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Question 1: What are the important features of tax administration that may facilitate the co-operative compliance approach? Please build on positive and negative experiences in dealing with your tax administration.

The important features of the tax administration that may facilitate a cooperative compliance approach are as follows:

Confidentiality

HNWIs place a very high value on confidentiality. This is important not just in relation to particular transactions, where there may be market sensitivity, but also more generally, sometimes for family reasons or because of the level of interest the public and the media may have in their affairs. Security concerns are very real. Although we accept the point raised at the meeting, that there are a number of individuals dealt with by HMRC whose affairs are very sensitive and whose affairs have been kept confidential, the problem of confidentiality remains. Stories in the press of lost CDs and similar incidents do not instil confidence in HNWIs that this information is safe with the tax authorities.

Consultation

We would like to see an atmosphere in which consultation regarding major changes to the tax system could take place at an earlier stage, long before legislation is to be implemented in Finance Bills. Such consultation should be as wide as possible, including representatives from relevant professional bodies, but also from accountants, lawyers, private banks and other interested parties. A consultative approach to major changes to the tax system would be likely to have a very positive impact on the relationship between HMRC and HNWIs and their advisers and would help to encourage a “cooperative compliance” approach.

The recent introduction of Schedule 7, FA 2008 – the new remittance basis - has resulted in a large amount of anger among non-domiciled HNWIs. The lack of proper consultation before this very complex legislation was introduced has had a profoundly negative impact on the attitude of taxpayers and their agents to the tax authorities. The insistence on introducing the new rules with effect from 6 April 2008 and the refusal to postpone so that proper thought could be given to the legislation was profoundly damaging. This legislation has now been in force for 9 months and as yet there is no published guidance on how HMRC will apply the legislation. Furthermore, we understand that it is intended to introduce further changes to this legislation in Finance Act 2009, since there was insufficient time to perfect the legislation before it was introduced.

The lack of consultation over the introduction of the new remittance basis rules was all the more disappointed as it echoed the lack of consultation over the changes to the inheritance tax rules in FA

2006. In both cases the tax authorities seemed to have little understanding of the impact that the changes to the rules would have and the consultation regarding the legislation was rushed and took place after draft rules had already been published. Consultation for both lots of legislation also seemed to take place in a fairly adversarial manner, perhaps because it took place too late. If consultation were entered into at an earlier stage it should be possible to achieve a more cooperative approach.

We would welcome early consultation with representative bodies and those in private practice before wholesale changes to the tax legislation. We appreciate that the tax authorities must on occasions act swiftly to counteract what they view as unacceptable tax loss and in these circumstances prior consultation would not be appropriate. In all other areas such early consultation would help to produce a more workable first draft of legislation that takes into account real issues faced by taxpayers. This consultation should be open to as many people as possible to prevent competitive advantage being gained or being seen to be gained by one firm or section of the market. For cases of tax loss, tax authorities should announce the starting date of any changes, which must be no earlier than when sufficient details can be given. They can then consult on the precise provisions as in other cases.

We acknowledge that, as a group, HNWI's can be difficult to access and it is not always possible to gauge directly their opinions or access their concerns. Nevertheless, HNWI's as a group make a considerable contribution to the UK economy. It is for this reason that we would suggest that consultation needs to take place with accountants, lawyers and private banks who have experience of dealing with the affairs of HNWI's and will be able to understand and explain their concerns and preoccupations.

Certainty

HNWI's want to be able to have certainty with regard to their tax affairs and would like to be able to know definitively at an early stage what the impact of certain actions will be. There are now a number of areas in the legislation where the treatment of a transaction or other action is not necessarily certain and there is no opportunity for taxpayers to obtain a ruling. For example, the exemptions to the transfer of assets rules, contained in s.736 to s.742 of ITA 2007 very rarely give a clear cut answer and the taxpayer may have paid tax on the wrong basis for many years before final agreement is reached with HMRC. A clearance procedure whereby taxpayers can obtain certainty in relation to difficult areas would be very much welcomed. If such a clearance procedure were put in place there would be a need for any clearances to be provided within a given time limit – which in some cases would be quite short and for it to be possible to place reliance on such rulings. There would also need to be an appeals procedure for when HMRC and advisers were unable to reach agreement.

