

TAXREP 39/03

HM TREASURY REVIEW OF INLAND REVENUE AND HM CUSTOMS & EXCISE

Report based on the text of a memorandum submitted in October 2003 by the Tax
Faculty of the Institute of Chartered Accountants in England & Wales to HM
Treasury concerning the Review of Inland Revenue and HM Customs & Excise
announced in July 2003

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HM TREASURY REVIEW OF INLAND REVENUE AND HM CUSTOMS & EXCISE

INTRODUCTION

1. The **HM Treasury Review of Inland Revenue and HM Customs & Excise** was announced by the Chancellor of the Exchequer, Gordon Brown on 2 July 2003. The Press Release issued at the time indicated that ‘the major focus of the Review will be making public service delivery more effective and efficient.’ This document is based on a paper submitted to the Treasury in October 2003.

WHO WE ARE

2. The Institute is the largest accountancy body in Europe, with more than 123,000 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.
3. The Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department of Trade and Industry (DTI) through the Accountancy Foundation. 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 (which includes taxation).
4. The Tax Faculty is the focus for tax within the Institute. It is responsible for technical tax submissions on behalf of the Institute as a whole and it also provides various tax services including the monthly newsletter ‘TAXline’ to more than 11,000 members of the Institute who pay an additional subscription.

General comments

5. We welcome the opportunity to contribute to this review. The Review was announced by the Chancellor of the Exchequer, Gordon Brown on 2 July 2003. The Press Release issued at the time indicated that ‘the major focus of the Review will be making public service delivery more effective and efficient.’
6. Members of the Tax Faculty met with Anthony Zacharzewski on 27 August who was at that time finalising a project report on ‘service delivery’. We had a subsequent meeting on 24 September with Dave Ramsden the Team Leader of the Review plus two of his colleagues, Daniel Thornton and John Fiennes.
7. At their invitation we have put together some initial thoughts on the four major areas to be covered by the Review Team, namely:
 - Tax policy and analysis issues
 - Accountability, governance and legislative issues
 - Information issues
 - Delivery issues

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Specific comments

Tax policy and analysis issues

Communication

8. We believe that a recurring theme of the issues we discuss further below is a lack of adequate communication. We do not necessarily believe that a structural reform, integrating tax policy formulation within the Treasury, would of itself overcome many of the issues. Indeed it would create further difficulties of its own.

Operational matters

9. We believe that when formulating tax policy, insufficient attention is given to operational issues and addressing likely problem areas which will arise. The result is that operational problems arise which detract from the policy and cause needless friction between taxpayers, their agents and the revenue departments.
10. The most recent example is the implementation of Tax Credits. For example, it is clear that there are many unresolved issues around claims made by couples. There are also practical problems arising in respect of the backdating of claims. We suspect that this is caused by a lack of proper consultation, planning and staff training, but the results are that relations become strained and time and effort are being wasted in putting right the problems which are occurring.
11. The need to focus more on operational issues at an earlier stage is not a new concern. In our review of the introduction of self assessment published in March 1998, we stated that 'There was far too little consultation on operational matters' with the result that relations between the Revenue and the professions were damaged'. We are also concerned for the Revenue's staff who have to deal with such problems.
12. How can likely operational problems be minimised? We believe that those with the requisite experience and knowledge of taxation matters and the practical issues that are likely to arise need to be nearer to the centre of policy formulation. We believe the Review should consider ways in which operational issues can be given detailed consideration as part of policy formulation. This should involve identifying potential problem areas and how those problems will be avoided or overcome. One possibility, discussed below, is that a review of operational issues should be part of the Regulatory Impact Assessments.

Regulatory Impact Assessments

13. As mentioned above, one possibility would be to incorporate a review of operational issues as part of the Regulatory Impact Assessment (RIA) process. A senior staff member could take responsibility for the operational aspects of the policy and 'sign off' on operational issues as part of the determination of policy.
14. We are also concerned that RIAs are not currently given the importance they deserve. Our experience is that they are completed merely as a matter of form

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rather than being a key tool in assessing and analysing the impact of the change. Many are incomplete and few are revisited or audited in the light of practical experience. We believe that RIAs have a valuable role to play in policy formulation and implementation and more importance needs to be given to them. The Review needs to consider how RIAs can be improved to help inform both policy making and operational planning. RIAs also need to anticipate more accurately any behavioural change that may occur as a result of tax changes. For example, the RIA in relation to the introduction of a nil rate of corporation tax did not anticipate the inevitable increase in incorporations by small traders looking to reduce their overall tax bills. This outcome was always likely to be a consequence of the proposals and has major implications both at the policy level and at the operational level.

