Tax Representation

TAX FACULTY

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PAYROLLING BENEFITS IN KIND AND EXPENSES PAYMENTS AND ABOLISHING THE £8,500 LOWER-PAID EMPLOYMENT THRESHOLD: 'A FRESH APPROACH'

Memorandum submitted in March 2008 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to a consultation document published on 13 December 2007 by HMRC

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ICAEW Tax Faculty, Chartered Accountants' Hall, PO Box 433, Moorgate Place, London EC2P 2BJ www.icaew.com/taxfac	T +44 (0)20 7920 8646 F +44 (0)20 7920 8780 E taxfac@icaew.com

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INTRODUCTION

1. We welcome the opportunity to comment on the proposals to payroll all benefits-in-kind and expenses payments and to abolish the £8,500 lower-paid employment threshold published by HMRC on 13 December 2007 at http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_ConsultationDocuments&propertyType=document&columns=1&id=HMCE_PROD1_028208 with a Consultation Stage Impact Assessment at http://www.hmrc.gov.uk/ria/exp-ben-in-payroll.pdf

2. Details about the Institute of Chartered Accountants in England and Wales and the Tax Faculty are set out in Annex A. Our Ten Tenets for a Better Tax System which we use as a benchmark are summarised in Annex B.

KEY POINT SUMMARY

3. We consider that HMRC should:
   - abandon the proposal to introduce compulsory payrolling of all benefits-in-kind and expenses, as given the present rules it is impossible on a real-time basis for many benefits finally to quantify the taxable/NICable benefit within the payroll period; and
   - retain the £8,500 non-benefits code employment threshold unchanged, to alleviate compliance burdens for employers of part timers and voluntary organisations and similar.

   We believe that the proposals that all employers should payroll all benefits and that the £8,500 lower-paid employments threshold should be abolished are based on the wrong assumptions. These proposals would not have the intended effect of simplifying the system and saving time and effort for employers and would conflict with our tenet for a better tax system that a person's tax should be easy to calculate and straightforward and cheap to collect (Annex B).

4. In any event, there should be, in open consultation with representatives of employers, payroll bureaux and tax accountants, a root and branch review of the benefits-in-kind and expenses tax and NIC rules, including an examination of employer compliance costs, with the aim of simplifying radically the existing tax and NIC rules, and particularly which benefits and expenses attract Class 1 and Class 1A NIC, even if the outcome is less than perfect and includes some minor relaxations that reduce the tax take, as this would implement the Chancellor's wish to simplify the tax system and reduce burdens on business.

5. Whether or not compulsory payrolling is introduced we recommend that HMRC should:
   - continue to allow employers voluntarily to payroll benefits-in-kind and make the procedures consistent (if thought appropriate by codifying them, although this could introduce more, rather than less, complexity to the rules), for

example as regards forms and their contents, the change of employment form P45 and end of year reporting procedures to avoid double counting by including benefits that are payrolled on forms P45 and P14/P60 and not in forms P11D/P9D;

- make it easier for employers to obtain dispensations for business expenses and PAYE settlement agreements, with a view to most employers having these; and
- introduce standard hotel and subsistence rates for the UK which if claimed need not be returned as a benefit nor claimed on the self assessment tax return as a deductible expense
- make consistent tax and NIC administrative rules governing payrolls, for example recovery by employers from employees of NIC under-deducted, and the maximum deduction from an employees' gross pay of tax and NIC (the K code 50% rule);
- reduce the number of notifications to employers of changes to employees' code numbers by HMRC adopting procedures to ensure that code numbers reflect first time the wishes of taxpayers expressed in boxes 23.1 and 23.1A of personal tax returns;
- make employer efiling as simple as a credit card transaction; and
- (to simplify processing for HMRC) automate the processing of P9Ds.

6. If compulsory payrolling of benefits and expenses is introduced then we believe that the Government should:

- radically simplify the benefits -in-kind regime so that a payroll preparer can calculate the final quantum of all benefits for tax and NIC correctly first time in the pay period without having to revise calculations and liabilities subsequently (which would include ensuring that the rules are such that all the information that the payroll preparer needs is available by the beginning of the pay period);
- allow benefits for which valuations need to be ascertained to be left out of payroll and reportable by way of an end-of-year return or, if it is necessary to payroll such benefits, then they should be subject to revised rules, for example formulae so that a payroll preparer can correctly calculate the final quantum of the benefit for tax and NIC correctly in the pay period without having to ascertain and agree valuations;
- introduce a simple way to make available to employees the necessary information to enable them to claim appropriate deductions for expenses, without conflicting with the objective to reduce burdens on employers by reducing their reporting requirements;
- enable allowable deductions from earnings to be taken into account in the payroll by employers to obviate the need for employees to seek refunds through their self assessment tax returns – which could perhaps be pre-populated if the HMRC computer systems could be suitably upgraded; and
- consider, especially if the regime were widened to include deductions for business use which might obviate employees making claims in self assessment tax returns, giving recognition to the additional burdens placed on employers by making incentive payments to employers to do this .

GENERAL COMMENTS

7. We believe that the proposal to payroll all benefits and expenses and abolish the £8,500 lower-paid earnings threshold is fundamentally misconceived and should be withdrawn as they are based on an incorrect premise. Although working out which employees are above and below the £8,500 lower-paid employment threshold is an irritant, as are completing end-of-year forms P11D and P9D and submitting the forms to HMRC and providing them to employees, the far greater burdens for employers and their advisers are identifying what gives rise to a benefit-in-kind and calculating the amounts chargeable to tax and national insurance contributions (NIC) for each employee, and identifying and reporting expenses, even those which will not give rise to a benefit. This will not be obviated by converting an annual single form report into a requirement to calculate values weekly/four weekly/monthly and report the total differently via the P14 and P35: employers' work would only be more onerous.

8. The claimed administrative savings from this proposal are, in any event, likely to be outweighed by:
   - the administrative costs for those bodies, such as voluntary organisations, that currently do not have to complete P11Ds at all;
   - the higher NIC costs to employers resulting from including lower -paid employees within the benefits regime;
   - the increased salaries which will have to be paid to compensate for the reduced take-home pay of these low paid workers.