The complete removal of taper relief with no transitional rules for those adversely affected also had a negative impact on the attitude of HNWI's to the tax authorities. Taxpayers had built up a certain expectation that when business assets were sold they would pay tax at a given rate, for example at 10%. The removal of this rate with no transitional relief resulted in much anger amongst those holding business assets with substantial unrealised gains. The wholesale removal of reliefs without transitional provisions erodes the trust of HNWI's in the tax authorities.

When new legislation is introduced there is a need for meaningful guidance to be issued as soon as possible, and preferably before the new legislation has come into force. Such guidance needs to contain practical examples of the way in which the legislation will operate and would best be developed in consultation with professional bodies and others who have first hand experience of the kinds of difficulties which might be experienced.

HNWI's as a group tend to have assets and activities in more than one tax jurisdiction. In many cases they also spend time in more than one country and may be considered to be resident in more than one country. An individual's residence position is often crucial for determining their tax position in respect of income and gains. We would therefore welcome a system by which an individual's UK residence position could be quickly and definitively agreed. This includes circumstances in which the tie-breaker

clause in a double tax treaty must be considered to determine an individual's country of residence for the purpose of that treaty. This may be an area where it would be appropriate for any HNWI group to give early rulings, as considered in question 4.

Question 2: Do you think that having a dedicated unit (or units) as part of your tax administration (either at national or at regional level) with particular responsibilities for HNWIs is a good idea? If you are generally supportive of such an idea, what roles and responsibilities do you think such a unit should assume? In particular do you have any views on the following points?

a. How should a tax administration best gain insights into the behavioral drivers and the general context within which HNWI and their advisors operate? For instance, by employing staff with relevant private sector experience perhaps on secondment, on short term contracts, at the end of successful careers, or on permanent contracts. Should there be some form of "advisory board" involving advisors and other relevant market participants (e.g. private banks) or some other structured form of providing relevant background and context to the tax administration.

b. What role and responsibility should the unit assume with respect to the affairs of the taxpayer (e.g. research and risk assessment or full responsibility for the file including potential audit)?

c. What taxes relating to the HNWI and their affairs should such a unit deal with and why? For instance, should it be limited to income taxes or also cover inheritance and estate taxes, VAT/GST etc.?

d. Should the unit be responsible also for the affairs of all/certain entities controlled by a HNWI (e.g. only the personal affairs of the taxpayer, all operating entities and non-trading entities or only non-trading entities)?

e. Should HNWIs and their advisors be assigned a designated contact point within the unit?

f. Should the unit be tasked with preparing an annual or periodic report about the overall environment and key developments, including the most pressing issues identified by HNWI and their advisors for use by the heads of tax administrations and finance ministries?

g. Should additional safeguards and security procedures apply to the information held by the unit?

We would broadly welcome the establishment of a dedicated unit with particular responsibilities for HNWIs. However, it would be important that such a unit should be adequately staffed, both in terms of the amount of the resource and the quality of both the commercial and technical understanding of the affairs of HNWIs. Advisers should not be expected to give free training in complex matters.

a) HMRC would benefit enormously from gaining additional insight into the world of HNWIs and their advisors. To enable them to do so, all of the proposals set out in the OECD consultation document would appear to be sensible. We would be in favour of secondments from private practice and investment banks as well as the possibility of movement from these areas into HMRC on a permanent basis. This would mean that officials in HMRC would have a broader understanding of the issues and concerns facing HNWIs.

b) In our view, such a unit should have responsibility for the relationship management with respect of HNWIs as well as for as much of their tax affairs as expertise allows. That said, they should be able to call on, particularly technical, expertise from other areas of HMRC where it would be beneficial for them to do so. It is important that such a unit does not become overstretched to the point where they are unable to deal with correspondence in a timely manner. For that reason, it may be better if, for example, discrete enquiries into particular aspects of a taxpayer's return could be dealt with by this group but more far reaching enquiries or investigations could be dealt with by a separate group, perhaps with input from an HNWI's main contact.

c) In our view such a unit would have most value if it were able to look at the affairs of HNWI in the round, since in any given transaction it is usually necessary to consider a number of different taxes. It would be useful for such a unit to be able to deal with questions relating to income tax, capital gains tax and inheritance tax and to be able to look at a particular transaction and comment on all three taxes. HNWI can also have concerns about PAYE, VAT and Stamp Duty, but given that these issues are less interlinked, it might be more appropriate for these to be dealt with elsewhere in HMRC, but for a relationship manager in the HNWI group to retain responsibility for obtaining an answer, for example. This would ensure continuity of care and consistency of approach.