‘Official Pronouncements’

15. We believe that the Review should look at the ways in which official pronouncements etc are published and made available to taxpayers. Currently, there is a wide range of material published, but it is not always consistent and coherent. The Review should consider whether the current arrangements would be improved if the responsibility for the issue of Statutory Instruments, Extra Statutory Concessions, Statements of Practice and other written formulations of Revenue policy, such as Tax Bulletin rested with a single department. In the case of Customs & Excise, this would include Business Briefs.

Parliamentary Counsel

16. We believe the Review should also consider how more efficient use can be made of Parliamentary Counsel. They are a scarce resource and the maximum use must be made of them. The recent Income Tax (Earnings and Pensions) Act 2003 (ITEPA) is an illustration of a product which has been almost immediately spoiled by inserts from the Finance Act 2003 which did not follow the ‘Tax Law Rewrite’ style of ITEPA.

‘Joined up’ tax policy

17. Tax policy needs to be ‘joined up’. This means a consistent policy needs to be adopted both between and within the revenue departments. Two examples will suffice to illustrate the problems:
18. In order to deal electronically with Customs and Excise, you need to purchase a digital certificate. If you wish to deal with the Inland Revenue then you need to obtain a PIN number through the post. There should be a single system common to both. The Government Gateway project notionally bridges IR and C&E – and other departments – in a single user interface, but in practice much is still done through their individual portals
19. If you are a self employed businessman, then you have been discouraged from sending your accounts to support your tax return. However, if the same business is operated through a company, submission of the accounts is a mandatory part of the company’s tax return.

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20. If tax policies are confused and even revenue departments send out confused messages, the result is that taxpayers have reduced confidence in the system. We believe that steps need to be taken to ensure more consistency, both across and within departments.

Earlier reviews of policy making

21. A peer review 'Architectural Engineers' reported in October 2000 on the Inland Revenue's Policy Making Function. The review made the following findings:
- There was a lack of high quality analysis within the Inland Revenue
 - It noted the new role of the Department in supporting the Government's economic and social policy objectives rather than simply acting as tax collectors
 - It noted that the public now has heightened expectations about swift access to information and service
 - There are too many 'engineers' good at the detail of the tax system and not enough 'architects' able to take a broader view.
22. We would suggest that the present Review should take account of the content and conclusions of that earlier Review and of any similar review carried out in relation to Customs & Excise.

Accountability, governance and legislative issues

Feedback on problem areas

23. The Head of Operations at both Inland Revenue and Customs & Excise should as a matter of course be reporting to Ministers on a regular basis the major complaints that have been received about the system. This should be done at the time the problem has been identified and not wait until the Department believes it has a solution. There should also be earlier discussion on such problems with representatives from the ICAEW and other professional bodies who are often better placed to comment on proposed solutions.

Consultation

24. The Departments should be more prepared to engage in informal consultations with the ICAEW, particularly when there is (as is usual in relation to proposed changes to tax policy) insufficient time to allow for the minimum three month public consultation period which is the recommended minimum in the Code of Practice on Consultation. However we still require adequate notice of such informal consultations to ensure that we can provide reasoned responses. There have been numerous instances during the implementation of the tax credits system where a response has been required within four weeks, or even less.

Information issues

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Information technology

25. One of the key issues is the use of information technology. We believe firmly in the increased use of IT to bring about improvements to the tax system and lower costs for both the revenue departments and for taxpayers and agents. However, many of the problems with the tax system appear to emanate from IT problems. It is often not clear whether these problems stem from poor computer programming or poor inputting of data. We suspect it is a mixture of both. In respect of the former, once again we suspect that inadequate attention is paid to the operational aspects. If we take again the example of Tax Credits, the computer system does not show how the Credit has been calculated. It was clearly essential for a calculation to be produced so that it could be checked and we are disappointed that no one thought that this was necessary. Equally, additional information supplied in box 23.5 and other designated white spaces on self assessment tax returns is still not captured as part of the data entry process – six years after the introduction of the self assessment tax system. The reasons for poor take up of Internet and electronic filing are well known but are not being addressed. Only a very few individuals within the IR have external email access, which is very surprising.
26. The result of these types of problems is that few people have much confidence in the Revenue's computer systems. This has been a concern for some years. We raised this issue in our 1998 review of self assessment to which we referred earlier when we suggested that a separate and urgent review of the computer system should be carried out. The computer systems need to be subject to regular independent monitoring and emerging problems need to be highlighted and dealt with.

