Tax Representation

THE INSTITUTE OF CHARTERED ACCOUNTANTS IN ENGLAND & WALES

Tax Faculty

TAXREP 15/06

RESPONSE TO LORD CARTER'S PROPOSALS TO MOVE THE FILING DATES FOR PERSONAL SELF ASSESSMENT TAX RETURNS

Collective view of the 8 bodies

Representations submitted on 31 May 2006 to Government by the Tax Faculty of the Institute of Chartered Accountants in England and Wales, the Association of Accounting Technicians, the Association of Chartered Certified Accountants, the Association of Taxation Technicians, the Chartered Institute of Taxation, the Institute of Chartered Accountants in England & Wales, the Institute of Chartered Accountants in Ireland, the Institute of Chartered Accountants of Scotland and the Society of Trust and Estate Practitioners.

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FINANCE (NO 2) BILL 2006

INTRODUCTION

1. In July 2005, the Government asked Lord Carter of Coles to undertake a review of HMRC Online Services and in particular to consider how the take up of these services could be increased, maximising benefits for taxpayers whilst ensuring the continued delivery of a sustainable and efficient service by HMRC.

2. During the period of consultation which followed, there was no discussion of the possibility of changing the self assessment filing deadline. Lord Carter's "Review of HMRC Online Services", including his proposals on how to increase their take up, was published alongside the 2006 Budget Statement together with a Partial Regulatory Impact Assessment (RIA). The Review included the recommendation that the filing dates for personal Self Assessment Tax Returns should be brought forward from 31st January to 30th September for paper filing and 30th November for online filing.

3. We believe that this proposal would be extremely costly, both to the taxpayer and to HMRC and could result in administrative chaos as workloads become even more polarised into certain months of the year.

4. In order to collect evidence to substantiate our objections, the Tax Faculty joined together with seven other professional bodies to undertake a research project. The report which follows is based on this evidence. This Tax Representation is based on the collective response of the Association of Accounting Technicians, the Association of Chartered Certified Accountants, the Association of Taxation Technicians, the Chartered Institute of Taxation, the Institute of Chartered Accountants in England & Wales, the Institute of Chartered Accountants in Ireland, the Institute of Chartered Accountants of Scotland and the Society of Trust and Estate Practitioners. Our members are involved in the day-to-day preparation and submission of tax returns. It is our collective response, based on formal surveys and the extensive and detailed feedback which we have received to date, to the specific proposals regarding self assessment filing dates. This response does not consider the other recommendations of Lord Carter's report. Views and representations on these will be made by the individual bodies as appropriate.

5. Details about the Institute of Chartered Accountants in England and Wales and the Tax Faculty are set out in Appendix 1.

Response to Lord Carter's Proposals to move the filing dates for personal Self Assessment Tax Returns

Collective view of the 8 bodies

Executive Summary

6. In July 2005, the Government asked Lord Carter of Coles to undertake a review of HMRC Online Services and in particular to consider how the take up of these services could be increased, maximising benefits for taxpayers whilst ensuring the continued delivery of a sustainable and efficient service by HMRC.

7. There followed a period of considerable consultation with the profession about how this result could be achieved.

8. Lord Carter's "Review of HMRC Online Services", including his proposals on how to increase their take up, was published alongside the 2006 Budget Statement together with a Partial Regulatory Impact Assessment (RIA). The Review included the recommendation that the filing dates for personal Self Assessment Tax Returns should be brought forward from 31st January to 30th September for paper filing and 30th November for online filing. In spite of the many hours of consultation in the period between July 2005 and March 2006 there had never been any mention of the possibility of changing the filing dates. This was a serious omission from the consultation process and this proposal has completely overshadowed the other recommendations in Lord Carter's report. We believe that the proposal to bring forward the filing dates would be extremely costly, both to the taxpayer and to HMRC and could result in administrative chaos as workloads become even more polarised into certain months of the year.