9. Given the existing complicated rules governing the benefits-in-kind and expenses regimes for tax and NIC, we would welcome clarification of how it would be less burdensome for any employer, instead of completing one annual P11D return three months after the last transaction that affects the benefit valuation, to be obliged in every pay period – ie 12 and, for some employees, 52 times a year – to:
   - identify what expenditure gives ris e to a benefit;
   - identify expenses, even those which will not give rise to a benefit;
   - calculate the tax and NIC on benefits and expenses and when applicable (eg for group benefits) how much is attributable to each employee; and
   - include all these in the payroll in time to ensure that employees are paid the right amount of net remuneration on the normal pay day,

   and then annually to include the details in end-of-year forms P14/P60 and P35 and submit these for the year to both HMRC and relevant employees within six weeks following the year-end.

10. HMRC's consultation on this proposal follows on from the success of payrolling benefits-in-kind in certain overseas jurisdictions and the fact that some UK employers already voluntarily account through the payroll for selected benefits and expenses payments for some employees (albeit in a variety of non-statutory ways). It also draws on the findings of the Institute of Payroll Professionals' questionnaire and the KPMG burdens report to the effect that completing form P11D is burdensome.

11. However, in other jurisdictions that payroll benefits-in-kind, the benefits code is simpler than in the UK. For example, the guidance published by the Irish Revenue at http://www.revenue.ie/leaflets/bikguide.pdf demonstrates that their rules and the way in which they are administered by the Irish Revenue are more pragmatic than in the UK.

The Irish rules normally enable the value of a benefit to be determined at the time that the payroll is prepared. The Irish rules include a de minimis limit of €250 covering one small benefit per year per employee. The Irish scheme also provides for shares provided by the company or through a share scheme to be returned by the employer and employee on end-of-year returns, not dealt with via the payroll. These factors taken together mean that the average Irish payroll preparer is more likely than his UK counterpart to be able to calculate the tax and social security contributions correctly first time without needing subsequently to revisit calculations and liabilities.

12. At present in the UK, for many small businesses employers, the year-end P11D returns are prepared by an external accountant who extracts the relevant information whilst compiling the business accounts. The average small employer therefore has no need to know in detail the tax and NIC rules for the benefits-in-kind that he provides. While large businesses can often afford to employ trained payroll staff, small businesses and voluntary organisations generally rely on external advisers who have the knowledge and skills required. They are unlikely, however, to have the resources to do the work every month or week, and the small employer is unlikely to be able to pay for the extra external help. At present the small employer is able himself to do the monthly payroll tax and NIC calculations for his employees without too much difficulty. However, if benefits-in-kind and expenses payments had to be accounted for via the payroll in time to enable net pay to be paid to the employee on the normal pay day, many employers, not just small ones, would probably have to pay someone else to do the payroll. This is because of the large volume of rules and guidance that payroll preparers would have to familiarise themselves with, including for example HMRC books 480: *Expenses and Benefits* (2008 version 100 pages in a font size 8 or 9), CWG5: *Class 1A National Insurance Contributions on Benefits in Kind* (2008 version 32 pages in a similar font size), 490: *Employee Travel* (2008 version 84 pages), all available via http://www.hmrc.gov.uk/employers/emp-form.htm. This is, of course, not a practical possibility: thus the result is either very much increased accountancy/tax costs for small employers or penalties for incorrect returns.

13. Larger employers will also have a potentially insuperable problem with timing. The payroll processing deadline may be as early as the 8th or 9th of the month. It will therefore be impossible to include March's taxable expenses in the March payroll run (and, indeed, February's totals may not even be ready), unless a 'month 13' payroll run is introduced to correct the figures before the annual P14s are prepared. However, even this will not solve the problem, as there still remains the issue of how to recover the PAYE and NIC from the employees.

14. Whether or not payrolling is introduced, a full-scale review and simplification of the UK's benefits-in-kind and expenses code and a real assessment of employer compliance costs is long overdue. This is especially so in view of the forthcoming new penalties regime which is likely to mean a higher likelihood of payroll preparers who are not tax/NIC experts getting it wrong and facing a penalty.

15. As to the proposal to abolish the £8,500 lower -paid employment threshold, we believe that it should be retained as it provides a real easement for employers in the voluntary sector and of part-timers, which outweighs the burden to employers of monitoring whether the total earnings of employees are exceeding it. Further comments on this are included under our answer to Question 8.

16. We recommend that the Government work towards enabling the average payroll preparer to calculate tax and NIC liabilities correctly first time in the majority of circumstances. This is not possible given the current complex benefits-in-kind and expenses tax and NIC regimes. This makes it questionable whether payrolling all benefits-in-kind and expenses payments would be workable for many employers. Unless the UK benefits-in-kind and expenses regimes are radically simplified so that all necessary information can be known by the beginning of the pay period, then the proposals compulsorily to payroll all benefits and abolish the £8,500 lower-paid employment threshold should be abandoned.

Allowable deductions from earnings

17. We welcome the statements in the condoc that 'HMRC is committed to reducing the administrative burdens that the tax system places on employers' (condoc page 3, third paragraph) and the tone of comments like 'keen to foster a shared understanding of the issues', 'ensure that any policy change is based on solid evidence that reflects practitioners' experience' (both on page 4) and 'we want to hear from you...' (paragraph 6.2).

18. However, the conclusion to Chapter 3 of the condoc and a review of the Impact Assessment (IA) sheds doubt on how open HMRC are to other views. For example, para 20 of the IA says that 'We concluded that introducing a statutory basis for all Benefits and Expenses to be included in the payroll for tax purposes from a specific date with simplified reporting procedures was the only practical way forward.' We would welcome confirmation that no decision to payroll has yet been made, and why the present system is impractical for the future.

19. On the assumption that the consultation for which comments have been invited is on 'whether' as well as 'if so, how' payrolling should be introduced, in the context of the comments in the paragraph before last we suggest that the terms of reference of this consultation should include one matter that is not considered in the condoc, namely the right of employees to claim deductions against earnings for sums wholly, exclusively and necessarily incurred in the performance of their employments and qualifying travel expenses.

