



TAXREP 66/05

INCOME TAX CALCULATION

TAX LAW REWRITE: BILL 4

Memorandum submitted in November 2005 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to an invitation to comment issued in September 2005 by HMRC Tax Law Rewrite Team

CONTENTS

	Paragraph
INTRODUCTION	1-2
GENERAL COMMENTS	3-8
ANSWERS TO QUESTIONS	9-15
	Annex
WHO WE ARE	A
TEN TENETS FOR A BETTER TAX SYSTEM	B

Tax Representation

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INTRODUCTION

1. We welcome the opportunity to comment on Paper CC/SC(05)37 (Bill 4: Income Tax Calculation) published on 17 October 2005 by HMRC Tax Law Rewrite Team at <http://www.hmrc.gov.uk/rewrite/exposure/menu.htm>.
2. Details about the Institute of Chartered Accountants in England and Wales and the Tax Faculty are in the Annex. Our Ten Tenets for a Better Tax System are summarised in Annex B

GENERAL COMMENTS

3. We anticipate that the Calculation of Income Tax Liability Chapter (to form Chapter 3 of the Basic provisions Part) will be helpful to all persons subject to income tax, bringing together the various elements of a person's income tax calculation.
4. The Introduction is appropriate, signposting that the Chapter does not deal with the section 11 income tax liabilities and that it needs to be read with the Chapter concerning the limits on liability to income tax of non-U.K. residents (the draft clauses regarding which were published on 4 May 2005 in Paper CC/SC(05)14 and to which we responded in TAXREP 35/05 dated 26 July 2005).
5. Clause 2 (The calculation of income tax liability) is the key clause, setting out the Step by Step approach to the calculation of liability and with signposts to the supporting clauses. As a minor point, a little more white space between each of the Steps would reduce the density in appearance of the clause and perhaps also make this stepped approach clearer to the user.
6. It will, of course, be necessary to maintain clauses 3 (Reliefs deductible at Step 2) and 5 (Tax reductions) up-to-date as time passes, as both include comprehensive detailed signposting to other relevant provisions. The same comments apply to clauses 4, 6, 9 and 11 as regards their signposts to other legislation.
7. We welcome the provisions regarding the order of deducting reliefs, allowances and tax reductions, based on the principle of providing the greatest reduction in liability, which will further assist the user.
8. We note that the consequential amendments are not yet complete.

ANSWERS TO QUESTIONS

9. **Q1** On the basis that section 811 of ICTA reduces the amount of a component of income within Step 1, for foreign tax suffered on that income where no credit is

Tax Representation

available, we agree the proposal not to include relief under s 811 of ICTA in the list in clause 3 of reliefs deductible at Step 2.

10. **Q2** In accordance with accepted practice, where not already provided in the source legislation, we agree the inclusion of a specific rule in supplementary clause 4(5) and (6) that deductions of reliefs and allowances at Steps 2 and 3 cannot reduce income below nil.
11. We also agree the application of this specific rule to clause 8, to the effect that clause 5 tax reductions cannot reduce tax to below nil.
12. **Q3** We support the proposal in sub-clauses 6(2) and 7(2) that tax reductions are made in the order that produces the lowest income tax liability for the year, in line with the treatment of deductions, subject to the ordering of deduction of those tax reductions set out in sub-clauses 6(3)-(6) and 7(3)-(5). We also support the drafting of the latter sub-clauses, helpfully listing these in the order in which the source rules require the tax reductions to be allowed, and providing that the tax reduction for married couples comes last (apart from double taxation relief).
13. **Q4** We agree the proposal not to rewrite s 823 ICTA.
14. **Q5** We agree that ss 835(2) and 836 ICTA are obsolete in the context of self-assessment, on the basis that s 835(2) statements of total income are no longer relevant.
15. We would welcome clarification of why it is considered that sub-sections 835(7)(b) and (8) ICTA appear to be obsolete.

TJH/PCB
25.11.05

WHO WE ARE

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.

The 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, to provide services to its members and students, and to advance the theory and practice of accountancy, including taxation.

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.

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

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.