9. This paper outlines the response of the Association of Accounting Technicians, the Association of Chartered Certified Accountants, the Association of Taxation Technicians, the Chartered Institute of Taxation, the Institute of Chartered Accountants in England & Wales, the Institute of Chartered Accountants in Ireland, the Institute of Chartered Accountants of Scotland and the Society of Trust and Estate Practitioners. Our members are involved in the day-to-day preparation and submission of tax returns. It is our collective response, based on formal surveys and the extensive and detailed feedback which we have received to date, to the specific proposals regarding self assessment filing dates. This response does not consider the other recommendations of Lord Carter's report. Views and representations on these will be made by the individual bodies as appropriate.

10. We recognise the government's policy imperative of encouraging greater use of online filing as a means of reducing costs and increasing efficiency within HMRC. We are committed to supporting this policy and to working with government on ways of achieving this. It is our view – and a view expressed by Lord Carter in his report – that this is best done in a consultative framework

where all parties can work together to develop proposals that will work for, and have the support of, taxpayers, agents and HMRC.

11. We should also like to emphasise that we have an interest not only to the members of our profession, but also to represent the best interests of the public. This response reflects this obligation.

12. We disagree with the comment in the RIA that the transitional costs will not be significant. We do not believe that the current processes for completing and submitting self assessment returns by taxpayers and their agents will be able to be brought forward to meet the new filing dates without costly and substantive changes being made to the current system. These changes would affect the whole of the personal financial services sector as well as businesses, government departments and many individual taxpayers.

13. Our objections to the proposals for change are substantiated by a formal research study that we have undertaken involving members from all of our organisations. This survey has produced evidence of the additional costs which we believe would be a direct result of the change. It is worth noting that we received an unprecedented level of response to this survey, with many members also adding qualitative statements to their evidence. These results show clearly that the proposals do not meet – and in fact would work against - the policy objectives listed in the *Partial Regulatory Impact Assessment for increasing use of online services*.

14. We would like to draw attention to the evidence given by HMRC to the House of Commons Committee of Public Accounts, as published in the Public Accounts Committee Report on Self Assessment earlier in 2006. In this report it is clearly stated that HMRC suggested to Lord Carter that the filing date for electronic returns should remain 31 January and rejected a 30 September filing date for paper returns in favour of 30 November. HMRC's reasoning was set out in detail.

15. In this paper we set out our reasons for believing that:

- **The proposals will generate more paper as provisional figures and estimates become the norm in order to meet the earlier deadlines. In our professional bodies' Filing Date Research Project (referred to here as 'FDRP') 92% of agents said that the number of provisional returns would increase. Furthermore, 52% of agents said that this alone would lead to additional costs and of these, 66% would pass them on. 75% of agents expect their total costs to increase as a result of the proposals.**
- **In many instances it will be impossible to collect all necessary third party data in time to meet the new deadlines.**
- **Self employed accounts cannot be prepared early enough to allow completion of tax returns by the proposed deadlines. This is likely to have a particular impact on proprietors of seasonal businesses.**
- **Staffing will become a bigger problem for agents during the tax return season.**

- **The issues of how the work load of HMRC can be better spread to avoid peaks, and encouraging online filing are quite separate matters from that of changing the actual tax return deadline.**
- **We do not think that making a comparison with just one aspect of the tax systems of other OECD countries is appropriate, given the many other differences between them. Alignment, if this is what is being sought, cannot be seen as a piecemeal exercise and should not in our view be an objective where there is no advantage to the UK in alignment**
- **Having encouraged businesses, under self assessment, to adopt an accounting date which fits as closely as possible with the tax year end of 5th April, the new proposals are likely to encourage precisely the opposite behaviour and we would expect to see a return to 30 April year ends to allow businesses more time to prepare their accounts.**

16. In the FDRP, 89% of agents were against the proposals that filing dates should be brought forward for both paper and online returns.

17. The increased number of provisional returns will increase the number of manual interventions by HMRC thereby increasing HMRC's costs.

