

Economic Affairs Committee

Finance Bill Sub-Committee

Corrected oral evidence: Draft Finance Bill 2021-22

Monday 11 October 2021

5.15 pm

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Members present: Lord Bridges of Headley (The Chair); Lord Butler of Brockwell; Viscount Chandos; Baroness Harding of Winscombe, Baroness Noakes.

Evidence Session No. 2

Heard in Public

Questions 13 - 28

Examination of witnesses

Sharron West and Richard Wild.

Q13 **The Chair:** Thank you for joining us for this second session of the Finance Bill Sub-Committee. Could I ask you both to introduce yourselves? I will start with Sharron West and then Richard Wild.

Sharron West: I am a technical officer with the Low Incomes Tax Reform Group, which is part of the Chartered Institute of Taxation.

Richard Wild: Thank you. Good afternoon. I am head of tax technical at the Chartered Institute of Taxation.

Q14 **The Chair:** Thanks. If I may, I will start with a question to you, Richard Wild, but feel free to come in after this, Sharron, if you like.

I know that your organisation has questioned whether the Government should be pressing ahead with Making Tax Digital and basis period relief against the backdrop of Covid and all that has done, and that now we need a period of stability, minimal change and so on.

To what extent has the Government's deferral of these changes addressed your concerns? Is the delay enough, or should we be looking for a longer delay or for something else? Could you clarify where you are on that?

Richard Wild: Yes. Thank you. Certainly, the extra year that has been given will be a great help. Businesses and their agents have had a huge amount to deal with over the past 18 months, not just with Covid but

with the Covid schemes, helping their clients and so on. This extra year is a big help.

It is important to look at what needs to happen between now and April 2024 and to see whether the timescale left in that period is realistic for doing everything that needs to be done and for setting out a road map or something. For example, we have making tax digital in April 2024 and we know there is a big-bang start date of 6 April. Businesses will need to start using software and will have to sign up to Making Tax Digital and so on. There is a lot to do. It is important to map out the different stages between now and 2024 and sense-test that to make sure that is still a realistic timeframe.

Sharron West: Our feeling is that Making Tax Digital needed a 12-month delay, for the reasons that have been discussed: software not being ready, pilot testing and things like that. It is generally accepted that work still needs to be done in the MTD space. Basis period reform could also benefit from the deferral by 12 months, because we feel that a lot of work could still be done to make the proposals better.

Both aspects of it should benefit from the 12-month delay. However, because they have both been shunted back 12 months, they are still bumping up against each other quite closely. The transitional year for basis period reform then leads straight into the beginning of Making Tax Digital. Particularly for the unrepresented taxpayers and the small businesses that we look out for, there will be an awful lot for them to try to get to grips with, whether it is new software at the same time as trying to change their basis period or working out what is going on with their tax return. Yes, our feeling is that the whole system would benefit from possibly being pushed back another year.

The Chair: To what extent do you need more clarity on how this therefore fits with Making Tax Digital and the whole support for that? Are you saying that you need more clarity on the whole package?

Sharron West: If basis period reform goes ahead as it is, there are areas where we could run into unforeseen problems. Time should now be spent looking particularly at the interactions with other areas of tax and welfare support, as bringing in extra profits or changing basis periods could have knock-on effects in other areas. We feel that that should all be looked at in a lot more detail so that any wrinkles can be ironed out, rather than stumbling across them once everything is up and running and the problems come to light too late.

There is also an issue with having to put your tax return in and then amend it when your second lot of accounts are ready. In the consultation, HMRC suggested that there were other ways in which that might be done. It should look at those in more detail to see whether this is going to be problematic. We feel that the extra 12 months could be well spent by looking at some of these other areas in more detail.

Q15 **Baroness Harding of Winscombe:** You have been critical of how the

consultation on basis period reform was handled, with effectively a six-week consultation period on only one worked-up proposal and only nine months' notice before the original proposed transition year. How did the Government get this so wrong?