20. Without wishing to propose yet more additional work for employers, it does seem to us that if benefits and expenses are to be payrolled, and tax and NIC paid on such benefits in real time, then the corresponding statutory deductions against earnings for sums wholly, exclusively and necessarily incurred by employees in the performance of their employments and qualifying travel expenses should also be reflected in their pay packets at the same time.

21. This in effect means that the employer would be allowed to self-dispense the items which come under the 'wholly, exclusively and necessarily' heading.

22. At present, the two sides (benefits and deductions) are matched, as code numbers are computed by HMRC using information in forms P11D/P9D and ITSA tax returns (for those employees within SA). However, although a stated intention of payrolling is to obviate the need for coding changes, removing only benefits from code numbers will not necessarily obviate the need for code numbers to include deductions relating to the employment.

23. The condoc does not, apparently, take into account the acknowledged fact that the rules for deduction of expenses differ for tax and NIC purposes. In the former case, a deduction is allowed only for expenses which are 'wholly, exclusively and necessarily' incurred in the performance of the duties of the employment, whereas the latter permits a deduction for expenses 'actually incurred'.

Dispensations and PAYE Settlement Agreements

24. Other matters not mentioned in the condoc, which are allied to deductions from earnings, are dispensations and PAYE Settlement Agreements (PSA). We suggest that HMRC could do much to simplify setting these up, for example by setting standard parameters, and administering them, for example by allowing self certification within limits and subject to periodic compliance checks.

Benefits subject to Class 1A contributions

25. It is possible to payroll benefits which are subject to Class 1 contributions, as both tax and NIC are in such a case paid or payable by the employee concerned. However, a problem arises in payrolling benefits which are subject only to Class 1A contributions, these being payable only by the employer.

ANSWERS TO QUESTIONS AND DETAILED COMMENTS

Chapter Two – Background for Change

Question 1.
It would be helpful to understand what advantages and disadvantages you see of operating the current statutory P11D process compared with the proposal to include Benefits and Expenses in the payroll.

Key point summary

26. This question asks for a comparison of the pros and cons of P11D and payrolling. The General Comments above include much material which responds to this question, but in brief, the comparison is between:

having annually to:

- identify what expenditure gives rise to a benefit,
- identify expenses, even those which will not give rise to a benefit,
- calculate the tax and NIC on benefits and expenses and when applicable (eg for group benefits) how much is attributable to each employee,
- complete forms P11D, and
- provide these to HMRC and employees by three months after the year-end,

and

having to undertake the aforementioned bulleted tasks in or for every pay period – ie 12 and, for some employees, 52 times a year – in time to ensure that employees are paid the right amount of net remuneration on the normal pay day,

and include the details in end-of-year forms P14/P60 and P35 and provide these to HMRC and employees by 19 May following the year end.

27. We acknowledge that the present system may not be perfect but it has evolved over many years and is at least workable. However, if payrolling of all benefits is introduced, then difficulties will arise on various fronts for those running payrolls including:

ascertaining the tax and NIC value of benefits, viz:

- benefits whose rules do not enable the quantum chargeable to tax/NIC to be ascertained before the information is needed to process payroll even though the quantum is based on an objective measure, eg
  - beneficial loans that may not go over £5,000 until month 12 or week 52,
  - beneficial loans that are not taxable because they are used for a qualifying purpose unrelated to the employment (eg, investment in let property) about which the employer has no right to information
  - utility bills for those in job-related accommodation for whom the quantum is limited by reference to 10% of annual rather than weekly or monthly pay,
  - the deemed cash equivalent of the private use of employer-provided assets which depends on the proportion of private use over the course of a year,
  - relocation expenses and benefits above £8,000 (which were deliberately excluded from PAYE for this very reason);
- benefits whose rules do not enable the quantum chargeable to tax/NIC to be ascertained before the information is needed to process payroll because a valuation needs to be agreed or at least considered by HMRC to be reasonable, eg
  - shares or share options provided resulting in a sec 222 benefit,
  - the marginal cost of in-house services,
  - assets transferred with no obvious second hand value (the Veltema case comes to mind),
  - car and fuel benefits from employees in the motor trade who use a different vehicle every day or week;
- benefits which are paid for by an employer annually and which straddle a tax year, eg medical insurance,

and

obtaining the information, for example:

- in bigger organisations where different offices or even different parts of the employer, eg different departments or different companies, possibly even based in the different countries, are responsible for different aspects of an employee's remuneration package; and
- in organisations where the IT is not 'joined up'.

Explanation

28. The idea of including benefits on the payroll sounds simple and logical, as it means that the tax and NIC liability will paid at the time the benefit is provided.

29. What is essential for payrolling benefits is for the payroll preparer to be able to determine in each pay period:
- what benefits and expenses have to be included on the payroll for each employee;
- the value of all such benefits and expenses;
- whether they are taxable and if so calculate the tax; and
- whether they are subject to NIC and if so to what class, and then calculate the NIC.

30. If payrolling is to avoid increased burdens on those who prepare payrolls and make returns of benefits and expenses, then it will be necessary in any new system for calculations of the tax and NIC to be done once and once only at the time of preparing the payroll in the period in which the benefit is supposed to be subjected to tax and NIC. However, we cannot see that this will be possible, at present. Valuations could always be corrected retrospectively if HMRC were also to introduce universal self-assessment, but since that would impose significant new burdens on the Department and on taxpayers, it must be avoided at all costs.

31. The main reason why payrolling will not be as simple as it appears is that first the rules governing the UK benefits-in-kind regime do not necessarily allow the value of the benefit to be quantified by the time the payroll for that period is prepared, and secondly where valuations are needed. In both cases, if the benefit cannot be quantified in the pay period to which it relates so that an estimate has to be included in the calculations, then employers will have to revisit their payroll calculations, which takes time – and employees similarly prefer their take-home pay to remain predictable, if not constant.

32. Examples of benefits and other issues which cannot be easily payrolled under the present benefit-in-kind rules include:
- overdrawn directors' loan accounts, where a small company could not and should not be expected to engage its external accountants to calculate the balance each month so that it can payroll the benefit;
- beneficial loans generally, where it is necessary to know the balance on the loan(s) at the beginning and end of the tax year or every day throughout it, and to know that the balance will exceed £5,000 at some point in the tax year;
- cars provided to salesmen of new cars, who change their cars frequently, some every three months;
- relocations, where there are a number of factors to be taken into account, and a benefit is only triggered once the £8,500 threshold has been breached;
- 'private use' proportions, which in addition would need to be monitored;
- whether the private use of an asset is 'not significant' – determining this on a monthly basis is not the same as working this out on an annual basis; and
- Christmas parties, because whether or not there is a benefit depends on the number of people who actually attend the function (not the anticipated numbers) and includes the costs of their transport: establishing these in relation to events near the payroll deadline date will not be easy.

