

Tax Representation



TAX
FACULTY

TAXREP 48/09

WORKING WITH TAX AGENTS

Memorandum submitted in August 2009 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to the consultation document 'Modernising Powers, Deterrents and Safeguards: Working with Tax Agents' published on 22 April 2009 by HM Revenue & Customs.

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INTRODUCTION

1. In this document we present the comments of the Tax Faculty of the Institute of Chartered Accountants in England and Wales (ICAEW) on the [consultation document](#) and impact assessment *Modernising Powers, Deterrents and Safeguards: Working with Tax Agents* published by HM Revenue & Customs (HMRC) on 22 April 2009.
2. We are pleased to have the opportunity to respond to this consultation document and the accompanying impact assessment. We have made a number of general comments about the proposals in the consultation and then answered the specific questions that are raised in the document. We would 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 the ICAEW is given in Annex A. Our Ten Tenets for a Better Tax System, by which we benchmark proposals to change the tax system, are set out in Annex B.

KEY POINT SUMMARY

4. We welcome the approach which HMRC has taken of raising issues and asking questions rather than proposing definitive solutions.
5. We welcome the explicit acknowledgement that tax agents make the UK tax system work. Without qualified agents such as chartered accountants, the system simply could not function. This understanding needs to underpin all discussions on the nature of the HMRC/tax agent relationship.
6. The ICAEW is one of the leading professional bodies. Our key Royal Charter obligation is to promote public confidence in the accountancy profession. It is therefore an essential part of our role to set and maintain high standards and address cases where members' work falls below an acceptable standard.
7. The consultation document and impact assessment raise a number of different and distinct issues which we believe should be dealt with separately. Some are relatively straightforward and uncontroversial and could be dealt with fairly swiftly; others are more complex and need to be addressed over a longer period. It is important to make this distinction rather than to try and rush through decisions on all the issues together without adequate time for proper consideration. The issues should also be distinguished with reference to the perceived level of tax at risk.
8. Rather than create new powers or systems for regulating tax agents, we believe that there is considerable scope for making better use of frameworks which already exist. The ICAEW is self-regulating and has procedures designed to ensure the maintenance of high standards by our members. We recommend that HMRC works with professional bodies such as the ICAEW to develop and improve the channels by which HMRC can give information about what it considers to be

poor work to the relevant body so that standards can be reinforced and improved where the relevant body agrees that it is necessary.

9. There is an existing statutory gateway for HMRC to inform professional bodies about misconduct by their members, provided by s 20, Commissioners of Revenue and Customs Act 2005 (CRCA 2005). However, it appears that it may be drafted so tightly that it can only be used in cases where there may have been serious professional misconduct. If so, it needs to be changed to allow for more informal channels of communication. We should be pleased to work with HMRC on this.
10. We have worked with other professional bodies over the years to develop a code of professional conduct in relation to taxation (see [section 7.3 of the ICAEW Members' Handbook](#)). We believe that these guidelines provide a suitable benchmark for all those engaged in tax.
11. We do not think that there is a need for a new tax agent registration regime.
12. We do not think that that the consultation paper provides a compelling case to support the general introduction of behaviourally-based penalties on tax agents. We think that HMRC and the professional bodies should be working jointly to raise standards across tax agents and tax gatherers rather than HMRC seeking to impose penalties. While we recognise that there may be circumstances where it would be appropriate to charge such a penalty, we would have expected such penalties to arise only in very serious cases.
13. If any new rules were to be contemplated covering agents then it would be essential to balance these with adequate safeguards. Where rules are in statute the relevant safeguards also need to be statutory and include a right of appeal against any decision or action of the tax authority. This comment applies equally to rules applying to taxpayers.
14. HMRC needs to determine whether unqualified tax agents as a class present particular risk problems. If they do, then HMRC needs to make arrangements for their supervision appropriate to their risk profile.

GENERAL COMMENTS ON THE CONSULTATION DOCUMENT

The vital role played by agents

15. We welcome the statement in paragraph 1.13 of the consultation document that 'the consultation is intended to raise issues and ask questions rather than propose definitive solutions'. We believe that is the right approach. We think that it is first necessary to identify the issues and then achieve a broad consensus about solutions before any changes are made. The way forward is therefore to work with professional bodies and tax agents to identify the specific problems and devise appropriate solutions to them.
16. We also welcome the explicit confirmation (in paragraph 3.14 and elsewhere) of the key role that agents perform in the UK tax system and that the 'overwhelming majority' provide appropriate advice and calculate tax correctly.

17. That being the case, we think it is vital that this consultation, and any related outputs, are aimed clearly at addressing specific issues such as tax agents whose work falls below an acceptable standard on a regular basis. We do not think that further burdens and costs should be placed on those tax agents who already do a good job and without whom the system simply could not function.

Professional tax agents

18. The paper states (in paragraph 1.2) that 70% of 'traditional agents' are affiliated to one of the main professional bodies and some 80% of agents have a professional qualification.
19. Four out of five agents have therefore taken professional exams which will include tax. Most of these agents will be members of a professional body and their firms will be affiliated to a professional body such as the ICAEW. All members must adhere to professional bodies' codes of conduct and regulations designed to ensure that members uphold the high ethical and technical standards expected of their profession. Where members fall short, it is clearly important that any issues are addressed and that in serious cases there is appropriate disciplinary action. We believe therefore that professional bodies have a vital role to play in upholding high standards within our member firms and that HMRC should work with such bodies to minimise risk. HMRC then needs to identify separately the risks posed by agents who are not affiliated to a professional body and formulate a strategy for addressing those concerns.

Supervision of members' work: Practice Assurance

20. The ICAEW and various other professional bodies have quality assurance programmes designed to provide proactive supervision of members' work. The ICAEW version is Practice Assurance, a scheme of practice review which applies to all members in the UK (including the Channel Isles and the Isle of Man), the rest of the EU, Norway, Iceland and Liechtenstein who hold a practising certificate and are in practice on their own account.
21. Practice Assurance provides members in practice with a framework of quality assurance principles to help them assess and develop their practices, offering practical support and advice. It is designed to demonstrate to the business community and the wider public that the ICAEW is committed to upholding and developing standards that command public confidence.
22. Member firms complete an annual return and the aim is that such firms receive a Practice Assurance review visit at least once every six years. The detailed operational arrangements are set out in the Practice Assurance [Regulations](#). Practice Assurance is designed to provide assurance across the broad range of our members' work. Where a member undertakes tax work, this work will therefore form part of any Practice Assurance review.