Richard Wild: I would not like to criticise the Government for getting something so wrong, but that was at a point when Making Tax Digital for income tax was to be introduced from April 2023. Even though we had been providing illustrations and having discussions with HMRC for quite some time about this, without basis period reforms there was the potential to have to make many quarterly submissions across VAT, property and self-employment. It would not be quite unmanageable, but it would be really onerous for businesses to comply with.

I get the sense that there was a feeling that they needed to do something about this before Making Tax Digital for income tax is introduced, which was why we had this short timescale and transition period for 2022-23: to get us ready for Making Tax Digital for income tax from April 2023. That explains the truncated consultation period, but it was rushed. We struggled to digest all the consequences of the proposals in that short period of time. Only when you start to dig a little bit deeper and reflect a bit more do they all come to light. But that, to me, explains why we had this short consultation period at that time.

Sharron West: That is right. The basis period changes were to be in place before Making Tax Digital came in, so that Making Tax Digital would be that much easier. Having a short consultation period was necessary. It being over the summer also put pressure on resources certainly on our side and, I am sure, for the other professional bodies, too. We could not respond in as much detail as we would have liked to have done, because we did not have the time to consider all the things that we might have wanted to look at.

Baroness Harding of Winscombe: I do not want to put words in your mouth, but is there a risk that Making Tax Digital is driving this timetable? What does this say about the Government's and HMRC's understanding of the impact that Covid-19 is having on businesses? How should we be thinking about this, even with an extension, to understand the real constraints on businesses in the real world right now?

Richard Wild: HMRC and the Government have done well with the Covid support they provided. They have understood the needs of businesses and have provided them with additional support, time to pay their tax liabilities and so on. That side of things has largely gone well.

However, for the last six years there has been this commitment to Making Tax Digital for income tax. We might talk about the consultation process a bit later, but it is clear that Making Tax Digital is a central part of the Government's approach to the tax system. I know that the delivery of Making Tax Digital has been deferred a number of times, but it will not go away. That is why we have had the tension between the short timescale and the intention to plough ahead with Making Tax Digital.

We do see the benefits to business in using software, digital capabilities and so on, but when you get into the detail of how Making Tax Digital will work in practice, it gets difficult. We are all still trying to grapple with those issues even now.

Q16 Lord Butler of Brockwell: What is HMRC doing to make sure that taxpayers are aware of these changes coming down the road, particularly unrepresented taxpayers, who do not have necessarily the support of an association?

Sharron West: The short answer is not a lot at the moment, because a lot of the rules are not firmed up for them to be able to communicate constructively. Particularly in the wider picture, most unrepresented taxpayers do not know that Making Tax Digital is happening and are blissfully ignorant of the problems they will have to come to terms with in 2024.

Basis period reform is all under discussion, but nothing is concrete yet, so there are no communications going out from HMRC, but clearly we would like to see that happening sooner rather than later, particularly on the basis period reform. It is a complicated area for taxpayers who are trying to manage it themselves. They are often small businesses without significant turnover that have probably struggled through Covid and are trying to get back on their feet.

These sorts of changes are technical and quite complicated for them. HMRC should be able to trawl its database and identify from SA returns which taxpayers might be affected and might want to change their accounting date. We want to see HMRC making a big effort to contact these people directly and not just rely on mailshots, agents and general communications. We want to see them targeted specifically so they get good support.

Q17 Lord Butler of Brockwell: I remember in previous committee sessions being told by HMRC that it has this publication called *Spotlight* and that everybody can read that and find these changes. Then, of course, you find that few people do read it. What advice would you give to HMRC to increase awareness and to provide more support for unrepresented taxpayers facing this sort of change?

Sharron West: HMRC needs to try to get to people at the times when these people are trying to interact with it. If people are trying to manage their tax affairs themselves, they will probably use HMRC's online tax return software. It could design a pop-up window that says, "This is happening and you need to find out about it", at the point where they go in to do their tax return.