33. Even some benefits that should generally be predictable can pose problems. For example, a large group private medical scheme may involve only annual declarations

for the purpose of calculating premiums, but those premiums can be subject to retrospective adjustment once leavers and joiners are taken into account. By the time of the adjustment, some of the employees will have left the payroll or the employment in question.

34. The benefits cited in the preceding paragraphs are some of those where the rules do not enable taxable/NICable amounts to be quantified in the pay period or where it may simply be virtually impossible to get the information to the payroll department in time. Other benefits that will be difficult to payroll will include those where the values have to be agreed with HMRC.

35. However, further practical issues arise even with benefits that might be considered straightforward. Annex B of the condoc provides an example based on the provision of private medical insurance. It is envisaged that the value would be included on the payroll spread over the remaining months of the tax year with the tax on the benefit being deducted month by month from cash pay. It leads to simplification for HMRC as no tax code change is necessary, and the benefit would be reported on the modified P14 and the Class 1A NIC on the modified P35, both by 19 May as now, and the Class 1A paid in July, also as now.

36. Under the proposed statutory payrolling process envisaged in Annex B, the condoc says the benefit cannot be spread beyond the tax year. Thus, unless the renewal date for the medical benefit is between 6 April and the final date for processing information that is needed for April payroll, the employee will be paying tax on more than one twelfth of the annual benefit, whereas at present he pays tax on one twelfth of the annual benefit. The tax charge needs to be spread over twelve months as, at the extreme, under the proposals, if the annual medical insurance renewal is in March the employee will pay tax on the annual value of the annual premium in a single pay period, which is clearly not fair for the employee as he will suffer a disproportionate charge.

37. Just this sole and very simple example given by HMRC itself raises many questions. How many more will arise for trickier items?

38. By way of a suggestion to resolve the problem of quantifying the taxable and NICable amount of benefits and expenses, we suggest that there are lessons to be learned from the Irish experience in terms of simplification. The benefits that they do and do not payroll are similar to those we do and do not tax. However the rules for taxing the benefits make payrolling simpler. Indeed, some benefits are exempt from tax/social security contributions altogether, which suggests that in the UK some less important benefits that are too difficult to deal with under PAYE should simply be exempt from tax and NIC.

39. For example, the Irish exclude all share scheme gains from payrolling. These are reported in year-end employer return form P11D and taxed via employees' tax returns. Real simplification could in fact be achieved in ITEPA by removing the PAYE (and NIC) charges on benefits under Part 7.

40. Employer contributions to in-house medical plans or retainers for GPs are excluded from Irish tax, presumably on the grounds that it is impossible to allocate the benefit fairly. Additionally, the Irish do not tax any employer-provided medical check-ups,

without limits. Season tickets for transport are not subject to PAYE or PRSI. This last is presumably a policy choice to foster the use of public transport.

41. The Irish are also very pragmatic about tax unable to be collected due to an insufficiency of cash pay. The employer still has to pay over the right deductions, but instead of the penal arrangements that we have under s.222 ITEPA 2003, they allow the employer and employee to arrange for repayment as they choose, and any continuing underpayment becomes itself a benefit in the following tax year. If the employee has left, it becomes a P11D and tax return benefit rather than a PAYE benefit.

42. We suggest that there are lessons that the Irish have learned and applied that HMRC can use in its considerations. In order to make payrolling fulfil the stated objective of reducing employer burdens, we suggest that HMRC should give serious consideration to eliminating some of the more petty but complex rules, so we get to a better starting point.

43. Small businesses who currently send all details to their external accountant at the year end who completes P11Ds when doing accounts would have to engage their accountant to compute benefits every month with the latest - including recomputing any estimated figures - being submitted by 19 April, ie the deadline for submitting the March payroll tax and NIC remittances. This will increase costs for employers, perhaps tenfold, involving as it does a dozen exercises instead of one, and impose impossible resource requirements on advisers.

44. Also in some organisations, the information on benefits and expenses has to be collected from different departments, for example, some from accounts payable departments, some from cashiers, and some from human resources department. If all benefits and expenses have to be payrolled, then accounts payable will have to liaise with human resources and both would have to inform the payroll department what needs processing, and all within a fortnight or so in order to meet payrolling processing deadlines which are determined by pay days, so that the finance department can be told how much to pay both to employees and HMRC.

45. We also question the cost estimates of putting benefits through the payroll, including making software changes and gathering the information in the time available.

46. Further difficulties are referred to below in our comments on the question in paragraph 4.12 of the condoc (numbered Question 6A in this memorandum).

47. In the words of one member: ‘The changes seem to have been proposed by people who have never operated a payroll.’ ’

Question 2.
We are interested to hear your views on the proposal to introduce a statutory basis for payrolling and a framework to ensure consistency across all arrangements.

48. This question arises from the discussion in paras 2.18-2.24 about the ad hoc arrangements between HMRC and employers who currently payroll some benefits.

49. We consider that the inconsistency between arrangements referred to in p ara 2.8: arises from an absence of a consistent policy set down by HMRC. Although regulations require reporting of all benefits currently, the way to avoid double counting is to not show benefits which have been payrolled on forms P11D as well as on forms P14/P60, otherwise the current year's tax liability of the employee will be calculated on the basis of the P60 figure (including payrolled benefits) plus the P11D figures (including the same benefits). The double counting would be compounded by the following year's code including a restriction for benefits shown on the form P11D that are being payrolled.

Chapter Three – Payrolling: Simplifying the Process

Question 3.
What do you think will be the advantages/disadvantages of formally introducing a system that enables employers to account for the tax due on Benefits and Expenses through PAYE?

50. Chapter 3 considers three options. We think that it is unfortunate that HMRC dismissed two options before the condoc was issued. This means that the consultation is incomplete, as we believe that there is a need to make P11Ds and payrolling work side by side.

