

## ICAEW TAX FACULTY REPRESENTATION

### TAXREP 22/11

### EUROPEAN COMMISSION CONSULTATION ON FINANCIAL SECTOR TAXATION

*Letter submitted on 19 April 2011 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in relation to the European Union Consultation on Financial Sector Taxation published on 22 February 2011*

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# EUROPEAN COMMISSION CONSULTATION ON FINANCIAL SECTOR TAXATION

## INTRODUCTION

1. This document reproduces the letter sent by the Tax Faculty of the Institute of Chartered Accountants in England and Wales (ICAEW) to the European Commission in response to their consultation document on the taxation of the financial sector. In that letter we endorsed the views expressed by FEE, of which ICAEW, is a member. The FEE letter is also reproduced.
2. Information about the Tax Faculty and the 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

3. The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 132,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 775,000 members worldwide.
4. Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. The Institute ensures these skills are constantly developed, recognised and valued.
5. 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, and a free weekly newswire.



19 April 2011

Our ref: ICAEW/Tax Faculty/FH

European Commission  
Directorate-General for Taxation and Customs Union  
Rue de Spa 3, Office 06/31  
B-1049 Brussels

Email : [TAXUD-FINTAX@ec.europa.eu](mailto:TAXUD-FINTAX@ec.europa.eu)

Dear Sir or Madam,

**Re : European Commission's Consultation on financial sector taxation**

ICAEW (Institute of Chartered Accountants in England & Wales) is pleased to provide you with its comments on the European Commission's Consultation on financial sector taxation.

**WHO WE ARE**

ICAEW operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, we provide leadership and practical support to over 134,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. We are a founding member of the Global Accounting Alliance with over 775,000 members worldwide.

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We are listed on the Register of Interest Representatives. Our registration number is 7719382720-34.

## COMMENTS

ICAEW is a member of FEE (Fédération des Experts-Comptables Européens) which has submitted its own separate comments on this consultation.

We are writing to support and endorse the comments in the FEE letter.

We accept that changes to the existing financial sector taxation regime may be necessary following the recent global and financial crisis.

We note that the European Commission is currently carrying out a detailed impact assessment which is to be published later this year and we intend to present our more comprehensive comments after that assessment has been published.

Our Chief Executive, Michael Izza, was a member of the group of experts that presented a report last summer, *Globalising Solidarity: The Case for Financial Levies*<sup>1</sup> to the Taskforce on International Financial Transactions and Development. We will be able to use the expertise and evidence gathered when preparing that earlier report in assembling our more detailed response to the European Commission work on financial sector taxation. Copies of our last year's report were made available by the European Commission to delegates at the 2011 Brussels Tax Forum in April 2011.

Yours sincerely



Frank Haskew  
Head, ICAEW Tax Faculty

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<sup>1</sup> See [http://www.leadinggroup.org/IMG/pdf\\_Financement\\_innovants\\_web\\_def.pdf](http://www.leadinggroup.org/IMG/pdf_Financement_innovants_web_def.pdf)

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19 April 2011

Re: DTA/ITA/PWE/GCA/MBR

Dear Sir or Madam,

**Re: European Commission's Consultation on financial sector taxation**

FEE (the Federation of European Accountants) is pleased to provide you with its comments on the European Commission's Consultation on financial sector taxation. FEE's ID number on the European Commission's Register of Interest Representatives is 4713568401-18<sup>2</sup>.

1. FEE has considered the European Commission's consultation on the taxation of the financial sector, which primarily results from the last global economic and financial crisis. The financial sector, governments and tax payers have had to bear a very significant burden, which in turn has made fiscal consolidation imperative in many jurisdictions.

At present various models of financial sector taxation are being discussed at a European level.

It needs to be carefully assessed whether introducing new taxes or levies would be the appropriate measure at a moment where the European economy is gradually recovering. Taking into account that both indirect and direct taxes usually end up at consumer level, new taxes could slow down the recovery.

Furthermore, the stages of economic recovery vary broadly across Europe. New EU-wide taxes would, by nature, not take these differences into account. As a result, economies might drift further apart, which would not necessarily help the EU to become a smart, sustainable and inclusive economy (EU 2020).

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<sup>2</sup> FEE is the Fédération des Experts comptables Européens (Federation of European Accountants). It represents 45 professional institutes of accountants and auditors from 33 European countries, including all of the 27 EU Member States. In representing the European accountancy profession, FEE recognises the public interest. It has a combined membership of more than 500.000 professional accountants, working in different capacities in public practice, small and big firms, government and education, who all contribute to a more efficient, transparent and sustainable European economy.

2. In general the suggestions outlined in the European Commission's consultation and in the preceding communication<sup>3</sup> try to aim at raising additional revenue, contributing to financial sector regulation (with a view to avoid future crisis) and modifying the behaviour of the respective financial markets players. Opinions differ, whether these aims should be targeted by the means of taxation and whether they are likely to be achieved. It is also unclear whether different parts of the financial sector, i.e. banks and insurance, can be lumped together, since they played a different role in the past crisis and different business model expose them to different risks.

The introduction of additional taxes or levies should not be considered on a stand alone basis, but in a holistic way. It should also be noted that a number of Member States have already introduced, or are introducing, various bank levies. Therefore the potential for double-taxation should also be carefully examined.

It is probable that the implementation of additional taxes or levies for the financial sector would lead to price increases for financial services, e.g. affecting the costs of financing for SMEs. Looking at an international level, new EU-wide taxes might also have the potential to place the EU at a competitive disadvantage in comparison to those non-EU areas where no such new taxes are introduced. Maintaining a world-wide level playing field (as suggested at the G-20 Toronto Summit) would be challenging in case the idea of such new taxes should be further considered.

Furthermore, there is a need to investigate whether taxing one specific sector – no matter which sector – would be in line with the fundamental principles of taxation. Tax systems should be equitable, efficient, simple, transparent, effective and provide certainty. Equity in this context means that taxpayers in the same economic circumstances should receive equal treatment<sup>4</sup>. Taxing one specific sector of the economy with a tax that does not apply to other sectors, does not appear to meet this requirement.

A number of measures have already been taken, or are in progress, which are designed to penalise excessive risk-taking behaviour, enhance the efficiency of financial markets and reduce their volatility. Before using taxation as a means to influence behaviour, which should only be done in exceptional cases, it should be examined whether those other measures are efficient and sufficient.

3. Finally, the interaction between such new taxes or levies for the financial sector and the existing financial markets regulation should also be assessed. In this case, as in others, the impact assessment to be carried out by the Commission will be of particular importance and should include an in-depth holistic cost-benefit analysis.

For further information on this letter, please contact Petra Weymüller, FEE Project Manager, at +32 2 285 40 75 or via email at [petra.weymuller@fee.be](mailto:petra.weymuller@fee.be).

Yours sincerely,

Philip Johnson  
President

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<sup>3</sup> European Commission Communication to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Central Bank, "An EU Framework for Crisis Management in the Financial Sector", 20 October 2010

[http://ec.europa.eu/internal\\_market/bank/docs/crisis-management/framework/com2010\\_579\\_en.pdf](http://ec.europa.eu/internal_market/bank/docs/crisis-management/framework/com2010_579_en.pdf)

<sup>4</sup> European Commission Working Document "General Tax Principles", 10 December 2004,

[http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/company\\_tax/common\\_tax\\_base/cctbwp1finalrev1\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/common_tax_base/cctbwp1finalrev1_en.pdf)

iky April 2011

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[www.icaew.com](http://www.icaew.com)

## **APPENDIX 1**

### **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.