Public utterances

27. We believe that information is often put into the public domain in a manner which is unhelpful and counter productive. The implications of the 2002 case of *Mansworth v Jelley* were not adequately considered by the Revenue before a public announcement was made concerning the practical consequences of the case. This was followed by several months of confusion for taxpayers and their advisers before the Revenue took steps to resolve the position. Procedures need to be in place to ensure that material which is particularly technical and sensitive is reviewed at a high level before it is released.
28. The more recent announcement of the Revenue policy in relation to section 660A, ICTA 1988 in relation to family companies and partnerships has demonstrated a seeming gap in understanding between senior Inland Revenue officials and the front line Inspector of Taxes. At meetings, senior Revenue officials have stated that the 'new' policy is unlikely to affect more than 50 – 100 cases per year whereas there is already evidence that the new policy is being used by a significant number of Inspectors of Taxes throughout the country.

Websites

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29. The Inland Revenue's website is highly successful and reflects great credit on those who designed and built it and keep it updated. However, we think that there are a number of ways in which the site can be improved further. For example, we remain concerned that one is unable to see more than a single paragraph of a Revenue Manual on screen at any one time. This severely reduces the value of making the manuals available on-line. They should be available for download in, for example, word or pdf format. There are also continuing problems with updating material such as Business Briefs. The websites need to provide a better 'audit trail' of material that has been changed. Where material is updated, we have suggested on a number of occasions that the date of changes should be highlighted and if possible earlier references retained on the system.
30. The website of Customs & Excise is also highly successful although perhaps not as well structured or consistent as the Inland Revenue's site. Like the Inland Revenue's site, we believe that further improvements can still be made. For example, because VAT is a transaction based tax, the timing of changes is extremely important and the effective date of changes is often not clearly flagged on the website.
31. There is also a tendency for any advice given on the site to be one sided. For instance in relation to the flat rate scheme, the Customs' website states:
- 'It saves you time, by simplifying your VAT accounting procedure into a single calculation, and in some cases can deliver potential savings of up to £1,000 per annum by reducing administration costs.'*
32. As the scheme was set up to be 'revenue neutral', there must be as many losers and winners and the decision to enter the scheme is at best finely balanced. The advice needs to be even handed.
33. Once again, a named person accepting responsibility for a particular area such as the website might improve the situation. If this already happens, then it is not obvious.

Delivery issues

Creating a customer culture

34. Taxpayers are now usually referred to as customers. However, the two words are not synonymous: the main definition of customer in the Oxford Compact English Dictionary is 'a person who buys goods or services from a shop or business' whereas the definition of a taxpayer is (unsurprisingly!) 'a person who pays tax'. It is not in our view wholly correct for taxpayers to be called customers as they are not buying anything: instead they have a legal obligation to pay the right amount of tax.
35. This is not just a question of semantics. We can understand why the revenue departments may wish to call taxpayers customers. However, if they are to continue to be called customers then the revenue departments need to make far greater efforts to treat them as such, with all the attention to detail and customer

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aspirations that this entails. A truly customer focussed organisation would have a long term strategy to improve customer service, keep up with competitors and demonstrate increased satisfaction ratings.