When HMRC sends people the letter to tell them that they need to do a tax return every year, their notice to file, a particular paragraph in it could tell them that these changes are coming. It should be doing that now leading up to 2024. People do not take things in the first time they see them. They need to be told things several times before they realise that it affects them and what they need to do about it. Those are the

sorts of things that we would like to see HMRC doing—being more proactive in communicating with people and thinking about how people communicate with them to try to encourage that sort of information sharing.

Lord Butler of Brockwell: What are taxpayers' agents and organisations like yours doing?

Sharron West: We put information on our website and try to make guidance available in that way. The professional bodies liaise with the agents they represent and we work closely with charities like TaxAid and Tax Help for Older People to try to provide information and guidance. Ideally, HMRC should provide good guidance on GOV.UK to help people, but we quite often find holes in that, so we try to cover as much as we can with the information we have available for people.

Lord Butler of Brockwell: Richard Wild, do you have anything to add on this question of support?

Richard Wild: In respect of the communications, I certainly agree with Sharron about the need to target them to people. Putting things on GOV.UK for people to read does not get to the right target audience. You need to send things directly.

In terms of support, I worry about capacity in the agent market. Agents keep telling us that they will retire before MTD is introduced, so if basis period reform comes in at or around the same time, you will have a slight shrinkage of the agent market, but still a shrinkage in any event. We are constantly dealing with changes to the tax system. A year does not go by when there is no change. There is always something that needs to be adapted to.

Basis periods and Making Tax Digital are fundamental changes that will need a huge amount of preparation both by the agents and on behalf of their clients. Without wanting to repeat what I said earlier, the timetable is important for seeing what needs doing and when so that agents can try to build this into their timescales.

Lord Butler of Brockwell: Are you worried that none of this is happening?

Richard Wild: On basis periods, nothing is happening yet because we are at the "wait and see" stage. Conversations with clients will need to take place once there is some certainty as to whether this will go ahead, whether people will need to change their year end and how the client-agent relationship will work going forward. On basis periods, we need to wait and see before we have those detailed conversations with clients.

Q18 **Viscount Chandos:** If I could move back to HMRC itself, away from the agent and advisory market, you have said that there is always change and that there is the post-Covid dust settling. Are there adequate resources, given all the other things under two scenarios: the present timetable, and further delay to either or both of the introduction of basis

period reform and Making Tax Digital? Is it possible that existing resources are adequate within HMRC?

Richard Wild: I am tempted to duck the question and suggest that you ask HMRC, but I know that is probably not a suitable answer today.

You heard in the earlier session comments about HMRC's service levels, which have suffered during Covid, and there is a phrase in the investment world about past performance not necessarily being indicative of future results. But when we look at previous major changes—when Making Tax Digital for VAT was introduced, for example, or when we were dealing with Brexit—we again saw HMRC's service levels fall. Telephone waiting times increased. Post turnaround times all increased.

It is hard to imagine that there will not be a similar experience when we see the next lot of major changes. Irrespective of whether we are talking about 2023, 2024 or later, I do not run a major organisation with 60,000 staff or whatever HMRC currently has. I know that it moves staff around a lot, but there is always a sense that it misjudges the level of support that businesses and agents need in relation to these major changes.

Sharron West: Also, the basis period reform changes will only affect people who do not have a 31 March or 5 April year end. The amount of support necessary to allocate to that particular aspect of the whole set of changes coming in will be less compared to Making Tax Digital. The need for support will be enormous when we get to that stage, in my view. Certainly, the call waiting times have not been good over recent years and they have declined with Covid. HMRC has an obligation under the charter to be responsive to people, to help them get their tax right and to make it easy for them to do their tax returns and deal with their tax. HMRC has to be mindful of that when considering resourcing and moving people around.

Also, for unrepresented taxpayers, HMRC has an extra support service. It needs to make sure that that will be adequately resourced to help people who are trying to deal with it all themselves.