d) The tax affairs of HNWI are often very closely interwoven with any companies and trusts for the families. However, it may not be appropriate for an HNWI unit to be responsible for all of the corporate taxes as well as the personal taxes. In many cases the companies concerned, although family companies, can be very large taxpayers in their own right. Such a unit should, however, have a basic knowledge of some of the main issues affecting family companies – for example the inheritance tax issues. Nevertheless, given the similarities and the interaction between the taxation of trusts and individuals, it would be sensible if any HNWI unit were equipped to manage the affairs of both individuals and any trusts settled by them.

e) We would very much welcome an approach which assigned a designated contact person to each HNWI. Such a person should also be responsible for ensuring that matters which have been passed to other HMRC department are dealt with in an efficient and timely manner.

f) We can see considerable benefit to such a unit being tasked with preparing an annual report or otherwise advising Ministers of the HNWI environment and the pressing issues identified by HNWI and their advisers. However, we would not wish the preparation of such a report to prevent sufficient resource being available for the other areas identified as being usefully within the group's remit

g) Given the nature of HNWI and the likelihood of extra sensitivity and public curiosity surrounding their affairs, it is essential that all possible steps are taken to ensure not only that any information held is secure, but that it is seen to be and believed to be secure by those who use it. Information on HNWI should be kept to those within the HNWI group who manage the individual relationship. Information with respect to specific issues could be made available to others in the group and outside only as far as is necessary to administer the individual's affairs. There may be occasions where it is appropriate that this happens on an anonymised basis.

Question 3: If you are from a country that currently has a dedicated unit dealing with HNWI what advantages or disadvantages have you seen in having such a unit and do you have any comments on the way it was set-up and is operated? What are the features that you find the most useful?

Not applicable

Question 4: If the tax administration offered this or a similar approach, what would encourage HNWI's and their advisors to opt into it? In your answer please consider the points discussed below and indicate which points may be more important and which may be less important. Please also describe any other elements or concerns that you think would be relevant for HNWI's and their advisors (e.g. privacy concerns), and how these may be addressed.

We would welcome an approach which allowed HNWI's to obtain early certainty with regard to their tax affairs by means of a pre-filing meeting. This may deal more effectively with circumstances where currently HMRC have to launch a formal enquiry simply in order better to understand a transaction, where once this understanding is in place, the tax position is not disputed. A meeting might give HMRC the opportunity to obtain this level of understanding without the need for a lengthy and expensive enquiry. It would also be welcome if HMRC were able to give an indicative view in such a meeting as to whether they would expect to have to enquire further into a tax return and whether, for example, they take a different view to the taxpayer in respect of particular issues pertinent to his tax return. HNWI's and their advisers would welcome an opportunity for these kinds of discussion at a time when the tax return has not yet been submitted.

Occasionally, due to the level of complexity of an HNWI's affairs, it can be necessary to reach a pragmatic solution with regard to calculations – in circumstances, for example, where the HNWI is not in a position to obtain all the information necessary to complete a calculation according to accepted practice. This kind of situation may occur, for example, where an individual has overseas investments or where tax legislation attributes a tax charge (for example from an overseas company) and the individual is not a sufficiently large investor to insist on the provision of information specially prepared to meet the requirements of the country of residence. In these circumstances, it would be helpful if discussions could take place at a pre-filing meeting and a basis of calculation could be agreed between the advisor and the tax authorities.

We would also welcome the suggestion of being able to obtain a ruling in respect of a planned transaction before such a transaction is entered into. This would be particularly welcome for transactions and activities which may bring taxpayers within complex areas of the legislation or areas of the legislation where motive is relevant – for example the transfer of assets abroad rules. For a system of pre-transaction rulings to work it would be necessary for the turnaround time to be fast – often to be valuable a ruling would need to be given within the space of a few days. A long turnaround time would discourage many taxpayers from participating in such a scheme, since often commercial pressures mean that HNWI's have to act quickly. Even if a formal ruling was not possible (in those areas where the legislation does not provide for one) an informal view of HMRC's attitude to a transaction would often be welcome and may well encourage HNWI's to disclose information about transactions at an earlier date.

