

# Tax Representation



**TAXREP 76/08**

**SA100 – SELF ASSESSMENT TAX RETURN**

**SUGGESTED IMPROVEMENTS TO FORM SA100 AND RELATED GUIDANCE**

*Text of a paper submitted to HM Revenue and Customs on 28 October 2008 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales*

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The Tax Faculty of the Institute of Chartered Accountants in England and Wales

TAXREP 76/08

SA100 – self assessment tax return

# SA100 – SELF ASSESSMENT TAX RETURN

## SUGGESTED IMPROVEMENTS TO FORM SA100 AND RELATED GUIDANCE

### FOREWORD

Reproduced below is the text of our submission made to HMRC commenting on the new style SA100 return and associated guidance.

The purpose of the submission was to:

- set out ways in which we believe the SA100 self assessment tax return forms and guidance notes could be improved; and
- draw attention to specific shortcomings which we identified in the return and guidance, some of which need to be corrected for the 2008-09 return;
- request that, in future, HMRC consults more widely about changes to tax returns so that the resulting product is better for all using it – taxpayers, both represented and unrepresented, practitioners and HMRC staff – and that the ICAEW are included in the consultation process and in any user trials.

The points preceded by asterisks and in bold are the ones which we considered needed addressing most urgently but we have asked that HMRC give consideration to all points made.

Details about the Institute of Chartered Accountants in England and Wales and the Tax Faculty are set out in Annex A. Our Ten Tenets for a Better Tax System which we use as a benchmark are summarised in Annex B.

AW  
28.10.08

# SA100 – SELF ASSESSMENT TAX RETURN

## SUGGESTED IMPROVEMENTS TO FORM SA100 AND RELATED GUIDANCE

### TEXT OF SUBMISSION

#### THE PROBLEM - APPEARANCE AND USER EXPERIENCE

1. Although many practitioners use software to prepare returns, clients need to approve the returns and this generally means that they need to look at, and understand, a facsimile return. There are several features of the 2007-08 return which make this process more difficult than it should be for represented taxpayers and their agents, predominantly the box numbering and certain narrative, or lack of it, on the return pages together with lack of distinction between many pages.
2. Feedback from agents and clients is that the new style return is, in many instances, confusing and unclear.

#### *Our solutions*

3. While we accept that change is not always welcome, there would appear to be a number of ways in which the current form could be improved to improve usability in particular improving the box numbering, questions and narrative on the face of the forms (see points 4 to 9 inclusive and 19 to 23).
4. **\*\*\*\*\*A further improvement we would like is to have the deep colour bar at the tops of all pages and not just the first of each supplementary page. This is because in artificial light, the pastel coloured pages are not always easy to distinguish from each other.**

#### THE PROBLEM - BOX NUMBERS

5. The absence of unique, logical box numbers (in some cases eg foreign pages, no box numbers) is presenting considerable practical difficulties to taxpayers, their agents and to your contact centre staff. It wastes everyone's time and is one of the issues raised most often by our members.
6. In the past taxpayers could state the unique box number to which they were referring. Now they have to state the page number and describe where on the page the box is and sometimes even which of the two boxes of the same number on the page they are referring to. This makes dealing with anything in connection with the return, (for example raising queries about possible mis-keying of figures, writing to advise that corrections are

needed to figures in certain boxes or drawing attention to figures in particular boxes), more difficult and time consuming to discuss by telephone or to put in writing..

7. HMRC is working towards more telephone contact, so the lack of unique box numbers is making matters difficult for anyone wishing to talk to contact centre staff about the return and this can lead to misunderstandings and frustration.
8. The lack of unique, logical box numbers has a knock on effect when taxpayers are seeking guidance from the notes. It is much more difficult to find the right guidance in the notes because there are so many boxes with the same number in the return (and hence also the guidance). Most people do not read the notes from beginning to end so there may be many 'false starts' before the correct guidance note is found. If there had been a logical progression of box numbers in the return (and thus in the guidance) it would be quicker and easier to find the appropriate guidance.

