

TAXREP 34/06

Tax Faculty

BUSINESS BRIEFS, TAX BULLETINS AND THE PROPOSED ONLINE NEWS SERVICE

Memorandum submitted in November 2006 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales to HM Revenue & Customs (HMRC) in response to an invitation in Business Brief 14/06 to comment on what taxpayers and their advisers need from an online news service.

CONTENTS

	Paragraph
INTRODUCTION	1-3
KEY POINT SUMMARY	4
GENERAL COMMENTS	5-26
WHO WE ARE	Annex A
TEN TENETS FOR A BETTER TAX SYSTEM	B

Tax Representation

VAT: BUSINESS BRIEFS, TAX BULLETINS AND THE PROPOSED ONLINE NEWS SERVICE

INTRODUCTION

1. We are pleased to comment on the proposed changes to Business Briefs and Tax Bulletins and on what is needed from an online news service following the invitation contained in Business Brief 14/06 issued on 15 September 2006. The Business Brief can be found at the following link:

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_GuidesAndBusinessBriefs&propertyType=document&columns=1&id=HMCE_PROD1_026038
2. A similar invitation to comment was contained in the August 2006 (No 84) issue of Tax Bulletin and we have been in touch with Jenny Cowles and the editor of Tax Bulletin, Jayne Harler, with a view to meeting to discuss the proposal with them. We are currently waiting to fix a date for the proposed meeting but we hope that our interventions will assist HMRC in developing an integrated service in 2007 which serves the needs of all the users of these products.
3. Details about the Tax Faculty and the Institute of Chartered Accountants in England and Wales are set out in Annex A. We are also attaching as Annex B the Tax Faculty's Ten Tenets for a Better Tax System because we think some of them are relevant to the provision of information especially in relation to self assessment.

KEY POINT SUMMARY

4. In brief:
 - We do not object to the termination of the (paid for) hard copy subscription service because subscribers to the service are likely to be able to access the material electronically.
 - We think an electronic publication, sequentially numbered and published at regular intervals, is preferable to simply posting news on the website for a limited period. Some people would like to see a weekly news service with a more comprehensive monthly round up. News is not news if it waits for up to a month before publication. However, the [direct tax] Manuals are updated once a month. The aim should be to cover all significant changes of law, policy, practice and interpretation. So that everything is in one place it should also cover the Working Together Bulletin material.
 - Regular email alerts to important changes on specific subjects would be a useful enhancement to the proposed news service. The alerts should be available free of charge to those who "subscribe." This is a low cost way of reaching tax professionals. We think HMRC should make more use of the email system as a means of communicating a single message to a large number of tax advisers.

Tax Representation

- If there is a combined news service for direct and indirect tax it should be made easy for tax specialists to obtain the information they need by providing a clear separation by subject and between direct and indirect tax.
- We would like to see a clear ‘audit trail’ of changes explaining what changes have been made and when. This information should be in the HMRC Manuals (direct tax) and Internal Guidance (indirect tax) as well as in the news service. Commercial publications of collected tax legislation deal with changes in footnotes and that method appears to work well.
- Good indexing and search facilities are required for all electronically available information. It is especially important for quick and easy access to the archive.
- Greater use of links, which enable users to dig down for further detail, should help to avoid the appearance of a vast mass of information in the news service.

GENERAL COMMENTS

5. When it was first launched in November 1991 the Tax Bulletin was described by Sir Anthony Battishill, the then Chairman of the Board of Inland Revenue, as a publication “written by tax professionals for tax professionals.” Tax professionals outside the tax authority are also part of the tax collecting infrastructure of this country. This is particularly the case since the introduction of self assessment. To ensure the collection of the right amount of tax at the right time and to ensure the consistency of interpretation of the tax law it is necessary to keep those professionals well informed. It is equally important to keep those employed by HMRC well informed if taxpayers are to be treated with equal fairness.
6. We would be interested to know whether HMRC has formulated a policy on publishing interpretations of tax legislation. HMRC interpretations are very useful to the practitioner and it is in the interests of good tax practice that advisers are kept informed of HMRC’s interpretation of tax legislation.
7. It is important for HMRC to decide whether the news service is itself going to record HMRC’s views or whether it is going to be a signpost to the main source, the Manuals and Internal Guidance. When Tax Bulletin started out in 1991 it was the main record because the Manuals were not published at that time.
8. Business Briefs and Tax Bulletins are documents which contain important statements of practice and interpretations of the law which can have long term significance. They are part of the system of ensuring tax compliance and as such they are required reading for tax practitioners. Improvements in these publications will be welcomed. The provision of adequate resources to produce good quality publications is a good investment of taxpayers’ money.

