



TAXREP 30/13

(ICAEW REP 78/13)

ICAEW TAX REPRESENTATION

A European Taxpayer's Code

Comments submitted on 23 May 2013 by ICAEW Tax Faculty in response to the European Commission Consultation paper and questionnaire *A European Taxpayer's Code* published on 25 February 2013

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the consultation document and questionnaire *A European Taxpayer's Code* published by the European Commission on 25 February 2013
2. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
3. 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

4. ICAEW is a professional membership organisation, supporting over 140,000 chartered accountants around the world. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession.
5. Our members provide financial knowledge and guidance based on the highest professional, technical and ethical standards. We develop and support individuals, organisations and communities to help them achieve long-term, sustainable economic value.
6. 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.
7. We are listed on the EU Transparency Register. Our registration number is 7719382720-34.

SOME KEY POINTS ABOUT THE UK EXPERIENCE

8. We are very much in favour of the project to develop a European Taxpayer's Code to be used across the member states of the European Union.
9. We were very active participants when the UK government consulted about a new Taxpayer's Code which was finalised in 2009 and published as **Your Charter**. See <http://www.hmrc.gov.uk/charter/charter.pdf> for details of the rights and obligations set out in Your Charter.
10. During the period of consultation we were very insistent that there must be a statutory requirement for there to be a Charter so that the Charter would continue in existence. There is a statutory provision to that effect, section 92 Finance Act 2009 which introduced new section 16A Commissioners for Revenue & Customs Act 2005 (CRCA 2005).
11. During the passage of the new section through Parliament an undertaking was given by the government that there would be an independent body set up with a majority of outside, non HMRC members, to review the working of Your Charter. One of the ICAEW technical managers, Ian Young, is currently Chair of the Charter Advisory Committee. We understand that the Secretary of the Charter Advisory Committee, Catherine Ahmad, is to work with the European Commission to take forward the project to introduce a Taxpayer's Code in Europe.
12. There is also a UK statutory requirement, section 16A(4) CRCA 2005 that each year HMRC must make "a report reviewing the extent to which HMRC have demonstrated the standards of behaviour and values included in the Charter". The current report is being finalised at the present time and is likely to be published in either June or July.

13. A full description of the introduction of the Taxpayer's Charter in the UK was set out in a chapter in the CFE (Confédération Fiscale Européenne) book **CFE at 50 years**. There are also chapters containing details of the Charters in Austria, Belgium, France, Germany, Italy, Netherlands, Spain, Sweden as well as Australia and the United States. Copies of the **CFE at 50 years** book should be obtainable from the CFE Brussels office.
14. HMRC has done a lot of work over the four years since the Charter was introduced to publicise the existence of Your Charter and to ensure that it informs the way that its staff work and interact with members of the public and their customers. However, at the present time the existence of Your Charter is not well known to the general public. This is one of the tasks that the Charter Advisory Committee is currently addressing.

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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)