### ***Our solution***

9. **\*\*\*\*\*Each box on the return, including the core return and additional income pages, should have a unique, sequential and logical identifying number even if this means including A, B etc when boxes have to be inserted or having missing numbers initially (provided that it is made clear which box numbers are not being used). The same unique numbers should be used from year to year. The self employment pages and property pages are much easier to deal with in practice because they follow this approach.**

### **THE PROBLEM - INADEQUATE AMOUNT OF WHITE SPACE**

10. Practitioners advise that they would like the amount of 'white space' provided to be increased and ideally that there should be white space on each supplementary page.

### ***Our solution***

11. If, as seems likely, it is not possible to increase the amount of white space on the core return and each supplementary set of pages, we recommend an optional schedule for the return similar to form D17 'Additional information continuation sheet' that is used with the IHT200 return. This would allow taxpayers to give a cross reference to the core return or supplementary page to which the additional information applies, give explanations and also a figure if needed.
12. This would have the additional benefit of creating more space on other pages for better guidance to appear on each page of the core return and supplementary pages.

## THE PROBLEM - GUIDANCE NOTES AND HELPSHEETS

13. Many tax practitioners are very unhappy that you no longer provide Help Sheets in the Tax Return Guide ('the Guide'). The Guide containing a complete set of Help Sheets was a valuable tool for practitioners and your staff.
14. Comments have also been received about the guidance being erratic and inconsistent. For example there is often no reference from the return to the notes even where it is essential to look at the notes to complete the return correctly, although on other occasions taxpayers are signposted to the notes.
15. The lack of unique box numbering and lack of a colour coded bar at the top of the Guidance Notes pages means that it is difficult to find the correct section of the guidance and thus using the Guide becomes a frustrating experience.
16. It is not always apparent where a particular item of income or expenditure should be included or where to find guidance on a particular matter.
17. As a general point, practitioners advise us that they have not found the Guidance Notes particularly helpful this year and there is clearly work to be done to make them better, more specific and accurate. We have given some specific examples below.
18. We have heard that the Guide may be withdrawn, something which many practitioners would be very unhappy about.

### *Our solutions*

19. **\*\*\*\*\*We would like all Help Sheets included in the Guide because we believe that there is strong demand for a version of the Guide containing the Help Sheets.**
20. Cross referencing between the Return and the Guidance Notes and Help Sheets should be improved. As mentioned above, it should be borne in mind that the Guide is not read in a logical order but dipped into as required the notes from beginning to end before starting the return, being used for reference when unsure about something.
21. **\*\*\*\*\*Where the notes are to be used to modify, or expand on, the wording of the return form, it is essential that the form signposts those instances. This is particularly important because HMRC has indicated that it regards getting something wrong that has been covered in the notes as being indicative of failing to take reasonable care.**
22. **\*\*\*\*\* We should like to have the deep colour coded bars reinstated at the tops of the pages in the Guide to make the Guidance Notes easier to use.**

23. We would like an index to be included, as previously, to improve access to the material in the Guide.
24. **\*\*\*\*\*If HMRC is unwilling to provide the Guide (with all Help sheets) to all practitioners, we would like the Guide to be available on request to those who would like a copy.**

## THE PROBLEM - LACK OF CONSULTATION

25. In our view there was a lack of appropriate consultation and user trials were not adequate. As a result of this the forms and associated guidance are now presenting practitioners, their clients, unrepresented taxpayers and HMRC staff with many difficulties which will continue into the 2008-09 return and beyond. This may have been avoided had the consultation process not concentrated predominantly on unrepresented taxpayers and certain design parameters which HMRC was aiming to meet.
26. We do not consider that posting details of the return on the software developers' area of the site is adequate exposure because this is an area that practitioners will not visit because it does not appear to be aimed at them.