51. The disadvantages of payrolling are covered elsewhere in this memorandum. They include:
- 12 or 52 exercises rather than one;
- 11 or 51 more opportunities to get it wrong;
- monthly cash flow problems for employees as net pay changes every month;
- beneficial loans fluctuating balances;
- increased payroll costs;
- it does not fit in with reimbursed expenses;
- payrolls will have to be outsourced;
- increased professional indemnity Insurance costs for advisers;
- extra boxes on P14 – more work;
- discourages small employers from taking on people who would receive benefits;
- payment complications with Class 1 and Class 1A;
- payroll benefits would generate problems when there is an annual benefit rather than a monthly benefit; and
- the P11D and Class 1A reporting time limits are effectively shortened so that reporting must be carried out by 19 May.

Deductions against earnings

52. Consideration must be given to whether deductions against earnings should be integrated into payrolling.

53. HMRC is concerned in para 3.3 that a new employer would need to know whether benefits and expenses received by his new employee from his previous employer

have been dealt with in the previous employment. This concern is unwarranted. All the new employer needs is one figure for gross pay including payrolled benefits to date and a figure for tax to date, and the employee's code number.

54. Para 3.24 ignores deductions from earnings: collecting tax and NIC on expenses through the payroll takes no account of claims that the taxpayer is entitled to make for deductions for tax purposes against his emoluments. Many expenses paid are re-imbursements of travel, subsistence and purchases on behalf of employers, so all are 'in and out' with no net taxable benefit. Dispensations can be negotiated, but for companies with a sole director or sole trader employers, members report that HMRC are reluctant to grant these. The current system allows for expenses to be offset against income before tax is collected.

55. If expenses are to be payrolled, then deductions under s.336 ITEPA and the like should similarly be taken into account through the payroll. To do this, employers would have to redesign their expenses claim forms to perform a dual purpose, so that they could be used as a means of reimbursing the cash to the employee and as a payroll input form. For example for re-imbursements of travel, subsistence and purchases on behalf of employers, which are all business expenses, the form could include a claim by the employee so that only the private element is payrolled. As another example, where fuel is claimed for business mileage by an employee from an employer who pays less than the maximum rate specified by legislation, so the employee is presently entitled to claim the difference through his tax return.

56. The principle of both equity and paying the right amount of tax at the time the expense is taxed suggests that such claims should be able to be made in real time through the payroll so the expense is aligned with the deduction. This could be achieved if the employer redesigned his fuel claim forms to perform a dual role, first to enable the employee to recover cash at the employer's per mile rate, and secondly to enable the employee to claim for tax purposes the difference between the employer's per mile rate and the per mile rate set down in the legislation which would result in a deduction from gross pay in that pay period, ie a 'negative' figure being payrolled. HMRC policy to date would be to deny such an automatic deduction, so a change of policy would be required.

57. As in most businesses claims for expenses are generally not processed through the payroll, a dual purpose form would necessitate a redesign of processes, to enable the expenses claim and the tax deduction claim to be approved, and then the form would be split and passed to the dept responsible for reimbursing the employee and to payroll so that the necessary alteration to 'gross pay, benefits and expenses' could be made. Only in businesses that process expenses through the payroll would the dual purpose form also act as an input document to result in an addition to net pay to reimburse the employee.

58. Consideration of the foregoing would have to have regard to the problems for most employers of assembling all the information. The cost of system redesign militates against the idea that the proposed system is simpler.

Question 4.

What guidance would you like from HMRC and what would your preferred style/format be for that guidance e.g. paper, internet or CD-ROM?

59. All three formats. It is to be hoped that the internet version will be easily found when required, unlike the consultation document itself which is tucked away on a Customs and Excise part of the website and to which no link was provided on the 'What's New' page. Also, the guidance must be available well in advance , in contrast to the extension of the Class 1A charge in 2000 where there was neither guidance nor even consultation until after the charge had started to accrue.

60. However it should be emphasised that although easily-digestible guidance will be vital to enable employers to implement the rules, such guidance is likely to prove less important to reducing burdens on those who will have to include benefits and expenses in payrolls than rules that enable finality to be achieved in the pay period.

Question 4A (para 3.27)
What do you think will be the advantages/disadvantages of taking payrolling forward on this basis?

61. This question is included in the text of the condoc at para 3.27, but not in the questions list in Annex B.

62. We assume the question is referring to the proposal in para 3.27 to set up a working group and if payrolling is taken forward then we would welcome the opportunity to participate in a working group. However, the appropriate issues to take forward are not payrolling of all benefits for all employers and abolishing the lower-paid earnings threshold but:

- simplification of the existing rules for taxing/NICing benefits-in-kind and expenses;
- making consistent, and if thought necessary codifying, the existing ad hoc arrangements under which some employers payroll some benefits;
- improving guidance for employers;
- making consistent for tax and NIC certain administrative rules governing payrolls, for example recovery by employers from employees of NIC under-deducted, and the maximum deduction from an employees' gross pay of tax and NIC (the K code 50% rule);
- reducing the number of notifications to employers of changes to employees' code numbers by HMRC adopting procedures to ensure that code numbers reflect first time the wishes of taxpayers expressed in boxes 23.1 and 23.1A of personal tax returns;
- making employer efiling as simple as a credit card transaction; and
- (to simplify processing for HMRC) automating the processing of P9Ds.

All such changes would be best taken forward by HMRC with the assistance of joint bodies working groups, and we would welcome the chance to participate.

Chapter Four – Introducing Formal Payrolling - Some Issues to Consider

Question 5.

We are interested in your thoughts on HMRCs proposed approach (described in paragraphs 4.1 to 4.6) for handling the tax implications of Benefits and Expenses provided when an employee changes employment.

63. The document sees a need to separate salary and benefits on the P45. It is not clear why. If all earnings are payrolled, in principle there is no need to separate these on the individual's own self assessment return and a breakdown of details is of no use to the new employer as a new employer's actions can only be in relation to their own benefits, etc provided.

64. For our comments on information provision as it affects others, see our answer to Question 7.

Question 6.
What issues, if any, would you see with extending the practice of best estimates to Benefits and Expenses generally; but only where the actual value is not known?

