The role of agents

Management of taxes | Professional standards



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Jim Harra comments on the role of agents in the tax system and HMRC's ongoing call for evidence on 'Raising standards in the tax advice market'

Key Points

What's the issue?

Tax advisers are one of the most significant intermediaries in the tax system. Having the right professional standards, and the right tools to enforce them, is crucial to the overall health of the UK tax system. There is still more that tax advisers can do to add value.

What can I take away?

The government recently launched a call for evidence on raising standards in the tax advice market. Now is the time to get involved.

What does it mean to me?

HMRC is keen to build on the good work many professional bodies already do that improves and maintains standards.

I set out in my appearance at the Treasury Select Committee at the start of April how HMRC is playing a vital role to deliver the latest government responses to the Covid-19 outbreak and at the same time continuing to deliver our existing service.

Currently, while perhaps our main focus at HMRC is the response to Covid-19, we have not lost sight of our 'business as usual' work. An example of this is our ongoing call for evidence on 'Raising standards in the tax advice market'.

Tax advisers play a key role in the administration of the tax system and many taxpayers choose to use the services of a tax adviser to help them with their tax compliance and planning. As Chief Executive of HMRC, I get to see at first hand the effect that both good and bad tax advisers have. HMRC is looking to secure higher standards of tax advice so that together we – HMRC and tax advisers – can work towards creating a modern, trusted tax system that is fit for the challenges and opportunities of the 21st century economy.

I want a tax and customs administration in which we collect the tax that is due both in a way that is easy and low cost for our customers, for HMRC, and which is seen as fair. Not all our customers are the same, and we tailor our approach appropriately:

- For most personal tax customers, tax compliance is effortless. HMRC administers their tax affairs via their employer and they can view their tax position and tell HMRC anything they need us to know using their online tax

account.
- Where customers need to take action to comply with their tax obligations, our online tax filing and payment services, and more recently Making Tax Digital for VAT, should make this straightforward.
- For those who have complex financial affairs and tax planning choices, such as wealthy customers and large businesses, our aim is to have a cooperative relationship where they adopt a low-risk approach to tax planning and are transparent with HMRC about their appetite for risk and any contentious positions adopted.

So, what do good agents do?

Tax advisers have a crucial role to play. Good agents help their clients with their tax obligations by providing reliable advice and ensuring they pay the right amount of tax at the right time. They ease the burden on their clients, leaving them confident that their tax affairs are in order and free to concentrate on their priorities, such as running their business.

In addition to ensuring that clients pay the right amount of tax, agents can also signpost them to the reliefs and allowances to which they are entitled. These benefits, combined with the extra reassurance they receive in knowing that their tax affairs are totally compliant, mean that many of our customers often prefer to use an agent. We know that customers with an agent tend to be more compliant than those who don’t.

However, there is scope for agents to add more value. For example, even though the majority of small businesses (72% according to the 2018 Individuals, Small Businesses and Agents Customer Survey) use an agent, the small business tax gap remains stubbornly high at £14 billion (2017/18).

I also recognise the excellent work that professional bodies play in maintaining and promoting standards. In recent years, we saw the refresh of the Professional Conduct in Relation to Taxation (PCRT) standards in relation to tax planning, and updates to the HMRC Standard for Agents, both of which have supported agents in advising their clients to steer clear of tax avoidance. We are actively working with the professional bodies on enforcement of these standards; for example, by referring those suspected of misconduct to be considered for disciplinary action.

It is indisputable that good tax advisers have a positive impact on tax compliance and I recognise and value the partnership we have with them. However, there are times when HMRC feels that tax advisers aren't adding value. Such cases were reflected in Sir Amyas Morse's review of the loan charge, which identified that poor advice played a role in leaving many of our customers with large unexpected bills, with little recourse against those who previously advised them so badly.

Changing the behaviour of some agents

Unfortunately, a minority of tax agents don't provide a good service to their clients. Some are professionally competent but push the boundaries of tax planning or are actively dishonest, and some are not professionally competent or do not adhere to acceptable professional standards.
We still see some customers rely on professional advice which is later found to be incorrect, particularly in relation to tax avoidance schemes.

Despite the fact that many tax agents have moved away from this, there are still individuals and firms that point their clients towards avoidance schemes that have little chance of achieving the tax effect they promise.

HMRC also sees evidence of agents making simple calculation errors, or sending in repayment claims on behalf of clients without checking that they are valid or correct. When routine work like this is done badly, it impacts on HMRC as we have to direct resource away from critical work. This is work that tax agents should be getting right – it is a fundamental part of their job.

In addition, some agents even fail to keep their own tax affairs up to date, and a small minority have acted criminally, defrauding HMRC and their clients. Our call for evidence includes more examples of the types of activity HMRC sees which we want to change.