### *Our solution*

27. We appreciate that lead times need to be sufficiently long for software developers to develop and test their products. However, we consider that HMRC would achieve benefits by allowing enough time for wider consultation, and undertaking user trials with all classes of users, before they issue the return to the software houses. By doing this, HMRC would be able to take advantage of the considerable experience of those completing the returns in practice.

## CORE TAX RETURN

28. **\*\*\*\*\*Page TR 2 – it is particularly important that the wording of this page is precise and clear because if it is wrong taxpayers are likely to become confused, may complete the wrong supplementary pages or complete pages that they did not need to complete resulting in increased costs to HMRC. We believe that the wording could be improved in a number of ways as set out below.**
29. **Page TR 2 – item 1** - should include the statement 'ignore any employments or directorships from which you did not receive any income, benefits or reimbursed expenses'. Although this is included in the 'Employment notes', it is under a heading 'Directors' which may not be relevant. The comment 20 also applies; those completing returns will read the notes only if unclear or directed to do so.

30. **Page TR 2 – items 4 and 5** – use of the word ‘receive’ may be misleading and would mean that, for example, individuals who are due rents but were paid them late might believe that a supplementary page is not due for rental income. Similarly, where foreign income is not brought into the UK the taxpayer may believe that it has not been ‘received’ so no supplementary page is needed for that income. We suggest a phrase such as ‘were you entitled to’ would be more appropriate.
31. **Page TR2 – item 5 - 2nd para** – we believe that the phrase ‘wider sense’ has little meaning to many people and recommend that you revert to the previous wording ‘Have you, or could you have, received or enjoyed directly or indirectly, or benefitted in any way from, income or payments of a foreign entity as a result of a transfer of assets made in this or earlier years?’
32. **\*\*\*\*Page TR 2 – item 5 – last para – readers find this confusing and it is not made clear in either the questions or the notes on TRG 3 that you should not put an X in the box if you can put the income in box 5 of TR 3. The first paragraph on ‘Foreign’ on page TRG 3 should be made clearer by stating that you should not tick the box if there are no other entries required to be made on the Foreign pages.**
33. **\*\*\*\*Page TR 2 – item 5 – where someone is not domiciled in the UK, has foreign income, is claiming the remittance basis and did not remit income to the UK in 2007-08, he is instructed by the notes not to complete the Foreign Pages 'just to claim the remittance basis'. He is also advised to write a note in the Additional Information section saying he is claiming the remittance basis, no remittances were made and he has therefore not completed the Foreign pages. However, if he ticks Yes against question 5 on TR2 because this is the truthful answer to the question because he has received foreign income, the return is rejected on the grounds that return is incomplete because the Yes box is ticked on TR2 in answer to question 5 and no foreign pages have been included. The taxpayer should be advised that he should not tick this box if, for some valid reason, the foreign pages are not included (a similar issue can arise where the income is dealt with in box 5 on page TR3).**
34. **Page TR 2 - item 6** – we believe it would be helpful to have the annual exemption and proceeds limits stated here, rather than referring the reader to TRG 3 and TRG 4.
35. **Page TR 2 – item 9** - taxpayers who are not UK domiciled need to put an X in box 8 on TR2. However, when they get to NR1 and NR2, if they are in the situation of having no foreign income at all, apart from the name and number at the top, there is no box which seems to require completion. If there is an X in box 8, TR2 HMRC expects NR pages and will reject the return if they are not attached. In the past the question on the equivalent of TR2 asked whether person was not UK domiciled and this was also relevant to their tax affairs. We recommend that the wording is changed to include a similar statement and to guide readers to the notes so that they are able to determine whether domicile is relevant. Alternatively

there could be a box on the Non Residence etc pages (ideally to be renamed Residence and Domicile) which can be ticked to enable people to state that they are not domiciled in UK but that it is not relevant to their tax affairs in that year.

