

# Tax Representation



**TAXREP 44/07**

**TAX LAW REWRITE: BILL 5: CORPORATION TAX**

**CURRENCY**

*Memorandum submitted in June 2007 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to Paper CC/SC(07)15 issued in May 2007 by HMRC Tax Law Rewrite Team*

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# TAX LAW REWRITE: BILL 5: CORPORATION TAX

## CURRENCY

### INTRODUCTION

1. We welcome the opportunity to comment on Paper CC/SC(07)15 (Bill 5: Currency) published in May 2007 by HMRC's Tax Law Rewrite team at <http://www.hmrc.gov.uk/rewrite/exposure/menu.htm#1>.
2. Details about the Institute of Chartered Accountants in England and Wales and the Tax Faculty are in Annex 1. Our Ten Tenets for a Better Tax System which we use as a benchmark are summarised in Annex 2.

### GENERAL COMMENTS

3. Subject to the specific comments below, we are content with the rewriting of sections 92 to 92E of Finance Act 1993 in the seven draft clauses contained in the above Paper.
4. The rewriting of section 92C of Finance Act 1993 as the two clauses 5 and 6, respectively dealing with a UK resident and non-resident company, adds clarity, as does the use of the Step approach in clauses 4(2), 5(2) and 6(2).

### SPECIFIC COMMENTS ON DRAFT LEGISLATION

#### cl 1 Introduction to Chapter

5. (2) Should there also be an appropriate reference to Part 8 of the Companies (Northern Ireland) Order 1986 in clause 1(2)(c), as in clause 1(2)(a)?

#### cl 2 Basic rule: sterling to be used for calculating and expressing income and chargeable gains

6. (1) Is it appropriate to refer to 'income and chargeable gains' as, whilst s 92(1) Finance Act 1993 itself is applied to 'profits', the application of the basic rule is both to profits and losses as reflected in the references to 'profits or losses' in rewritten clauses 4(2), 5(2) and 6(2)?
7. In this context, as regards the lengthy title of rewritten clause 2, the s 92 Finance Act 1993 source title is more succinct and appears more appropriate.

TJH/PCB  
8.6.07

**WHO WE ARE**

1. The Institute of Chartered Accountants in England & Wales is a professional body representing some 128,000 members. The Institute operates under a Royal Charter with an obligation to act 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 (which includes taxation).
2. The Tax Faculty is the centre for excellence and an authoritative voice for the Institute on taxation matters. It is responsible for tax representations on behalf of the Institute as a whole and it also provides services to more than 11,000 Faculty members who pay an additional subscription.
3. Further information is available on the ICAEW Tax Faculty website at [www.icaew.com/taxfac](http://www.icaew.com/taxfac) or telephone 020 7920 8646.

## 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/index.cfm?route=128518>.