A range of risks requiring different solutions

23. The consultation document does not provide any detailed statistics on poor work. Rather, it sets out some examples of where the work of agents might fall below the standards that taxpayers and HMRC have a right to expect. It is difficult to know from these examples whether the problems are isolated instances of bad work or reflect more widespread concerns. Nor is it always clear whether the work was performed by a qualified agent who is a member of a professional body. Nevertheless, the examples cited in the consultation document highlight that HMRC is faced with a range of risks. The appropriate response to any identified risk will depend on the circumstances.
24. The impact assessment summarises neatly the problems that are concerning HMRC, in that it refers to the performance of a small minority of tax agents falling below the standards expected which can lead to the risk of tax being lost. Furthermore it identifies that, at the more serious end of the scale, the actions of a few unscrupulous tax agents can result in attacks against the tax system and/or tax being deliberately understated and that the tax at risk in these cases can be significant.
25. We suggest that there are various different components to the problem from HMRC's perspective, and each needs a different solution. We set out below our analysis of the identified areas of risk.

Errors in work submitted by tax agents

26. Errors can range from innocent mistakes through careless or repeated mistakes to (at the other extreme) deliberate misstatements. The range of non-deliberate errors would include those caused by:
 - lack of or inadequate review procedures;
 - inadequate training of agent or staff;
 - not keeping up-to-date and/or following previous years without considering matters afresh; and
 - other pressures such as illness of agent or staff, work pressures, technology failures etc.
27. Each of these problem areas may require a different solution that is proportionate to the identified problem. Deliberate errors are likely to amount to tax evasion and again require a different approach reflecting the serious nature of the error.

Differences of opinion on technical issues

28. Apparent errors may arise from differences in opinion between the interpretation of the law by tax agents and HMRC. Again, this can cover a range of behaviours, from sustainable arguments through to positions that are so far-fetched as to be clearly untenable and which could amount to a deliberate attempt to falsify the return.

29. In respect of the former, HMRC acknowledges in paragraph 1.8 of the consultation document that agents may need to take a firm stance in the interests of their clients. This is an extremely important principle. There should be no concern about agents robustly arguing a case on the basis of a legitimate interpretation of the law. .

Acceptable and unacceptable tax avoidance

30. Taxpayers have the right to organise their affairs to minimise legitimately their tax liabilities. For many years the tax profession, taxpayers and the tax authority have struggled with drawing clear lines about what is acceptable tax planning and what is not, especially in cases where the primary legislation is open to interpretation. There is no accepted definition of tax avoidance. The ICAEW's professional conduct rules do advise members to be cautious in recommending any tax avoidance schemes to clients. However, much will depend upon the particular taxpayer's appetite for risk and the specific facts of the case.
31. It is right that HMRC should ask Parliament to change rules that promote behaviours that it considers contrary to policy. We have stated consistently that the right approach to counter tax avoidance that is considered unacceptable is through targeted anti-avoidance legislation and perhaps some future help could be provided by using purposive legislation that is clear in its intent.
32. In recent years the Government introduced the Disclosure of Tax Avoidance Scheme (DOTAS) rules. These rules provide HMRC with an early warning of tax avoidance schemes and an opportunity to determine quickly if action is needed. We worked closely with HMRC to ensure that the disclosure rules work as intended but do not impose too great a burden on taxpayers. We believe that these rules have been successful and that they have helped to reduce the incidence of aggressive tax avoidance schemes. We have also offered help in the ongoing consultation on how to enhance the DOTAS rules and we believe that this route may provide a better solution to some of HMRC's concerns in this area.

Tax evasion

33. Tax evasion is illegal. It is contrary to the ICAEW's ethical principles and rules and our members should not become involved in it. If they do so, then they are likely to be subject to our disciplinary proceedings and if found guilty face punishment, which is likely to include a fine and exclusion from membership. We will support any reasonable steps taken to counter tax evasion. The ICAEW has 132,000 members (although the number engaged in practice is considerably lower at around 30,000) and it is entirely possible that a very small number of our members may knowingly become involved in evasion. We do not want such people as our members and we will support HMRC to help ensure that any such members are identified and dealt with appropriately. However, it is important to recognise that some members and firms may inadvertently become involved in assisting tax evasion. Where it is inadvertent, such members and firms may require help and assistance to make sure it does not recur rather than face possible disciplinary action.

Addressing concerns about work standards

34. Any proposals to address work standards should take into account, and build on, the existing procedures by which professional bodies monitor and regulate members' behaviour and work standards.
35. Under existing rules HMRC can complain about an ICAEW member to our Professional Conduct Department. We have set out brief details about the ICAEW complaint-handling process in Annex C. Full details can be found at:

www.icaew.com/index.cfm/route/139178/icaew_ga/en/Home/Protecting_the_public/Complaints_process/Complaints_processA

36. However, the ICAEW complaints process is aimed at more serious breaches of the ethical and professional rules. It states (in the second paragraph on the web page):

a simple mistake, an error of judgement or a minor example of negligence may not make a member or firm liable to disciplinary action.
37. It is also worth emphasising that whether the ICAEW would consider launching an investigation into a complaint will depend upon the precise facts in each case. We have set out in Annex D the ICAEW's view on whether the examples quoted in Chapter 3 of the consultation document are likely to be sufficiently serious to warrant investigation by the ICAEW with a view to possible disciplinary action. Most of the examples quoted in Chapter 3 appear (subject to detailed checking of the facts) to fall into this category.
38. We are not aware that any of the examples quoted in Chapter 3 were reported to the ICAEW but, in principle, if the work that is highlighted was performed by our members we think HMRC would have had justifiable grounds for reporting them.
39. However, formal complaints procedures are by their nature likely to be appropriate only for more serious breaches and the quasi-judicial nature of the proceedings may not always be the best way to tackle cases that have been identified as poor work. The formal complaints procedure as currently structured is likely to be unsuitable for addressing more general concerns about work standards.
40. We therefore consider that, in addition to making greater use of its existing powers to report examples for possible investigation, HMRC needs to work with the professional bodies and tax agents to identify a more proportionate response to concerns about work standards where the issues are not likely to warrant formal investigation. This is an issue that the ICAEW and other tax-interested bodies have worked on with HMRC (and its predecessor departments) over the years and where some solutions had already been proposed, as discussed below.
41. Where HMRC has issues with a particular firm's standards of work (and the concerns are not of such a serious nature that disciplinary procedures might be appropriate), we think it reasonable for HMRC to first speak to the firm concerned to see whether the concerns can be resolved informally.