Viscount Chandos: The danger, I guess, is that larger partnerships are prioritised because the tax revenue is higher, notwithstanding the charter. From your perspective, do you feel that there is a risk of individuals and smaller partnerships—and it is more smaller partnerships, given the tax year end—having all the stress and not a lot of support?

Sharron West: It is vital they get some support from HMRC. How it balances resources between the different groups of taxpayers I am not sure. We would like to see sufficient resource put into offering support to the unrepresented taxpayers who are trying to manage the system themselves.

Q19 **Baroness Noakes:** The basis period reform has been described as "a simplification with complications". How much is this a real simplification? How do we balance on the one hand the effective simplification of the rules about the opening and closing years offset by the new complication

of potentially having to estimate profits when you do not have coterminosity between the accounting year and the fiscal year?

Richard Wild: We do not see it as a real simplification. It seems to us to trade one set of complexities that arise on fairly one-off occasions—like starting a business, ending a business or changing your accounting period—for those that occur on an ongoing basis year in and year out. It was mentioned in the earlier session that it would affect only 7% of sole traders and a third of partnerships. Of course, we do not know how many individual partners that will be affected, because the impact on partnerships, particularly the larger partnerships, will be incredibly significant.

I worry that we are trying to move to a modern, more active, business-friendly tax administration system. Yet we are introducing a system that needs you to apportion profits between different accounting years, if you do not align your accounting year end with the tax year, and that requires you to undertake estimates that you then need to correct at a later point. So you need to interact with HMRC more than you did under the current rules. For the businesses that are affected, the outcomes of these basis period proposals could actually be worse than the existing rules.

Sharron West: We have quite a different view from Richard's. For low-income taxpayers, we believe that this will be a simplification. It will make it much easier for self-employed people to understand how to pay their tax on their profits. It will encourage most people to prepare their accounts to 31 March or 5 April, which is a good thing and the way people should be going unless they have commercial reasons to have any other year end. It will tie in with the tax year and it will make it much easier for them to understand and comply with Making Tax Digital, with the quarters being calendar quarters when you need to do your quarterly updates.

The tax system is complicated enough for people when it is not their main focus. Anything that makes it easier for them we think is a good thing. We realise that for other businesses that might not be the case because of the need to have two sets of accounts results to do the tax return if they do not have a 31 March or 5 April year end. It is a balancing act, I guess.

Richard Wild: If I could try to reconcile the two views, the proportion of businesses affected and whether they are represented or unrepresented is unclear. It is easy for us to jump to the conclusion that those that will find it more difficult—large partnerships, seasonal businesses and so on—have agents who can look after that. Lots of unrepresented businesses already use the tax year and so will not be affected by the change, but it would be good to have that information from HMRC. It would help us to assess the impacts on businesses much better.

The Chair: Is it slightly odd that we are in this situation without having the answers to those questions?

Sharron West: Yes. We have tried repeatedly to find out the size of the unrepresented population, but we have not been able to get an answer yet. That is a good question.

Q20 **Baroness Noakes:** It is a question that we must ask HMRC when they come and see us later in our inquiry. Are there any estimates on the impact on compliance costs for taxpayers who are represented and who therefore use tax agents? I imagine that that question would be more for you, Mr Wild, rather than for the Low Incomes Tax Reform Group.

Richard Wild: I guess it would, but as Sharron is in practice herself I might let her comment and see what her views are.

I agree. You could imagine the process. I do not want to single out large partnerships, because it will affect anybody who does not have the tax year as their basis period, but you would expect software to be able to apportion the profits into the tax years, so maybe that is not the most onerous aspect. If you get into the realm of having to make estimates and then correct those estimates further down the line, you will have to be dealing with your accountant or your tax adviser more regularly than at the minute. It is value-added work by the accountant or the tax adviser—working out what the estimates are, dealing with HMRC, processing the amendments and so on—so there will be a cost. It will cost businesses. In the impact assessment, a cost has not been calculated yet, so it would be interesting to see how that comes out.