Last autumn, I attended a Public Accounts Committee hearing where I gave evidence to this effect. I know some advisers found this uncomfortable and I have listened to that feedback in meetings with the Chartered Institute of Taxation (CIOT) and the Institute of Chartered Accountants in England and Wales (ICAEW).

Currently, when we find misconduct or poor professional standards by an agent who belongs to a professional body, we can report that agent to their body and ask them to consider taking appropriate action. We can also impose penalties and publish

details of tax agents who have acted dishonestly. In the most extreme and severe cases, we can refuse to deal with an agent altogether.

For agents who are not members of a professional body, we are developing a range of actions in cases where there are clear breaches of the HMRC Standard for Agents. However, as noted in our policy paper, 'Tackling promoters of mass-market avoidance schemes', we recognise that promoters of mass market avoidance schemes are rarely members of a professional body.

Support for good agents and action against bad actors

In recognition of the important role agents play in the tax system, we work hard to support good agents. One of the ways in which we do this is by collaborating with professional bodies, such as CIOT and ICAEW. Sharing their expertise and working in partnership to improve guidance, such as that covering research and development tax credits, we are focusing on areas where the tax agent community has told us that they would like our advice to be clearer.

This is an approach we want to build on to provide certainty in the tax system. We want to work with agents to find ways of incentivising and rewarding tax services business models that add the most value to keeping taxpayers compliant.

We also provide ways for agents to interact with us digitally. Our aim is to allow software to do some of the more routine work so that agents have more time to add value by helping clients. We are working hard to develop and refine the Agent Services Account (ASA) and have already made improvements as a result of feedback.

For example:

- Agents were facing delays in receiving their anti-money laundering (AML) supervisor details. We therefore amended the service to enable them to create their account on the basis of a pending AML supervision application.
- We introduced a checklist with a 'save and continue' function, so agents can obtain all the information required to complete the creation of their account over more than one session.
- We recognised that agents need confirmation that they have linked their Government Gateway account to their ASA, and we now display the number of clients that have been copied across. Agents can now also track authorisation

requests that they have sent to their clients via their ASA.

We also have a range of interventions available to target poor behaviour by agents, including promoters, enablers and scammers. Some of these tools include:

- the ‘HMRC Standard for Agents’ (see bit.ly/2LyuxDv), published in 2016 and updated in 2018. These Standards apply to all individuals and business involved in professionally representing or advising taxpayers, located on or offshore;
- interventions to disrupt the activities of promoters, such as using DOTAS and POTAS, disrupting supply channels, collaborative work with agents and criminal prosecutions where appropriate;
- powers such as ‘Dishonest tax agent penalties’ (Finance Act 2012 Schedule 38) and ‘Public interest disclosures’ (Commissioners for Revenue and Customs Act s 20) – the latter a prime example of our ability to work in partnership with the agent professional bodies to tackle examples of misconduct by agents who are members;
- removal or suspension of the agent code, which allows access to HMRC online systems, where we have engaged with advisers to improve standards and those standards do not improve; and
- we will also work closely with other parts of government and local authorities, for example making referrals to the Advertising Standards Authority where we suspect an adviser of false advertising.

The call for evidence

The call for evidence gives us the opportunity to build on the work that good advisers already do. We hope it will further develop our work to improve standards, as well as the digital services we provide to our intermediaries and our ideas on how we can future proof the system that we all work in.

It takes an open and exploratory approach to examining the issues affecting the work of agents in the tax system and suggests a range of potential approaches to improve standards. These approaches range from a change to HMRC’s use of its existing powers, through enhancing consumer information in relation to tax advice, to regulation of the market.

We are absolutely committed to continuing to work with tax agents and their professional bodies to maintain and improve standards. I want clients to be able to

be confident that the advice they receive is correct and that they can trust their adviser to work in their best interests.

I would encourage agents to read the call for evidence and submit their views and evidence: it is critical that we hear from as many interested parties as possible in developing our future plans. We recognise that many sectors with an interest in this are affected by Covid-19 and we want to give as many of them as much time as possible to submit their views. Therefore, we have extended the consultation from the original date of 28 May to 28 August 2020.

In conclusion

At the time of writing, HMRC is working tirelessly to deliver the government's response to support the UK's economy in light of Covid-19 and I'd like to thank the range of tax professionals who have provided feedback and support to help us deliver these responses as quickly as we can.

Our role in collecting contributions to the UK's public services remains unaltered. We continue to recognise the positive role that the tax advisory profession can play in delivering a high quality experience for taxpayers, whilst recognising that there is work to do to improve standards. Ultimately, our fundamental aim remains the same: to run a trusted, modern tax and customs administration in partnership with a tax advisory profession that, through being professional and competent, adds value.

- We should very much appreciate your completing our survey about the impact of coronavirus on you and your organisation. We are gathering this information to help us continue to support and inform you. Please click here to complete the survey. The closing date is 30 June and we shall provide a report on our websites in July.