42. If this is not successful, we believe that such concerns could then be raised with and addressed through the appropriate professional body. This should be done using a more informal and flexible approach than the formal complaints procedure.
43. We want to work with HMRC to develop a flexible approach that can cater for those concerns of HMRC for which our disciplinary procedures are inappropriate. There is a precedent for a more informal and flexible approach. A joint initiative between certain professional bodies (ICAEW/CIOT/ACCA) and the Inland Revenue was announced on 21 March 2000 in Budget press notice REV10 *Helping to get it right*. This covered low-level persistent errors. The aim was to use bodies' member support schemes on a personal basis, allowing HMRC/Inland Revenue/HMCE to provide information to specific individuals in the support scheme, thus not breaching Civil Service confidentiality requirements.
44. However, the ICAEW did not receive any reports through this scheme. We do not know whether this was because the problems were resolved by the Inland Revenue approaching the firms involved directly and thereby obviating the need to take things further, or because of doubts about the legality of any disclosure. In respect of the latter, our recollection at the time was that the initiative was cleared by the Inland Revenue Solicitor's Office. It is clearly vital that any scheme is legally correct and if there are doubts then the law may need to be changed. We remain keen to work with HMRC to develop a flexible approach that can cater for those concerns of HMRC for which our disciplinary procedures are inappropriate.
45. Section 20(3), CRCA 2005 has, since 7 April 2005, provided a 'gateway' to enable HMRC to make disclosures to professional bodies where, inter alia, they are in the public interest and relate to misconduct on the part of a member of the profession. We had assumed that this gateway was designed to address possible doubts about the legality of the 2000 proposals and that this would be used to report 'bad work' and thereby enable any issues to be addressed,
46. However, we understand that the 'misconduct' and/or 'public interest' hurdles contained in the gateway are perceived to be too high, with the result that it has only been used in what HMRC considers are very serious cases, in other words, cases that are likely to be subject to investigation for possible disciplinary action. This is borne out by events, as we understand that, in the four years or more since the gateway was enacted, only four cases have been referred to the ICAEW and all of them have fallen into the 'possible disciplinary action' category. This is surprising given that the examples of bad work in Chapter 3 would all appear to be sufficiently serious to merit investigation (although it is not clear whether they were undertaken by a tax agent who was a member of a professional body).
47. This suggests that, while the gateway may work to allow disclosure in serious cases, in practice it may not be being used to the extent that might be expected. In addition, it does not appear to allow disclosure of concerns about work standards of the type envisaged in the 2000 proposals.
48. We think that given these doubts about the effectiveness of s 20, CRCA 2005, it needs to be reviewed and we expect that even in its current form more use could be made of the gateway. If necessary, however, it should be changed to ensure that it can be used in a wider variety of circumstances in line with the expectations

set out in 2000. We would be happy to work with HMRC on this issue and consider what if any amendments are needed to this section.

Registration of agents

49. Chapter 5 of the consultation document discusses agent regulation through the need to register. We would expect that HMRC as a matter of course already undertakes its own risk analysis on agents and that agents producing poor work etc would be identified. Such information would then enable HMRC to manage those risks as appropriate. We do not see what extra comfort a 'full-blown scheme of registration' would provide to HMRC.
50. We therefore do not think that there is a convincing case for a registration scheme in the UK and agree with HMRC's view as set out in paragraph 5.5 that:

HMRC is not convinced that there is a need currently to take the significant and possibly costly step that a full-blown scheme of registration.

Unqualified tax agents

51. Unqualified tax agents are not answerable to a membership body. However, those who are 'in business' as defined in the anti-money laundering rules should already be registered with HMRC for this purpose. HMRC and professional bodies are party to the same Treasury-approved anti-money laundering guidance for the tax sector (see [TAXGUIDE 4/09](#)) and HMRC is responsible for monitoring compliance with anti-money laundering requirements by those on its register.
52. Those not 'in business' do not need to register with HMRC. This would include individuals who on an unpaid basis complete and submit tax returns. For example, for other family members or local clubs/societies/community groups/residents' associations and the like (many of the latter category will not have completed a 64-8 as they will be liaising with HMRC as treasurer rather than as agent). We should imagine that the tax risk associated with those who do not seek reward for acting as a tax agent or treasurer etc is low.
53. See our answers to Q1, Chapter 5 below for further commentary on the position of unqualified tax agents.

Definition of tax agent

54. Paragraph 5.5 of the consultation document considers whether it would be beneficial to define 'tax agent'. We are not convinced that there is a compelling case for a formal definition. If however one is considered necessary, we consider a tax agent would be someone who is in business to act on behalf of a taxpayer in dealing with HMRC (eg submitting a tax return and agreeing liabilities, or negotiating an agreed tax treatment of a transaction).
55. We would expect that anyone who has completed and submitted form 64-8, form FBI2 or a similar letter of authority to HMRC would be included as a tax agent for these purposes.

ANSWERS TO QUESTIONS FOR CONSULTATION AND DETAILED COMMENTS

Chapter 1: Introduction

(There are no questions in this chapter)

56. We welcome paragraphs 1.2 (first sentence), 1.6, 1.8 and 9, 1.12 and 1.13.

Chapter 2: Design principles

Q1. Have we identified the correct design principles? In applying these principles, are there any other matters that we need to take account of?

57. We are not convinced that the paper identifies with sufficient clarity the key problem areas that HMRC seeks to address. HMRC needs to clarify the areas of risk, ranked by importance, before any solutions can be designed to address the risks. The range of behaviours and risk areas is likely to require a range of responses but tax agents who do a good job should be recognised as such and should not be subject to further burdens.