36. **Page TR2- item 9** – the tick boxes should not be included with this question because we have heard that where taxpayers tick ‘Yes’ and then, as instructed, acquire supplementary pages and submit them with the return, the return is sent back to them because the box is ticked.
37. **Page TR 2 – item 9** – the wording ‘within this form’ is unclear because it requires readers to understand how ‘form’ is being defined. Many readers will believe that there will be sections on pages TR1 to TR6 for the income whereas the taxpayer should be looking for supplementary pages attached to the return, particularly because wording at the top of the page and in the question specifically refers to supplementary pages.
38. **Page TR 2 – after item 9** – The comment should ask taxpayers to ensure that they complete these pages if they have any relevant income or claims.
39. **\*\*\*\*\*Page TR 2 – after item 9 – there is no box provided to enable taxpayers to indicate that they have acquired and are attaching additional information pages so that HMRC are aware that they should have been enclosed.**
40. **Page TR 3 – item 1 and 2** – it is not made clear in the narrative or the exclusions in the guidance notes that Gilt and similar interest must be included elsewhere in the return. There is a risk that individuals will include such income both in the boxes here and also on Ai 1 and then be taxed twice on the same income. Is there a reason to exclude Gilt interest from boxes 1 and 2 when Unit Trust interest (which can include Gilt interest) must be included here?
41. **Page TR 3 - items 3 and 4** – the short tax return (SA200) does not require dividends from Unit Trusts and from companies to be disclosed separately so we recommend that this requirement is also removed from the SA100. There would not seem to be any reason for separate disclosure (requiring separate disclosure seems inconsistent because, for example, interest from Unit Trusts must be aggregated with all other interest).
42. **Page TR 3 – item 4** – the notes on TRG 7 do not make it clear that Stock dividends should be included elsewhere and we do not understand why such amounts cannot be aggregated with other dividends.
43. **Page TR 3 – items 5 and 6** – we have received a number of comments about how unclear and confusing the guidance for these boxes is and trust that it will be improved next year including explaining to taxpayers that the effect of entering dividends here instead of in the foreign pages may be a loss of foreign tax relief.

44. **Page TR 4 - Box 1 (Tax reliefs section)** – it seems overly complicated, confusing and inviting errors to ask taxpayers to add the tax relief to their payments in Box 1. A computer programme can gross these up more easily than an individual who has little understanding. We recommend that the figure asked for is the amount paid.
45. **Page TR 4 – service companies** - this issue has been the subject of separate correspondence and we understand that the question and guidance will be made much clearer for 2008-09.
46. **\*\*\*\*\*Page TR 5 – Boxes 4 to 14 - there have been problems with completion of these boxes because it is not clear which boxes need to be completed to produce a particular outcome or how to obtain a cheque. Page TR 5 itself needs to be clearer about what repayments are possible and what details should be entered for each scenario.**
47. **Page TR 5 – Box 14** - we are unclear why the authorisation wording at Box 14 cannot be included within Box 22 on page TR 6, so that only one signature is required on the return. Box 14 is easily overlooked by taxpayers which delays repayments.
48. **Page TR 6 – Boxes 15 and 17** - there is inadequate space for the agent name and address and the number of allowed characters should be increased.
49. **Page TR 6** – We believe that it is important, when signing the declaration, for taxpayers to be aware of the supplementary pages being submitted. The list of supplementary pages was immediately above the signature box on page 10 (Q24) of the 2006-07 return. We suggest that the declaration is expanded to highlight the supplementary pages (and number thereof) being submitted, by referring to page TR2. For example, the declaration could be: ‘The supplementary pages which I need to complete are shown on page TR2. The information I have given in this Tax Return and the supplementary pages is correct and complete to the best of my knowledge and belief’.

