HOUSE OF COMMONS

Treasury Committee

Oral evidence: Work of the Tax Assurance Commissioner, HC 725

Tuesday 14 October 2014

Ordered by the House of Commons to be published on 14 October 2014

Watch the meeting

Members present: Andrew Tyrie (Chair); Steve Baker, Pat McFadden, Jesse Norman, Teresa Pearce, Alok Sharma

Questions 1- 114

Witness: **Edward Troup**, Tax Assurance Commissioner and Permanent Secretary, HMRC, gave evidence

Q1 Chair: Good morning and welcome, Mr Troup. You are very experienced in front of Select Committees but you are relatively new before this Committee in your new capacity. That has only been going a short while; in fact you have been up and running for just under two years. Is that right?

Edward Troup: Just over two years.

Q2 Chair: Just over two years, so it is a relatively early opportunity to find out how you are getting on and whether this new structure that is a modest step into the unknown for the way we run the tax system in the UK is working. Can you begin by giving us some evidence of your independence?

Edward Troup: If I go back to the origins of this it was where criticism was made of the way we had reached settlements of tax, and settlements happen all the time, with some large businesses. As Committee members may remember, a retired judge, Sir Andrew Park, undertook an investigation into that and he concluded the settlements in question he looked at had all been reasonable. Indeed, one of them had been more than reasonable. But he did call into question the processes, or raise some questions about the HMRC processes and the extent to which there was enough internal, separate oversight of the process of reaching settlements. My appointment was to redress that.

As you will have seen, and is made clear in both of my reports, I am independent in the sense that I am not responsible for case workers dealing with taxpayers. They are all within the lines of business that are responsibilities of separate directors-general. However, I am a commissioner of Revenue & Customs and Parliament has given responsibility for collection management of tax to the commissioners, and without Parliament changing the law we could not give a final independent decision-making power outside the commissioners. That would be effectively abrogating responsibility we have.

Q3 Chair: You also report direct to HMRC. You report to Lin Homer, do you not?

Edward Troup: Absolutely, so I am not in a sense completely independent of HMRC, but I am outside the case-working process and the process on which large settlements come for final decision to me and two other commissioners, again, one of whom will be outside the relevant line of business by definition. The assurance processes that I am responsible for, and that we seek to apply across all the settlements we make in business, are genuinely independent of the lines of business and are giving them the oversight assurance and scrutiny to make sure that the core objectives of this role—which are to make sure the public have confidence in the way we work and that the way we work is both consistent with the law and even-handed and consistent across all taxpayers, large and small—are maintained. I am quite happy—although in a sense, this is the purpose of coming along here today—that we are striking the balance with maintaining the integrity of our legal responsibility that quite clearly puts on us as commissioners responsible for collection management of tax, and the need to make sure public confidence is maintained in the degree of scrutiny over individual decisions.

Q4 Chair: What would you do about it if you felt that something was not quite right and you were being put under a bit of pressure, for example, by HMRC?

Edward Troup: You refer to HMRC as if it was something else. HMRC is only a creation of the commissioners. The law creates the seven commissioners to have collection management of the taxes but the department consists of the various lines of business run by the directors-general. If one of the directors-general were to put me under pressure, that would be clearly an issue for me as Second Permanent Secretary and Lin Homer as First Permanent Secretary, Chief Executive and Accounting Officer to deal with.

Q5 Chair: What if it is coming from her?

Edward Troup: In a sense we are getting into hypothetical situations.

Q6 Chair: It would be helpful to think it through before it happens.

Edward Troup: I think that is right.

Q7 Chair: What are you going to do about it at that point?

Edward Troup: I think it comes back to the point that the CRCA, the Commissioners for Revenue and Customs Act, reposes in the seven commissioners the trust and responsibility for administering the tax. Oversight for what they have done is clearly through the process of the NAO and the PAC.

Q8 Chair: That is the retrospective stuff.

Edward Troup: Looking back, and to the extent that anything like that was allowed to happen then it would come within that. But you are asking me a question no different from the question of anybody in the department: what happens if you are put under pressure by someone else to do something you do not agree with? Clearly, I write a report that I have the responsibility for publishing and it would be open to me to record any such inappropriate steps in my report.

Q9 Chair: I have not thought through what the mechanism might be but it might be for consideration that some kind of memorandum of understanding be created that makes clear in the first instance you would go to the First Permanent Secretary and in the second instance if you are not happy you would go somewhere else. Perhaps you would go to the Chancellor, perhaps you would come to this Committee, but I think something needs to be thought through before such an episode happens. I hope it never happens but we need to have some contingency plans.

Edward Troup: I am happy to think about it. Whether it would be right to write a memorandum of understanding for every contingency—because my Chief Executive might go mad, all sorts of things might happen and I obviously would need to be prepared to deal with them. I am not sure this is a question you need to deal with through a memorandum.

Q10 Chair: I have not asked you to deal with a number of eventualities. I have only asked you to deal with the one so far.

Edward Troup: Okay, let me take that away and consider that.

Q11 Chair: What about the issue of the length of your tenure? Is there a case for saying the longer you are in the post, the more likely it is you are going to go native?

Edward Troup: I think it is clearly important that I can continue to demonstrate the integrity of my role, and I would say that my role is responsibility for the tax assurance process and a number of others are involved in it. You have seen my report. That report itself has been subject to public exposure through a number of external stakeholder events and I receive feedback on how we are going. The question of the length of tenure is a good one. I was appointed in 2012 for an extendable three-year term.

Q12 Chair: You think it should be time-limited.

Edward Troup: I am not saying it should be time-limited but I think for anybody in any post you should review whether they have been doing that post long enough still to be bringing something fresh to it, in any job in any role.

Q13 Chair: Perhaps you would also like to have a think about whether there is some merit in saying it should be a two-term limited post, say, or three-term or one-term, but anyway to give a view on that. Would you be prepared to do that?

Edward Troup: I am happy to think about that. If you want my personal opinion, I think doing a job for more than six years is probably something where in any role you risk becoming stale. I am not going to give a commitment but I shall be 60 next year so I cannot see I would do more than six years in this role.

Q14 Chair: We have not been raising any ad hominem points so far this morning.

Edward Troup: But I think the point of principle is a good one.

Q15 Chair: Yes, the point of principle. Could I turn to taxpayer confidentiality? This has become controversial in the last few years after many decades when it was not. Why is it—and your post is created at least in part because of the need to maintain confidentiality, because it is held that we should—so important to maintain taxpayer confidentiality?

Edward Troup: We are not the only country in the world that regards it as important, but a lot of the principles of good government and good administration do originate here and taxpayer confidentiality going right back—my history of it does not go back beyond 1799—but it was very clearly enshrined in Pitt's Income Tax Acts and the schedules attaching to those. Confidentiality has always been an essential feature of the tax system and in part that has been historically because of the constitutional respect for the privacy of an individual’s affairs and the undesirability of the state promulgating a lot of personal information. I think where we are in the 21st century, there are both political and constitutional, but from our perspective very practical, concerns and important reasons why confidentiality should be a very strong part of the way HMRC works.

Q16 Chair: Could you say what those are?

Edward Troup: I was going to say, although we have a lot of powers, if we had to exercise our formal legal powers to pursue every taxpayer we would not get nearly as good results and we would devour much more resource than we do at the moment. The reason we do not have to use our powers extensively is that the public have confidence in us and the taxpaying public are willing to share information with us, and often more information, particularly from businesses, than they are strictly required to do. That is helpful to us and allows us to reach an earlier determination of the amount of tax and it is helpful for them, because it gives them a less formal, more collaborative, more effective way of complying with their obligations. Confidentiality and the knowledge that the information that comes to us is provided in confidence is an absolutely essential part of that.

Q17 Chair: Your argument is, if we in some way abrogate the principle of taxpayer confidentiality we will reduce the tax yield.

Edward Troup: I would say the effectiveness of the tax administration collection we achieve is to a very large extent attributable to the combined and linked elements of confidentiality and confidence, and the confidence the public, the taxpayers have in dealing with us is founded to a large extent on the knowledge that their dealings with us are in complete confidence.

