

Minutes

BUSINESS TAX FORUM

14 May 2015, 10:00-11:45

Room 2/66, 100 Parliament Street

Chair:	William Morris Jim Harra	General Electric Business Tax	CBI HMRC
Secretariat:	Ian Brimicombe Dave Matthews Heather Wall	AstraZeneca BC&S BC&S	100 Group HMRC HMRC
Attendees:	Jean Sharp Janine Juggins Paul Morton Judith Knott Jeremy Tyler Jon Sherman Ian Stewart Fergus Harradence John Connors Claire Jordan Iain MacKinnon Michael Oliver	Aviva Unilever Reed Elsevier Large Business BC&S CTIS Indirect Tax Business & International Tax Vodafone Diageo HSBC Business Environment	100 Group CBI CBI HMRC HMRC HMRC HMRC HMT 100 Group 100 Group CBI BIS
Speakers:	Andy Stewardson Aidan Reilly Nick Houghton Pauline Chelmsford Maura Parsons	CTIS CTIS CTIS Large Business CTIS	HMRC HMRC HMRC HMRC HMRC
Guests:	Lucy Ashford - Scott	Large Business	HMRC
Apologies:	John Bartlett Theresa Middleton Abdul Nabi	BP BC&S Marks and Spencer	CBI HMRC 100 Group

Agenda Items		Start	Dur.
1.	Welcome, adoption of Minutes & Action Point Update – Will Morris	10:00	10m
2.	Update on New Government – Jim Harra	10:10	15m
3.	Legislative Sub Group – Lessons Learned from working group involvement in Loan Relationships Legislation - Andy Stewardson	10:25	10m
4.	DPT update - Aidan Reilly	10:35	15m
5.	BEPS update - Nick Houghton/ Maura Parsons	10:50	15m
6.	Large Business Skills – Ian Brimicombe / Paul Morton	11:05	20m
7.	HMRC relationship with large business – Dave Matthews	11:25	5m
8.	Great Business Debate update – Will Morris	11:30	5m
9.	AOB & Close – Will Morris	11:35	10m

1. Welcome and Adoption of Minutes

Jim Harra [JH] welcomed everyone to the meeting.

The January BTF minutes were adopted without any amendments suggested.

Action Point 1: Legislative Group Update on Loan Relationships Lessons Learned (covered in agenda item 3)

The working group agreed to provide a lessons learned report on the policy development. This was circulated with the agenda. Andy Stewardson [AS] presented the findings in agenda item 3.

Action Point 2: Business were keen that purdah would not impact the BEPS timetable and full consultation process given the tight timescales (covered in agenda item 5)

Aidan Reilly [AR] provided an update in agenda item 5.

2. Update on New Government

JH provided an update to the group post-election, informing them that CX and FST remain the same as before the election, with a new CST and EST (although with very similar remits to previous incumbents).

It was noted there would be an imminent announcement of fiscal events.

The question was raised as to what was next for the Corporate Tax Reform Roadmap. The previous Roadmap was helpful in making sure Ministers were live to the key issues. The new Government is seen to be an opportunity to have a new roadmap which could include BEPS.

A new Roadmap would be useful to navigate tax raising power issues and help to increase certainty. Although, it was also noted that given such issues are a moveable feast, and perhaps this should be a strategy document rather than a Roadmap.

A question was raised regards BEPS and what a post BEPS world would look like. Is it the end of tax competition? It was noted that tax should be placed firmly where economic gains are fair, although the UK needs to consider how to position itself in a post BEPS world.

Businesses stated they are laying out plans for jobs and growth, and want to make sure we help politicians to make the right ground for taxation.

3. Legislative Sub Group – Lessons Learned from working group involvement in Loan Relationships Legislation

Andy Stewardson [AS] provided a summary of the key findings from the BTF subgroups involvement in reviewing the Loan Relationships Legislation, with the headline “The task group’s overall conclusion was that the draft legislation did meet the policy objectives set out in the June 2013 consultation document ‘Modernising the taxation of corporate debt and derivative contracts’.”

AS noted that this review of legislation was a set piece, deliberate project, and that the involvement of the BTF subgroup in this work was a successful experiment, one which is worth repeating.

It was asked in what way/ what stage can we (large business) have external input to policy making as there seems to be significant benefit in doing it this way. AS responded that conversations in the sub group didn’t lead directly to changes in legislation, which shows the legislation was already on the right track. Therefore, carving out a different (but complementary role) of this consultation group that adds value to discussion in policy making, would be beneficial.

Key benefits were noted as additional validation/ confidence in pilots, confidence between HMT/HMRC and the policy making community, allaying any uncertainty/ nervousness.

Both sides stated this was a very helpful exercise, and If were to do it again it should be built into consultation planning from the start.