## ADDITIONAL INFORMATION PAGES

50. **\*\*\*\*\*General – this set of pages does not appear to be sent to all taxpayers. It is our view that these pages should be sent to all taxpayers or if not, their contents need to be covered in more detail on TR 2 (see also point 14).**
51. **\*\*\*\*\*General – our members comment that they would like to see these pages incorporated in the main return rather than as a separate section, especially as there seems to be little logic as to what aspects were included in which section.**
52. **General** – all other return sections have the taxpayer name and UTR at the top of the page. On this section this information appears at the bottom of Ai 4 and can be missed. For consistency we recommend that these details are moved to the top of Ai 1.

53. **General** – we suggest that as this section covers a number of unrelated items, there should be tick boxes (like on TR 2) at the top of the first page to assist taxpayers to identify whether or not they need to complete the additional pages.
54. **Page Ai 1 – Boxes 1, 2 and 3** – as noted above we believe that gilt and preference share interest should be included on page TR 3. Box 2 is unnecessary because the figure can be deduced from Box 1.
55. **Page Ai 1 – Boxes 1, 2 and 3** – there is no reference in the notes to preference shares either here or in the notes relating to TR 3 Box 3. It is therefore not clear where such income should be included.
56. **\*\*\*\*\*Page Ai 1 – some taxpayers find combining accrued income gains and losses with interest income confusing. It also makes figures difficult to check and reconcile. We believe that it may make the tax return completion process simpler if there were separate boxes for each of accrued income profits and charges. However further research may be necessary on this point.**
57. **\*\*\*\*\*Page Ai 1 – Boxes 5, 7 and 9 – The form is really only suitable where a person surrenders a single policy. In practice many people surrender several policies when they need funds. Accordingly after ‘whichever is less’ we recommend adding ‘Leave blank if you have gains on more than one policy and refer to notes at top of page AiN 4’. For the avoidance of any doubts we recommend a tick box ‘Are these gains on more than one policy – if so please tick box and refer to notes at top of page AiN 4’.**
58. **Page Ai 1 – Box 12** - as noted above we can see no reason not to include stock dividends with other dividends on page TR 3 Box 3.
59. **\*\*\*\*\*Page Ai 2 – Boxes 1 to 14 (top of page) – in our view there is no logical reason to include the section on shares schemes and compensation in the Ai pages. It should be included on the employment pages which would be a more obvious place for it. We also note that there is no reference anywhere to these types of income on TR 2 which makes it more likely that they would be overlooked.**
60. **Page Ai 2 - Boxes 1 to 14** (top of page) – members have commented that the guidance notes for both share schemes and lump sums are confusing and difficult to follow, particularly in identifying what information should be included where in cases where tax has been deducted at source.
61. **Page Ai 3** – age related married couple’s allowance – we are aware that both practitioners and unrepresented taxpayers find this section and the associated guidance confusing and it can be difficult to identify which boxes they should be completing and what to put in the boxes. For example, the words ‘if appropriate 9, 10 or 11’ can be read in a number of ways which creates confusion. This could be avoided by telling readers to

complete all three boxes and having boxes for 'yes' and for 'no' for each question. We believe that a flow chart in the guidance notes could also make it easier to understand what to do in different circumstances. This section and the related notes need clarifying and we suggest that boxes re transfer of married couple's allowance where no prior election has been made should be in the same section.

62. **Page Ai 3** – other information – losses – there should be cross references to the notes on this issue.

## **SPECIALIST SUPPLEMENTARY PAGES**

63. **Ministers of Religion or Lloyd's underwriters pages** - We have received no comments on Ministers of Religion or Lloyd's underwriters pages and the working group has not reviewed them. Comments on all other supplementary pages are listed below in the order the supplementary pages are in the Guide.