In some cases HNWI's may fully disclose details of complex arrangements to HMRC, either in a pre-filing meeting or in the hope of obtaining a pre-transaction ruling, and HMRC may decline to give such a ruling – either because of the complexity of the arrangements or because of the availability of resource. In these circumstances we are firmly of the opinion that the taxpayer should be able to file his tax return and pay tax on the basis that he believes to be correct with the assurance that there will be no interest or penalties charged should HMRC disagree with his filing position and should a different filing position finally be agreed. This would appear to give a fair result and would also act as a major incentive for taxpayers to come forward early to disclose details of any complex transactions or arrangements.

HNWI's and their advisers often struggle to know the amount of information to provide to HMRC and the form in which to provide it in order to protect them from a discovery assessment at a later date. There is always a balance to be struck between sending large amounts of paper in with the tax return and ensuring that an Inspector has sufficient information available to him to allow him to enquire further should he wish to do so. We would welcome an arrangement whereby if a transaction or uncertain issue had been flagged to an Inspector at a pre-filing meeting, this would give protection from a later discovery enquiry. This would help to give taxpayers greater certainty with regard to their affairs. For

such an approach to work, it may be necessary to have a note of such a meeting which can be agreed by both parties as a record of what was discussed.

Question 5: The Focus Group seeks input from HNWI and their advisors about the framework for voluntary disclosures and what particular elements would encourage taxpayers to come forward, e.g. solutions to issues such as lack of back-year records, inability to calculate final tax liability, concerns regarding privacy.

While we acknowledge that overseas bank accounts can be and are used for the purpose of tax evasion, we do not agree with the implication in paragraph 33 that this is the only purpose for which an HNWI might hold an overseas bank account. It is our experience that there may be many legitimate reasons for individuals to hold overseas bank accounts and many HNWI hold such bank accounts and pay the correct amount of tax. Furthermore, they would be horrified at the suggestion that they were engaging in tax evasion.

KPMG does not act for taxpayers who are not willing fully to disclose their income and pay the proper amount of tax. It is thought that the recent amnesty with regard to overseas accounts had a significant effect in terms of encouraging taxpayers to come forward and make a voluntary disclosure. A repetition of this amnesty or a similar amnesty in respect of other areas of non-disclosure might be expected to have a similar impact. However, we recognise that the authorities must strike a balance between encouraging voluntary disclosure and risking the possibilities that individuals might wait for the next amnesty, before coming forward.

It would assist taxpayers in coming forward to make voluntary disclosure if there was a clear procedure by which this could take place, so that taxpayers would know what to expect in these circumstances and there would be no surprises. Perhaps, in addition, a maximum level of penalty could be set out for those who make a full and cooperative disclosure without prompting. The clear procedure should set out the expected reaction of the authorities to lack of records and the approach which might be taken in quantifying the tax due in respect of years for which no or incomplete records exist.

Question 6: Please express your views on the merits of a product ruling regime in connection with HNWI. In addressing this question please take a broad view of the term "product ruling" to include any form of advance certainty (whether formal ruling or not) and also consider which segment of HNWI you think would be the users of the types of products for which product rulings could be made available (i.e., certain HNWI might be more likely to enter into tailor made arrangements that do not lend themselves to product rulings).

We believe that many HNWI would welcome a product ruling regime and would be keen to invest in products and participate in arrangements that had a "product ruling" from HMRC. Furthermore, should such a regime become prevalent, we would expect that this would reduce the number of people prepared to participate in arrangements which had not received such a ruling.

However, we would expect that the scope for such rulings may well be limited to the types of arrangements offered by private banks and other large financial institutions. These would be, largely, investment driven products, for example rulings with regard to whether an offshore fund might fall within the personal portfolio bond regime. Other examples are structures designed to achieve estate planning savings such as discounted gifts. Where arrangements have been designed to achieve a legitimate tax saving, we would expect many designers would wish to expose the arrangements to the additional level of scrutiny that would be needed to give a product ruling at such an early stage. For those who do not, we believe the current disclosure regime is more than sufficient.

Question 7: Do you have any other comments which you wish to make?

None