Q18 Chair: I have understood that. That is what you said a moment ago but I am just trying to clarify, do you think therefore the public are less likely to pay the right amount of tax?

Edward Troup: Yes, I think so.

Q19 Chair: Therefore it would abrogate the — it would reduce the tax.

Edward Troup: It would reduce the tax because they would trust us less.

Q20 Chair: The central argument of HMRC is, if we compromise taxpayer confidentiality we are going to get less money.

Edward Troup: Yes.

Q21 Chair: Okay, we need to be clear on that. You are in a very good position as the Tax Assurance Commissioner to investigate that issue, to give Parliament assurance or not on it. Have you looked specifically at that point since you took your job?

Edward Troup: Do you mean the question of whether that is true?

Chair: Whether it is true. It is an extremely important point for the purposes of public debate at the moment with respect to taxpayer confidentiality.

Edward Troup: I am not going to say it is self-evidently true because it is not self-evidently true. I think the evidence of that is extremely overwhelming and, in fact you will see, if you have my latest report in front of you, one of the examples on page 21 is collaborative working on a large R & D issue. That was a classic case of where there had been a somewhat formalistic exchange over some complicated research and development allowance claims over a number of years, and of getting the confidence, based on confidentiality, to get into the business, to talk to them about their systems, to say, "Look, rather than sending us literally mountains of paper, why do you not give us access and let us understand how the expenditure goes through your systems?" Not only did we get better information and, as you will see from this example, achieve a very good settlement that reduced the amount of the claim, but the business itself improved its own systems and was very happy with what it has done.

Q22 Chair: That is a helpful example. My question was whether you had looked specifically at this issue since taking over and perhaps, rather than prolong that part of the discussion, it might be helpful if we as a Committee could ask you to do that rather than give us one example: to come back in due time with as thorough and robust an exemplification as you can of the point you have been making, without breaching the principle of taxpayer confidentiality. The reason being that this issue is not going to go away and if we are going to address it properly we need as much evidence on this Committee as possible on that point. Would you be happy to do that?

Edward Troup: I would be happy to do that and just to play back to you to make sure I understand what you are suggesting, which I think sounds very helpful, is for me to formalise slightly what I have gleaned over two years about the importance of confidentiality and the extent that it supports and underpins our fundamental collection of tax.

Q23 Chair: And the yield. It is this practical point that I want. It is not that this Committee has a view about whether it is true or not, but until you start giving us some evidence to support your view, which is not the view of everybody who has come before this Committee, we are in no position to give it serious consideration. If we are going to maintain confidentiality, assuming your argument is correct and that would be your position, how are we going to scrutinise your work?

Edward Troup: I think it comes back first of all to the fact that once you have accepted there should be confidentiality, and I agree the case may need to be made in some quarters, the principle behind the Commissioners for Revenue and Customs Act is that you are reposing trust in the seven commissioners and the 60,000 people who do the work to do that job. That does need proper public scrutiny. The National Audit Office does have full access to everything without limitation. They can look at all taxpayer files. They can look at any case, they can call for any papers and I am happy—or I am not sure I am happy to say but they do indeed do so and they look very closely to it, and what they establish from that is reflected in the reports that they prepare on our performance. But beyond that, as you know, we do not share taxpayer confidentiality or taxpayer confidential material.

My report and other reports seek through anonymised examples and aggregated figures to give you an illustration and some evidence of what is going on, and I do believe we can do that without sharing individual taxpayer details with you. Although I am very happy and very glad to be here today to get your questions, having thought about how I can put more into this report and other material reviews, I cannot see the circumstances where I could not satisfy you on the detail of what the department is doing and breach taxpayer confidentiality. I do not see why that is necessary unless you do something that Parliament has quite clearly said should not happen: that is, "I want to know about taxpayer X; I want to know exactly what you have done". That is the bright line that we will not cross over.

Chair: We might leave it there for the time being, although I think there are more aspects to this whole confidentiality issue that will probably need to be explored in time.

Q24 Alok Sharma: Mr Troup, good morning. Following your appointment you said you wanted to ensure, and I quote here, "that HMRC's well-deserved pride in its achievements and its high standards are properly reflected in public confidence". What do you see your role as? Do you see yourself as a cheerleader, a PR supremo over the HMRC? Do you see yourself as making sure that everybody pays the right amount of tax or ultimately is it about getting the best deal for the Exchequer?

Edward Troup: I did not capture all the points but I am tempted to say all of the above. I think, just to unpack that a little bit, I do have a role as Tax Assurance Commissioner that the Chairman has asked me about and is captured in this report. But that in a sense is the end of the process. It is what happens with the material, the settlements, the disputes we have and how they are resolved.

The heart of doing a good job in this department is the quality and skills of the tax professionals. I am the most senior tax professional in HMRC. I do not have line management responsibility for our 17,000 tax professionals but I am responsible for their training. I am responsible in a broad sense for making sure that there are good careers for tax professionals and that they are professional. I have spent quite a lot of my time travelling round the department. I was in Liverpool last week and I will be in Leeds this week, meeting tax professionals. If there is a single characteristic that covers them all it is that they absolutely believe in the seriousness and importance of the work they do and the importance of getting it right. I know passion is a slightly misused word these days but they are genuinely passionate about what they do and my role is very much to make sure that they understand the context they work within. Alongside this formal role, I do not think "cheerleader" is quite the right word and perhaps we should not include that in all of the above, but there is something very much about leading the professionalism of the department within the context of the responsibilities we have.

Q25 Alok Sharma: One of the things you have agreed to is getting a better deal for the Exchequer as part of your role, so can you tell us what evidence you have that all these governance reforms that have taken place have resulted in any additional tax being raised for the Exchequer?

Edward Troup: If you go back on our performance figures, we collected £506 billion of tax last year; 90% plus of that comes in without intervention and in a sense that is an important part of my role, as that comes in because the compliant part of the population pays their tax voluntarily because they have confidence in us. But we have also increased our compliance yield—£23.9 billion, I think—for last year and we are projected to increase it further. Doing that with the resources we have does mean getting to resolution of disputes as quickly and as effectively as possible.

As you know, I, personally, only see that small percentage of very large settlements, but I think over the last two years, although we are still dealing with issues from the past and our drive on avoidance is very much part of that, increasingly we are dealing with issues and reaching settlements in better real time and I think the combination of what I do in my role and what all the teams, but particularly the business tax teams under Jim Harra as director-general, do is to engender a sense of confidence in the collaborative approach—that is, the numbers show it, producing more yield, more settlements in better real time. The Chairman is quite rightly pushing me for evidence and all I can tell you is what I see.

Q26 Alok Sharma: Let us talk a little bit about the process of resolving disputes. You made the point in your report that you do not work with all taxpayers in the same way, but would you say that the tax settlement strategy is now fully compliant with the LSS?

Edward Troup: The tax settlement strategy, because it is quite clear that is what the litigation and settlement strategy is to do—the question of whether every settlement in the department is fully compliant with the LSS is in a sense my core responsibility. We define settlement in quite a broad way but in a way that encompasses a lot of activities. If a plumber in Pontypridd has put in a claim for travel expenses and there is then some dispute about how much of that is for private expenses and how much is business, that is a dispute. That would be resolved by the caseworker with only line manager sign-off in a very straightforward way. There are probably about half a million or more cases like that in a year. I cannot seriously sit here and say every single one of those half a million cases is settled in accordance with the litigation and settlement strategy. I can say we are transmitting and we are communicating the LSS consistently. We have the internal audit process that is taking selections of settled cases and I can say with some confidence that we are driving the application of and adherence to the litigation strategy further and further through the department into all cases.

Q27 Alok Sharma: From what you have told us, you think there is a process in place you are leading that is more efficient. In terms of that efficiency, can you tell us, does it take more time or less time now to reach tax settlements in disputed cases?