## **EMPLOYMENT PAGES**

64. **\*\*\*\*\*General - as noted above at point 25, practitioners would prefer to see share schemes and lump sums included on the Employment pages because this is a more logical place for them. At an absolute minimum, the note on the bottom of E 2 regarding lumps sums etc should be moved to somewhere prominent on E 1 because taxpayers with a single employment throughout the year are unlikely to notice the note on E 2 which needs to be more obvious.**
65. **General** - there are no longer any boxes for start and end dates of employment. Some members have commented that this means it is more difficult for taxpayers and agents to check the form where there are multiple employments during the year.
66. **General** –a white space is needed; there are usually many items which need disclosing on these pages eg professional subscriptions claimed and explanation of business expenses.
67. **\*\*\*\*\*E 1 and E 2 - Boxes 9 to 16 - these boxes would be much easier for taxpayers to complete if the order on E 1 was the same as on the P11D. In addition, it we consider that it is important to include a statement at the top of this section stating 'see EN 3 for details of where to find the figures for these boxes'. Although the boxes on the right hand side of the P11D forms have numbers corresponding to the numbered boxes in this section, most taxpayers will not realise this.**

## **SELF EMPLOYMENT PAGES**

68. **Box 100 (full)** - this states 'this will not apply to most people'. This is an unnecessary phrase and considered misleading. We recommend removing the phrase and instead telling readers to refer to the notes.

69. **General - (short and full)** – it should state on SES 1 that the pages may only be used where a business has turnover of £64,000 or less. Although implied, it is not explicit. Similarly, SEF 1 could indicate that a shorter version is available, but not compulsory, where turnover is less than £64,000. It should also be made clear on SES 1 that taxpayers should refer to the notes to ascertain whether they may use the short pages or not.
70. **\*\*\*\*\*Page SESN 1 and SEFN 1 – state in the fourth bullet point that the long pages must be used where accounts are no longer prepared on the ‘cash basis’ but GAAP is used. All accounts are statutorily required to be prepared under GAAP so we believe this bullet point should be deleted. We were under the impression that HMRC no longer accepts accounts prepared on a cash basis (except for barristers in their early years). The notes should state in which circumstances the cash basis is still acceptable.**
71. **Page SEF 2 – Box 26** – the name of the box itself and the notes on SEFN 6 indicate that bad debts are only an allowable expense when written off. This is misleading because in certain circumstances provisions are also allowable. The notes should make this clear.

## **PARTNERSHIP PAGES (FULL AND SHORT)**

72. **General - (full and short)** - these pages must be completed for each partnership of which the taxpayer is a member but in common with the previous version of the return, there is no space for the partnership name, only the type of business. This makes reviewing returns more difficult for taxpayers and may lead to figures being inadvertently put on the wrong set of pages. We recommend that a partnership name box is inserted.
73. **Before box 12 (full and short)** – there is no box for overlap relief brought forward. If there was, it would be easier for taxpayers to check the figures.
74. **Box 25 (full and short)** – this states ‘this will not apply to most people’. This is considered misleading because, in addition to items which are mentioned in the notes, partners may often need to make an adjustment to profits for NI purposes in respect of loans to buy capital in the partnership or partnership annuity obligations, neither of which is mentioned. We recommend removing this phrase and instead referring to the reader to the notes.

## **UK PROPERTY PAGES**

75. **Box 1** – there is no guidance on the number of properties which should be included where properties were bought or sold in the year.
76. **Box 4** – it should state by the box that if there is no other property income to disclose, the taxpayer does not need to complete the rest of the form.

77. **UKPN 2 for Box 4** – it should be made clear at the first bullet point that it is only the taxpayer's share of total income which should be included in box 18, not the whole amount.
78. **Box 40** - we recommend including a direct reference to UKPN 12 after *'this will be unusual'*.