36. How should the revenue departments seek to emulate this approach? By adopting a clear medium to long-term strategy to improve services that can be measured and demonstrated. It requires a willingness to explore radical ideas and new ways of working, share best practices across departments and with other tax authorities and to commit time and effort to bring about real improvements. We set out below possible ways, some of them quite radical, in which customer service could be improved:
37. The UK tax system is far too geared to a 'penalty culture'. For example, if you do not submit your tax return by 31 January and do not have a reasonable excuse, then you will be fined. No business organisation would dream of treating its customers like that. The US has a system whereby you can delay filing your return in return for a fee. The two systems achieve similar results but the perception is totally different: the perception is that the US system is more customer friendly.
38. The self assessment return deadline creates a major headache for all concerned. It needs to be reconsidered – after all VAT return periods are staggered. The 30 September 'deadline' merely creates confusion and is not enough to help taxpayers with their tax calculations. One solution might be to provide improved incentives such as discounts for earlier filing.
39. Most taxpayers are happy to pay their tax but want little or no contact with the Revenue and want the tax form filling to be as painless as possible. Of course, the PAYE system has been highly successful in ensuring that the majority of taxpayers have little contact with the Revenue. However, with the increase in the number of higher rate taxpayers, more taxpayers are likely to have to fill in tax returns in the future.
40. How can taxpayers' expectations be achieved? One starting point is to first undertake detailed risk profiles of taxpayers (which will take into account such factors as the complexity of a taxpayer's affairs). Taxpayers can then be stratified into various categories. For low risk customers with simple tax affairs, the Revenue should adopt a light touch approach which minimises the need for contact and also helps taxpayers. How can they be helped? Most taxpayers find filling in their tax return difficult, confusing and time consuming. The majority of taxpayers have simple tax affairs and the existing tax return forms are far too complicated for their needs. Usually a one or two page form would suffice. In many cases, the Revenue already holds all of the data which the taxpayer needs to fill in, namely employment and investment income and the information could be provided on the return sent to the customer. The Revenue could then adopt an approach along the lines of 'please review this and if you agree with it, sign it and return it to us'. If the Revenue has risk assessed its customers, then such a light touch regime would be a logical approach for its straightforward compliant customers. Resources could then be concentrated on the higher risk non-compliant customers.

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41. Many taxpayers would appreciate more flexible ways of paying the Revenue and many would not be averse to paying in advance or more regularly in order to manage their cash flow. However, the existing interest rules are highly complicated and favour the revenue authorities. If customers want to pay in a way that helps them budget, then they should be encouraged to do so.
42. We welcome the increased use of IT in allowing better access for the taxpayer to the Revenue and Customs & Excise. However, the use of email has become the de facto way of communicating between customers and suppliers. The revenue departments need to address this need as a matter of priority.
43. There is frequently a very rapid turn round of staff in any one position. Whilst this may be good for staff morale and personal development, it needs to be weighed against a lack of continuity and poor service delivery. One recent example is the departure at the same time of both the head and deputy head of the Working Together Revenue team. There have been similar instances throughout the Tax Credits team.
44. Consideration should be given to providing one single person as a principal point of contact for businesses, possibly linking up the activities of the Revenue's Large Business Office and Customs & Excise's Large Trader Office.
45. We have some concerns about the relatively recent change to modular training which seems to have resulted in some slippage with officials not having the depth and breadth of training that they received in the past.
46. We could go on, but the above examples highlight the considerable scope for real service improvements. We think that the Revenue departments need to be bolder in identifying and implementing real improvements.

Other points

Some practical examples

47. In our meeting with Dave Ramsden and his team they were anxious for us to give examples to support any comments that we made. The main example we gave then of how things have gone wrong was in relation to the introduction of Tax Credits. We pointed out at that meeting that it was particularly unhelpful for the Treasury to have issued a Press Release on 4 September entitled 'Tax Credits a Huge Success' at a time when the Inland Revenue staff, claimants and agents were grappling with the operational problems.
48. We are currently dealing with the run up to the implementation of Stamp Duty Land Tax, which has begun to exhibit many of the same practical problems as Tax Credits. We note the somewhat unhelpful press release dated 20 October 2003 pronouncing help for small businesses through a modification to the calculation of the new charge. However, it did not highlight that the new rules impose a charge to Stamp Duty Land Tax (SDLT) where there was none before. Furthermore, we remain unconvinced that, whilst the policy is clear, the practical interaction of the

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new SDLT self assessment rules with those for income tax and corporation tax, has been fully explored and the likely operational issues addressed.

Future meetings

49. We would be very happy to meet with the Treasury Review team either to expand on the comments in the present document or to discuss other issues in relation to the overall Review.

ICAEW Tax Faculty
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