President's page, October 2016

Welcomes

01 October 2016

The relentless rate of change

As I write this note, Finance Act 2016 has just become law. It adds to UK tax law 191 new sections and 25 new schedules – some 661 pages, according to my PDF copy. I can only presume Her Majesty didn't read it before appending her signature to complete the formal processes. This 600 page mammoth follows 600 or so pages in each of the preceding six years.

One of the essential requirements of a tax professional is the ability to embrace and adapt to change. Every year there is a new Finance Act and in some years we get a bonus Act or two. The Office of Tax Simplification has analysed the volume of legislation and wisely pointed out that not every page in the Red/Green/Purple or Yellow/Orange volumes should be counted, as there's repetition and law applying in different years. We can't get away, though, from the point that adding so much new law (repeals take away very much less) is a huge challenge for everyone involved. The list starts with HMRC's and the Treasury's policy specialists, includes the Office of Parliamentary Counsel, committees in the House of Lords and House of Commons and members of parliament at Westminster – as well as today those in the devolved administrations. We then move to HMRC's operational teams – as well as of course tens of thousands of tax advisers at professional bodies and trade associations, in professional firms or in business. Eventually tribunal members and judges get to consider whether it all hangs together. Sometimes, as in *Gray's Timber Products*, the Supreme Court (House of Lords) opines that the legislative process didn't go so well, as Lord Walker concluded 'I express the hope that Parliament may find time to review the complex and obscure provisions of Part 7 of ITEPA 2003.' The judges could easily substitute many other references to 'complex and obscure' provisions.

Some of the changes we've seen over the last six years bring important structural change to the UK economy. The changes to savings and pensions are ground-

breaking, as many millions will enjoy tax-free savings and some will be able to access their pension savings in new and valued ways. The economic basis for tax-free interest income comes from the theory that the ‘normal’ rate of return doesn’t represent a growth in asset value and so shouldn’t be taxed. Giving basic and higher rate taxpayers a tax-free allowance allows escape from those ISA providers which have meanly grabbed some of the tax benefits by offering lower rates. ISA providers have had to struggle, though, with the multiple variants of ISAs, where it seems a new version is announced every year, without any obvious thought being given to the systems needed to keep track of the investor options. The pensions freedoms have been welcomed by millions, as they give greater access than ever before to savings. Yet the bigger problem of those without a pension, or with a very small pot, hasn’t yet been seen as an area for the tax system to offer a relief.

Those in the corporate sector may well welcome the creative sector reliefs, the enhanced R&D expenditure credit and perhaps the patent box, claimed by 700 companies in 2013-14. Enactment of the changes from the G20/OECD Base Erosion and Profit Shifting project is inevitable, even if there may be some unintended consequences.

Even taking account of the value to the economy and to the taxpayer population from some of the changes, we are still left with a system made ever more complicated with each passing year. It’s just as well that tax will soon be digital, as who now can calculate income tax? The interaction between the savings band, the savings allowance and the dividend allowance means that only a skilled adviser can actually work out how much is due. Surely this should be a sign of shame – that ordinary people have no idea how much tax they pay? How can they value the benefits given to them, or understand the implications of tax rises? Not everyone has a tax adviser – and not every tax adviser can cover the whole vast gamut of our tax law.

I thus look forward to the output from the work on tax policy from the joint project between the Institute for Government, the Institute for Fiscal Studies and the CIOT. I hope that the three bodies will make recommendations that the government, HM Treasury and HMRC can adopt – so that we can at least not add to future complexity. Fiscal changes need to be supported by robust economics and post-implementation review – so that in future every new Finance Act really does justify its place on the statute book.

Just having fewer changes would be a great start.