

OECD'S PROJECT ON HIGH NET WORTH INDIVIDUALS

The following letter was submitted to OECD in December 2008 by the Chief Executive Officer of the **Global Accounting Alliance**.

Forum on Tax Administration (FTA) – High Net Worth Individuals' Project

Introduction

1. The Global Accounting Alliance (GAA) welcomes the opportunity to comment on the FTA project on High Net Worth Individuals (HNWI).
2. The GAA was formed in November 2005 and is an alliance of leading professional accountancy bodies in significant capital markets. It was created to promote quality services, share information and collaborate on important international issues. The Alliance works with national regulators, governments and stakeholders, through member body collaboration, articulation of consensus views, and working in collaboration where possible with other international bodies, especially IFAC (the International Federation of Accountants).
3. The Alliance facilitates a cooperation between ten of the world's leading professional accounting organisations:

The American Institute of Certified Public Accountants (AICPA)
Canadian Institute of Chartered Accountants (CICA)
Hong Kong Institute of Certified Public Accountants (HKICPA)
Institute of Chartered Accountants in Australia (ICAA)
Institute of Chartered Accountants in England and Wales (ICAEW)
Institute of Chartered Accountants in Ireland (ICAI)
Institute of Chartered Accountants in Scotland (ICAS)
The Japanese Institute of Certified Public Accountants (JICPA)¹
New Zealand Institute of Chartered Accountants (NZICA)
South African Institute of Chartered Accountants (SAICA)

These organisations represent over 700,000 professional accountants from 140 countries.

¹ JICPA joins GAA with effect from 1 January 2009

GAA input into the current consultation

4. We have set out below some general observations on the current OECD discussion paper.
5. Representatives from some of our member organisations will be attending the Public Consultation meeting in Paris on 9 February 2009 and we intend to make more detailed comments at that meeting. We then propose to follow up with a further written response which will deal with the specific questions raised in the discussion paper.
6. The present letter also sets out the background to the earlier OECD report into Tax Intermediaries from which the present discussion paper is derived. The original Tax Intermediaries consultation began with an aggressive stance towards tax intermediaries but ended recommending a much more conciliatory and collaborative approach to developing good working relationships with the major stakeholders within tax systems.

GAA initial comments

7. The present discussion paper seeks to continue this more collaborative approach in the context of HNWI's and build on the the experiences of various fiscal authorities, including Ireland, of **co-operative compliance**.
8. From discussions at the meeting in London on 4 December 2008 organised by the UK and Irish revenue authorities it is clear that there are a number of issues that revenue authorities will have to deal with for a co-operative compliance regime to be put in place successfully.

Skills	It will be a challenge to ensure that the revenue officials involved have suitable skills.
Complexity	Authorities will need to recognise that the tax affairs of individual HNWI's are often extremely complex.
Information	There is a considerable amount of information about individuals which is freely available and revenue authorities will have to be able to handle all this information and make sense of it.
Holistic approach	Authorities need to look at individuals' affairs in the round.

9. In general terms in addition to co-operative compliance there are a number of other C's which are important to HNWI's. These are:

Complexity	Both of compliance and of the tax system itself
Certainty	HNWI's want to be certain of taxation outcomes
Confidentiality	HNWI's are concerned not only about

maintaining their business affairs as confidential but also more personal details which they may not want infant children to be aware or they may be concerned, in certain parts of the world, about the risk of kidnapping.

Consultation HNWI and advisers acting for them need to feel confident that the tax system will only change after appropriate consultation with those who will be affected by the change

Customer service HNWI expect good service in all aspects of their affairs, not least their interaction with the tax system

10. We believe that the advisers of HNWIs are only going to recommend to their clients participation in such co-operative compliance if both can see clear benefits from doing so.
11. There will also need to have a sufficient degree of trust in the ability of the particular revenue authority to honour its commitments. Trust takes a considerable amount of time to build up and can be destroyed very quickly as a result of inappropriate actions.
12. We also believe, as we have said in paragraph 9 above, that HNWIs are very concerned about the confidential nature of their personal and financial affairs and would want to be sure that data is secure within the hands of the revenue authority. In this respect we note a number of worrying instances of data loss in the UK over the past 12 months or so which undermines trust in the system.

Context for the current discussion paper

13. The current study of HNWIs has resulted from the work of OECD looking at Tax Intermediaries and the recognition in the report adopted in January 2008 in Cape Town that there had not been time to deal appropriately with the role HNWIs play in tax systems around the world.
14. However there was in the Executive Summary of the January 2008 report a recognition that HNWIs could have a negative impact on tax systems and the public finances:

‘HNWIs are the second principal market for aggressive tax planning [and that] further work should be undertaken to consider whether the enhanced relationship or other strategies are needed for addressing the risks posed by aggressive tax planning by these taxpayers.’

The background to the earlier OECD study on Tax Intermediaries

15. The original study was set up following the third meeting of the FTA in September 2006 in Seoul. The original brief was considered to be rather aggressive. The Seoul Declaration set up the study:

‘to examine the role of tax intermediaries (i.e. law and accounting firms, other tax advisers and financial institutions) in relation to non-compliance and the promotion of unacceptable tax minimization arrangements’

16. By contrast the Cape Town Communiqué, which accompanied the publication of the tax intermediaries report, indicates that in practice the study evolved by broadening its focus into a wider review of the tripartite relationship between revenue bodies, taxpayers and tax intermediaries.

17. The change in the perception of the role of tax intermediaries is clearly indicated by the first of the main conclusions of the report:

‘tax intermediaries play a vital role in all our tax systems by helping taxpayers understand and comply with their tax obligations in an increasingly complex world.’

18. However, the report also comments as follows on how taxpayers and tax intermediaries interact as regards aggressive tax planning.

‘Tax intermediaries may supply aggressive tax planning options to their clients but taxpayers set their own strategies for tax risk management and determine their own appetites for tax risk. Taxpayers are the ones who decide whether to adopt particular planning opportunities and there is significant scope to influence the demand by taxpayers for aggressive tax planning – at least in relation to large corporate taxpayers, which is the main focus of this report.’

19. The report recommends that revenue bodies should apply risk management techniques to ensure that limited resources are applied to the highest priority areas. This requires current, relevant and reliable information for which the best source is the taxpayer. So the report explores how a relationship between revenue bodies and taxpayers could be developed which can be based on early disclosure of potential tax issues and transparency.

20. The report also recognises that for an improved relationship to develop the revenue bodies will need to make certain behavioural changes based on the following attributes:

- understanding based on commercial awareness;
- impartiality;
- proportionality;
- openness; and
- responsiveness.

21. If revenue bodies do adopt these five attributes and have effective risk management processes in place then taxpayers will be more likely to engage in a relationship with revenue bodies based on co-operation and trust: what is described in the report as an ‘enhanced relationship’.

Conclusion

22. At this stage we have restricted ourselves to comments of a general nature but we hope that these observations will be of assistance at this stage of your study.
23. We intend to make more detailed observations at the Public Consultation meeting in Paris on 9 February 2009 and we then propose to present a written report summarising our views and answering the detailed questions set out in the October 2008 discussion paper.

Yours sincerely,

Stephen Harrison AO FCA FAICD
Chief Executive Officer
Global Accounting Alliance