Edward Troup: I have no evidence either way. When I started this role off—

Alok Sharma: You must surely be able to—

Edward Troup: I am sorry; I thought you meant the process of settlement. I do think we are getting better at dealing with things in real time, but the question is—and I am not sure if this was the question you were asking—does the assurance process slow down the settlement process, which is something that has been suggested by large business? I am quite confident that it does not. Is it giving those caseworkers who need to reach settlements a greater degree of confidence in the ability to reach settlements quickly? I would like to think it is but I do not have the evidence either way.

Q28 Alok Sharma: You say that it does not take more time now under the current process. What evidence is there for that?

Edward Troup: Because first of all, for most settlements in a sense I have not changed any process. We are just emphasising the existing process. The only settlements where the process has changed is the small number that come through the Tax Disputes Resolution Board up to three commissioners. I have been very sensitive to the—I will not say accusation but the concern that would slow down settlements of the largest cases. The point was made to me once or twice, two or three times after I started this role and I chased down every time somebody suggested that and went back and checked it was not true. This is proving a negative but as I say, I have not found any evidence that is not true.

Q29 Alok Sharma: Can I turn to the Tax Disputes Resolution Board? Obviously they make recommendations to you. According to your report last year you had 48 referrals to the value of £3.9 billion, but in over 50% of these you found for the taxpayer. Is that correct?

Edward Troup: The way it works is that there is a distinction between what the TDRB recommends and what the taxpayer has proposed. The taxpayer proposes a basis of settlement. The TDRB passes it up to us either with a recommendation to accept or a recommendation to refuse. We have not disclosed in here how many of the TDRB recommendations we have accepted or declined. We have disclosed in here how many taxpayer proposals we have accepted.

Q30 Alok Sharma: Could you comment on that? Could you give us that answer?

Edward Troup: I do not have it in front of me.

Alok Sharma: Would you be able to?

Edward Troup: But the majority of cases we have agreed with the Tax Disputes Resolution Board recommendations. There have been one or two and my recollection is—I do not want to go on the record as I cannot remember exactly—there have been one or two where we have sent it back to the TDRB or we have not agreed with the recommendation.

Q31 Chair: Perhaps you can come back to us with the numbers.

Edward Troup: Yes, I can do that.

Q32 Alok Sharma: My penultimate question is, what does it tell you about the level of challenge that your office is providing if you are basically agreeing with everything that is coming to you?

Edward Troup: I am not sure that tells me a great deal because the question is, are the TDRB listening to the challenges they see coming back from other cases and thinking very hard before they make recommendations to us? I can say—and in a sense, this to me has been one of the most positive feedbacks about the effectiveness of my role—that when I go and meet caseworkers around the department they are very aware of the commissioners' process even if they have not been up before me and the two other commissioners with a recommendation. In doing their work they are undertaking the casework in a way that is alive to the LSS and is conscious of the need to be able to set out very clearly what they are proposing and accepting. I think that is the test of effectiveness. In a sense I would like to agree 100% of the recommendations because I would like everything to be working so well at the case part of it.

Q33 Alok Sharma: Can I just ask you my final question on this particular point? What is the mechanism for having unresolved cases? In this report you talk about a number of unresolved cases. Is there a timeline that you set or can a case just go on unresolved indefinitely?

Edward Troup: Once or twice we have said we have remitted this back and we would like to see it back. Precisely because the commissioner's process is not case management, I am not managing cases. I have fought shy of—sometimes caseworkers look slightly needy and say more or less, "What do you think we should do next?" My answer to that is, "You should discuss it with your director-general in your line of business. It is for you to work out in your line of business the best and swiftest way to bring this to a resolution". The commissioners are simply saying, "We do not accept this proposal. We want you to take it back, re-engage with the taxpayer and come back to us as and when", not to set a time limit.

Q34 Alok Sharma: It is not your responsibility as far as you see it to make sure that these cases are finally resolved?

Edward Troup: I share responsibility to make sure all disputes are resolved either by settlement or litigation but I would not do that personally through intervention through that mechanism. If I felt the director-general for the particular line of business was not pushing it on swiftly enough or getting his or her caseworkers to do so, I would simply make that clear to them. That is quite clearly their line management responsibility in their responsibility to bring in the yield, to settle cases, to take litigation.

Q35 Jesse Norman: Mr Troup, just to pick up on a point raised by my colleague, Mr Sharma, soft settlements—settlements where you think or you might come to believe that the Revenue has not driven as hard a bargain as it could have done—are obviously a significant concern to the taxpayer. How often do you see that and what steps do you take to make sure officials are not doing that?

Edward Troup: I would push back slightly on the phrase "soft settlements". The whole principle of the litigation and settlement strategy is that we should never settle any case for less than we would expect to receive if the matter had come to litigation. That sounds quite black and white but, as the report that Sir Andrew Park showed, and any understanding of the examination of large businesses shows, tax issues can become very complicated and interlinked and more than one outcome might be possible at litigation.

Q36 Jesse Norman: Either the laws of statistics are wrong or you sometimes accept settlements that are below what you could have got.

Edward Troup: I do not believe that at commissioner level we do. I do believe all the cases we see are settled in accordance with the litigation and settlement strategy. We have seen proposals at commissioners where effectively, the taxpayer has proposed a settlement, and indeed one or two cases where the caseworkers have asked that we settle on a basis that is below what the litigation and settlement strategy would say we would expect to receive, and we have simply said, "No. You cannot settle on that basis. That must be remitted to the taxpayer to improve the settlement offer to effectively a level consistent with the law, or we will go to court".

Q37 Jesse Norman: Where these cases have occurred in the past that have caused public concern, it is because those were not themselves essentially in line with what would have been the litigation and settlement strategy.

Edward Troup: I am not going to go into individual cases but it is worth going back to—

Q38 Jesse Norman: When they happen in general, that is because they have not conformed to the standard. You establish the standard now. You are saying absolutely the standard is higher than the previous one. They were not being settled properly and now we are making a difference.

Edward Troup: No, I think I am saying I am establishing public confidence that we are settling all cases, or as many as I see and as many as we can achieve, in accordance with the litigation and settlement strategy. Sir Andrew Park's review effectively confirmed that the settlements were reasonable: that is to say they were consistent with what you might expect in the court. But he was concerned about the process; in particular, the process to record and manage those cases had shortcomings. What I am redressing is those shortcomings to give the public confidence that we have not done soft settlements, as you call them, and we are not doing them now and will not do them in the future.

Q39 Jesse Norman: But if there was not a problem, why have you introduced a litigation and settlement strategy? It cannot just be about confidence. It is about fixing a problem.

Edward Troup: The litigation and settlement strategy goes back to 2007 and that is slightly further back in time, and it is perfectly possible to run a tax system—I have recently been to Australia and New Zealand and looked at their equivalents for their litigation and settlement strategy—where you do say that where we have a dispute, we will take account of litigation risk. In other words, if we feel we only have an 80% chance of winning we will accept a discount on the amount of tax payable to reflect that.

That is something that did take place in the department, in the administration of the tax system in the past. It led to a significant degree of gaming against tax administration and the litigation and settlement strategy in 2007 was explicitly designed to prevent that by making it very clear that we would not take a discount for litigation risk. We would only settle for 100% of the tax that we would expect to receive at litigation.

It was controversial. It was not very popular at the time, particularly with some of the professional advisers who had a significant amount of business generated from, as it were, stacking up cases where there were arguments and then doing a deal with us. But I think it has bedded down well. It is very effective. I would not necessarily say it is the causation of us improving our yield but it is certainly part of the way of improving our yield. Does that answer the question?

Q40 Jesse Norman: That is helpful. That is undoubtedly helpful. I want to talk about the tax gap if I may. In the numbers you have given us or that we have seen, the value of the tax gap by behaviour, as you put it, includes £5 billion due to criminal attacks or allegedly attributable to criminal attacks. It is £5 billion for tax not collected due to criminal attacks. That is a lot of money. What are those criminal attacks? What kind of things are you talking about? How do they affect tax collection?

Edward Troup: I would just remind the Committee that we will on Thursday be publishing this year's tax gap figures so I think the numbers you refer to, I do not have the full breakdown from last year, are from last year's tax gap. That in turn relates to—sorry, let me get my years right—2011-12.

