



TAXREP 24/13

(ICAEW REP 37/13)

ICAEW TAX REPRESENTATION

WORKING TOGETHER – ESCALATION OF ISSUES AND REFERRALS WITHIN HMRC

Comments submitted on 27 February 2013 by ICAEW Tax Faculty

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INTRODUCTION

1. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
2. Information about the Tax Faculty and 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. ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter which obliges us to work in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 140,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.
4. ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.
5. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.

KEY POINTS

6. HMRC is currently reviewing the process for selecting issues reported by agents to the National Working Together Team (NWTT).
7. Set out below are the ICAEW Tax Faculty's recommendations for a process for the escalation of issues from Working Together (WT) to the Joint Initiative on Service Delivery group (JISD). We believe that our proposals are workable and provide for monitoring of the progress of the resolution of issues by agents and professional bodies. They also provide a method for the selection of issues for the attention of JISD. This is something which we believe is currently lacking without the existence of the Working Together Steering Group (WTSG).
8. ICAEW appreciates the high-level commitment within HMRC to WT and continues to support the initiative – in particular, the referral process which provides an excellent means of quickly referring issues to HMRC. However we are concerned that currently, with the transfer of responsibility from WTSG to JISD, agents and professional bodies have lost the ability to monitor and influence the progress of issues referred to HMRC.
9. Under the new process the Joint Initiative Steering Group (JISG, or the Lin Homer group) has over-arching responsibility for the resolution of issues. As we understand it, JISD will take ownership of all issues and report to JISG. Our understanding is that JISD was never intended to replace WT – which was always designed to eradicate grit in the system. That work needs to continue but we do understand the need to ensure that resources are not wasted so

whatever structure is adopted has to be efficient, effective and actually work to drive that grit out of the system.

Our concerns

10. The WTSG has been disbanded and at present there is no external review of the issues register for progress-checking purposes and the selection of issues for attention. This work was previously done by the WT issues subgroup. The continuing delay in finalising the governance structure of the JISD and WT is leading to a lack of external oversight of the issues register and gives rise to the perception that there is a lack of focus on the issues.
11. Without this review JISD could become overwhelmed with smaller issues and not have the resource to focus on the larger ones.
12. There needs to be a distinction between the different types of issue and it is important that some sort of sub-group should exist in order to make that distinction.

Our recommendations

13. The issues register needs to be used as the key tool for identifying and monitoring progress etc.
14. The reporting of issues by the local working together groups and the professional bodies should continue and issues should continue to be logged on the issues register.
15. The Issues Resolution Sub-Group (IRSG) should remain in place and, as now, made up of members of the professional bodies and members of HMRC's NWTT.
16. The main priority must be to monitor the speedy and effective resolution of issues while minimising duplication and wasted time. It is therefore essential that, as a minimum, nominated members of the professional bodies should have access to the issues register so as to allow them to track progress.
17. However, in order to minimise duplication, we believe that HMRC needs to go further. In our view the information contained on the issues register should be publicly available. Anyone meeting an issue in practice would then be able to check first hand whether it is already known. They might then add their comments to an online record, either to enrich the understanding of the issue or to raise fresh concerns. The resolution process would benefit greatly from such an approach.
18. There needs to be a full review of Local Working Together to include an evaluation of its cost efficiency given HMRC's current financial constraints and its effectiveness as processes evolve in the digital world. We would like to see the continuation a subgroup equivalent to the local subgroup for this purpose.

Our proposal for escalating issues

19. With that all in mind, we propose the following process:
20. The current practice of separating out issues, referrals, suggestions and observations and categorising them by number of agents affected etc. should be stopped. Instead, we propose that everything should be categorised consistently and all priority issues should be considered automatically for escalation to JISD.
21. We recommend three new categories:
 - Category 1- potentially high impact or urgent issues and suggestions
 - Category 2 - medium impact issues and suggestions
 - Category 3 - low impact issues, suggestions and observations.
22. Issues should continue to be suggested at local level and directly from professional bodies and referrals made as now from these groups, being categorised by the NWTT as above.

23. The IRSG would convene quarterly, either by telephone or face to face, in order to review categorisation, agree timeframes for resolution and check progress.
24. Category 1 referrals would be escalated to JISD for action.
25. Category 2 and 3 referrals can be dealt with by the NWTT but reported to JISD and continue to be progress-checked quarterly.
26. In addition it would be worth considering a more detailed referencing of issues received. We set out for consideration below the categories that have been used on the Issues Sub-Group:

A	Agreed HMRC policy or legal issue - outside WT	F	Solution known - has / will be implemented
B	Technical issue relating to specific tax legislation	G	No action yet - potentially important - monitor
C	Individual case - use AAM, appeal or complain	H	Genuine issue - in process of being resolved
D	Considered to be an isolated HMRC error.	I	Unresolved - no progress - Low HMRC priority
E	Awaiting a response from HMRC	J	Urgent - fast tracked to WTPG

27. Any issues which are not making satisfactory progress within the agreed timeframe would be escalated to JISG by the relevant professional body representative.
28. We said above that we would like to see the issues register becoming a public document. In these days of open government and real time, electronic methods of communication, it is difficult to justify restricting readership to just a handful of individuals. HMRC began to publish its contact centre performance stats last year and is to be commended for that. It is in that spirit of openness that we believe the open publication of current issues is essential. It would enable HMRC to make fully visible its commitment to resolving issues and allow the general public to see what is on the stocks and follow progress. We believe that this data should in any case be available under the Freedom of Information Act and publishing the details - preferably on the HMRC website - would be in line with the principles of that legislation.
29. We hope that our proposals will be given proper consideration as we see it as vital to the smooth running of Working Together that the process is seen to work for both HMRC and the professional bodies. We would be very willing to attend a meeting specifically to discuss our concerns and to talk through our proposals if that would be helpful.

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APPENDIX 1

ICAEW 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 icaew.com/en/technical/tax/tax-faculty/~media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)