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The BBA is the leading association for the UK banking and financial services sector, speaking for 223 banking members from 60 countries on the full range of UK or international banking issues and engaging with 37 associated professional firms. Collectively providing the full range of services, our member banks make up the world's largest international banking centre, operating some 150 million accounts.

General Comments

The BBA welcomes the opportunity to comment on the OECD'S Project on High Net Worth Individuals (HNWIs) Discussion Paper. The BBA can only provide feedback in relation to the UK tax administration, HM Revenue and Customs (HMRC), with which it and its members have most direct contact.

The BBA is happy to provide feedback to assist HMRC to better understand the complex requirements of HNWIs. HNWIs are integral to the success of the UK's private banking sector, which is one of the UK's leading export industries. Although the numbers remain confidential, we know that London is one of the world's major centres for personal wealth management. While the recent economic downturn has severely impaired market sectors that were previously engines for growth, the private banking industry remains one of quiet efficiency that produces steady revenue. The appropriate treatment of this group is critical for the industry and for UK plc.

In attempting to provide constructive feedback the BBA must, in the first instance, highlight some considerations which must be addressed by HMRC if it is to improve the co-operative compliance of its HNWI customers. These principally relate to the perception of the UK tax regime and the tax administration.

The UK Government has repeatedly committed itself to pursuing consistent and fair tax policies. 'Fairness' as a concept can mean different things to different people. In 2008, new residence and domicile rules were introduced in the UK because the Government wanted non-domiciles to pay a 'fairer share'. However, the changes were brought in without adequate and meaningful consultation, and the measures were not considered to be sufficiently "fair" by HNWIs. Until HNWIs believe that they will be treated 'fairly' and that they will be able to rely on the consistency of UK tax policies, it is unlikely that HMRC will see a much greater enhancement of the co-operative engagement it is already enjoying. Whilst therefore we support the principle of an 'enhanced relationship' in this area we caution that a sensitive approach will be required in order to achieve this.

Detailed comments and observations

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.

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Tax Administrations should attempt to make compliance as simple and convenient as possible. This requires that:

- Tax inspectors are sufficiently well trained both in the tax law but also in the complex and sophisticated products and business structures in which HNWI's choose to invest. The importance of having a proportionate/commercial perspective should not be underestimated.
- Minimal ambiguity – HNWI's will be looking for early certainty.
- Efficient case handling – the speed of the tax administrations response is significant.
- Transparency.

Other factors that will foster the co-operative compliance approach would be confidentiality assurances, as well as a commitment to treat clients fairly and impartially.

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 HNWI's 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?

The BBA considers that the complex personal tax team (CPTT) model in the UK has broadly been a success. We do, however, acknowledge some difficulties with this approach, for instance using a definition of wealth based purely on income. The creation and destruction of wealth (based on income) is a dynamic process in a diversified and dynamic economy. Qualifying individuals will go on and off the HNWI scale thus disrupting administrative continuity and presenting a considerable administrative burden for the Tax Administration. There are also issues around the cut-off point, and it is possible that as HNWI's are moved out of the unit, the relationship may deteriorate.

- 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.*

The BBA considers that more staff with private sector experience would be useful and considers that all of the examples would be appropriate.

Communication lines between advisers and revenue/ Treasury officials are often around 'contentious' issues (i.e. changes to legislation). In order to foster ongoing dialogue liaison groups, such as the CPTT Forum in the UK, should be encouraged.

- 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)?*

The BBA would envisage that full responsibility is likely to provide most benefits in terms of truly understanding this segment and ensuring a smoother adviser / government body relationship.

- 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.?*

The BBA's preference would be for unit to deal with the main taxes (income, capital gains, and inheritance tax) affecting HNWI's. Although UK inheritance tax (IHT) is probably the least important to be within the unit many HNWI's do carry out lifetime IHT / estate planning.

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)?

A HNWI might want all entities to be dealt with by the same unit, however, it is probably not feasible for various reasons. In particular many trading entities have their own separate legal identity and it could, for instance, be perceived as unfair to minority shareholders (who are dealt with by a different unit). Furthermore, some private companies are of such a size that a very high level of corporate tax specialisation is needed.

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

Yes.

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?

Yes. It is likely to be useful for advisers and governments.

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

Safeguards and security procedures should obviously be of a very high level for all taxpayers. However, HNWI's are particularly sensitised to the dangers of a potential security breach in relation to their financial affairs. HNWI's will require greater assurances than a more typical taxpayer as to the security of their personal information under the tax administration's care.

Question 3: If you are from a country that currently has a dedicated unit dealing with HNWI's 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?

The main advantage of the CPTT in the UK is the increased level of knowledge within the team to deal with complex issues affecting HNWI's, i.e. the team will have most likely encountered the issues previously. Furthermore ease of access is better vis-à-vis traditional tax units.

The disadvantages could be said to be that:

- non-HNWI's might not get the same quality of service particularly as it is likely that the higher quality staff will be put in the CPTT as opposed to teams dealing with taxpayers of a more typical nature. This could presumably be justified on the basis that the complexity of their affairs, and the tax at stake, requires specialised and resource-intensive handling.
- internally within HMRC, the treatment of very wealthy individuals with their complex tax situations is a good source of training and for garnering experience. Curtailing the treatment of such within a single unit would inhibit the wider dissemination of knowledge and experience within the service.

Question 4: *If the tax administration offered this or a similar approach, what would encourage HNWIs 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 HNWIs and their advisors (e.g. privacy concerns), and how these may be addressed.*

HNWIs are proportionally more likely to have advisers and in turn advisers are likely to prefer a dedicated unit dealing with their clients because a dedicated service is likely to be more efficient and more knowledgeable about their client's circumstances. A possible exception to this might be in respect of a less reputable adviser who might not want a specialist dedicated team dealing with his/her client particularly if there is something to hide (however, again proportionally it might be that HNWIs are more likely to have reputable advisers involved).

The current UK CPTT model is not optional and additionally there is no requirement for any pre-filing meeting. It is felt that only a small proportion of HNWIs could warrant such a meeting and it's hard to gauge the appetite for agreeing to such meetings.

Question 5: *The Focus Group seeks input from HNWIs 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.*

No further comment other than that indicated elsewhere.

Question 6: *Please express your views on the merits of a product ruling regime in connection with HNWIs. 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 HNWIs you think would be the users of the types of products for which product rulings could be made available (i.e., certain HNWIs might be more likely to enter into tailor made arrangements that do not lend themselves to product rulings).*

Early certainty is very important for this client group. Most HNWIs are likely to be keen on such product rulings as even HNWIs with more bespoke arrangements would probably also be investing in some products, and carrying out tax planning, that could be covered by product rulings. Initiatives from UK HMRC to offer more advance 'rulings' (e.g. pilot on eligibility of IHT business property relief) in this area have been broadly welcomed.

There may, however, be a risk that some HNWIs may view with suspicion the process of a product ruling.

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

We have no further comments.

**British Bankers' Association
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