Detailed comments on the RIA

The paragraph references and statements in italic refer to the Budget 2006 Regulatory Impact Assessments book available at http://www.hm-treasury.gov.uk/media/1E6/1B/bud06_rias_896.pdf

Equity and fairness

18. *Para 22.35 The impact on SA taxpayers (partnerships, individuals and trusts) is less as these groups will still have the option of sending SA paper returns, though they will need to do so by 30 September following the end of the tax year. If they choose to send in a paper return before 30 September, they will incur no cost.*

    We disagree with this analysis, as it assumes that SA taxpayers have a choice in deciding whether to submit their returns before or after 30 September. The reality, as shown by our survey, is that many SA taxpayers are not in a position to file before 30 September. Our FDRP indicates that 85% of tax practitioners do not have the information needed for self employment cases by 30 September following the end of the tax year and that 68% still do not have the necessary information by 30 November. These statistics rise to over 90% and 81% respectively for small firms – to date the most enthusiastic e-filers - which will usually act for smaller businesses. Our results show similar statistics for regional practices. Those who make a concerted effort to gather information in time to submit a paper return before 30 September are likely to incur additional costs in doing so, but the majority will not have that option. In both cases costs will follow. This is not properly considered in the small firms impact test section within the RIA.

19. Further analysis of the results of the FDRP shows that our members do not have access to the following information by 30th September and 30th November respectively.

Information	Not available by 30th September	Not available by 30th November
Overseas income	38%	26%
Partnership income	62%	61%
Information relating to self employment	85%	68%
Interest	8%	5%
Dividend income	13%	3%
Trust information	56%	45%

20. We have also received a number of specific comments relating to information supplied by land agents for the tax returns of trust clients. Farm accounts cannot be drafted without information from the land agents, which typically arrives in January.

21. Legislating to compel providers of information to do so within specified time limits (which of course may not be possible if, for example, the information is in relation to overseas income) would require those providers to alter their systems and IT infrastructure. This would involve further costs and the lead time to achieve this situation would necessarily be a long one. Even so, it would only ameliorate some of the problems we have identified with the proposal to move the deadline.

Summary of Costs and Benefits

22. *Para 22.36 The changes to the filing dates for SA returns should not cause taxpayers additional costs. The vast majority of employee and pensioner SA taxpayers have all the information they need to complete their returns by the end of July. The few that do not may include provisional figures in their returns if necessary. Self employed SA taxpayers, or their agents, need to prepare accounts information in order to complete their returns and many may need to do this sooner after the end of the tax year than they are currently accustomed to.*

Employees and pensioners:

23. The changes to the filing dates will cause taxpayers additional costs. Whilst many employee and pensioner SA taxpayers will have all the information they need to complete their returns by the end of July, we disagree that the 'vast majority' will have the details as many will not have them. In particular, our survey indicates that 8% of information about interest receipts and 13% of information about dividend receipts is not received by 30 September. This will mean that there will be a considerable number of taxpayers with relatively straightforward affairs who would be unable to meet the deadline for paper return filing (unless of course they submit provisional figures) and who are therefore likely to incur costs in order to

file electronically by 30 November. Many households do not have computers or internet access, particularly the elderly and others without a self employed business need.

24. The P60 isn't due to reach employees until 31 May and the earliest practicable date by which an employed taxpayer with taxable benefits in kind is likely to begin to think about completing his tax return is 6th July, the date by which they should receive their P11ds. This allows less than three months for completion before the 30th September deadline and includes the holiday season.

Self employed taxpayers:

25. The Government's own statistics show that there are in excess of 2.5million[1] self employed taxpayers in the UK.

26. 95% of businesses in the UK are classed as small businesses. Individuals running businesses with a 31st March year end will need to use the time between the end of March and 30th September to finalise, with their accountants, their end of year accounts. This is, of course, only the first step in producing the information needed for completing a tax return. Many of our members have used the feedback opportunity afforded by our online survey to comment on the difficulties which this proposal will cause. By bringing forward the filing dates for self assessment, the government is placing an additional burden on these small business owner managers. A typical response from a member states:
'As a sole practitioner I am very much against the reduction of the period to complete tax returns. As a practice we have found it impossible to complete all tax returns by 30th September especially for 31st March year ends.'

27. Having encouraged, under self assessment, an accounting date which fits as closely as possible with the tax year end of 5th April, the new proposals are likely to encourage precisely the opposite behaviour and we may see a return to 30 April year ends to allow businesses more time to prepare their accounts.

Seasonal businesses:

28. The same argument also applies to those individuals who work in sectors where there are seasonal peaks of work during the summer months (June to August). The summer holiday period is the busiest time of the year for those in the tourism and hospitality sector where a majority of business is done during these months. The months of July to September are also the busiest period for the farming sector, as this is when the harvest is brought in. Farmers are working all the daylight hours they can to complete this.

29. According to research[2] undertaken by the ACCA, 53.8% of their members think that the revised dates will have a negative impact on businesses engaged in seasonal trade. The pressure of getting together the information required for a self

[1] http://www.hmrc.gov.uk/stats/income_distribution/3_4_apr06.pdf
[2] ACCA poll of members on the Carter Report – April 2006

assessment tax return during this time period and completing the form to meet a new deadline will place additional burdens on these individuals at their busiest time of year.

Impact on staffing and resources:

30. The FDRP revealed that 91% of respondents believed the Carter proposals would have a significant impact on their working practices.

31. Agents are very keen to ensure, as is HMRC, that they are able to manage a relatively balanced flow of work during the year. Our members are concerned that this proposal will increase the imbalances. These proposed changes to their workloads will result in two thirds of the year now being under very high pressure - much more than currently - with the remaining one third being extremely quiet. This increase in the imbalance will increase costs and add significantly to the amount of stress suffered in the workplace.

32. Agents structure their workloads around a number of peaks in activity during the year. Much of their work is already focussed around statutory deadlines such as:
    - Year end payroll compliance – April and May
    - Preparation of Forms P11d – June

    Accounts preparation work may then follow in the late summer and autumn months, including work for partnerships. It is only after accounts have been completed that tax return work can begin. Realistically this will leave only a small window between August and November in which to do tax return work.

33. Whilst every effort is made by agents to obtain information and to process returns as quickly as possible, the reality is that many agents do not receive the information they require from their clients until October, November and indeed beyond. This is often because the clients themselves do not have it. For example, a medium sized practice with 13 individuals in its tax department may process as many as 3,500 returns. It starts receiving information from the majority of clients in early August. By the end of November, it will have received the information required from almost 80% of its clients, returned draft returns to 65% of its clients for approval and filed just over 50% with HMRC. To bring forward the deadlines would require clients to start submitting information as early as May which, as we have already outlined, would not work in practice.

34. Many practices, especially medium and large ones, take on additional staff to provide support and assistance during peak periods of activity. These temporary employees, such as retired employees and stay-at-home parents, are taken on during term time.

35. By moving the filing deadlines, the bulk of the work will need to be undertaken during July, August and September, a time when practices are significantly understaffed due to summer and school holidays. Furthermore, staff working during this period may be unwilling to do the overtime required. The pool of

temporary staff which practices have access to will be reduced for the same reason.

36. In addition to the under-estimation of actual costs in the RIA, paragraph 22.59 states that *'There are unlikely to be any significant social costs'*.

37. Our survey asked which effects on staffing would firms expect to encounter if the filing date changes were implemented. The following percentages expect that these problems would probably or definitely affect them:

Difficulty in securing extra staff for peak filing period (ie volume)	66%
Difficulty in securing staff of the right level (ie quality)	62%
Risk of loss of staff because of work pressures	48%
Cancellation of holidays for current staff	71%
Problems within the Working Time Directive	50%

38. For small practices, the impact will be more significant and for many, particularly sole practitioners and very small firms outside major towns and cities, it is likely to be catastrophic. These firms are unable to access the flexible employment market that may be open to larger firms in large towns and cities. They tend to employ married women who have returned to work but who are unable to increase their hours (particularly through July and August which would under the proposed new regime become peak months) because of family commitments. For those that undertake a lot of compliance work, the months of February, March and April are effectively dead months already. By bringing forward the filing dates, this would be extended to a five month period. It is simply not possible to find extra work for staff through such a long period.