58. We believe there is no pressing need for blanket new rules to be brought in to cover the work of all tax agents. It is essential that if any new rules are introduced there should be safeguards for agents set within statute including an unrestricted right of appeal to the tribunal and courts against any decision or action of the tax authorities.

Need to reassure tax agents

59. We welcome in paragraph 2.4 the acknowledgement that HMRC needs to ensure that it has a minimal impact on those doing a competent job and the other points made in that paragraph.

60. Paragraph 2.5 states: 'Where tax agents do not belong to professional bodies, they should not be disadvantaged where they follow accepted procedures or otherwise demonstrate their competence.' However, the professional bodies involved in tax impose minimum requirements, including the need to hold professional indemnity insurance and undertake continuing professional development requirements, etc, which the unqualified do not have to meet. Further, some professional bodies such as the ICAEW have quality assurance processes for members in practice that are designed to ensure that members maintain good standards of work.

61. Thus, those who are members of a professional body have to do more than just 'follow accepted procedures' – members have to demonstrate that they are competent on an ongoing basis. These key requirements provide HMRC with safeguards over and above those of tax agents who are not members of a professional body and these additional safeguards need to be given proper weight and credit.

Supporting professional standards

62. As part of achieving the common goal referred to in paragraph 2.7 of maintaining and improving professional standards, there is also a need for transparency

concerning the standards to which HMRC works. If proposals in the consultative document are taken forward, consideration should be given to developing common standards applying both HMRC as well as to tax agents.

63. ICAEW members who are involved in tax (and members of most of the other professional bodies whose members regularly act as tax agents) comply with a common set of ethical standards known as [Professional Conduct in Relation to Taxation](#) (which is currently being updated). There is also joint body guidance on letters of engagement for tax practitioners ([TAXGUIDE 2/09](#) updated in March 2009). There is a precedent for a common code to apply across the private and public sectors, namely the guidance in which HMRC is a partner for money laundering so far as it affects those providing tax services ([TAXGUIDE 4/09](#) updated June 2009).
64. It is probably not appropriate for HMRC to be a party to the whole of guidance such as our Members' Handbook statement *Professional Conduct in Relation to Taxation*, as it is written from the viewpoint of a member in practice or in business dealing with HMRC. However, there is no reason why HMRC staff should not be guided by the same five fundamental principles which govern the conduct of our members and those of other tax interested bodies who are a party to the guidance, namely:
- Integrity
 - Objectivity
 - Professional competence and due care
 - Confidentiality
 - Professional behaviour.
65. These are listed in Annex E with a short explanation.
66. While unqualified tax agents can of their own volition individually comply with such guidance, it is not easy to see how they would gain acknowledgement for so doing as long as there is no effective monitoring of this sector. One approach might be to form 'lower tier' bodies but this would be difficult to agree if there was no parity in terms of approach and enforcement.
67. Other possible alternatives for unqualifieds are:
- regulation undertaken by a professional body (in addition to monitoring of its members);
 - regulation by HMRC – perhaps as a starting point of firms/individuals registered with them under the anti-money laundering provisions;
 - encouragement to join a list of approved professional bodies; and
 - prohibition on unregistered firms/individuals acting as a tax agent.
68. Each of these options would require evaluation and would have resource implications for HMRC. If the professional bodies became involved in monitoring or otherwise supervising the work of unqualified tax advisers, this would have resource and cost implications. Costs would need to be recovered from those subject to review/supervision and/or from the government department responsible for subcontracting such work.

69. Paragraph 2.8 states that compliance with professional bodies' monitoring relies on 'voluntary submission' by the agent firms. While tax agents are under no obligation to belong to a member body, compliance by our members with our rules and standards is not voluntary. Further, members in practice must comply with our Practice Assurance rules. We would therefore welcome clarification of this point.

Recognise the potential impact of powers on tax agents' businesses

70. We welcome the recognition by HMRC (in the first sentence of paragraph 2.10) that the use of powers can damage the reputation of tax agents if used inappropriately. This goes wider than powers, and extends to any error that is the fault of HMRC where the outcome is that the taxpayer client is given the impression that his accountant has not done what he undertook to do in the contract of engagement.
71. Later in paragraph 2.10 HMRC suggests that it might reasonably seek assurances, potentially from an external monitor, that identified errors or misconduct are not systemic across an agent's clients. Of course, if HMRC has concerns about agents who are members of professional bodies then it can use the appropriate gateways to draw its concerns to the attention of the relevant professional bodies.
72. Alternatively, it might be reasonable for HMRC to seek assurances from the firm that its concerns are not reflected across the agent's client database, possibly coupled with some test checking. We do not think that there is much merit in commissioning an independent report and think that HMRC should resolve any concerns itself. Any such proposals in this area would require further discussions and, if implemented, require legislative backing coupled with appropriate safeguards.

Chapter 3: A changing environment

(There are no questions in this chapter.)

Changes in the market for tax advice

73. In paragraphs 3.3 and 3.4 of the consultation document we would have thought that an important element of HMRC's management of the tax system is to risk assess agents in the same way as it risk assesses taxpayers. We had always understood that when local tax offices were staffed by people who knew their taxpayer caseload and their advisers, tax agents were risk assessed, albeit perhaps fairly informally. We are concerned that such local knowledge may have been lost with the reorganisation of HMRC and that nothing has been put in its place. If this is the case then HMRC needs to develop risk assessment models for agents as part of its internal management processes.
74. We note the concerns expressed in paragraph 3.3 about 'tax reclaim' agents. Care is needed to distinguish between bona fide and erroneous claims. However, there is clearly a substantial tax risk that HMRC needs to address and HMRC needs to identify firms who offer such services and risk assesses accordingly returns filed by those firms.

75. We question whether, despite self assessment being predicated on the basis of process (and repay) now and check later, it is prudent to repay tax without undertaking at least some basic checks: for example, comparing the particulars on the return giving rise to the repayment with previous years and other readily-available information, or perhaps looking more closely at returns not issued by HMRC. We cannot envisage such a risky practice being followed by a private sector organisation.