I add, though, that HMRC estimates that businesses with a 30 September or later year end would have to estimate. Anecdotally, some of the feedback that we have had is that businesses with a year end in July or even June would still have to make estimates to meet a January deadline.

Q21 **Baroness Harding of Winscombe:** I have a question on the transition period. The proposal to spread profits brought into charge in the transition year over five years was discussed in the earlier hearing. I am interested in your views on whether that is sufficient mitigation and whether we need to think carefully about potential unintended consequences of this transition for any particular categories of businesses or taxpayers.

Sharron West: It is generally accepted that most people will have extra assessable profits in the transition year, because most people will bring in extra profit and the chances are that overlap profits will not offset it significantly. The general expectation is that people will have a higher level of profit than they would otherwise have and therefore a higher tax bill, unless there is some option to spread the profits into subsequent tax years. For the lower-income end of the market that we look out for, any increased or unexpected tax bill is significant. The option to spread is good. Five years seems a reasonable length of time.

It does in itself bring complications, because you are then expecting people to be able to work out the best situation; whether to pay tax on 100% of the additional profits in the transitional year or whether to spread them without knowing what their profits are likely to be in those

later years, therefore, what the extra tax will be in those years. Also, what is the impact of those extra profits going into different tax years, and how does that interact with other things like tax credits, universal credit or high-income child benefit charge? In all sorts of other areas of the system, if you start bringing extra profits in, interactions have to be looked at. It is good, but it is quite complicated, and that in itself can cause issues.

Richard Wild: Five years tries to achieve the balance between giving people enough to be able to afford to pay the extra tax that falls due without making it too long a period that risks the tax not being paid at all or people forgetting to include it on their returns. The consultation recognises that at least a fifth must be brought in each year and that, if you cannot afford that additional tax, you can still apply for time to pay. Is five years the optimum number? I am not sure. Does it seem reasonable? It seems fairly reasonable to us.

Baroness Harding of Winscombe: Are there consequences for people on universal credit or for people with pension issues—I have heard that there is a potential issue for GPs in particular—and has HMRC captured those potential unforeseen consequences? Sharron is shaking her head.

Sharron West: No. HMRC has acknowledged in the consultation document that there are about a dozen areas where there are interactions that it needs to look at. It is aware that there are implications. Presumably because the consultation was got out so quickly because of the constraints we have talked about earlier, it had not done much work in those areas, so we are hopeful that it will do further work on these interactions over the next few months and that things will become clear.

The most obvious thing is that any additional profits do not count as part of your taxable income, so there is no knock-on effect on all the other areas, but this is possibly a simplistic way of looking at it. I am sure there are other issues that need to be looked at to try to pick up everything and make sure that people do not have unexpected consequences. Not everything will be able to be protected, but if HMRC knows about but cannot mitigate a consequence, it needs to make sure that people know that the particular consequence will happen, ie because X affects Y and therefore tax credits might go down, for example.

The other problem is that the additional profits that will be taxed, whether fully in the transitional year or spread, are not extra income, so there is no extra cash around for people. They have not made these extra profits and they do not have the income from them. They are just taxable profits that need to be caught up as part of the transition. People will not understand this when they see their tax bills going up and have additional tax to pay when they have not had the additional income in that year.

Q22 **The Chair:** Before we move on to uncertain tax treatment, hearing what you have both been saying, is it right to say that basis period reform is integral to making a success out of Making Tax Digital but HMRC and

policymakers have not fully grasped the implementation of it and the more long-term consequences for certain sectors, particularly people in partnerships, hospitality and so on? Mr Wild, is that a fair characterisation of where we currently are?

Richard Wild: It is fair to say, as Sharron has set out, that the proposals will have lots of knock-on effects that we need to work through. The extra time that we have been given to do that will help.