Jesse Norman: No, 2012-13.

Edward Troup: That is 2012-13, okay. Criminal attacks; first of all there is excise duty fraud, and tobacco and alcohol duty are particularly subject to criminal attacks. We have had, as the Committee may know, attacks in the past on what is called missing trader fraud, MTIC fraud, and although we have had some very significant successes about that there are still some fairly organised VAT repayment frauds. Beyond that I do not have—

Q41 Jesse Norman: This is organised criminal fraud.

Edward Troup: This is organised. I cannot say whether that number also includes non-organised criminal attacks but yes, we have a significant amount of activity tackling all those frauds.

Q42 Jesse Norman: Have the recent governance reforms at the Revenue & Customs, including the creation of your post, contributed to any closing of the tax gap?

Edward Troup: I think it relates to the question of where is the success. The tax gap has shown over an extended period a steady decline as a percentage but we do not take the tax gap as an explicit measure of our performance because it includes a whole number of factors. There is a significant time lag and the reality is if you put up, for instance, the VAT rate then the tax gap on VAT just arithmetically goes up. We do not measure ourselves against the tax gap. We measure ourselves by our compliance yield, how much money we get in through interventions, through deterrents and through taking actions.

Q43 Jesse Norman: That is all agreed but that is not the question I asked.

Edward Troup: That is not the question and look, I think there is a broader question and that is, can we show that HMRC's activities have closed the tax gap? But at the moment we cannot show that. We can say in broad terms that over the last five or 10 years the tax gap has declined. It fluctuates from year to year but it has broadly declined and at the same time our yield has gone up, and we believe there is some relationship between the two. But yield is always a collection of money from previous years under dispute and the tax gap is always a snapshot of one year, so you are not even talking about apples and apples when you compare the two. It is a difficult question. Would we like to be able to show we have reduced the tax gap? We would love to.

Q44 Jesse Norman: I have no doubt that is true and all the other fantasies of a Revenue & Customs inspector, but let me ask you, just to be clear: what you have said is the Revenue cannot be sure that its activities have contributed to the closing of the tax gap. Although it continues to rise in absolute terms for reasons we know about, it reduces in percentage terms, and therefore you do not think the Government's reforms or your post have made any contribution to that—they should be separately assessed as to their value?

Edward Troup: I do not think I am going quite as far as that, to say that they should be separately assessed, but—

Q45 Jesse Norman: So the Revenue net has had a negative effect and your team have had a positive effect, if the overall effect is neutral?

Edward Troup: Sorry, I cannot quite get the question. What proposition are you asking me to agree with?

Chair: Jesse, ask the question again, because I am not quite sure I have that question.

Q46 Jesse Norman: The question is a simple one: I am just trying to get at whether or not the Government's reforms and the creation of your post have contributed to this reduction in the tax gap. What you have told us is that the Revenue cannot be certain that it has, as a whole, contributed to it. Therefore, if you think you have made a positive contribution, it follows the rest of the Revenue must have made a negative contribution. I am just asking whether that is genuinely your view.

Edward Troup: I do not accept the logic of the proposition, but if the question is, can I say that what I have done has reduced the tax gap, no, of course I cannot say that. Can I say that I believe that what I am doing is building the wider integrity, confidence and respect of the department and the consistency with which we work? Yes, I can, and I think I can demonstrate that. Can I say that that contributes to compliance? The Chairman has given me a challenge to show how some aspects of it do. Do I think that over time, HMRC's improved compliance reduces the tax gap? Yes, I think that that is true as well, but there are some quite big gaps there.

Q47 Jesse Norman: Given the ambiguity in the tax gap and the range of potential estimates, don't you think that these things should be independently assessed or independently audited?

Edward Troup: The IMF looked at our tax gap methodology with some thoroughness and effectively said that our tax gap methodology was—I am not quoting, but it was to the effect—world class or best in class. We are very happy with our methodology. As you will know, if you are sad enough to read through the "Measuring the Tax Gap" document every year, we do change our methodology every year, because a lot of the elements are in the course of development, so we are continuously improving our tax gap methodology, which I am afraid can make it a bit confusing for readers sometimes, but—

Q48 Jesse Norman: It does mean that what happened in the previous year does not directly bear on what happens in this year, because you have just said you change the methodology.

Edward Troup: We restate, so that is the other thing: that the "Measuring the Tax Gap" document tends to end up restating the last three or four years, because we are always improving the methodology. But do I think somebody else should independently audit it? I am never going to say no to independent scrutiny, but I think that at the moment we've had quite a lot of scrutiny and we are quite happy with where we are, having had a recent IMF report.

Q49 Jesse Norman: Or you should publish a range, possibly, instead of just one number or a set of numbers?

Edward Troup: I think if you look at the methodology, you will see that in a sense the individual elements have some degree of estimation, which is clear. I am not sure publishing a range would be helpful, but—

Q50 Jesse Norman: On a related issue, obviously what the Revenue collected from the Switzerland tax agreement is well short of any estimates that were made. What lessons have you learnt from that exercise?

Edward Troup: The Swiss tax agreement was very much of its time, in the sense that we were faced with a situation where there seemed to be no prospect whatsoever of getting any money out of UK taxpayers concealing money in Switzerland, because we were not going to get the information due to Swiss banking secrecy, and by definition, what we did not know about we did not know about. The agreement was ground-breaking, but was very much a one-off in that it did allow us to get some real cash, and we have had £1.3 billion or whatever it is from the agreement so far. I will admit that our forecasting of how much we were going to get was significantly off, and in a sense that was because we did not know what we did not know.

I think if we had started off with a better forecast, we would probably be patted on the back for having received well over a £1 billion, rather than being ticked off for not having received a larger number, which we thought we might do. I think the interesting thing, of course, is that the world has moved on and Switzerland is now engaging with discussions on automatic exchange of information and we will, we expect, be in a position where we will get information on UK taxpayers' bank accounts, income and assets from Switzerland and from a number of other countries, so to a certain extent, the agreement will have played its course. As I say, looking back, if we had not put that number out there, I would have been very happy to say, "During a period of banking secrecy, we have received £1.5 billion" or whatever it is. I think in terms of lessons, I think it is the sort of usual lessons, which is manage expectations down, even if you think there might be money there, be careful, but to be—

Q51 Jesse Norman: I was rather hoping for lessons about the way that you would handle tax policy rather than PR and expectation management.

Edward Troup: This was such a one-off, in that we were trying to work out how much money there was in Switzerland held by the UK residents who were non-domiciled who had not declared it and whether it represented income or capital and what would happen when we announced this agreement. There were so many specific one-offs. It was not a flippant point about management. Some of the numbers had a sort of range of, "Well, we might get back between 20% and 60%. Let's take 40%" and we should have said, "We should say 20%, 25% rather than 40%". So there are some serious points about forecasting as well as about expectation management.

Q52 Chair: Do you think the tax gap measures the amount of tax that is collected compared to the right amount of tax that should be collected, as defined by what would be achievable in litigation?

Edward Troup: Can I just unpack that a little bit? The tax gap seeks to measure the difference between what we think the law would allow us to collect on full information if everybody was solvent and did not go bust and disclosed all the information to us, and what we collect. There are those who say we should collect a lot more tax because the rules should be applied in a different way, or who would like the rules to be different. The tax gap does not measure that.

Q53 Chair: I tried to address that second point in the last part of the question, which was not that long, which was that, as I put it, what would be achievable in litigation.

Edward Troup: The tax gap measures what we would achieve in litigation if we had the facts and the taxpayers paid, yes. Sorry, that is the 100% from which we measure a shortfall.

Q54 Chair: It is because it defines that, that it is still a useful measure?

Edward Troup: It is a useful measure because it is effectively telling us where Parliament's intention, as expressed in the law, is not being achieved, either because you have criminals or you have insolvency or there is legal avoidance. It is telling us that Parliament's intention to collect 100% is falling short by X%.