Tax avoidance

76. See our comments in paragraphs 30 to 32 above. Paragraph 3.5 of the consultation document refers to 'results not intended when the legislation was drafted'. Taking into account what was intended when the legislation was made as opposed to concentrating on what the law says can make for subjective rather than objective interpretation. It is important that any reliance on intention should mean the intention of Parliament and not, for example, the intention of HMRC. It is a fundamental principle of our democracy that there is a clear separation between those who make the law (Parliament) and those who administer it (such as HMRC).
77. In cases where the meaning of legislation is in doubt it may be possible to work out what it was intended to mean by reference to *Hansard*. However, this is not always clear, and the courts allow the law to be interpreted by reference to *Hansard* only in certain circumstances. We would object to any requirement for taxpayers or advisers to second-guess the view of Parliament. Nor should HMRC be able to substitute its own intention for what Parliament may or may not have intended (except to the extent that its collection and management powers already permit).
78. We noted in paragraph 31 above how a move to more purposive legislation could be helpful in addressing some of the issues in this area. The Finance Act 2009 has made some progress on the introduction of purposive legislation (see for example the Disguised Interest provisions in s 48 and Schedule 24) but we are not convinced that the results are completely successful in identifying the purpose and principles of the legislation. Further work is still needed to hone this approach so that the underlying principles and purpose are clearly identified; only then should it be incorporated more widely in legislation.

Changes to penalties

79. It is right that taxpayers who have taken reasonable care should not be penalised when the agent gets it wrong (paragraphs 3.8–3.9). We would be surprised if a tax agent who was a member of a professional body took responsibility for any inaccuracies in order to protect clients: aside from the fact that such an approach would be unprofessional and misleading (see our comments in Annex D), their professional reputation would be at stake.

Where performance falls below an acceptable standard

80. We have set out in Annex D our comments on the various examples of bad or poor work cited in Chapter 3 of the consultation document and the extent to which they might be addressed under current rules if they were done by members of the ICAEW.

81. It would be helpful if the consultation document identified the extent to which they were committed by members of professional bodies and what steps HMRC took to try to ensure they did not recur, for example, using the gateway provided in s 20(3), CRCA 2005 to alert professional bodies, or by way of prosecutions. If these incidents were not followed up, we would appreciate an explanation as to why they were not.

Chapter 4: How HMRC might respond to risks

Q1. What is the most effective way of assessing the presence of a particular risk across a tax agent's client base?

82. As noted earlier we would have expected HMRC to undertake its own risk analysis of agents. Once high risk areas have been identified then HMRC has the right to undertake enquiries into taxpayer returns and find out the facts underlying the entries and ensure that the taxpayers selected have paid the right amount of tax.
83. The ICAEW's Practice Assurance scheme may uncover deficiencies at member firms. Where deficiencies are identified, then these are discussed with the member, any necessary changes agreed and subsequently confirmation obtained that any agreed changes have been implemented.
84. Deficiencies identified by Practice Assurance are more likely to be general in nature and it may not necessarily uncover issues of specific concern to HMRC. Nevertheless, such deficiencies may be symptomatic of other problems which may include tax. We would be happy to have further discussions on this aspect.
85. We think that there is much merit in allowing the professional body rather than HMRC to help its members where HMRC is concerned that professional standards appear to have slipped. We would be happy to discuss such options further.

Q2. How can HMRC and professional bodies best work to ensure risks are resolved for the future?

86. The object should be to ensure that both agents and HMRC work to high standards of ethics and competence. In this way, risks are likely to be reduced, but in an imperfect world it is unlikely that they will ever be eliminated entirely.
87. As noted under the General Comments above, there are different scenarios that need different solutions. Our proposal would be to explore the scope for a wider range of responses than the existing approach.
- For low level errors, the response might include mentoring via professional bodies' support members using a scheme on the lines of the March 2000 joint bodies/Inland Revenue frequent errors initiative. Where it appears that the problems may be more widespread, the approach may involve further education.
 - For more systemic errors and/or to provide greater assurance about the quality of tax work where specific concerns have been identified, one possible approach could involve the extension of the existing quality assurance

monitoring visits to focus more closely on identified problems with tax work. The advantage of such an approach would be that issues might be dealt with in the context of supporting members and helping them to improve, in other words aiming to help members by adopting a positive, supportive and constructive approach. However, any changes to the existing procedures would need further consideration and are likely to need member approval. It would be vital to ensure that any approach met the fundamental criteria, namely that it is targeted only at members that need help.

- For more serious cases of bad or poor work, then it would be necessary to use the more formal disciplinary process which would be initiated by HMRC making reports to professional bodies.
 - In very serious cases involving evasion, then HMRC should undertake criminal investigations with a view to prosecution and notify the professional bodies concerned so that they can take appropriate disciplinary action.
88. As noted earlier, an effective gateway will be needed to ensure that appropriate action can be taken. We would be happy to discuss these issues further with HMRC and consider how in practice such information may be exchanged. We would also be happy to discuss with HMRC what is likely to constitute misconduct and what might fall into other categories so that HMRC has realistic expectations about our approach.
89. Of course that still leaves the question of how bad work by unqualified agents should be addressed. Professional bodies like the ICAEW work in the public interest and a core objective of our Royal Charter is to advance the theory and practice of taxation. Our members are bound by our professional and ethical rules and firms are subject to monitoring and the need, for example, to hold professional indemnity insurance and keep their knowledge up to date. While unqualified agents may aspire to work to the same standards, there is no professional duty on them to do so nor is there any monitoring etc to help ensure that they do.
90. Other methods might include HMRC applying ethical standards on the lines of those which govern members of professional bodies in *Professional Conduct in Relation to Taxation*; publication by HMRC and professional bodies of areas of concern to both parties; and joint training. We would be happy to explore these further with HMRC.

Q3. What safeguards would be needed?

91. All safeguards should be statutory and there should be a right of appeal against any decision or action of the tax authorities. Inter alia, there must be:
- protection of taxpayer confidentiality;
 - a proportionate response by HMRC to problems;
 - engagement by HMRC personnel at a senior level; and
 - objectivity in referring agents to professional bodies (not, for example, just because they have been robust in arguing a technical point on behalf of a client).

