



ICAEW TAX REPRESENTATION

CONSULTATION ON THE ABOLITION OF 36 TAX RELIEFS

Comments submitted in August 2011 by the Tax Faculty of the Institute of Chartered Accountants in England & Wales (ICAEW) to HM Treasury in response to the Consultation on the abolition of 36 tax reliefs issued in May 2011

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CONSULTATION ON THE ABOLITION OF 36 TAX RELIEFS

INTRODUCTION

1. We set out below our response to the Consultation on the abolition of 36 tax reliefs published jointly by HM Treasury in May 2011.
2. We responded in January 2011 to the request for comment on the review of tax reliefs in the interim report of the OTS published in December 2010. Our response was published as TAXREP 1/11 and is available on our website www.icaew.com/taxfac

WHO WE ARE

3. The ICAEW operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the ICAEW provides leadership and practical support to over 136,000 members in more than 160 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The ICAEW is a founding member of the Global Accounting Alliance with over 775,000 members worldwide. The Tax Faculty is the focus for tax within ICAEW.
4. Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. The Institute ensures these skills are constantly developed, recognised and valued.
5. The Tax Faculty is the focus for tax within the Institute. It is responsible for technical tax submissions 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 Institute who pay an additional subscription, and a free weekly newswire.

SHOULD ALL THE RELIEFS BE ABOLISHED?

6. We appreciate that the purpose of the current consultation is 'to ensure that the transitional arrangements for the removal of reliefs are fair and proportionate.'
7. The recommendations of the Office of Tax Simplification (OTS) final report were in the main accepted by the Chancellor at the time of the March 2011 Budget and this present consultation is about timing rather than returning to the initial question as to whether the reliefs identified by OTS should, or should not, be retained.
8. Nevertheless a number of our members have contacted us to question again whether the right decision has been taken re the abolition of some of the reliefs covered in the latest consultation.
9. We set out the arguments in favour of retention and would encourage you to review these reliefs to determine whether you believe there is indeed merit in the retention of the reliefs identified below.

SOME OF THE DETAILED RELIEFS

Mineral Royalties– Relief 4

10. The final report of OTS made clear that one of the principal reasons for the introduction of the relief in 1970 was to encourage land owners to make their mineral assets available to the nation when the very high rate of income tax which would have applied at that time would have

discouraged them from doing so. The final OTS report also recommended the retention of the existing relief because although the top rate of income tax is less than it was in the 1970s it is still considerably higher than the top rate of capital gains tax.

11. We have received evidence from our members that the Chancellor's decision to abolish the relief, if this is followed through, will increase very dramatically the amount of tax payable on some current beneficiaries of the mineral royalties relief.
12. If the relief is to be abolished then we would recommend that the relief for current quarries should be phased out over an extended period, perhaps 5 years, to ensure that any increase in tax occurs gradually.

Late night taxis – Relief 6

13. The consultation document suggests that this relief creates a distortion in the tax system because relief is available to those who predominantly work in large cities and occasionally have to work late whereas those where late night working is a normal incident of their jobs, and may be in less well paid occupations, will have to pay tax if they are provided with a late night taxi by their employer. But presumably those employees who always work late will have standard arrangements to ensure that they can get home, and get home safely each and every night. The employee who occasionally has to work late will normally rely on public transport to get them home and it is its absence, at very late hours, that causes the need to provide for some alternative transport solution, i.e. a taxi. Very often, the employer has a duty under health and safety legislation to ensure that employees who are required to stay late, and do not have regular arrangements for safe transport, can travel without personal security risks. Whilst we can understand HMRC's concerns about potential abuse of this relief by a small number of employers in the City of London and Docklands, the relief was introduced for a valid purpose which remains valid. If there are concerns about abuse, then the correct approach would be to tighten the qualifying conditions – e.g. allowing only up to 20 taxi fares per year – rather than remove a sensible relief.
14. We also query the conclusion that there will be no equalities impact on those who currently benefit from the relief. We are aware of employers who if they ask staff to work late will not generally offer a man a taxi home but will normally make such an offer to female employees. So in our view there is an equality impact from the proposed abolition of this relief.

Assistance in identifying lost or stolen credit card - Relief 11

15. We believe that this relief should be retained as its removal will not simplify the tax/NIC system but make compliance more onerous. Since the OTS's remit was to seek simplification measures, we believe it has arrived at the wrong conclusion. The appropriate place for its review is as part of the tax/NICs operational integration project. This NIC relief was introduced for good reasons which still stand, namely to reduce the compliance burden for both card providers and employers in relation to awards, the amounts of most of which are trivial and therefore the tax and NIC are for the most part not worth pursuing. Many awards are made by the credit card companies direct to the employee and the employer may not know about it to be able to account for the NIC. If the employer does find out about it, e.g. because the card provider sends it via the employer, then if the employer accounts for it via payroll, it will give rise to a pecuniary disadvantage for employees whose awards are routed via the employers rather than sent direct to the employees, and technically is likely to be accounted for in the wrong pay period (as allowed by the concession for marginal items of pay at <http://www.hmrc.gov.uk/pay/payroll/day-to-day/marginal.pdf>).
16. As noted in the consultation document, if the relief is removed, both third party card providers and employers will have to put in place procedures under which card providers inform the employers who will have to process the NIC via the payroll. The amounts of reward are normally trivial so the exchequer cost of the relief is likely to be outweighed by the compliance

costs incurred by both the card providers and employers. Furthermore, given the amounts and frequency of awards, this relief is unlikely to adversely impact employees' contributions records other than in isolated cases.

Capital Allowances: Flat Conversion Allowances – Relief 20

17. Since our earlier response, TAXREP 1/11, we have received representations from our members one of whom notes that his clients have used the relief on at least half a dozen occasions and have been in a position to carry out more developments than would otherwise have been possible because of the relief. The member also notes that the fact that 60% of these claims have been found to have been made by an accountant reflects the fact that developers of flats above commercial properties are more likely to be professionally represented. As a consequence the claim will be made by their accountant.

Land Remediation Relief – Relief 32

18. We are not clear about the evidence base for the proposition that the relief has not brought back into use land that would otherwise remain unused, or that in many cases there was no market failure.
19. The fact that development takes place with the benefit of the relief does not mean that it would equally have taken place without the relief. Decontamination can be very expensive. An extra £1m on the site cost must have an impact on the viability of what the site can be used for. Furthermore, the existence of the relief encourages decontamination rather than simply covering up the contamination. The number of homes built on contaminated land in the past is a national scandal.
20. It is also not right to say 'after abolition, this expenditure will still qualify under the normal rules for 100% relief against profits when the development is sold'. Chapter 2 of Part 14 Corporation Tax Act 2009 gives immediate relief for capital expenditure. Without this relief we do not believe that the expenditure would ever qualify as a deduction against profits.

Further contact

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ICAEW AND THE TAX FACULTY: WHO WE ARE

1. ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter which obliges us to work in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 136,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.
2. ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.
3. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including *TAXline*, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.

THE TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <http://www.icaew.com/~media/Files/Technical/Tax/Tax%20news/TaxGuides/taxguide-4-99-towards-a-better-tax-system.ashx>).