The group stated it would decide in advance when we should do this again (whether for the Summer Budget or the Autumn Statement).

Businesses stated there should always be a role for business to assist in policy making as it adds to translation of policy to legislation and bridges the gap between policy making and administration.

Action Point - Group to fine tune the process and find another suitable project to undertake.

4. DPT Update

Aidan Reilly, Maura Parsons and Pauline Chelmsford together updated the group on the progress of Diverted Profits Tax ('DPT'), explaining that the legislative and operational aspects are being worked in a seamless manner.

AR noted that a number of significant improvements were made to the final legislation as a result of the Technical Consultation and the Open Day. AR thanked business for their constructive engagement during the consultation process.

It was also noted that comprehensive draft Guidance was published before 1st April, which again benefited greatly from the constructive engagement with business and that HMRC would welcome further input into the guidance over the summer before publication of a further iteration in the autumn.

Action Point - HMRC welcome further feedback to feed into the autumn guidance

Business asked how Diverted Profits Tax ("DPT") will be applied, what is really the extent of it? Large business had originally felt it was to cover a narrow spectrum of contrived situations, yet now appears to be broader. Before passing over to Pauline Chelmsford and Maura Parsons to explain how HMRC intends to operate DPT, AR explained that DPT is targeted at certain types of contrived arrangements that result in a diversion of profits from the UK. It is intended to change behaviour so that businesses with such arrangements undo them and stop diverting profits from the UK. How many cases there are depends upon the prevalence of those arrangements.

Pauline Chelmsford noted HMRC is increasing resource to tackle diverted profits cases (which include those where there may be a DPT risk), and taking a project based approach to ensure HMRC is covering the right cases.

It was flagged that when profits are not aligned to value creation, transfer pricing wouldn't necessarily solve this alone and that DPT provides another tool for ensuring the appropriate alignment is reflected in the UK tax base. However, an underlying issue is the divergent interpretation on where value is created.

It was agreed HMRC and large business would continue to hold dialogue in order to secure the targeted application of DPT as intended by Parliament.

Large business noted that there is a balance to be struck with legislation like DPT that represented the introduction of a major change to business taxation, between speed of implementation and business engagement. Given there are lots of interested parties, there needs to be a robust plan for implementation.

Questions were raised regarding HMRC's plans for transparency around implementation plans, the compliance burden and international positioning

HMRC noted that it has a task force in place to set the bar across large businesses. It has undertaken engagement to refine understanding of the value chain in order to set the bar. It was noted that risk assessment of cases for diverted profits, including those with potential for DPT, will be applied to those cases which have open or ongoing enquiries, not closed.

There will also be a Designated Officer making decisions (within a robust governance process). This process was noted as being off to a good start as it is collaborative. It was noted that if the Government want to maintain the most competitive tax system in the G20 then articulation of DPT implementation will need to be very clear.

Action Point - There needs to be better public communication on DPT. HMRC would welcome further engagement with large business.

5. BEPS Update

Aidan, Nick and Maura updated the group on the main Action Items for their respective Working Parties. Nick covered Hybrids, Controlled Foreign Companies ('CFCs'), Interest and Mandatory Disclosure, Aidan covered Digital economy, Harmful Tax Practice Forum, Permanent Establishments and Treaty Abuse, and Maura covered the various Transfer Pricing Actions.

It was noted that the BEPS programme has a very ambitious timetable, with completion scheduled for September and publication of the Reports in early October to coincide with presentation at the G20 meeting of Finance Ministers. With 3-4 months of the timetable to run, it was noted that while much had been achieved and agreed, some substantial areas of work remained.

It was emphasised that the comments being offered were in respect of the UK's observations on the OECD work. The Government would consider the final Reports once they have been published. HMRC will update the group at future BTF meetings, with substantive discussion scheduled for the October BTF.

Nick Houghton [NH] updated the group on Working Party 11 (Hybrids, CFCs, Interest and Mandatory disclosure). NH explained that work on the Hybrid Mismatch Action was proceeding, focussing on agreement of the small number of points outstanding from the 2014 Report. The OECD Secretariat was continuing to draft the accompanying Commentary, and he understood that the Secretariat were proposing to share the current draft with BIAC.

NH stated that the work on CFCs remain challenging. There are some key design issues still to resolve, but the aim is to provide a report setting out best practice; effectively a toolkit for countries who want to introduce or amend CFC rules. There has been a lot of conversation and engagement at Focus Group and Working Party level between countries during which experience with their existing CFC regimes has been shared. Delegates have also found the comments and evidence provided during the consultation process helpful.