65. Paragraph 4.7 says that putting an exact value on a particular benefit to include on the payroll at the right time may not always be possible. A best estimate is envisaged with an adjustment in the next pay period after accurate determination. Anything outstanding after the final pay day in the tax year (not 5 April itself) will be the subject of a separate report.

66. Para 4.10 says that best estimate practice is already well established in the case of shares, securities and options. We do not dispute that, but there are two points to note here.

67. First, there are only a thousand or so employers who pay such remuneration, so for the vast majority of the UK's 1.2 million employers – particularly smaller ones – the concept of valuing benefits is unfamiliar and will be a difficult and burdensome one to grasp.

68. Secondly, at present where an employer applies tax under PAYE and Class 1 NIC on a 'notional payment', for example shares that are readily convertible, on a 'best estimate' valuation (as they must if the stock is not quoted on an exchange) and that valuation later proves to be too low, the question arises whether an adjustment is required.

69. For income tax purposes, provided HMRC accepts that the employer's valuation at the time of the transaction was not unreasonable, the additional tax is paid through self assessment by the employee concerned. Determination of the figures depends on the form 42 and the ITSA return, for which there is over a year to settle enquiries.

70. For NIC, there is no mechanism to 'correct' the position. Under the NIC regulations, the earnings figure for NIC purposes is the employer's best reasonable estimate of the market value of the readily-convertible asset at the time the asset is acquired.

71. So in effect, insofar as employers are concerned, the system with which the tiny number of them is familiar is one where the best estimate if found to be wrong is

generally left undisturbed, which is in contrast to the proposed unsatisfactory solutions in paras 4.7-4.8 that the employer must review the estimates by the end of the year and adjust affected employees' payrolls, failing which they will have to include certain details in P14 (para 4.8) or failing which make a report by the following 31 January (para 4.9).

72. Assuming the same deadline as that in para 4.9 (31 January) is proposed for supplying the information to employees, given that most employees wait until they have received their copy P11Ds before completing their tax returns, it will be too late for employees to be able to enter the information in their ITSA tax returns. If it is proposed that employees would have to repair their tax returns to enter this information, we would welcome confirmation that this would not extend the enquiry deadline.

73. If payrolling benefits is to be real simplification, then employers should not have to revisit payroll calculations to revise estimate d valuations. Therefore, unless HMRC are willing to accept best estimates of valuations made in the pay period as a final figure, benefits which need to be valued should not be subject to payrolling but should be reported to HMRC on forms P11D/P9D by 6 July as at present. If this is not acceptable, then every benefit should a have a generally-accepted valuation methodology set out on HMRC's website so payroll preparers could interrogate the website to find out precisely what to put into the payroll.

74. We would also welcome clarification of how it is envisaged that employees would be able on their ITSA returns to revise employers' estimates of benefits (or would have sufficient information to do so, despite what is in paras 4.7-4.11). We would have thought that this should be part of the improved clarity. There may also be synergy gains here for pre-populated SA returns (if or when issued).

Question 6A (para 3.27: Practical Difficulties - Payrolling Benefits & Expenses) …[W]e would be interested to hear your thoughts or about any other situations where you think difficulties could arise and on which HMRC will need to provide guidance.

75. This question is included in the text of the condoc at para 3.27, but not in the questions list in Annex B.

76. We welcome the undertaking in para 4.12 to work with employers and their representatives to find solutions to the difficulties listed. These difficulties are very real, and it is disappointing that the condoc contains no ideas as to how they might be resolved.

77. Paragraph 4.12 first and second bullets refer to the problems of an employees' net pay being reduced to below a certain percentage of gross pay if the tax due on the benefit/expense were deducted correctly in a particular pay period, and insufficient cash payments from which to deduct the tax on benefits and expenses.

78. We assume that for tax something akin to the K codes rule under which an employee's take-home pay cannot be reduced to less than 50% of gross pay would continue in order to deal with the first of these. For NIC, any problem with Class 1

recovery has always been there (and the authorities have always refused to enable easier recovery by employers from employees for many non-cash items). This is an area where, whether or not payrolling of benefits is introduced, it would be appropriate to introduce rules for NIC that align with the tax rules. Employers need greater ability to recover Class 1 in respect of non-cash items, but at the same time (where the figures are extreme) the employee should be protected from the prospect of all cash pay being wiped out by tax and NIC on non-cash items, so we suggest that the 50% rule be extended to Class 1 NIC. At the same time, there will need to be a provision setting out which of income tax and NIC takes priority.

79. We also recommend that consideration be given to revising the rule that charges Class 1A on a benefit-in-kind on the full amount even where there is partial business use. The all or nothing charge is not in accord with the Chancellor's policy announcement in the 1999 Budget. We consider that employers should be able to take account of business use in calculating the Class 1A charge, where they have the information. The current rule was introduced so as to ensure that employers did not need knowledge of employees' personal tax affairs, but it works unfairly.

80. As part of any review of the policy underlying the rules, consideration should be given to why the NIC treatment of various expense items, for example, telephone lines, depends on the legal status of the contract. .

81. The condoc does not mention that the extra employee tax that the employer is withholding and then paying over to HMRC will automatically make it more difficult for those smaller employers who currently might just qualify for quarterly remittances of PAYE/ NIC on size grounds to do so subsequently. We recommend that in the interests of reducing burdens on such employers, the de minimis limit below which PAYE and NIC can be paid over quarterly to HMRC be increased to £2,500.

82. The third and fourth bullets of para 4.12 rightly highlight the fact that if payrolling is introduced, it will necessitate solutions being found to overcome the difficulties that will arise where an employer cannot establish the value of the benefit or expense in question by the end of the tax year – at present, the employer has until the due date for submitting the P11D to work this out and the outcome is automatically related back to the correct year – and where a benefit or expense cannot be included in the payroll, for example benefits provided to overseas workers where the main salary is paid via a UK-based payroll.

83. Similar problems will arise for benefits provided by third parties.

84. Another issue that needs consideration is the excess PAYE situation, which is mentioned in the condoc. We would not like the solution to be that of a notional payment having to be made good.