At the moment, we might say that we do not like the proposals as they currently stand, but if they were changed so that, for example, as Sharron said, you did not add on the extra portion of profits, or you did not include that within your total income, or you could make an estimate but not have to revise that estimate further down the line, if you thought about these things and made the process easier for businesses to operate, we would be more in favour of the proposals. As it stands now, from our point of view, there are too many unanswered questions and too many difficulties that we foresee for businesses that are affected.

The Chair: Sorry, but I am trying to clarify this in my own mind. If you had to divide them percentage-wise, how many of them are problems of implementation and transition—change is always painful; we know that people find it difficult to change and so on—and how many of them are far more long term when the system is up and running so that, as you said, partnerships will find this difficult even if those transitional issues are dealt with? I am trying to get a sense in my own mind of the balance between the two.

Richard Wild: I will almost sit on the fence and say that it is about half and half. Once you deal with the transition and you have dealt with issues like the knock-on effect to pensions, a hike in the child benefit charge, the rate of tax you pay and so on, they are almost issues in isolation. But then you have, as you say, the ongoing issues of apportionment, estimation and the difficulties for partnerships, especially larger partnerships, which will be real problems year in and year out.

The Chair: Good. If no one else has anything to add to that topic, we have about 20 minutes left and we will move on to uncertain tax treatment. If you heard a previous session, you will know that we had a good discussion on this. The committee has looked at this subject before.

Q23 **Lord Butler of Brockwell:** When we looked at this before, the then Financial Secretary said that the further time for the second consultation would be used to make this measure more targeted and more proportionate. In your experience, has that been achieved?

Richard Wild: Yes and no. Certainly in the consultation process, in our experience HMRC has listened and has taken comments on board. The interactive process with HMRC has been quite good. But as you heard in the last session, this new third trigger has introduced quite a lot of uncertainty and subjectivity into the proposal. I guess on the face of it you could say that we used to have one definition and then we had seven triggers and now we have three. Does that look better? When you look

behind those three triggers, they are not without difficulties in how you interpret and apply them. We have made some progress, but we are in a slightly different difficult place than we were when we started.

Lord Butler of Brockwell: Sharron West, does this affect your members, or probably not so much?

Sharron West: No. I am afraid I can gracefully defer to Richard on these questions. We do not look at this area. No, we have not done any work on this at all, it is not within our scope. I am afraid I cannot help you.

Q24 **Lord Butler of Brockwell:** Okay. If I can go back to Richard Wild, will this achieve its stated purpose of reducing the legal interpretation gap and improving compliance by high-risk businesses?

Richard Wild: Of itself, no, it will not. It is probably fair to say that in any event there is a bit of mystery surrounding what the legal interpretation tax gap actually represents. The tax gap publication and even the consultation document give an explanation of it but little detail about how it is calculated and what it includes. A bit more clarity around that would be useful in any event, particularly because it represents such a large part of the tax gap.

As was mentioned in the previous session, even in an earlier version it was going to bring in only about £45 million a year. That is a lot of money, but in the whole scheme of things it is a drop in the ocean as far as the legal interpretation tax gap goes. Lots of large businesses already have an open and collaborative relationship with HMRC and talk about tax risks where possible. We have also had feedback that lots of businesses will end up overdisclosing.

If there is just an element of risk in a transaction, they will tell HMRC because they do not want the reputational risk of not being seen as compliant with these rules. You may end up with HMRC being flooded with disclosures and therefore not able to see the wood for the trees. You wonder whether it has achieved its desired effects at all. Even if it does achieve the measure that it has set out to achieve, it will have reduced the legal interpretation tax gap by 1%. The amount of compliance that this would bring both for businesses and HMRC does not justify that outcome.

Lord Butler of Brockwell: The game is not worth the candle.

Richard Wild: That might be one way of putting it, yes.