Tax Representation

9. We note that you intend to discontinue the (paid for) hard copy services for Business Briefs and Tax Bulletins. This is unlikely to inconvenience many existing subscribers – especially if a free subscription to an email alert is part of the new system (see below). Existing subscribers could be asked to provide their email addresses.
10. The tax professionals who use Business Briefs and Tax Bulletins usually specialise in a particular aspect of taxation. VAT professionals both in HMRC and outside are likely to regard Business Briefs as required reading but they are unlikely to be interested in Tax Bulletins. We note that during 2007 you are proposing to develop a combined direct and indirect tax information service on your website. We can see some advantages in having just one place to go for the latest news items but unless there is clear separation by subject and between direct and indirect tax it will simply delay the specialists in reaching the information they need.
11. A combined electronic publication will be voluminous and so it is essential to have good indexing and search facilities.
12. Free subscription to email alerts. Users need to be alerted to changes affecting them and their clients. They also need to know that a particular publication is available. We suggest that users be sent an email alert immediately on publication with a link to the website where the document can be found.
13. An alternative way of alerting subscribers to news is to use RSS (Really Simple Syndication) news feeds. This is already being done (via Practitioner Zone in the website and then by clicking Manuals). Some practitioners already use RSS for general and financial news feeds on their home page. So far we have not received any feedback about the news feeds from HMRC's website but it is good to note that the facility is there.
14. A switch to regular weekly or monthly electronic publications would be better than the present ad hoc arrangement of issuing Business Briefs at varying intervals. (Tax Bulletins became a bi-monthly publication in October 1994.) A month is a long time to wait for news and if the main publication is monthly a more frequent news service will be needed. A weekly news service with a more comprehensive monthly round up would be ideal.
15. We think that a regular electronic publication is preferable to simply posting recent news on the website from time to time. We think this should be comprehensive covering all significant changes in tax law, policy, practice and interpretation. It should also cover the Working Together bulletin material.
16. Professional advisers and tax professionals within HMRC may need to access the material years after first publication. Where a change of interpretation/policy occurs which is announced electronically in the news service and is later transferred into permanent guidance it may be necessary for tax advisers to find out when the change took place. The date of the change should be shown in the information describing the change. Where a change is not announced in the news

Tax Representation

service and is made directly into the Manuals the date of the change should be disclosed.

17. Not all changes in tax practice or in interpretation of tax law are announced. Some changes are made simply by amendment to HMRC Manuals or by posting directly to the website. Changes to the Manuals listed month by month on HMRC's website can be found at the following link:

<http://www.hmrc.gov.uk/manuals/amendments/index.htm>

We think that the electronic publication should also cover all important changes which are currently being made directly to the Manuals or website without any other disclosure. This will make it easier to find out what has changed.

18. We think that it is also important to flag in the Manuals and Internal Guidance what material has been added or amended. Perhaps this could be done in footnotes explaining precisely what has changed and when. This is routinely done in the tax texts of professional publishers and there is no reason why HMRC's publications should not be at least on a par with them in terms of quality and professionalism.
19. Building up an archive of current material with good indexing and search facilities so that people can easily find what they are looking for quickly will be very useful. Tax Bulletins and Business Briefs published in the past already provide a substantial archive and accessing it at present is reasonably straight forward. The usefulness of this existing archive can be judged by looking at the many commercial tax publications in which Tax Bulletins and Business Briefs are reproduced.
20. It is particularly important for a news service describing tax changes to present the news in a purely factual way in plain English, with precision and preferably without embellishment.
21. Some changes in HMRC Manuals and Internal Guidance are not described because they are covered by exemptions in the Freedom of Information Act 2000. In these instances it is not possible to tell what has changed unless the whole of the relevant manual is compared line by line. Parts of the Manuals are hidden and are also covered by the exemptions. We question whether it is necessary to hide behind the exemptions in relation to so many of the changes. We accept that there may be justification for non-disclosure in the case of material relating to the fight against fraud and to matters relating to avoidance. However, even in these areas treating all the material on these subjects as secret is difficult to justify. Consideration should be given as to whether it is desirable for tax advisers to be made aware of some of the information on these subjects.
22. We appreciate that the content and organisation of Manuals and Internal Guidance are a separate subject but in passing we would mention that the material could be presented in a more user friendly way. It is easier to access and read the Internal Guidance than the Manuals. We think that the facility to allow parts of the

Tax Representation

Manuals and Internal Guidance to be downloaded onto adviser's computers by way of zip files or pdf files is very useful for the practitioner.

23. Where changes of interpretation of tax law are made following cases decided in the courts we think those cases should be mentioned in any announcement of the changes and the reasons for the change should be given.
24. Where Business Briefs, Tax Bulletins or other publications are used to announce changes in the law, including case law and changes of practice which increase the amount of tax payable the effective date of the change should not be earlier than the date of publication. Some tax changes cannot be made instantly and require some lead time to enable taxpayers to implement them. In general some time should be allowed for the taxpayer to read about the change and to take action to give effect to it.
25. There are a number of other HMRC publications not mentioned in the Business Brief and we would be interested to know what will happen to them. For example there are now bulletins covering Working Together, Capital Taxes, Employers, Pensions, Share Schemes, and Stamp Taxes. These publications are important sources of information for the specialists concerned. We think these publications should continue. However, if there is going to be a single source of news on the website we think it should note all important changes including those covered in other publications.
26. We note that the VAT part of HMRC's website includes direct tax consultation documents. See the following link:

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_ConsultationDocuments

However, the direct tax consultation document register has not had anything posted to it for a year or so. See the following link:

http://www.hmrc.gov.uk/consult_new/index.htm

Similarly, there are two sets of What's new pages –direct tax and VAT. Both of these show direct tax and VAT news items. The two links are shown below.

<http://www.hmrc.gov.uk/news/index.htm> and VAT updates:

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_UpdatesContent&id=SHOW_ALLUPDATES_VAT

In both cases it seems sensible to combine these pages but we assume that will happen as part of the work on the new combined website.

KM.

Tax Representation

24.11.06

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. Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department of Trade and Industry through the Accountancy Foundation. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members and students, 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 11,000 members of the ICAEW who pay an additional subscription.

Tax Representation

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/taxfac/index.cfm?AUB=TB2I_43160,MNXI_43160.