



TAXREP 43/13

(ICAEW REP 119/13)

ICAEW TAX REPRESENTATION

IMPLEMENTING THE UNITED KINGDOM'S AGREEMENTS WITH THE CROWN DEPENDENCIES TO IMPROVE INTERNATIONAL COMPLIANCE

Comments submitted on 6 September 2013 by ICAEW Tax Faculty in response to HM Revenue & Customs discussion document *Implementing the United Kingdom's Agreements with the Crown Dependencies to Improve International Tax Compliance* published on 26 June 2013

Contents	Paragraph
Introduction	1-3
Who we are	4-6
Our comments	7-12
Ten Tenets for a Better Tax System	Appendix 1

INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the discussion document *Implementing the United Kingdom's Agreements with the Crown Dependencies to Improve International Tax Compliance*, <http://www.hmrc.gov.uk/fatca/uk-crown-dependencies.pdf>] published by HM Revenue & Customs (HMRC) / on 26 June 2013.
2. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
3. Information about the Tax Faculty and ICAEW is given below. We have also set out, in Appendix 1, the Tax Faculty's Ten Tenets for a Better Tax System by which we benchmark proposals to change the tax system.

WHO WE ARE

4. ICAEW is a professional membership organisation, supporting over 140,000 chartered accountants around the world. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession.
5. Our members provide financial knowledge and guidance based on the highest professional, technical and ethical standards. We develop and support individuals, organisations and communities to help them achieve long-term, sustainable economic value.
6. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.

OUR COMMENTS

7. We have been liaising with our colleagues in STEP and have seen a copy of their detailed submission in relation to the present discussion document and we endorse the points that they have raised in their submission.
8. We pick up below on a couple of key issues but we have not sought to provide a comprehensive answer to all the detailed questions in the discussion document.
9. We believe that the regime will be much more effective in the UK, and more straightforward to comply with, if as much as possible of the requirements of the regime are incorporated into UK regulations and guidance. It is not going to be helpful to our members, and others who have to comply with the new regime, if they have to consult a multitude of different sources to ascertain what are their obligations or the obligations of their clients. In particular if they have to consult US Regulations, with which they are not likely to be familiar, and in particular if those Regulations are likely to change, then it imposes an almost impossible burden on our members if they have themselves to keep up with all those changes.
10. We have been looking in particular at the implication of the agreement for trusts and we note that because the trust industry is regulated differently in the Crown Dependencies (CDs) than in the UK there could be differences. The STEP response highlights that trusts in the CDs could be eligible to be treated as "Local Client Base Financial Institutions" but would not have the same opportunity in the UK and this could, in turn, distort the market place.
11. In terms of due diligence we endorse the comment in the STEP submission that some of our members looking after family trusts will have been confident that they won't have reporting

requirements under US/UK FATCA but family connections with the CDs may put their clients potentially within the UK/CD FATCA.

12. On a general note we are concerned that there is currently a proliferation of different exchange of information regimes and in the FATCA area there is the initiative of the 5 largest member countries in the EU. There are then more general exchange of information arrangements in the EU more widely and the OECD and the Council of Europe have the Multilateral convention on Mutual Administrative Assistance in Tax Matters which in recent times has been signed up to by an increasing number of jurisdictions. The figure of 70 is quoted in the OECD Secretary-General Report to the G20 Leaders' Summit in St Petersburg on 5-6 September 2013. Our concern is that those who have to provide the required information may be doing so to inconsistent standards in a way which puts an unnecessary burden on business and its advisers.

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APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see [icaew.com/en/technical/tax/tax-faculty/~media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx](https://www.icaew.com/en/technical/tax/tax-faculty/~media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx))