



ICAEW REPRESENTATION 25/16

TAX REPRESENTATION

IHT PAYMENTS FOR WWII PERSECUTION VICTIMS – CLAUSE 46

NETHERLANDS BENEFIT ACT FOR VICTIMS OF PERSECUTION 1940 TO 1945 – CLAUSE 15

ICAEW welcomes the opportunity to comment on the draft Finance Bill 2016 clauses on [IHT payments for WWII persecution victims](#) and [Netherlands Benefit Act for victims of persecution 1940 to 1945](#) published by HMRC on 9 December 2015.

This response of 29 January 2016 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.

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COMMENTS ON THE DRAFT LEGISLATION

Clause 46

1. Proposed Clause 153ZA(1)(b) is worded rather oddly. It refers to:-
".....the personal representatives of P have received a qualifying payment on P's behalf. " It would be better expressed as " in relation to P".
2. Sub clause (7) allows for the list in Part 1 of Schedule 5A to be amended, but makes no provision for the eventuality that future payments might be made to former Far East Prisoners of War. That seems an unnecessary restriction.

Clause 15

3. On the amendments in connection with Netherlands Benefits Act payments, if they have been wrongly treated as taxable in the past, then the commencement date in the proposed Clause 15 which gives this relief only from 2016/17 seems wrong. The relief should be treated as always having been available, or at least since 1972 when the UK joined the EU.

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 via <http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax>).