## FOREIGN PAGES

79. **\*\*\*\*\*Pages F 2 and F 3 – the lack of box numbers for individual lines on pages F 2 and F 3 make it extremely difficult to identify entries when talking by telephone or writing.**
80. **\*\*\*\*\*Pages F 2 and F 3 – the requirement to enter every item of income individually by country is extremely time-consuming, especially where small amounts are concerned and in the case of fiscally transparent investments where income can arise from twenty or more countries per investment. We should welcome relieving provisions, for example a 'multiple countries' three letter code so amounts may be aggregated where foreign tax relief has not been deducted or is not being claimed and perhaps also in other circumstances.**
81. **Pages F 2 and F 3** – overseas pensions - readers should be referred to the notes which advise how to deal with the 10% deduction. We assume that the problem with needing to include 90% of the pension in column B as well as column F will have been corrected for 2008/09.
82. **Pages F 2 and F 3** – foreign interest - we understand that amounts of foreign interest up to £2,000 may be included in the core return under 'UK untaxed interest' (Box 2 TR 3) in 2008/09. We welcome this but would like to be reassured that the facility to enter the income here is highlighted both on TR 2 Box 5 and also in the narrative to Box 2 TR 3. This arrangement will also require the instructions as to whether or not foreign pages are required and whether the box on page TR 2 needs to be ticked to be made clear. Taxpayers will also need to be advised that if they wish to claim foreign tax relief, they will need to complete F 2 and F 3 rather than TR 3.
83. **Page F6 - Box 46** – we have issues about this box which we shall be raising separately. However, we should like to emphasise that it is impossible for some taxpayers to quantify what should be included in the box as it may depend on obtaining information from third parties to which the taxpayer has no right. Even where it is possible to obtain the information, a substantial amount of work is often required to do so which is of no benefit to the taxpayer as it has no bearing on their tax liability (as they are not subject to charge on the income either because they are a foreign domiciliary who has not remitted the funds or because they can claim the motive defence). The quantum of the funds has no bearing on the remittance basis claim or any claim to the motive defence. HMRC used to say that they were conscious of taxpayers' costs and would not

require them to carry out unnecessary work. Is this no longer a fundamental precept of HMRC's "customer service"?

84. **Page F6 - Box 46 (continued)** - taxpayers who remit nothing are advised that they do not need to complete the foreign pages and therefore will not need to complete this box. Why is it necessary for taxpayers who remit as little as £1 to complete the box? The disclosure required in this box is also not in accordance with the Chancellor's statement that he did not expect foreign domiciliaries to reveal non remitted income.

## TRUST PAGES

85. **Page T1 - Box 1** – members have been advised by HMRC that foreign interest and dividends received by the trustees of a settlor-interested UK-resident trust should be included in the correct section of F2 in column B as if received by the settlor personally. The foreign tax should be shown in column C and UK tax in column D, with a white space note to explain what the entries actually are. This needs to be made clear in the note on box 2 TN 1. TR 2 box 6 should also be amended so taxpayers do not tick this box if their only trust or estate income is from such a source. Is this correct?
86. **Page T1 – headings to sections** – we consider that it would considerably assist taxpayers if the headings were clearer and that:  
heading above boxes 1 and 2 becomes 'Discretionary income payment from a UK resident trust';  
heading above boxes 3 to 6 becomes 'Non-discretionary UK income entitlement from a trust excluding stock dividends and untaxed income' or 'Non-discretionary UK income entitlement from a trust (see notes);  
narrative over box 2 becomes 'Total payments from settlor-interested trusts (excluding payments to settlor)'
87. **Page T1 - Boxes 1 to 6** generally – although the notes do, if read carefully, give adequate guidance on how to complete the boxes in the less straightforward cases, for example the fairly common case where the settlor is also the beneficiary, it would assist taxpayers to complete this section correctly if they were instructed on page T1 to read the notes on TN1 to TN3 before completing the boxes.
88. **Page TN 1** - The notes at the bottom of the page need updating to reflect the changes made by FA2008 which treat trust income as the top slice of income so the comment about the payments pushing other income into a higher tax band should be removed (we appreciate that this statement was correct at the time of printing but are flagging the matter so that the 2008-09 guidance is correct).
89. **Name** – this supplementary page should be called Trusts and Estates rather than Trusts etc.

