Welcome to the September 2019 Technical Newsdesk

Welcomes

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The invitation to ‘guest edit’ Technical Newsdesk and write this introduction caused me to ask myself some questions about the context in which it will be read.

Does the work of tax advisers today mainly offer opportunity, or threats?
Logically, it has to be more opportunity. Surely, the more clients need help, the more opportunity? And boy, do clients need help! The tax code is longer and more complex than ever. Mere length is a crude measure, but would anyone seriously say that the practical demands of complying and coping with it have got any easier? Not only that, but legislation changes more, often in unexpected directions. And for many, life and business are globalising, so more countries’ rules are in play. In compliance, the trend is digital, but some find that challenging, especially when systems are new and bugs not ironed out. Tax positions are challenged in different ways, sometimes it seems with more aggression and less communication. Clients have always craved certainty, but it is harder to come by. For many, reputation is more likely to be at stake. In short, the risks faced by taxpayers contemplating different choices are greater than ever. What a world of opportunity for advisers!

Why then doesn’t life seem very good?
Taxpayers may need our help more, but some of their new needs require things we are not used to giving. It is not always easy to adapt. If we have ‘kept clients safe’ before, it is hard to tell them they face more uncertainty. Even if, in reality, a competitor cannot magic that uncertainty away, it still gnaws at us that we cannot dispel it as completely as we used to. You cannot ignore risks to reputation or changes in law or practice, but these things do not lend themselves to the precise technical analysis that is the yardstick we are comfortable with...

So should the reader be focusing on Technical Newsdesk at all?

Well yes, of course! New and more complex law means more technical developments, more things to 'get right'. And much of the material here covers both the technical and wider contextual challenges; for example, the articles on Scotland and Wales. The advent of devolved tax powers and, more recently, their expansion and willingness to use them reflects trends complicating life and business in the modern world, adds a new dimension to complexity, and points to a more uncertain future as more political decisions could end up impacting the tax environment. Certainly, HMRC never asked for tax devolution – and now they, and we, have got it, and they have more 'stakeholders' to take into account as a result. In a different way, I doubt Social Investment Tax Relief, R&D Tax credits, or even DAC6 were HMRC's ideas either, but they, and we, have to deal with them.

Talking of reputation, have you ever been reluctant to admit that you are a tax adviser?

If this ever happened before the 'Great Recession', the chances are you would have been afraid of appearing too technical and geeky! If it has happened since then, it is more likely that you have not wanted to provoke an outburst about tax avoidance by multinationals or the very rich, on the assumption you are of course responsible for it. (The article on offshore receipts in respect of intangible property looks at one of the government's most recent efforts to try to assuage public opinion on multinational tax avoidance.) I believe tax advisers are generally well thought of by their clients – just look at the issues we help them to deal with! – but collectively our standing in society is more challenged. Our ambition should be to change this.

But get real, isn't this inevitable? Isn't tax a zero sum game?

At the level of tax outcomes, yes. Money that one taxpayer has, another taxpayer, or the public purse, does not. And vice versa. But how often have you recounted the experience of a bad episode and complained that 'no-one benefited from going about it in that way'. And if bad behaviour can impose costs and downsides along the way, improving that behaviour can bring benefits. This must mean our own behaviour, as well as HMRC officials' behaviour, and we should try to be mature enough to engage in frank discussions with each other about both these aspects. I'm proud that CIOT is involved in both sets of discussions. Of course, these are difficult issues and we won't change the world overnight but we can move things in the right direction.

I am very proud of all that our technical volunteers and staff do, not only to equip members better technically for the challenges they face, but also in the public interest – helping to make new legislation better. Also focusing, through LITRG, not just on matters that affect our paying clients but on the no less daunting tax challenges faced by many lower income groups often caught in the cross fire of anti-avoidance or fiscal consolidation measures. We do this not by taking political stances one way or the other, but by making available members' expertise in the tax system to better inform policy makers about what particular changes will or will not likely do to further their objectives, and what the unforeseen consequences might be. Increasingly, politicians of all points of view read our briefings and are happy to cite them. These are early days, but it is good and important that this should happen.

I hope our technical work is of real help to members in their jobs. Members' feedback is invaluable – alerting us to new issues or interpretations, sharing experience and, where appropriate, challenging the positions we take up. All this helps to improve the quality of our work and make it of most practical use to you.

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