NH said that the Focus Group responsible for the Action on interest deductibility was making good progress in developing rules which linked interest deductibility to a percentage of a company's EBITDA, or possibly its assets. The Group continued to look at using similar measures on a global group-wide basis as a possible alternative, though some delegates had concerns about the workability of certain aspects of this approach. The UK was keen to ensure that the impact of any rules on infrastructure investment was

taken into account in their design. It was also clear that consideration would need to be given to the banking and insurance sector, for which separate rules may be needed.

Work on the mandatory disclosure Action has been well supported, with a lot of interest from delegates in rules covering the disclosure of both domestic and international avoidance.

Aidan Reilly [AR] then updated the group on Working Party 1 (Treaty Abuse, Permanent Establishments and Dispute Resolution)

Treaty Abuse was a 2014 action. There remain s further work to be undertaken in 2015 particularly on the limitation on benefits approach to achieving a minimum standard of protection against treaty abuse. There are likely to at least two approaches to limitation of benefits permitted (for example, the US style is more rigorous than the Japanese).

It was noted that the UK along with most countries, will be adopting a principle purpose test approach rather than a limitation on benefits one.

Maura Parsons [MP] then updated the group on Working Party 6 (Transfer Pricing). Transfer pricing reports are being drafted. There needs to be a coherent story with more prescriptive guidance on how we allocate and reallocate risk, with re- characterisation of risk being discussed. There has been lots of progress, but we need to get to the heart of how to identify and reward value creation.

Country by Country Reporting should be finalised soon. It was noted by business that “ever more reporting” is an issue, leading to an incremental compliance burden, which needs to be narrowed through the BEPS work. It was noted that UK business are involved and are supportive as they believe this to be existing best practice. The question was raised as to whether more could be done about admin burden level across international boundaries. It was noted that dispute resolution needs more work.

Action Point - October meeting – devote most of the session to BEPS and implementation of BEPS actions.

6. Large Business Skills

The idea of a second “Business Awareness Day” was raised at January’s meeting. Ian Brimicombe [IB] and Paul Morton [PM] gave some background on the previous business awareness day, and suggested some topics for a second session. It was noted that the previous session lasted 5 hours, and introduced non-tax speakers as well tax directors from business to offer a perspective on a variety of topics - a CFO across the piece, corporate government affairs, investor relations, procurement and supply chain. The additional understanding of business operating models, motivations and how these shape tax strategies and tax team behaviours proved to be useful insight to the 100 or so attendees from HMRC.

IB and PM stated that the idea would be a second session of non-tax briefing from MNC business leaders along the lines of:

1. CFO business perspective
2. Audit Committee Chairman / Member – governance perspective
3. General Counsel

4. Government Affairs
5. Digital business leader
6. Global R&D / Global Brand leader
7. Global Transactions Finance leader
8. Performance and talent management

The group discussed the above and agreed they would like to take it forward. It was noted that the session should be led by business leaders rather than tax professionals. Equally it was suggested that the session was filmed or Podcast in order for the learning to be cascaded to a wider audience.

Action Point - Ian Brimicombe to put together an outline plan for the day and share it with Judith Knott [JK].

7. HMRC Relationship with Large Business

Dave Matthews [DM] gave a brief update to the group on the Clifford Chance survey raised at October 2014 and January's meeting, which mentioned the issues of CRM turnover and consistency.

DM noted that HMRC are gathering feedback post the Clifford Chance survey results regards HMRC's relationship with large business. He noted that HMRC will report more fully at the next BTF when we have had a chance to attend the CBI Tax Committee and Tax Directors Network sessions where HMRC intends to explore the issues raised in the survey and collate feedback.

Action Point - 20/30 minutes to be allocated on the next BTF agenda to give a fuller update on the feedback collated from the CBI Tax Committee and Tax Directors Network.

8. Great Business Debate

Will Morris [WM] updated the group on the progress of the CBI's Great Business Debate.

He noted that the debate is convincing people there are two sides to the debate and it's not just about tax evasion. The CBI are seeking to establish a balanced narrative through its tax communications.

The Great Business Debate documents will be refreshed and released in autumn.

Over the next few months there will be a series of position papers on the CBI's Comprehensive Business Tax Roadmap. The Roadmap will cover several areas including but not limited to, international issues, Mid-Size businesses and employment tax. This will be a comprehensive review, with proposals to make tax system work for everybody.

9. AOB

Issues raised under AOB:

1. International Sub Group – The date for the next meeting was discussed, it will be on the 4th June at 14.30.
2. Legislative Sub Group – The date for the next session was discussed. It was agreed it should be post the Summer Budget but before August.
3. Date for next BTF meeting – it was agreed the next meeting should take place in late August or September. We will use the next meeting to discuss the Clifford Chance Survey feedback, the Large Business Panel Survey results and EU matters. We will use the October session to discuss BEPS.