Q25 **Viscount Chandos:** If we stay in the game, though, in the previous session we heard views that there was not enough clarity, focus or targeting. Without that clarity and targeting, how much support does HMRC need to give companies generally? It sounds like a lot will be brought into the net who would be described as generally transparent and good citizens. If it could get the clarity and focus right, is much ongoing support needed? These are large companies that, if they are aggressive in their tax management, should be expected to respond from

their own resources rather than from HMRC's.

Richard Wild: I would make two points. First, HMRC published draft guidance in August already, which is quite comprehensive, but we have fed back comments on that and I know that others have as well. Provide as much clarity in the guidance as possible. We have already seen that some of the triggers are subjective. If the guidance can put a little bit of meat on the bones and bring a little bit more objectivity to those measures, it would be helpful.

Secondly—Emma Rawson mentioned this briefly in the earlier session—several hundred large business will be covered by this measure that do not have a customer compliance manager. At the moment, there seems to be—I have forgotten the phrase—a strategic solution or something for how these businesses will make their disclosure to HMRC, but it seems to be via some sort of i-form.

Make that process as easy as possible, clearly setting out what businesses need to provide as part of that disclosure and making it possible for agents to do disclosures on behalf of their clients. Even though, again, as was previously mentioned, HMRC says that businesses are not expected to take legal advice to decide whether something is disclosable or to comply with the measure, a lot of businesses will turn to their agents for advice and support and to ask them to make that disclosure on their behalf. That is an important part of the system as well.

Q26 **Baroness Noakes:** To reflect a little on the areas that we have been talking about—basis period reform and uncertain tax treatment, and the consultation undertaken by HMRC—both have been subject to criticisms. In the case of basis period reform, the nature of the consultation omitted the problem definition stage. Then the proposals were deferred almost as soon as they had been issued. If we take uncertain tax treatment, we are in our second iteration. I wanted the views of each of you as to the lessons to be learned for consultations by HMRC in these areas and perhaps whether HMRC is able to learn them.

Sharron West: The formal consultation framework that HMRC usually operates within has a number of preliminary stages leading up to the issue of the consultation. The recommendation is usually a 12-week consultation period as opposed to the six weeks we had with the basis period one. The framework is reasonably sound. Provided that is adhered to, generally the consultation process would work reasonably well, in my experience.

The basis period issue was purely the pressure of trying to get it over the line before Making Tax Digital became a live event so that things flowed much easier for people. But, generally, if the consultation framework is adhered to, the process works reasonably well, in my experience.

Richard Wild: I echo that. We are big fans of the tax consultation framework. You end up with much better tax laws when the consultation process is followed in full. We do not often get to stage five and the post-

implementation review, but certainly the preparatory steps are extremely important. As you have pointed out, the uncertain tax treatment started at stage two of the tax consultation framework. The basis periods—I am not sure I have seen this before—were at stages two and three combined. It is not unheard of for measures that start at stage two to get dropped or for the plug to get pulled, but it is quite unusual. You get the sense that you end up in a worse position by starting off at stage two than you would have done if you had started off at stage one or even at a preparatory stage before that.

Baroness Noakes: It is a good process, but it has not been followed in this instance. Is that the fundamental source of the problems in each of the cases that we have been looking at?

Richard Wild: We said on the uncertain tax treatment at the original consultation point that a call for evidence or a stage one consultation could have said, “There’s a legal interpretation tax gap. It’s currently £4.9 billion”—or whatever it was at the time—and “What could we do to reduce that gap?” You would then get lots of suggestions in from businesses, professional bodies and what have you which the Government could reflect on and decide to look at some a bit further, and perhaps decide that others they did not really like, and you could then start from the beginning. At the moment, I am not saying that somebody has had a big idea, but somebody thinks that this is the way forward and we have leapt a bit too far into the process than we should have done.

