the system changes. That said, I acknowledge that the timing of the consultation was not optimal; the Government will endeavour to avoid this situation where possible or provide more time for stakeholders to engage in the consultation process. In addition, the Government is continuing to develop the way the tax consultation tracker is presented in order to make it as useful as possible for tax professionals.

The Government is also reflecting on the publication of "Tax policies and consultations (Spring 2021)" and associated documents made shortly after Budget 2021. By announcing these tax measures and consultations separately from the Budget, the Government sought to provide greater visibility and

transparency for Parliamentarians, tax professionals and other stakeholders, in order to increase the overall quality of tax policy and legislation.

4. Understand the wider consequences of new legislation

The principles of the *Tax Consultation Framework* are intended to ensure that a broad range of stakeholders have the opportunity to engage with the tax policy making process. For example, as set out above, reforms to Off-payroll working taxation were consulted on four times since 2015. These considered alternative options and discussed broader implications of the reform. In addition, a review of implementation was published in February 2020 and HMRC have commissioned research to assess the impact of this measure. Furthermore, the Government has supported taxpayer understanding of the Off-payroll working reform by providing greater clarity and information, such as the introduction and subsequent enhancement of the 'Check employment status for tax' (CEST) tool.

In addition, HM Treasury engages other Government departments where it is important to consider, formulate and manage policies which have wide ranging impacts. A recent example of such engagement is the Plastic Packaging Tax, which was developed in tandem with wider waste policy reforms led by the Department for Environment, Food and Rural Affairs ("DEFRA") and was decided on after considering a wide range of ideas to tackle plastic waste. Work also included cross-departmental engagement between HM Treasury, HMRC and DEFRA to consider design issues with the new tax and interaction with planned DEFRA reforms and coordinating of consultations in 2019 on the high-level design of the tax and waste reforms.

I fully recognise the importance of in-depth engagement with stakeholders on tax policy design and development, and the Government will continue to engage with stakeholders through the appropriate channels.

Forward-looking recommendations

5. Update the protocol on non-scheduled changes to tax legislation

I am pleased that you note that the *Protocol on unscheduled announcements of changes in tax law* ("the Protocol") introduced in 2011 has provided greater clarity in the tax policy making process. The Government remains committed to these principles and fully recognises taxpayers' need for predictability, stability and simplicity of the tax system. The action the Government has taken this year has been justified by the need to respond quickly to the unprecedented coronavirus outbreak.

The Protocol is intended to cover anti-avoidance tax legislation and the Government believes that it would be inappropriate to alter it to cover a wider set of situations. However, it continues to strive to keep the number of announcements made outside of fiscal events to a minimum.

6. Consider more digital consultation

The Government fully agrees with integrating digital technology in the tax policy making process, including on engagement with taxpayers and stakeholders. Indeed, it has already taken steps in that direction; the 2019 consultation on the design of the tax on plastic packaging announced at Budget 2018 allowed participants to submit their contributions via a webform. The Government will continue to explore other methods to improve the consultation process using digital technology.

7. Recommit to five stages

The Government remains committed to the five stages of the development and implementation of tax policy as set out in the 2017 commitments. Where tax policy reforms have been novel and wide-ranging (for example, the Plastic Packaging Tax and Digital Services Tax), the Government has ensured that taxpayers have had suitable time and opportunity to engage with policy development. However, it recognises that there are instances where it is not appropriate to adhere rigidly to these steps due to the political or fiscal need to implement changes more quickly. For example, over the past year, the Government has needed to design and implement tax policy rapidly in order to support individuals and businesses during the coronavirus pandemic. It was right to do so, and the Government will continue to adopt an appropriately flexible approach to tax policy in response to changing economic conditions. The Government will of course endeavour to keep such changes to a minimum. However, when it does need to develop policy more quickly, it will invest heavily in the breadth and quality of its engagement in order to ensure policy remains of a high standard.

With regards to your specific recommendation on clarifying the role of Calls for Evidence, these form part of stages 1 (Setting out objectives and identifying options) and 2 (Determining the best option and developing a framework for implementation including detailed policy design) of the five-stage process.

Lastly, you made a point on clarifying that Office of Tax Simplification (OTS) recommendations go through the formal consultation process. The Government considers the need for further consultation on OTS recommendations on a case-by-case basis, in the same way as with any other measure. For example, the OTS's November 2017 report on VAT examined the present level of the VAT threshold and the cliff-edge issues creating burdens on small businesses when it is reached. The findings prompted the Government to launch a Call for Evidence on their recommendations, which led to the Government's promise to maintain the threshold at its current level until 31 March 2022.

The Government will continue to find ways to improve the tax policy making process and its engagement with tax professionals and other stakeholders.

I thank you once again for producing this very useful report. I look forward to further discussions on how to improve the Government's engagement with the

work of the Tax Professionals Forum, and to meeting with the Forum to discuss how we can continue to improve the tax policy making process.

As ever,

A handwritten signature in black ink, appearing to read 'Jesse'.

RT HON JESSE NORMAN MP