Improving large business tax compliance

Large Corporate

01 February 2016

Changes in the revised proposals are welcomed

The CIOT has welcomed the approach to tax governance requirements for large businesses reflected in the draft Finance Bill 2016 clauses published in December 2015. As part of the Autumn Statement and documents published with the draft Finance Bill clauses in December 2015, the government signalled some changes to the proposals that were originally set out in the consultation document, Im*proving Large Business Tax Compliance*, published in the summer.

In response to this, the CIOT criticised plans for a code of behaviour for large companies. This was because it focused on what taxpayers would have to do but little on how HMRC should deal with them fairly and consistently. We were also wary of policy creep around the nature of any code being ‘voluntary’, as was seen with the Code of Practice on Taxation for Banks. We are pleased, therefore, that the government seems to have accepted that there is nothing to be gained by legislating for the introduction of a code of behaviour for large businesses. As we noted in our response, HMRC will already be aware of whether a taxpayer complies with these behaviours as a result of the business risk review and customer relationship manager (CRM) programmes.

The revised framework for improving large business tax compliance set out in the draft Finance Bill 2016 clauses is more collaborative than the code originally planned. In particular, it includes reciprocal obligations on HMRC and taxpayers and we think that it could provide a necessary rejuvenation of the approach that has been used with success by HMRC’s large business directorate in the past ten years. We hope a collaborative approach will overcome the tightening of HMRC’s governance procedure, which can lead to an over-rigid application of process,

causing businesses problems in ascertaining their tax position even when there is little risk to the Exchequer. We also hope that the spirit of the collaborative approach by HMRC can be extended to small companies in the future.

HMRC still plans to introduce a special measures regime to tackle large businesses that persistently undertake aggressive tax planning or which refuse to engage transparently with the department. Draft clauses were published for these measures. Businesses identified as likely to be entered into special measures will be given an initial notice period to give an opportunity to change behaviours or approach to aggressive tax planning. They will be hit with sanctions if they fail to demonstrate a significant improvement in behaviours within 12 months. We continue to question the effectiveness of this regime.

We still believe that it is difficult to see how such a regime will be effective. We continue to be opposed to the naming and shaming of those subject to it because it may relate to unresolved cases and the threat of it may damage the trust and good relationship most businesses have with HMRC. As we said in our response to the summer consultation, we would have preferred HMRC to have invoked the GAAR to deal with persistently uncooperative businesses before introducing a whole new regime such as this.

The final piece in the new compliance framework is a requirement for large businesses to publish a tax strategy. We hope that this legislated public transparency does not crowd out potentially valuable voluntary disclosures that may be business- or sector-specific, and are already being published as a result of EU developments and the impact of BEPS and other initiatives. In our view, what is being produced by businesses in this area is more than enough.

The package of new measures will apply to about 2,000 large businesses (those with annualised turnover in excess of £200m or with a balance sheet total in excess of £2bn). They will come into force in 2016.

Our response to the summer consultation can be found on the submissions page of the CIOT website and the CIOT press release issued in December 2015 here.