39. A September filing date would prejudice the ability of many firms to offer training contracts to their tax staff, because arrangements for professional study leave and examinations are usually taken in the summer months.

40. Most of the national firms have dedicated personal tax staff who cannot be re-deployed onto other activities for six months because they don't do anything else. They are usually tax technicians, not qualified accountants, and they can't be used to help out on audits or insolvencies or corporate finance deals because it's not in their skill set. Some could be re-trained, some could not, and others wouldn't want to. It would be uneconomic to retrain them to be audit juniors, to the standards necessary to satisfy the regulators, if they could only be used in that other role for half of the year.

Additional agent costs:

41. Paragraph 22.40 states that the costs of preparing accounts and returns will not change, the only additional costs being transitional as agents change their working practices and educate their clients. This again exhibits a fundamental lack of understanding of the marketplace. The FDRP shows that 75% of agents expect that the proposals will increase their staff costs. 22% of the small firms who

responded anticipate a cost increase of between £1,000 and £5,000, a further 17% expect a cost increase of between £5,000 and £10,000, and 25% expect a cost increase of more than £10,000. The impact for a 'Big 4' practice is estimated at between £50,000 and £100,000. Proportionately, the greatest impact is being imposed once again on the smallest firms (who have been the most enthusiastic users of e-filing).

42. 66% of agents who responded to the FDRP would expect to pass on all or part of their additional costs to their clients.

Provisional or estimated figures:

Para 22.55 The costs shown above do not include any transitional costs for agents from the need to change working practices to adapt to the new filing dates. We anticipate that the costs will be spread over the two years leading up to implementation and that the cost per client will not be significant but agents views on this are sought in the consultation section of this assessment.

Para 22.56 Once these one-off set-up costs have been incurred, the ongoing cost of submitting returns and forms will be less than the paper equivalent. Hence the ongoing effects are included in the benefits section as a compliance cost saving.

43. As a direct consequence of information not being available, in order to comply with a 30th September or 30th November filing date, returns submitted will have to be based on provisional or estimated figures which will subsequently need to be corrected. As the process for doing this is manual, it will require greater effort by all parties concerned, including HMRC, to amend returns. In particular, there will be an increase in the number of transactions dealt with on paper rather than electronically and this runs completely counter to the policy objective. Enabling electronic amendment would require further costly functionality to be added to HMRC's systems and to those of tax return preparers. Far from seeing a compliance cost saving, advancing the filing dates looks likely to increase compliance costs.

44. For other providers of information for tax returns, there are no such statutory requirements and so the required information may only be provided on an annual basis, often on the anniversary of a particular policy or investment. For example, an individual with a savings account may only receive one statement each year, on a date unrelated to any filing deadline, which may include a certificate of interest earned for the previous tax year.

45. Trusts represent a particular problem as beneficiaries are often unable to obtain certificates of income from trustees until very late in the filing period. Trust accounts are prepared to 5 April for obvious reasons, and it will be necessary to continue this practice if the proposed change on tax and distributions goes ahead. This will make it almost impossible to file returns on time as the accounts will not be ready on time. Beneficiaries will need their details by end of August meaning accounts will have to be prepared in the three and a half months to mid August

rather than the seven and a half months to mid December. The FDRP showed that 50% of agents find that trust information is not available by 30th September and that 35% have still not received it by 30th November.

46. The proposals do not properly consider the position of SA filing in relation to expatriates. It has been recognised over many years that expatriates are a special case. We have different procedures and timeframes which apply which recognise that information needs to come often from a variety of different sources (home and host country etc) and that this takes time. For example, the modified PAYE procedure and the relatively newer modified procedures relating to NIC. This is to be applauded and it would be a shame therefore to be negating this position by enforcing altogether shorter timelines. In particular, under modified PAYE the employer has until 31 January after the end of the tax year to submit Forms P11D. Clearly, that means that a 30 September or 30 November filing date is not realistic.

47. If 19 out of 20 pieces of information required for a return are available but the 20th is not yet to hand at the filing date, there are only two available alternatives: hold the return and suffer a penalty or file a provisional return to be corrected subsequently. There is no acceptable third alternative.

Issues for HMRC

Dealing with amendments:

48. We recognise that, as for agents, HMRC have to deal with peaks in their workload. Examples are the self assessment filing deadline at the end of January, the year end payroll deadlines in April and May, and the Tax Credits renewal deadline which is now 31 August. Our view is that these proposals will not reduce the peaks in HMRC's workload, it will just serve to bring it forward.

49. We do believe that greater encouragement needs to be given to taxpayers and their agents to file their returns earlier so as to spread the workload for all and to this end we believe that Lord Carter's proposal to align the enquiry window with the actual rather than the statutory filing date will be of significant assistance. Moving the filing date will not.

50. As mentioned above, one of the main by products of bringing forward the filing deadline will be a considerable increase in the number of tax returns submitted with provisional or estimated figures that will need to be corrected at a later date. According to our research, 92% of those questioned believe that the number of returns submitted with estimates/provisional figures will increase; 25% anticipate that the number of returns submitted containing estimates/provisional figures will increase by between 25% and 50%, and a further 16% believe that this number will increase by more than 50%.

51. There is no electronic system for amending a tax return and this will therefore need to be done on paper. We believe this will create significant additional

workload for HMRC as they will be required to process these amendments manually, undermining the policy priority of encouraging online filing. It is also likely to increase the costs to taxpayers of completing their self assessment returns as it will require additional work by their agents to update returns with the correct information and submit this to HMRC. The FDRP showed that 52% of those questioned believe that costs are likely to increase as a result of having to complete returns with provisional figures.

52. In Ireland there is no apparent correlation between the interval permitted to file returns, and the level of voluntary take-up of electronic filing. There 65% of all income tax returns were e-filed <u>voluntarily</u> for the last filing date, yet the deadline is ten months from the end of the year of assessment to which the return relates. Even though electronic filers are permitted a further period of grace of two weeks or so beyond the ten month deadline, in practice, this is not availed of to any significant extent. Voluntary e-filing is not predicated on deadlines in their recent direct experience. Instead, it is determined by the suitability, stability and accuracy of the e-filing system itself.

53. The Irish operate a similar electronic system for corporate filers (who have less than nine months to file). Take up is insignificant, because the system simply isn't as good. The majority of Irish practices file for companies in a shorter timescale on paper, but file the returns for the directors of the same companies electronically, though they have two months longer to do so.

Para 22.27 The filing period for SA returns is currently 10 months, which is far longer than the OECD average for personal tax returns of 4 months. This can be unhelpful, as taxpayers are less likely to have the relevant information to hand if they complete their return towards the end of the filing period. It can also make enquiries into returns more difficult and stressful as the events during the return period may be less clear in the taxpayer's mind.

54. Within Lord Carter's report and the accompanying RIA, there have been references to other countries and their practices. We do not think that these comparisons are valid. Every country's tax system is different and the regulations for filing of returns are geared towards their particular regimes. Making overseas comparisons is therefore difficult as not one system mirrors our own. It is true that there are countries where the filing deadlines are shorter than our own, but in some of these countries extensions can be applied for or the majority of taxpayers are seeking repayments.

55. We believe that while moving closer to international norms can be justified in many situations there has to be a good reason in terms of either the UK's international competitiveness or in terms of greater efficiency. International competitiveness is not an issue here and our research shows that efficiency will be decreased rather than increased. Specifically, it will make the policy objective more difficult to achieve.

AM 30.5.06

APPENDIX

ICAEW AND THE TAX FACULTY: 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.