Q55 Chair: Just one very minor point that I noticed when you were answering Jesse. I hope you do not mind my saying so, but you said on a number of occasions, "We are happy with this. We are not happy with that". Isn't it now about your role as an individual whom we are looking to for assurance on whether you are happy—you personally are happy—rather than a question of whether you have had a meeting with your colleagues about this? It is exactly because we want to know that there is a measure of independence in your office from HMRC that you are here before us this morning.

Edward Troup: I am happy to be picked up on any occasion where I use "we" rather than "I", but I have a responsibility as one of the seven commissioners to collect the tax, but I also have a responsibility as tax—

Chair: I do not want to get picky, I just—

Edward Troup: It is a good challenge, and if I say "we" again when you think I should say "I", can you stop me and tell me?

Chair: It is what lies behind the thought process that is of more interest.

Edward Troup: Oh gosh.

Q56 Teresa Pearce: Good morning. Just to go back to an answer you gave earlier about the Swiss agreement, you said it was a one-off, and it is sort of a one-off, but there have been previous experiences with Jersey and the Isle of Man with disclosure of offshore accounts. Could you not have used the information and the tax you received from those agreements to have more correctly predicted what you would get from the Swiss agreement?

Edward Troup: The information that we have from Jersey and Guernsey and the Isle of Man and elsewhere was part of the background information, but those disclosure facilities were of course qualitatively different because they were based on full disclosure by the individuals concerned.

Q57 Teresa Pearce: Yes, whereas with the Swiss deal, you have a deal.

Edward Troup: Absolutely, and I do not want to be personal about jurisdictions, but the thing about Switzerland, it did and does have banking secrecy—although that has been weakened now—in a way that Jersey and Guernsey did not, and ultimately we can get information from Jersey and Guernsey that we could not get in Switzerland. So although, yes, we drew on what we had learned from where UK residents held their assets in doing the forecast for Switzerland, I think experience has shown that it was sufficiently different for those forecasts not to be very good.

Q58 Teresa Pearce: In the Swiss agreement, there were 18,000 names given to you.

Edward Troup: Twenty-five thousand names.

Teresa Pearce: Twenty-five thousand. But it says in my notes that you have only written to half of them. Why is that?

Edward Troup: We have now followed up with over 21,000 of them, so we will pursue, to the extent that we have sufficient details, every single one.

Teresa Pearce: Every single one?

Edward Troup: To the extent that we have details and we can do, we will make an appropriate inquiry of them all.

Q59 Teresa Pearce: You have talked a lot about large settlements, which commonly are negotiated settlements. How long does a negotiated settlement take? I know they are all different, but what is the longest one and what is an average one?

Edward Troup: I wish I had my colleagues from large business here to give me the facts. First of all, can I just pick up on the word "negotiated"? I know exactly what you mean, but—

Teresa Pearce: It is a negotiated settlement.

Edward Troup: —I just want to be clear. It is not negotiated, in the sense there is no negotiation. We want to get the facts out there and, once we have the facts, discuss the application of the law and get to what we think is the right number.

Q60 Teresa Pearce: So the scoping is one thing, but then there is what some people would call a horse trade.

Edward Troup: The whole point about the assurance role is that I am there to make sure we are not horse trading.

Q61 Teresa Pearce: But the point I am getting at is some of these agreements or negotiations, as I would call them, take years.

Edward Troup: They do take years.

Q62 Teresa Pearce: So they take years, but then when they come to your level, how long do you get to review the entire file?

Edward Troup: First of all, you asked me a question about how long they take. I would not like to hold large business colleagues to task, but the sort of scale of settlement we see I would not expect to be done in less than a year, simply because the facts are always so complex.

Q63 Teresa Pearce: That would be extremely rare, unless somebody just said, "Okay, I agree. Here is the cheque".

Edward Troup: I have to say that we are still seeing the occasional case coming up where the facts are five, six, seven years ago, but far fewer than there were. When we started off the process of compliance a few years ago, we had things that were 10, 20 years or even longer ago, and we have absolutely cleared out the backlog and we are doing things much more in real time, which relates back to one of the advantages of being able to deal in confidence and confidentially with businesses. We would like to see things dealt with in a year or two.

When it comes to me, it is a reasonably swift process, because to get to the commissioners, it has to go through the Tax Disputes Resolution Board, and for that, there is a full submission paper put together by the case workers, which is a summary paper of usually between four and 20 pages, but sometimes longer, with a lot of background technical material. What we get from that at the commissioners is those papers plus a short summary from the TDRB saying, "We heard this and we are recommending you do this".

Q64 Teresa Pearce: I am just thinking of human nature; so if you are senior tax officer who has been through this process with a large corporate, you have come to a point where you think you have the right result. The report you put forward is going to say, "I have the right result". How much deep interrogation of those facts is ever done, or is it just you look and is it reasonable?

Edward Troup: No. First of all, that will not come straight from the case worker to me.

Teresa Pearce: No, but it goes through that process, so—

Edward Troup: First of all, it will go their line manager in their team, because almost all of these large businesses will have a significant team of two, three or four people who are working on it, so they will have sat down and effectively come to the judgment that what they are being given is consistent.

Q65 Teresa Pearce: But they are not going to put something forward unless they think it is right.

Edward Troup: Absolutely.

Q66 Teresa Pearce: So where is the rigour? Where is the scrutiny?

Edward Troup: The rigour first of all is the Tax Disputes Resolution Board, and I see the minutes of that and the case workers get interrogated by a range of technical specialists and senior people from across the department and they get interrogated there. The minutes of the Tax Disputes Resolution Board, which come to me, demonstrate some pretty lively debate with the case workers. We then see the case workers at the commissioners' hearing. One of the strengths of this process is that we get the case workers, they get an opportunity to give us a quick summary of the case and we then challenge them. You have three senior commissioners, and I can tell you, they do really see this as a pretty serious bit of their life. As I was saying earlier, what is encouraging is that it is not just the people who come, but the other case workers who realise they might one day come on their cases who are thinking about organising their cases in a way that will stand up to the scrutiny.

You have commissioners, including myself, who have a lot of experience of tax—I have been doing tax for 34 years—and who are capable of interrogating both at a high level and at a detail level. So they get a pretty rough—no, I will not say rough time, they get a pretty hard time from us. I think everybody who has encountered has fed back that they feel that they get a really good hearing; that is what they say, but they also put up with quite a tough interrogation before we will sign it off.

Q67 Teresa Pearce: The litigation strategy came in about eight years ago, and you mentioned, interestingly, that the professional advisers were not very happy about that, because they felt it was—

Edward Troup: Not all of them.

Q68 Teresa Pearce: No, but I can see that they would feel it was quite a large income stream that might disappear, where they had whole teams that dealt with what they believed to be negotiated settlements, so I could imagine that that was how they felt. But the litigation strategy gave HMRC the ability to say, "Look, we want to agree on this. We think this, you think that, but if we cannot agree, we will go to court".

Edward Troup: Yes.

Teresa Pearce: But very rarely do things go to court. Do you think that threat is now seen more as a bluff or do you think people really understand that that is where they could end up?

Edward Troup: I think they definitely do. I think that we do take cases to court. There are a lot of cases that get listed for the tribunal, because one way or another we have said, "We are not settling this" but we start going through the court process and they start getting more and more worried and they come back and settle. We have had one or two commissioners' meetings where effectively we have been asked to approve a settlement in quite short time, precisely as there was about to be a court hearing and the taxpayer has come and said, "Look, I want to settle".

Q69 Teresa Pearce: So the litigation strategy works?

Edward Troup: It absolutely works, absolutely.

Q70 Teresa Pearce: Good. We have talked a lot about large taxpayers, large corporates, huge amounts of tax, but one of the things I see in my case work a lot is the small taxpayers and small amounts of tax, which to them is much more important than a big corporate that has billions at stake; if you have a pensioner who has £1,000, that is more important. PAYE has not been a huge success in this respect. The number of people paying the wrong amount of tax through PAYE has risen in 2013-14 to £5.5 million, an increase of £1.3 million over the previous year.

Edward Troup: No, I think it was broadly the same as the previous year. I thought it was £5.3 million last year and £5.5 million this year, but I am happy to go back and double-check that.