92. If HMRC officers were subject to the same ethical guidance as members of professional bodies, then that in itself would promote greater common understanding which would act as another safeguard.

Q4. What guidance should HMRC produce for setting the standard of pre return assurance work and therefore provide comfort to practitioners that adherence to a certain level of assurance would amount to a defence against either compliance checks or other action?

93. In principle standard setting looks a reasonable approach provided that they are developed jointly with the tax profession so as to ensure that they are proportionate and reasonable for any particular circumstances. The danger is that if HMRC unilaterally set standards, they may be unnecessarily gold-plated. The resultant impact on time costs and hence fees might drive clients away from qualified accountants and therefore lead to a reduction in the quality of returns. Of course, many tax agents will already have their own firms' standards and commercial software providers may provide some or all of them as part of the functionality of the software package. HMRC has already prepared some draft 'toolkits' and we support exploring this idea further provided the toolkits continue to be developed in collaboration with agents and the professional bodies to ensure that they are geared towards a reasonable and cost-effective approach that agents could use in practice.
94. There is a risk that publishing such guidance would make the preparation of tax returns dependent on ticking the 'right' boxes in checklists rather than on the exercise of professional judgement based on the facts and circumstances of the case in hand. Nevertheless, if such toolkits focus the minds of agents and help to ensure that tax returns are correct and complete, then this should be a worthwhile exercise.

Q5. What methods would be appropriate for ensuring that a tax agent's past failings are remedied, and good standards adhered to in the future?

95. As noted under the General Comments and in the reply to Q2 above, there are different scenarios that need different solutions. These range from, for low level errors, mentoring via professional bodies' support members using a scheme on the lines of the joint bodies/Inland Revenue common errors initiative (where the aim was to bring members back into the fold rather than punish them), through to formal disciplinary action by professional bodies initiated by HMRC making reports to such bodies using the powers in s 20(3), CRCA 2005, to HMRC taking criminal proceedings (and notifying the professional bodies so that they can take appropriate disciplinary action).

Q6. Are there cases where it would be appropriate to charge behaviourally based penalties to tax agents?

96. Penalties are levied on the taxpayer where the tax return was incorrect and incomplete and that led to a loss of tax. Where taxpayers are charged a penalty, they may well seek to make a claim against their agent for negligence. We believe that this is a reasonable approach and do not think that that the consultation paper

provides a compelling case to support the general introduction of behaviourally-based penalties on tax agents.

97. It also needs to be remembered that tax agents play a key part in the proper functioning of the tax system and that if penalties were to be levied on agents, it would be entirely reasonable for tax agents to insist that HMRC is penalised for similar failings.
98. We therefore think that HMRC and the professional bodies should be working jointly to raise standards across tax agents and tax gatherers rather than HMRC seeking to impose penalties, especially at the present time when there is widespread dissatisfaction with HMRC's own service standards and a palpable frustration that the tax system does not provide sufficient redress for taxpayers and agents who have to deal with poor work by HMRC.
99. While we recognise that there may be circumstances where it would be appropriate to charge such a penalty, we would have expected such penalties to arise only in very serious cases. A proportionate response is needed to the identified problem. We would expect the majority of professional agents who have fallen short of reasonable standards to welcome the opportunity to put things right for the future. Our preferred approach therefore is to 'bring them back into the fold' rather than punish them through levying penalties.
100. We therefore think that tax agents should be given a chance to put matters right and that penalties would only be appropriate as part of an escalating response where they had been given an opportunity to put matters right but had not done so. Another approach (which could be combined) would be to suspend any penalty pending evidence that the agent's work has improved.
101. On the other hand there is likely to be a small minority of agents for which no deterrent is likely to be effective. In those cases, there might be a case for HMRC not to deal with that agent, but the danger is that the agent will continue to act 'in the background'. Nevertheless, under the Companies Act, directors can be barred from becoming a director and such an approach could be useful in cases where other approaches have failed to have the desired effect.

Q7. If financial penalties are appropriate, on what basis should they be calculated: fixed, up to a certain amount, or linked to the tax at risk, fee income or relevant turnover?

102. As noted above we are in favour of a proportionate response to poor work, ie using education rather than punishment as a first step, and with 'sanctions' used only at the next stage when other measures do not appear to work. We are not convinced that financial penalties are necessarily an appropriate response to the majority of cases of poor agent behaviour, especially given that most agents are considered to do a good job.
103. For most agents extrapolation of penalties relating to problems identified with one client across the agent's client base is likely to be a disproportionate response. Such an approach might be appropriate for organised attacks on the tax system

which are fundamentally fraudulent but in these cases we would expect HMRC to prosecute.

Q8. Is there merit in seeking the power to disclose to professional bodies cases where HMRC are satisfied that there has been persistent careless or incompetent behaviour?

104. We believe that there is merit in such an approach. As a professional body with a Royal Charter obligation it is essential that we work to uphold standards. We welcome the opportunity to help our members. We would need HMRC to identify specific areas of concern and have already identified that the current statutory 'gateway' may need to be amended to allow this to happen. We would welcome further discussions on how this issue can be addressed.

Q9. What safeguards would be needed?

105. Section 20, CRCA 2005 contains safeguards, ie the requirements that HMRC Commissioners must be satisfied that disclosure is in the public interest and disclosure is made on the instructions of the Commissioners. While these should be a sufficient safeguard to ensure that HMRC does not lightly report tax agents to professional bodies in circumstances where disciplinary proceedings may be in point, much 'lighter touch' safeguards would be needed if concerns about poor work are to be dealt with in a less formal environment. This should be subject to further discussion as part of a review of s 20.

Q10. Could there be a wider role for professional bodies working with HMRC to ensure that a tax agent's past tax failings are remedied, and good standards adhered to in the future?

106. We share the concerns of HMRC to identify and remedy poor work. As professionals we could not do otherwise. We always welcome the opportunity to work with others to raise professional standards and as noted earlier we have worked with HMRC and its predecessor bodies in the past to develop what we believe were workable solutions.

107. It is the responsibility of professional bodies to supervise, monitor, educate and help etc their members uphold professional standards. We in common with other major professional bodies do this proactively through various schemes, courses and guidance to support members, practice assurance visits, and as a last resort the disciplinary process. HMRC should not as a general rule need to be directly involved where the agent is a member of a professional body but, where they have concerns, then these should be passed on so that the professional body can seek to put things right.