## CAPITAL GAINS SUMMARY PAGES

90. **CG 1 – Box 18** – the requirement to disclose separately costs, particularly broker fees on the disposal of quoted shares, is being dealt with separately and we are hoping that revised guidance will be issued as a result which will not require the broker costs to be separately identified because this involves taxpayers and brokers in considerable additional work.
91. **CG 1** – under ‘Summary of your enclosed computations’ - we suggest that after ‘...filling in the boxes.’ The following is added: ‘see CGN 1’. We then recommend that on CGN 1, at the beginning of the notes, some guidance is given on the format of computations, i.e. that they can be in any suitable format as long as all the necessary information has been included. This can be cross-referred to CGN 19. A statement that pdf attachments are likely to be better than information in the white space (because the formatting will be lost) should be included for those submitting online who will also be referring to these notes.

## NON RESIDENCE ETC PAGES

92. **\*\*\*\*\*Heading – these pages need to include domicile in the heading rather than referring only to residence because domicile is important to the tax status of a great many taxpayers.**
93. **NR 1 – Box 9** – the question refers to an ‘extended period’ which in the notes on page NRN 10 is ‘two years or more’. For clarity and ease of completing the form, we recommend that ‘two years or more – see NRN 10’ should replace ‘extended period’.
94. **NR 1 – Box 13** – the guidance on NRN 10 gives no indication as to what a ‘conventional basis’ may be.
95. **NR 2 – Box 17** – we understand that the taxpayer needs to give the codes for up to three countries in which he or she may be resident and which would therefore give an entitlement to personal allowances. Residence is such a difficult concept that even accountants who specialise in this area cannot tell with confidence where someone is resident. It is unreasonable to expect a taxpayer to make decisions on this complex area if all that HMRC actually need to know whether the taxpayer is entitled to personal allowances (which he has already told them by ticking box 15 or 16). Furthermore if box 17 is directed at residence it is unclear why it should also ask about nationality.
96. **\*\*\*\*\*NR 2 – Boxes 20 and 21 – Help Sheets 302 and 304 are not included in the Guide even though they must be submitted if the appropriate box is ticked. We recommend that they are included in future copies of the Guide and also that, for those submitting online, a reminder is included that they will need to convert the completed forms to pdf and attach to their online submission.**

97. **\*\*\*\*\*NR 2 – Boxes 18 to 21 – practitioners advise us that some of the information requested is difficult to obtain and that it is not required for the making the return. {There is a bigger point here. If a person is treated as non-UK resident under a double tax agreement and has no UK income he will not expect to have to complete a UK tax return and normally will not think of doing so. Indeed I am doubtful if he can be required to as he has no UK taxable income. Why should a person who has a bit of UK bank interest have to provide information about his overseas income that is taxable only in his country of treaty residence but if he puts his money overseas, so that the tax on it goes to a foreign government instead of the UK, he can relieve himself of this very onerous task? It is surely not government policy to dissuade foreigners from investing in the UK!**
98. **NRN 10 – Box 13 - second paragraph – this refers to ‘incidental duties’ and Help Sheet 211. Once the taxpayer has gone to the trouble of obtaining Help Sheet 211, he finds in Note 1 on page 6 that he needs to contact HMRC to find out what incidental duties are. This is a significant shortcoming of the guidance and help on what incidental duties are should be in one or both of NRN and HS 211.**

## 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 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.
2. The Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department for Business, Enterprise and Regulatory Reform 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 10,000 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 020 7920 8646 or email us at [taxfac@icaew.com](mailto:taxfac@icaew.com) or write to us at Chartered Accountants' Hall, PO Box 433, Moorgate Place, London EC2P 2BJ.

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

The tax system should be:

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

These are explained in more detail in our discussion document published in October 1999 as **TAXGUIDE 4/99**; see <http://www.icaew.co.uk/index.cfm?route=128518>.