Q71 Teresa Pearce: But why can't HMRC get it right?

Edward Troup: Can I sort of step back a bit? I do not want to blame Parliament for everything, but we have a PAYE system—

Teresa Pearce: Everybody else does.

Edward Troup: —which works extraordinarily well.

Teresa Pearce: It works as a collection unit well, but it does not work as a calculation.

Edward Troup: For the 41 million individuals within PAYE, 35 million do not have do anything further after the end of the year; that 35 million get their tax affairs sorted out without filling in a tax return through PAYE. You are then left with about 5.5 million who have changed job in the year, have some other income they have not told us about, have gone off abroad in December or whatever, so they have overpaid their tax. Those 5.5

million, just as a consequence of the way that PAYE works, PAYE has not, unlike the 35 million, sorted them out finally. So we have to, during the next few months, find out what they have in their other income and what happened to their employment and sort them out with under-payments or over-payments. A few years ago, we had a 17 million backlog of that. We have completely cleared the backlog on that. We are now dealing with those 5.5 million, and I know the newspapers tend to say, “HMRC gets it wrong again”. It—

Q72 Teresa Pearce: I would not say it gets it wrong so much as it does not use the information it already has.

Edward Troup: RTI, Real Time Information, is giving us more information. It is the first year this year, but increasingly, we expect it will allow us to get more right in year, but it is an inevitable consequence of the PAYE system that we do not have all the information in the year, because people—

Q73 Teresa Pearce: But you do have all the information at the end of each year.

Edward Troup: At the end of each year—

Teresa Pearce: —and end of year reconciliations traditionally have not been thorough.

Edward Troup: Can I just pick up on that? Of the end of year reconciliations we are getting, a very small percentage of those have not been correct, and I know there was a lot in the media the last week, but it related to a very, very small percentage of the 5.5 million that we have dealt with during the last few months since the end of the year. As I say, there tends to be public confusion about what is the fault of the system and what is the fault of PAYE. I would say that while the PAYE system is creaking a bit because people are changing jobs more frequently—

Teresa Pearce: Much more frequently.

Edward Troup: —and getting more income, we are still managing to make it work for those 35 million, and for the vast majority of the 5.5 million we need to make end of year adjustment reconciliations for, we are getting it right for that overwhelming majority as well, and they are being coded out or they are getting a repayment about this time of year.

Q74 Teresa Pearce: Employers now have to provide Real Time Information, but what that does is assist HMRC in collecting PAYE on time, rather than employers keeping until the end of the year like they used to sometimes, and reconciling. However, doesn’t a taxpayer have a right to expect that when their P60, P14 goes in at the end of every year, for however many jobs they have, and also when Real Time is happening, they will not have an under-payment that could be three years old? Is it not acceptable to think if you are an individual with one National Insurance number and it is all in HMRC's computer at one office or another, that it is reconciled?

Edward Troup: If we could get to a situation where we had all the information at all times during the year, that would be theoretically possible, but I think simply the nature of people's activities—the way people can earn income outside employment and are not currently required to notify us until after the end of the year—means that we are a long way off being able to say that we have all of the information right up on 5 April.

Q75 Teresa Pearce: I am not saying that you should be able to flex things in year. I think that is too much to ask, really, but at the end of the year, every taxpayer should be able to have their tax affairs—if they have other income, investment income, fair enough, or self-employment; but somebody who is solely on PAYE, all of that information is sent by a time limit. If it is not sent by a time limit, there is a penalty on the employer, it is all sent in. Why isn't it reconciled for everybody? If you do not have enough staff, then we should have more staff. If you are a pensioner, you have your pension, and that is subject to PAYE; if you have two little part-time jobs, they are subject to PAYE, and you are being taxed on all of them. If you are a pensioner—you maybe never had to do a tax return and you are not a tax expert—you have a right to expect that when that information goes to the tax inspector, the tax inspector knows whether you are on the right code. I am not saying that in year, people should 100% have their codes adjusted, but after the end of the year, when HMRC has all the information, it is not rocket science to look and say, "Yes, someone has three personal allowances there. They should not have it".

Edward Troup: I sort of think I am agreeing, because if after the end of the year we have all the information, which we should have very quickly with Real Time Information, we will then do an end of year reconciliation to request—

Q76 Teresa Pearce: But that has not happened in past years. Lin Homer admitted it has not happened, but they are trying to get there, and yet you now have elderly people in situations where they owe £1,000 through no fault of their own, because they did not understand. Well, who would understand? Who would understand the difference between a personal tax allowance and a basic rate and a D code? They would not. You understand, I understand, the tax inspector understands, and it is up to the tax inspector to make timely use of that information and they do not.

Edward Troup: Look, I know you had a good outing on this with Lin and with Ruth Owen in July, so I am not sure I can add anything to what they said, but we are trying to—

Q77 Teresa Pearce: Would you hope to get to the point where we do not revisit this in future years?

Edward Troup: Yes, absolutely. It would be very nice to, for our benefit.

Teresa Pearce: Thank you.

Edward Troup: We would love this not to be revisited because we were getting it right.

Q78 Teresa Pearce: Can I just ask you about Real Time Information? The Association of Tax Technicians, the people who deal with this day in, day out with employers, are asking for a review of RTI. Is HMRC considering that at all?

Edward Troup: I want to put that back to Lin and Ruth. There were a very small number of over-payments and under-payments done incorrectly in the batch in September. It was a very small minority, despite what the comments in the paper said. That was in part due to incorrect information coming from employers. We are looking to understand what has happened there. I do not think that this means we need a full review of RTI, but we are looking to understand what happened with those over-payments and under-payments and we will take whatever action we need to. RTI is still in early days, in its first year, and I think it is a credit to Ruth Owen and her team that we have introduced a very major IT change that—I do not want to speak too soon—so far has gone extremely well and has been implemented on time and is basically working.

Teresa Pearce: Okay, thank you.

Q79 Chair: The PAYE machine, as you put it yourself a moment ago, is creaking a little. Isn't that a bit of a euphemism? It is really in some difficulty, and isn't the question we have to face for the medium term this: is this a creak that we can tackle by changing one of the parts or a few of the parts, or do we need some new machinery?

Edward Troup: You used the word "we", Chairman, and you meant your colleagues in Parliament, who set out the rules.

Q80 Chair: The point that I am making I am making on Parliament's behalf.

Edward Troup: Good. I think there is certainly a good case for saying, is the whole PAYE system fit for the 21st century? But it is something, which as I have said, does collect tax, finally, for 35 million people accurately and if you start playing with a machine of this size, you have to think through the consequences very carefully, not just in the longer term, but just in terms of getting from where we are now with the resources we have through to where you want it to be.

Q81 Chair: So the machinery is not busted?

Edward Troup: It is not bust, because it is working and we are collecting huge amounts of income tax and NICs through it, so if you think that HMRC is here to collect tax, we are doing a good job with the machinery you have given us.

Q82 Mr McFadden: Good morning, Mr Troup.

Edward Troup: Good morning.

Mr McFadden: I would like to ask you a few questions about the territorial treatment of tax, which is in the news for different reasons. Long back in the mists of time, back in 1999, you wrote that, "The structure of corporate taxes is rooted in Victorian concepts of corporate residence and behaviour that cannot stand up to the dematerialised mobility and fragmented operations of today". That seems perceptive, and probably things have moved on more in that direction since. Is there a tension between Governments, including our own, the Irish Government and others, trying to advertise that they have low corporate tax rates on the one hand, and then fretting that multinationals will move activity to jurisdictions with low corporate tax rates and describing that as avoidance?

Edward Troup: That is a question largely of policy for my colleagues in the Treasury, but I will not say that we in HMRC do not have an interest in it. I would just, for the record, say that the words were written when I was not a civil servant, so they did not represent any Government view at that time, but I think, as you say, they are reasonably accurate in terms of what we have seen. Certainly as a tax administration, we have had to deal with the very significantly changed business models and finding the right ways of computing tax—particularly under the Chancellor—pricing and determining what is a permanent establishment.

