Chair's view, Issue 1

Management of taxes | Tax voice



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Welcome to the first edition of MOT Voice, our new publication keeping you updated on tax administration and disputes.

In this first edition, we reflect on some of the changes, enacted and proposed, which have come our way. Identifying the key issues to consider in more detail has been a challenging exercise for us; given the pace and volume of new initiatives and announcements this year, the first edition of MOT Voice could have run to several volumes. Many of these changes have been highly controversial. In particular, we have seen:

- the introduction of the Direct Recovery of Debt (DRD) provisions under which HMRC will be empowered to collect tax debts directly from bank accounts.
- proposals to introduce strict liability criminal offences for both taxpayers and facilitators of tax evasion. These offences will mean that criminal sanctions, including custodial sentences, could be applied in circumstances where there was no intention to commit a criminal offence. Instead, in order to avoid criminal sanctions, defendants will need to demonstrate that they took reasonable care.
- the issue of a large number of Accelerated Payment Notices (APNs) to taxpayers in dispute with HMRC. The accelerated payment regime was introduced in 2014. Since then several thousand notices have been issued to taxpayers requiring the payment of disputed tax up-front, with no right of

appeal.

All of these proposals, and the raft of additional material which was introduced in 2015; the Finance Act 2015, Summer Budget and Autumn Statement, have required careful consideration and CIOT has made detailed representations in each case.

Our members have been in broad agreement about the policy rationale for many of the proposals, in particular the continuing efforts to address tax evasion, but have had significant concerns about the specific mechanisms.

For example, we pointed out that significant powers to investigate and prosecute cases of criminal tax evasion are already on the statute books, which led us to question the need for the introduction of a wholly new criminal offence. Many of the proposals announced this year remain problematic, but in some cases material changes to proposals have been made following consultation, and our members should feel proud of their contribution to this process.

Taking a longer view, for those dealing with tax enquiries, investigations and disputes, the changes announced this year are simply the latest in an evolving landscape. The direction of travel has perhaps accelerated this year, but the direction itself has been clear for some time. Broadly, it is reasonable to say that this direction of travel is to increase the downside for non-compliant taxpayers, and increase the risks for those who wish to challenge HMRC, particularly where their conduct can be labelled as tax avoidance.

Alongside this, specific changes to HMRC's organisation are likely to continue to impact on our and our clients' interactions with the tax authorities. In particular, the reduction in HMRC's head count will continue to drive approaches to compliance and enforcement activity which are less resource-intensive. Although we are now seeing the closure of HMRC's Liechtenstein and Crown Dependencies disclosure facilities, it seems likely that the 'campaign' approach to the disclosure of tax errors which HMRC have successfully applied in variety of contexts will continue. The combination of tougher enforcement aligned with disclosure mechanisms which enable taxpayers to get their affairs in order, relatively straight-forwardly, has been a real success-story for HMRC. Despite the early closure of the offshore facilities, we can therefore be fairly certain that this will continue in future, particularly as HMRC's significant investment in their intelligence and risk assessment functions begins to bed in.

We can hope that another consequence of these organisational changes is that HMRC will continue to look for ways to interact differently with those who exhibit more collaborative behaviours, so that issues are resolved more quickly when they arise and our clients can obtain the certainty that they need as straight-forwardly as possible. A really clear example of this approach can be found in the Autumn Statement 2015 announcement about a framework for collaborative compliance for large businesses, which is based on the OECD's view on best practice. The framework includes positive commitments from HMRC to address issues in a timely fashion, to work collaboratively with businesses and to seek to resolve disputes by agreement where possible. A widening of these commitments to include all taxpayers would be a very welcome development for 2016.

I'm sure that 2016 will bring further changes to the way we work with HMRC and how we support our clients, and alongside those changes will come further controversy.