85. We would welcome clarification of what penalties are envisaged for errors. It appears that penalties for what are currently P11D defaults would presumably become larger? PAYE failures by large e-payment employers in respect of minor benefits omitted from payroll could lead to a 10% surcharge on the annual PAYE and NIC bill, which wold be wholly disproportionate and would alienate the large employer population.

86. Regard will have to be had to recognition of form 42 or EFRBS reporting.

87. We suggest that if there is going to be a fresh approach, then consideration should be given to real simplification with a re-worked PSA for all benefits. This could be calculated on say a derived or weighted income tax rate, with monthly payments, etc. This would obviate the need for redesigned forms P45 and P60.

Question 7
We would welcome views on information provision requirements, particularly in relation to the P14/P60.

88. This question arises from the information provision section in paras 4.16-4.19.

89. Paragraph 3.7 of the condoc says that HMRC would not expect the same level of detail on the P14 as currently required on form P11D, possibly only a monetary value for the benefits or expenses provided. The RI goes further, saying at para 17 that 'employers would be required to record on form P11 and report details of the value of the benefits and expenses they provide on a modified P14 (P60 the employees copy)…'. We would welcome clarification as to whether this is simply the total or 'details' of individual benefits.

90. Whilst it is not clear from the above exactly what information provision is envisaged, we think that in practice a full breakdown of pay, benefits and expenses distinguishing between individual benefits and expenses will be needed by:

- employees, to enable them to know what they have been taxed on and what they have to report in the relevant boxes on the SA return employment pages, and to claim relief for allowable deductions against their earnings; and
- HMRC for ITSA inquiry, PAYE audit, statistical and policy-making purposes, but by:
- employers for management control and audit purpose s, and to enable them to provide the information to others.

91. If an employee claims for relief under s.336 ITEPA 2003 and other deductions against earnings are ignored, the only information that is needed by the employer correctly to calculate the tax and NIC on benefits and expenses will be the aggregate of cash salary, benefits and expenses. However, to enable the employee to make a claim for allowable deductions against his earnings, he needs to know the make-up of total pay, benefits and expenses against which he is claiming relief. Some of the employee's claims may be for reimbursed expenses which have been incurred for business purposes, such as hotel and travel costs, but for which the employer has no dispensation, others may be expenses of which the employer has no knowledge, for example additional claims for mileage allowance as the employer does not reimburse the maximum mileage rate allowed by the law, or professional subscriptions not reimbursed by the employer.

92. The employer will *have* to be obliged to provide to all employees on their payslips and at the end of the year, or on the employee part of form P45, a breakdown of benefits and expenses separately identified from salaries/wages in case the employee is entitled to claim relief under s.336 ITEPA 2003 or, for example, for subscriptions., The employee may not trust the employer and, simply for his own

peace of mind may wish to know the make-up of the gross pay and benefits figure in his payslip, which includes benefits and expenses on which tax and NIC has been deducted. Perhaps more plausibly, he needs to distinguish between his taxable benefits for the purposes of inserting individual figures in separate boxes on his ITSA tax return.

93. The employer will need to keep a breakdown for management control and external audit purposes, whether a PAYE audit or an external audit of the accounts.

94. At present, benefits and expenses are notified by employers to employees via copy forms P11D and employees claim relief under s.336 ITEPA 2003 in their tax returns or on form P87. Where the employee has negotiated a dispensation, then expenses covered by it are left out of the P11D.

95. This is not going to be problem for employers who use software which provides this facility, and where each benefit is separately identified when input (so that the software knows the rules and performs the necessary calculations depending on what the benefit or expense is), although such sophisticated output requirements are likely to make payrolling software very expensive.

96. However, this will be more problematic for payrollers who perform the calculations manually. Although efiling will be mandatory for all employers for 2009/10 onwards, there are doubtless some who will continue to operate manual payrolls and whose figures will be transferred either by themselves or advisers onto electronic filing media to comply with employer end-of-year filing obligations.

Chapter Five – Removing the £8,500 Earnings Threshold for Benefits

Question 8.
We welcome your thoughts on the proposal to remove the £8,500 earnings threshold for Benefits in Kind

97. The lower-paid employment threshold of £8,500 has remained unchanged since 1979 and is essentially a de minimis threshold for most benefits. Employers have to perform a calculation at the margin and HMRC claims that employers and their representatives have asked for the threshold to be increased significantly or else be abolished altogether.

98. We consider that the £8,500 lower-paid employment threshold should be retained. It provides a real administrative easement at comparatively minimal exchequer cost for, eg, organisations in the voluntary sector and the like who pay very little but provide some minor benefits, and employers of part-timers, but it has a big impact for the employees concerned. We do not consider that the employer compliance burden in working out whether someone is above or below the threshold warrants its abolition. It would be helpful if HMRC would publish as part of its summary of the consultation responses the total number of occasions on which its Employer Compliance teams have found errors in employer audits in each of the last three years. Readers and Ministers could then make a soundly-based assessment of how much difficulty the test really causes in practice.

99. Indeed, many see this proposal as simply a tax-raising manoeuvre rather than an efficiency move. This is especially so as it will affect the poorest sector of society, because £8,500 is about the level of the national minimum wage for an employee working 30 hours per week. We appreciate that those with three or four employments earning, say, £5,000 from each would gain a minor advantage but for those with overall earnings from a single job of less than £8,500, which is likely to be the majority, it is punitive, as their tax charge will increase by 20% (or 31% if Class 1 NIC is to apply under a payroll system) of the cash equivalent..

100. The provision of benefits is much more prevalent now than it was even in the late 1970s and as stated in the condoc Government policy is to neutralise the tax difference between being remunerated by way of cash and by way of benefits. We accept that payrolling will be more difficult with two different sets of benefit rules, ie, for those earning under and over the threshold, just as it will be with different expenses rules for tax and NIC, but the condoc does not even start to consider the latter point. HMRC also fairly observes that if the national minimum wage legislation is being adhered to, no full-time worker can be outside the P11D net and few part-time workers receive benefits and expenses. HMRC also believes that the number of P9Ds is around 70,000 and that the majority of these are people who have some control over the make up of their pay and benefits, such as spouse s and partners of close company directors.