I think on the question of whether there is a tension between low tax rates and trying to maintain the tax base, it is self-evidently true that any tax system has to decide both what it wants to tax and at what rate it wants to tax it, and it tends to be true that the lower the tax rate, the more activity you get, and the higher the tax rate, the lower the activity you get, and you can increase tax rates in a number of ways. But I am not sure whether takes are—and to the extent it is a question of policy, I think it is a question more for my colleagues in the Treasury. I am not quite sure how I can help or we can help you.

Q83 Mr McFadden: "A little bit less perceptive" was your prediction in the same article: that these movements would mean that the high street bookie was a dying breed. I do not know if you have been on the high street recently, but they are proliferating rather than dying. But there has been discussion that trying to tax corporate profits generated in one country is now behind the curve in terms of corporate activity. Is this still the right way to tax businesses or do you think there should be more discussion of something like a turnover tax?

Edward Troup: The question of turnover tax would be quite a dramatic move, but I think coming back to, "Is this the right way to tax profits?" this is an international, multinational, multilateral issue, which is precisely why the UK is taking part in the OECD work on what is called BEPS. There are a number of fora under the G7 and G20 where we are looking—or Governments are looking—at the way the tax system should change and adapt to reflect exactly the dematerialised world that you referred to.

I think to the extent that we are part of that, and HMRC, alongside HM Treasury, are participating, the discussions have continued to be on the basis that we should be seeking to tax the profits of businesses rather than seeking to tax their turnover, and that is the debate in which we are engaged at the moment. Already you have seen the actions out of the BEPS work, and we expect to continue to make progress, to continue to tax and allocate the taxing rights on the profits of businesses worldwide, because these businesses will continue to exist and they will continue to make profits. It should be within the wit of man to find ways of ensuring those profits are effectively captured and taxed.

Q84 Mr McFadden: It is within the wit of man, but the question is whether people's interests coincide. Are you optimistic that the 44 countries participating in the process that you have described will set aside their individual interest to make sure that these multinational companies will be taxed worldwide?

Edward Troup: I hope that in a sense there will be a collective agreement on this, but to the extent that the debate is about profits that are currently not taxed in any of those jurisdictions, there should be a collective interest to ensure that profits that are currently untaxed in one way or another end up being taxed in one of those countries.

Q85 Mr McFadden: That is one issue, but the other issue is shifting profits that are in fact generated in one country to another country purely for tax purposes because the corporation tax is lower.

Edward Troup: To the extent that profits are shifted between two countries which participate in the OECD transfer pricing guidelines, then the existing guidelines effectively should allow those countries to sort out where those profits should be taxed. To the extent those profits have shifted to a jurisdiction outside the tax circuit, if you like, to a low tax jurisdiction elsewhere, hopefully the participating countries will find a methodology to ensure that more of those profits are taxed onshore.

Q86 Mr McFadden: Can I ask you about a different aspect of this, which is closer to home: the prospect of differential tax rates within the UK, which has been raised by the Scottish referendum result and the different promises made by the three UK supporting political parties? The Government published a document yesterday which set out the different parties' proposals. Not all the parties are saying the same thing; they are saying different things about different taxes, but, for example, income tax is mentioned, inheritance tax, capital gains tax, air passenger duty, and we saw the announcement from the Scottish Government last week on differential stamp duty on property sales north of the border. How well equipped is HMRC to cope with—I do not know if all of those will end up going forward—a mixture that looks something like that being devolved to the Scottish Administration?

Edward Troup: I am the accounting officer for the Scotland Act implementation in HMRC, so I have a specific responsibility within the department for Scotland and obviously have been extremely closely involved, or at least observing, because in a sense we are not directly involved in the Smith Commission process in where this is going. I can reassure you that we are worried and looking at it, in the sense of worrying about what risks and issues would arise under different proposals. We are already devolving—

Q87 Mr McFadden: Why are you worried?

Edward Troup: Sorry, worried in the sense that we are worrying about exactly the questions you raise: what would the implications be, what would the risks be for us, how would we manage it? In other words: worrying in the sense of worrying away at something, rather than sitting with some huge worry, although there would clearly be resource implications. We are already implementing the Scottish rate of income tax under the Scotland Act 2012 and that comes in April 2016, and that itself is quite a significant change, because we will need to identify Scottish taxpayers separate from English taxpayers under the existing devolution proposals. We have a process and we have a team, and they are working closely with Revenue Scotland to keep them up to speed with what we are doing on the Scottish rate of income tax. I have appeared before the Public Audit Committee and the Finance Committee for the Scottish Government to take them through where we are going. We have thought it through, obviously, because we are now implementing the Scotland Act changes. We are also working with Revenue Scotland on the land and buildings transaction tax and landfill tax, which will be switched off in Scotland for HMRC purposes and switched on in Scotland by Revenue Scotland from April next year.

So the devolution process we have not yet had to do at the scale implied by some of those proposals, but we have been able to work through some of the implications of devolution on a relatively small scale in the Scotland Act. If those proposals or any of those proposals were to see fruition, it clearly could be a far more substantial change to our responsibilities, and there would be an overarching question as to whether HMRC would continue to administer, let us say, a devolved income tax on behalf of the Scottish Government and account for revenues to the Scottish Government, or whether the administration of a devolved income tax would become the responsibility of Revenue Scotland. Both of those would be big choices with big implications for HMRC and obviously for Revenue Scotland. That is the sort of thing I am worrying about, in the sense of thinking about.

Some of the lesser taxes, as we have already seen with landfill tax and the stamp duty tax, are easier to transfer and Revenue Scotland are indeed taking those on. I do not want to speculate on what we would do. Clearly there will be tax collection in Scotland, whatever happens, and you can foresee quite a number of different permutations whereby that would take place. I hope that the process whereby devolution proposals are announced—and I expect that they will fully involve us as well as the Scottish Government and Revenue Scotland. But if I am worrying, I am worrying about the fact that we will almost certainly need to put some additional resource into this, however it works.

Q88 Mr McFadden: This is going to move pretty quickly. The timetable that the Government has set out was described by the Scottish Secretary yesterday as—I cannot remember the exact word—but challenging or demanding or something along those lines. We are expecting firmer proposals by the end of November, possibly with legislation next year. If I could slightly switch it around, rather than asking you for the answers, the politicians are moving into this field quite quickly themselves. What would be your advice as a senior civil servant for things that they should think about when considering the devolution of some of the taxes that I have mentioned—inheritance tax, capital gains, air passenger duty—that they may not have thought of, because already in this debate I think there have been some announcements made without thinking through the consequences.

Edward Troup: I think, sitting here on behalf of HMRC—and to a certain extent, I do not want to suggest that other parts of the tax administration are as creaky as PAYE, but by definition, tax administration lags because it is introduced and then taxes change. I would not take too much of any part of the administration of the tax system for granted, in the sense there are quite a lot of aspects of the tax system where our depth of knowledge over time makes it work very effectively, but if you look at the underlying structure, you might say, "That is not what I would introduce as a structure for the administration of tax in the 21st century". If you are going to devolve any tax or any part of any tax, I would encourage a close scrutiny of quite how fit for purpose the underlying administrative machinery is and checking before you make any decisions that it can be easily transferred.

Now, landfill tax, which is being devolved, is a very new tax. It is 10 or 15 years old and has a very small number of taxpayers, because it is basically landfill operators and so it is very easy to transfer—or relatively easy—across. I do not want to pick on any of the other taxes and say that they are more difficult, but clearly if Revenue Scotland chose to set up a new PAYE system, that would be quite an undertaking and we would probably want to start all over again, because they probably would not want to take our PAYE system as it stood, or if they did, it would have very serious implications. I think my advice would be, do not take the success that we have in collecting tax as an indication that everything is completely fine and you can just take that chunk of tax collection and give it to someone else, because we work very hard to make the system work in a number of places.

Mr McFadden: Thank you.

Q89 Steve Baker: Good morning.

Edward Troup: Morning.

Steve Baker: I am sure you will remember me: 2011, the Committee setting out six principles of tax policy.