Chapter 5: Registration and definition of a tax agent

Q1. Is a form of registration for tax agents needed in the UK?

108. The consultation document does not cite any compelling evidence for a form of registration over and above what is currently in existence, and we do not believe that there is any.

109. As to what is in existence, as noted under General Comments above, all tax agents for whom HMRC has processed form 64-8 or other evidence of authority to act will be on an HMRC database. So tax agents are already 'registered'. From this database HMRC will therefore know who they are dealing with on behalf of taxpayers, albeit not whether they are qualified or unqualified, or regulated by a professional body.
110. However, under the anti-money laundering rules, those who are 'in business' to advise on tax have to be supervised by a professional body or register with HMRC. So HMRC has a database, or register, of (mainly) unqualified tax advisers as well.

Q2. What benefits for tax agents and taxpayers could a registration system deliver?

111. We do not see any benefits that will arise from the creation of a new registration system.
112. First, as noted above, HMRC already has registers of agents in its existing form 64-8, FBI2 and other letter of authority databases and, for those who are unqualified but 'in business', its money laundering database, from which it can extract information.
113. Secondly, setting up an additional register would impose unwarranted costs on HMRC and agents which agents would probably have to pass on to clients.
114. Finally, if registration means also compliance with minimum standards then this would duplicate the functions of professional bodies and possibly for those unaffiliated tax agents who are on HMRC's money laundering database.

Q3. Would there be a benefit in defining "tax agent" in legislation? Should such a definition distinguish: those who do not offer their services for reward, or those that are members of a professional body, and should different provisions apply to them?

115. We do not think that there is any particular benefit to be gained by such a definition. Instead, we think HMRC should concentrate its resources on identifying those agents who are causing concern and addressing any problems that arise.

Q4. How wide should the definition of tax agent be: should it embrace lawyers, valuers, shipping agents, payroll bureaux, and others? If so, for which functions and in respect of which tax regimes?

116. As noted above we do not believe that a definition of tax agent is necessary. If a wide definition of agent is adopted, this is likely to result in confusion.

Q5. What additional issues need to be considered in respect of tax agents who are not based in the UK?

117. Enforcement of sanctions across borders is problematic. An obligation to appoint a UK tax agent may be the way around this, but does seem heavy handed for the majority of cases. We are not sure whether such an approach would be allowed under EU rules but would welcome HMRC's views on this point. Ultimately, the responsibility for making a correct return lies with the taxpayer – but where the taxpayer is not based in the UK, enforcement is not easy even if there are UK assets.

Annex C: International comparisons

Q1. Are there any other international models that we should consider?

118. We have no particular views on whether other international models would provide better solutions for the UK. We believe that our suggestions and recommendations provide a reasonable approach for the UK.

PCB/FJH
07.08.09

ANNEX A

ICAEW AND THE TAX FACULTY: WHO WE ARE

1. The Institute of Chartered Accountants in England and Wales (ICAEW) is the largest accountancy body in Europe, with more than 130,000 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.
2. The Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department for Business Innovation and Skills through the Financial Reporting Council. 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.
3. 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.
4. To find out more about the Tax Faculty and ICAEW including how to become a member, please call us on +44 (0)20 7920 8646 or email us at taxfac@icaew.com or write to us at Chartered Accountants' Hall, PO Box 433, Moorgate Place, London EC2P 2BJ.

ANNEX B

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 www.icaew.co.uk/index.cfm?route=128518.

ANNEX C

A BRIEF DESCRIPTION OF THE ICAEW'S COMPLAINT-HANDLING PROCESS

The ICAEW deals with complaints using a 'twin track' working of Investigation and Conciliation with an overarching Assessment function.

All incoming complaints go through the assessment process which establishes whether the matters raised indicate a potential liability to disciplinary action on the part of a person or body subject to the Institute's jurisdiction. If this proves to be the case then they are passed through to Investigation or Conciliation as appropriate.

Conciliation attempts to resolve the sense of grievance which has led to the complaint being made by brokering an agreement which is satisfactory to all parties involved. It is therefore best suited to those complaints which are of a non-serious nature and where prompt action on the part of the accountant can remedy the situation. If a complaint is resolved by conciliation then the Institute will take no further action in respect of it.

Investigation is designed to establish whether the accountant's actions should result in disciplinary action being taken. At the end of an investigation, where it is appropriate to do so, the case will be referred to the Investigation Committee.

If the Investigation Committee decides that a prima facie case of misconduct is made out then it can either deal with the matter using its own powers or, in the more serious of cases, it can prefer a formal complaint to the Disciplinary Committee.

If the Disciplinary Committee finds that the case is proved then it has a wide range of sanctions. Some of them are the same as those possessed by the Investigation Committee but others are more stringent, such as withdrawal of a practising certificate or exclusion from membership.

Adverse decisions of the Disciplinary Committee can be appealed to the Appeal Committee.

Full details of the complaints process can be found at:

www.icaew.com/index.cfm/route/139178/icaew_ga/en/Home/Protecting_the_public/Complaints_process/Complaints_processA

ANNEX D

EXAMPLES OF WHERE PERFORMANCE FALLS BELOW AN ACCEPTABLE STANDARD

We have considered the examples of poor work set out in paragraphs 3.16 to 3.20 in Chapter 3 of the consultation document. We indicate below what our initial responses would be if the accountant was a member of the ICAEW and the issues had been passed to us.

It is important to note that, under the Disciplinary Bye-laws, the criteria which must be satisfied in a complaint of alleged substandard work is that inefficiency or incompetence must be present 'to such an extent or on such a number of occasions as to bring discredit on the member, the Institute or the profession of accountancy'. Where bad behaviour is alleged the criterion is that it must be 'likely to bring discredit on the member, the Institute or the profession of accountancy'.

3.16 For a variety of possible reasons, tax agents may not have kept their knowledge up to date, may not have implemented or maintained effective processes or may have failed in other ways to take reasonable care.