The Chair: Can I pick you up on that? Forgive me, Baroness Noakes. You are saying about uncertain tax treatment, Richard Wild—correct me if I am wrong and am not understanding you rightly—that the entire approach is misguided because they did not ask the fundamental question that you put. We have this tax gap caused by legal misinterpretation and misunderstanding, so how do we address it? That should have been the first question. They might have had a multitude of answers and we could have been in a different position to where we are now. Is that what you are saying?

Richard Wild: That is right. We love these open questions. We have this issue with the legal interpretation gap. We have these issues with certain aspects of compliance. How could we improve them with more blue-sky thinking about how we address things, certainly on the uncertain tax treatments. We did not have that question. We have a legal interpretation tax gap of £4.9 billion. How do we—

Q27 **The Chair:** Mr Wild, sorry to interrupt you again, but I have a layman’s question. Is the real problem here that we are trying to tackle the uncertain tax treatment and this lack of understanding due to complexity, and the fact that so much of our tax system is incredibly complex and opaque that businesses find it difficult to understand it? Obviously some will interpret the law to their own advantage, which we can also question. Therefore, rather than coming up with this blanket approach, should we be looking for many ways in which we can simplify and therefore clarify what tax is meant to be owed by businesses? Is that the real problem?

Richard Wild: That is part of the problem, yes. We do have an incredibly complex tax system, which does need some form of simplification. We also have to recognise that the businesses that are in scope of these measures actually do lots of things that are perhaps not run-of-the-mill. They are complex transactions. They have complex affairs. Perhaps the way to address that issue is to work more closely with those businesses and get under their skin a little bit more. We heard in the previous session about the customer compliance manager model, which tends to work quite well, and perhaps we need more customer compliance managers.

HMRC does risk profiling in respect of large businesses. Perhaps it needs to spend more time going in and spending time with these large businesses, which have a higher risk level, and find out a bit more about what they are doing and teasing out these transactions, rather than making everybody else have to disclose them to HMRC.

Viscount Chandos: I wonder. Does it go back to whenever it was that subjectivity began to be applied to the tax codes such as "aggressive tax avoidance"? I understand exactly why that is attractive to the Treasury, but that introduces an element of subjectivity. Janan Ganesh, the *FT* commentator, wrote interestingly on tax a few years ago and said that it has to be a precise code rather than fuzzy. It has been made fuzzier, and this is why we end up in a position of uncertain tax treatment. I am not sure I know the answer, because the ingenuity of companies that, say, manage their tax aggressively is great and therefore there is a conundrum. How much can you close that down while remaining precise rather than subjective?

Richard Wild: If I can continue your terminology, if the underlying tax rules are fuzzy, it is quite difficult then to overlay objective tax rules on compliance and disclosure and notification of those. Here we have potentially fuzzy over fuzzy. The underlying tax rules might require interpretation. Layered over that we have the uncertain tax treatment, which itself requires you to make subjective judgments. Of course, that makes the rules difficult to comply with.

Q28 **The Chair:** Can I ask one final question so I am clear, Mr Wild? In terms of where we stand now with the uncertain tax treatment approach, is it salvageable? If so, what two or three things would make it salvageable, or do you feel that this whole approach is still not fit for purpose?

Richard Wild: You could salvage it by perhaps doing some of the things that I mentioned, such as making the guidance clear, making the process straightforward and resourcing HMRC so that it is worth while. But take a step back and think about how much extra revenue it is planned will be brought in, the compliance burdens on businesses, on their agents and on HMRC, and whether this cost-benefit exercise stacks up. That is the bigger question. I am not convinced that the answer to that bigger question should lead us to carrying on with the proposals.

The Chair: Good. Unless anyone has any further questions, all that

remains is for me to thank you both for joining us, Sharron West and Richard Wild. Sharron, thank you for sitting through that end bit. Thank you for your contributions. They were incredibly helpful. Let me say what I said to the previous panel. If either of you feel that there are things we have spoken about today you would like to elaborate on in writing, please send us your thoughts. Thank you both very much and, with that, we end this session.