101. As HMRC records will not show what types and volumes of benefits are provided to millions of low-pay workers in, eg, the retail and leisure sectors (such as all the currently non-taxable discounts on goods and services), we would recommend that HMRC be required to undertake detailed research among large employers and report publicly the findings as to the likely number of employees who would face an increased tax liability if the £8,500 threshold were abolished.

102. If it is considered that the £8,500 the lower-paid employment threshold should be abolished to stop employee spouses in owner-managed businesses from benefitting, then, in order not to impose what will be a large burden on deserving employers and employees, we suggest that consideration be given to not making it available where employee and employer are connected (subject to a suitable definition of the term). This would be similar to the way that it is withheld where there are ‘related employments’ (section 220 ITEPA 2003).

103. The impact assessment at para 81 says that 19,000 employees benefit from the lower-paid employment threshold and in para 89 it cites a potential exchequer loss of in the region of £10million if the threshold is retained. On the basis of these figures, this averages out at approximately £500 per employee. Assuming that one-third of this figure is Class 1A NIC, then that means £300 tax and NIC per year for people earning a maximum of £8,500, which is a substantial sum for someone on that level of pay with a 20% tax rate. This alone makes the estimate look questionable. Abolishing the threshold will mean that employees at that level will either suffer a drop in take home pay or seek a pay rise to compensate, which would increase employer costs. Alternatively, the employees, particularly those working in the voluntary sector, may decide to give up work and, consequently, any contribution to the Exchequer and to the well-being of the country as a whole will be lost.

Question 9.
If you provide Benefits or pay Expenses to employees that earn at a rate of less than £8,500 per year, it would be helpful if you could provide some examples of the circumstances when this situation arises.

104. Many voluntary organisations pay the national minimum wage for a few days or hours a week of an individual's time. They are also likely to provide some small benefits, such as insurance of personal possessions when the individual travels overseas, or limited use of a car, van or motorbike owned by the organisation, or accident/life cover. Currently the total of the wage and benefit are below the lower-paid employment threshold so there is no need to report the benefit and there is thus no need for private use to be monitored, for example, there is no need to check whether the car or bicycle owned by the organisation is used for occasional home to work travel.

105. We have two concerns. First, for items other than vehicle benefits, the administrative requirements needed to monitor such benefits would be disproportionate, eg for taxable amounts of less than £50 a week, the administrative and opportunity costs of policing is likely to exceed this by far. Secondly, the addition of a time-apportioned car private use charge to the tax bill of someone earning only £3,000 a year for working in a charity shop one day a week, because there is some occasional private use of the car in which donations for the shop are collected, is also disproportionate.

106. There is, of course, a separate Government policy initiative to encourage individuals to engage with charities, and the proposal to abolish the lower-paid employment threshold runs counter to that initiative. We suggest that if it is decided to scrap this threshold, then in order not to thwart this Government policy, consideration be given to retaining it for the voluntary sector (however that may be defined).

107. Similarly, there are many part timers who benefit from the lower-paid employment threshold and imposing additional tax and NIC on them would create hardship. The text that follows is an edited version of comments from a member. 'Most of the payrolls that we run are weekly ones and for employees on modest incomes. We are concerned at the idea of abolishing the £8,500 threshold - although the amount concerned is now far too low. If the £8,500 limit had been raised even half way to cover inflation then almost all would have come under that shelter.

108. 'Most expenses paid are reimbursements of travel, subsistence, purchases on behalf of employer, etc, that is to say, all are straight 'in and out' with zero net taxable amount. Yet there does not seem to be much recognition of this in the condoc. Obtaining dispensations is easier said than done as HMRC seem to be reluctant to grant especially for those companies with only a sole director or sole traders with employees, eg my pub clients as below.'

109. The member cites having several pubs on his client list, most with weekly payrolls. All of our member's client's pubs are country pubs, thus there is no public transport especially at closing time. Many have part-time employees, often female, who are vulnerable at closing time. Because almost all are very part-time, all are below the £8,500 earnings limit, at least from this job, and most are coded on BR because they have part-time jobs elsewhere. Any other earnings (daytime) are with unconnected employers. All our member's clients seek to be responsible employers (with

competition for staff, the offer of a taxi home at the end of the evening's work is almost a prerequisite to getting anyone to accept the work) and they have arrangements with taxi firms to take staff (and customers - though they have to pay) home at night. Whilst the £8,500 regime is in place then there is no onerous requirement for detailed record keeping of the 'benefit' of the late night transport home.

110. In this regard we would draw attention to our comments in TAXREP 63/07 http://www.icaew.com/index.cfm?route=151471 in which we recommend that, as a matter of policy, the tax system should recognize the requirements of health and safety and employment laws by removing the tax charge on all late night taxi journeys provided on grounds of personal safety. This would also be a considerable simplification, which will be essential if employers are going to be able to cope with payrolling benefits.

Question 10.
Our estimate of administrative burden savings, from removing the threshold, is included in the Impact Assessment at Annex D of this consultation paper; what would you estimate could be the potential savings for you?

111. As will be clear from the comments above, we believe that the majority of employers would face increased costs, not administrative savings. We have concerns that our members would be unable to provide the required level of service, and that small employers would not be prepared to pay extra for the extra work.

PCB
12.3.08

ANNEX A

ICAEW AND THE TAX FACULTY: WHO WE ARE

1. The Institute of Chartered Accountants in England and Wales (ICAEW) is the largest accountancy body in Europe, with more than 128,000 members. Three thousand new members qualify each year. The prestigious qualifications offered by the Institute are recognised around the world and allow members to call themselves Chartered Accountants and to use the designatory letters ACA or FCA.

2. The Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department for Business, Enterprise and Regulatory Reform through the Financial Reporting Council. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members, to provide services to its members and students, and to advance the theory and practice of accountancy, including taxation.

3. The Tax Faculty is the focus for tax within the Institute. It is responsible for tax representations on behalf of the Institute as a whole and it also provides various tax services including the monthly newsletter *TAXline* to more than 10,000 members of the ICAEW who pay an additional subscription.

4. To find our more about the Tax Faculty and ICAEW including how to become a member, please call us on 020 7920 8646 or email us at taxfac@icaew.com or write to us at Chartered Accountants' Hall, PO Box 433, Moorgate Place, London EC2P 2BJ.

ANNEX B

THE 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 http://www.icaew.co.uk/index.cfm?route=128518.