- *Example: A group of companies had been charging standard rate VAT on items that should have been zero-rated. A claim of over £3 million was made by the tax agent, on the basis of average percentage figures from one of the outlets which was atypical. This basis was not made clear in the claim. No sampling checks were made to test the validity of this claim before it was made. The claim was refused, and when sampling was carried out, the revised claim was for a refund of £700,000.*

ICAEW response: Whether this was 'shoddy work' would depend on how obvious it was that the outlet was atypical, and therefore that this was likely to generate an unmerited claim. If the allegation is that the claim was deliberately put in in the knowledge that it was excessive then that moves it to 'bad behaviour' and would be definitely disciplinable if it could be adequately evidenced.

- *Example: A tax agent made a claim on behalf of a large company for VAT refunds relating to a particular sales practice. The claim was made back to 1973, even though the practice only began in 1989. The claim did not show the correct VAT rates for earlier years either.*

ICAEW response: We assume that this is put forward as an example of 'shoddy work' rather than bad behaviour. It is likely to satisfy the 'to such an extent' criterion which would allow for the matter to be investigated. It would then be dependent on the answers as to whether it would be disciplinable.

- *Example: A medium-sized firm dealing with the tax affairs of a partnership overlooked adding back around £200,000 of depreciation, treated recharges differently for different accounting periods, and appeared to understand neither the difference between salaried partners and full equity partners nor the correct treatment of individuals becoming or ceasing to be partners.*

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ICAEW response: As 'shoddy work' this satisfies the 'to such an extent' criterion to allow us to investigate and it would then be dependent on the answers as to whether it would be disciplinable.

- *Example: A company claimed it had overpaid VAT because internal invoices had mistakenly been treated as turnover. The tax agents carried out analysis on the company's records and made at least four significant errors, including showing credits as debits, thanks to an altered format in a spreadsheet. All four errors had been made despite the spreadsheet being checked by three managers.*

ICAEW response: We would need further information as to the nature of the 'four significant errors' before we could take a view on this.

3.17 Some tax agents may find it difficult to consistently maintain their objectivity when dealing with key clients.

- *Example: An accountant included approximately £1 million of private expenditure, the building costs of the director's house, in the company accounts, included as fixed assets. When challenged, he admitted the treatment was incorrect and sought to move it to work in progress. The company in question is not a building company. It appears that the accountant, who is qualified, allowed the Director to make all the decisions about how items should be dealt with in the accounts.*

ICAEW response: On the basis of the information given this would appear to be a 'bad behaviour' complaint (the accountant is knowingly trying to mislead HMRC that this is not a taxable benefit) and disciplinable.

3.18 Fraudulent elements have been included within avoidance schemes by their promoters.

- *Example: An agent-promoted scheme which included, variously, the following features:*
 - *Back-dated or post-dated agreements: sometimes these involved companies which had not yet been incorporated.*
 - *Copies of the same profit share agreement with different signatures*
 - *Documents allegedly signed by officers of the company before they were appointed officers of the company.*
 - *Letters referring to supplying documents 'to put the necessary compliance in place', when the scheme was already running.*
 - *Notes of a meeting held for a company which was not incorporated until 5 days after the meeting.*
 - *Dividend switch operated on a company for which shares had not even been issued. – And the payroll then being reworked the following month to operate PAYE/National Insurance Contribution (NIC) properly.*
 - *Dividends paid to spouses who were neither employees nor shareholders.*
 - *Dividends paid to minors who were neither shareholders nor employees.*
 - *Notes referring to 're-working' payroll for earlier years.*

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- *Blank Companies House forms pre signed by directors ready for completion and dating by the payroll service centre.*

ICAEW response: As they were all promoted by the same adviser they fall onto a pattern which we could investigate and potentially discipline the accountant concerned.

3.19 A tax agent may have knowledge that an incorrect return or claim has or will be submitted or have knowingly prepared or submitted an incorrect return or claim.

- *Example: A tax agent repeatedly stated that the client was not a director or shareholder of a company in the Bahamas until faced with overwhelming evidence to the contrary. This evidence was obtained from a third party who had received it from the director in circumstances which meant the agent must have been aware of it. The tax involved exceeded £500,000.*

ICAEW response: If it could be proved that the agent must or should have been aware of it then this would be disciplinable as 'bad behaviour'. However, if he only 'might have been aware of it', the member would have to be given the benefit of the doubt.

- *Example: a promoter of a Stamp Duty Land Tax (SDLT) scheme, a tax outside the promoter's normal field of expertise, sought legal advice on the basis of instructions which ignored obvious potential difficulties with the scheme and misrepresented the purpose of the scheme. The promoter then used carefully selected passages from the legal advice in material marketing the scheme.*

ICAEW response: This is basically a 'shoddy work' case where the lack of competence may have led to the inadequate instruction of the legal adviser and the selective quotations. We would need to have more detail but in principle this appears disciplinable.

3.20 A tax agent may take responsibility for inaccuracies to protect clients from incorrect return penalties. There are instances where evidence has shown a tax agent, rather than the taxpayer, has taken responsibility for a careless error solely because the legislation only provides for a penalty on the taxpayer. This creates a potential injustice. A taxpayer who deals with his or her own tax affairs has no such avenue of escape.

ICAEW response: If it were provable then this would be disciplinable as 'bad behaviour' as although it is protective of the client it is deliberately misleading HMRC. However, it would need good evidence to support the claim.

ANNEX E

THE FUNDAMENTAL PRINCIPLES OF PROFESSIONAL CONDUCT

A member of the ICAEW, or of other professional bodies party to Professional Conduct in Relation to Taxation, is required to observe the following fundamental principles in his or her professional activities:

Integrity

A member should be straightforward and honest in all professional and business relationships.

Objectivity

A member should not allow bias, conflicts of interest or undue influence of others to override professional or business judgements.

Professional competence and due care

A member has a continuing duty to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques. A member should act diligently and in accordance with applicable technical and professional standards when providing professional services.

Confidentiality

A member should respect the confidentiality of information acquired as a result of professional and business relationships and should not disclose any such information to third parties without proper specific authority or unless there is a legal or professional right or duty to disclose. Confidential information acquired as a result of professional and business relationships should not be used for the personal advantage of the member or third parties.

Professional behaviour

A member should comply with relevant laws and regulations and should avoid any action that discredits the profession.