Edward Troup: I have them here.

Steve Baker: Marvellous, but I am sure, then, you will be able to answer this one: to what extent in fulfilling your role are you influenced by those principles?

Edward Troup: Can I turn to them, because I did take the trouble of looking at them? In a sense, these are good principles and they are abiding principles and they move on from Adam Smith's four principles, but obviously embed a lot of them within them, which is both understandable and right. I think if I had to pick two of them out, I would probably, obviously, pick the ones most related to tax administration. I would say certainty and practicality: practicability in the sense of our core responsibility as administrators to make sure—and it comes back the tax assurance role—that taxpayers know that they will be dealt with consistently and in a way that is practicable, and that the administrative burdens are reduced. I think those should be first and foremost in the way a tax administration works.

I would also, in my own role, pick out your first one, which is the slightly difficult word "fair"; difficult because it is obviously an extremely subjective word and it clearly goes as much or probably more to the policy as it does to the administration. But I do think that a tax administration has a responsibility to be seen to be fair, which comes back to my own role and the need for the department to be seen to be even-handed. That is not just even-handed between one large business and another; it is ensuring that the administration of the tax is seen to be as fair for the small business, for the pensioner, as it is for the large business. That is quite a difficult challenge for us, because we quite rightly put up more resources where we have the bigger risks, and the bigger risks are with the bigger taxpayers, and those tend to be the larger businesses. That means we have less relative resource for the smaller taxpayers and—

Q90 Steve Baker: Forgive me for interrupting, but you have opened up a great vista there and I did want to explore some particular areas. Particularly on fairness, people come to see me or in a public meeting and they will express dismay about the situation in relation to the taxation of large businesses; particularly underlying that dismay is a sense that corporate power has captured the state. What will you say to my constituents, all our constituents, when they fear that corporate power has captured the state, and in particular bearing in mind that earlier you talked about doing a deal with big businesses?

Edward Troup: No, I never used those words.

Q91 Steve Baker: You used "doing a deal". I wrote it down as you said it with quotes around it and I would be very glad to look at the transcript. I am certain that you did in passing, in answer to, I think, the Chairman.

Edward Troup: Okay, I would like to go back and do that because I am very careful not to use that word and if the Chairman caught me in an unguarded moment, I will correct myself. Sorry, yes. Do you want me to answer that?

Q92 Steve Baker: Please answer the question. What should I be saying to my constituents who are concerned that corporate power has captured the tax system?

Edward Troup: I am sorry that your constituents cannot meet some of our case workers who deal with large business, and their determination and commitment to get the right amount of tax out of large businesses. These people are passionate about their jobs, and really put more than their sort of working hours required into chasing down activities, schemes, arrangements that they regard as dodgy or aggressive or just contrary to the law. I would also like your constituent to come and sit in some of the meetings I chair—sorry, I am not offering this; I would like them to be able to—and to see how we look at these proposals for settlements, which are absolutely not deals; how we cross-examine the case workers to see that effectively they are really satisfied that the settlement proposal is consistent with the law; how we always, always ask and check that they have pursued the question of penalties as far as the law permits them to.

I think in a sense it comes back to the opening questions by the Chairman. I am not saying it would be a good thing for me to release the confidential details of some of these cases, but if I did, there would be a lot of downside, but I think it would reassure your constituents, if it did nothing else, that we really are being tough on large business.

Having said that, I complete recognise what your constituents feel and it will, I think, take a long time, and it is taking a long time, for us to erase the perception from some unfortunate and largely misrepresented actions several years ago that somehow this is how we work with large business, because it is absolutely not the case.

Q93 Steve Baker: Thank you. I want to go on to certainty, but could you just give me a couple of examples of where you have changed the system in order to make sure it is demonstrably fairer?

Edward Troup: When you say "the system", no, because the system is the policy, and that is the responsibility of the Treasury and Ministers.

Steve Baker: The administration of it.

Edward Troup: What have we done to make the administration fairer? I think in a sense what I am doing, what my role as the Tax Assurance Commissioner involves, which is ensuring that there is no one rule here, one rule there—that is what I am doing, as recorded in my report, through our review of settled cases across the department, and that is geographical as well as business types, to make sure that we are settling cases in a consistent way wherever you are and whoever you are. That does underpin the fairness of the tax administration and it is what I am doing.

Q94 Steve Baker: Is it a problem that it is very easy for the media to report scandals and dangers to the community, whereas it is very much more difficult for them to report the diligent work day by day of—

Edward Troup: Absolutely, absolutely. We have 45 million taxpayer customers. You would not believe me if I sat here and said, "We never make mistakes", and a mistake is always more newsworthy than the 35 million taxpayers we get right through PAYE in year.

Q95 Steve Baker: Turning to certainty, which was the first one that you mentioned, in virtually all circumstances, the principle is that the application of the tax rules should be certain. In your view, has the application of the tax rules become more or less certain over the past three or four years?

Edward Troup: I am not sure I can sort of do a time study, because certainty is a combination of a perception of the law and the actual application of the law. Coming back to the point about fragmented businesses, new business models have created uncertainty in the application of the law, the cause of which takes a bit of time to work through. I would like to think—in a sense, I do not want to repeat myself in terms of describing what I do—that what we are doing is creating a greater degree of certainty. The litigation and settlement strategy, people may not have liked it, but it sure as hell gave certainty, because if you are not going to settle for what the law says, then we will not settle.

Q96 Steve Baker: On this point, I draw your attention to an exchange I had with Lin Homer, where I was asking her about discretion. She said, "We would not want to be managing a system that was based on discretion, not least to ensure consistency in a system as big as ours, but I think by its nature, there are complexities in our system that require judgment". In the administration of the tax system, do you think the degree of judgment that is required is becoming greater because there is more uncertainty, or do you think that degree of judgment required is diminishing because the tax system is becoming more certain?

Edward Troup: I think more judgment is required, but not specifically linked to the tax system, but to the complexity and variety of businesses and activities, the multiplicity of employments. The sort of judgments that staff in HMRC have to take are judgments as to what questions to ask, which cases to pursue, when effectively to feel that you have enough information from the taxpayer to be able to sit down and say, "Right, okay. I am happy with those facts. Let us sit down and work out how the law applies to them". I think the need for that judgment and the need for case workers across the department to realise that it is part of their job to make those judgments, to make the tax system work fairly and with certainty, is really important. I think the need for that judgment is increasing, but I would not link it specifically to the tax system becoming more complicated. The world has become more complicated; the tax system has changed and has become more complicated.

Q97 Steve Baker: So this nexus of problems, the world becoming more complex—the tax system becoming more complex—is the fundamental reason why your job is necessary at all, your current role?

Edward Troup: I think it has made it more necessary. I think there is also something about transparency, and I have not used the word "transparency". Confidentiality restricts our transparency, but transparency is something that quite rightly, taxpayers, voters, expect from public bodies and public administrations. Tax-raising is a very sensitive element, but it does not mean we are excused from transparency. I think that what I am here for and what we want to achieve is greater transparency about how we work without disclosing the details of what we are doing. Yes, it does link to my role.

Q98 Steve Baker: If I may turn specifically to retrospection, this Committee recommended to the Government that it should restrict its use of retrospection to wholly exceptional circumstances. Now, earlier in the year, Frank Haskew of the Institute of Chartered Accountants in England and Wales told us that the Government was not abiding by that recommendation. Do you agree with his assessment?

Edward Troup: It is an assessment about the Government, and I am not going to give any views on what the Government is or is not doing. I am not aware of any instance where the Government, or indeed we, in applying the law, have done so retrospectively, which has not been very clearly signalled by Ministers as part of a policy change.

Q99 Steve Baker: I think of two cases in particular: the No To Retro campaign around consultants who use double taxation with Jersey and all the rest of it, and the partnership scheme around films. With both there has been this complaint that the judgment made by HMRC has been retrospective. Do you accept that that has been retrospective, and more particularly that that retrospection is a consequence of the administration of the tax system?

Edward Troup: I think I would turn it around slightly and say that if in the course of our investigations we come across a set of circumstances relating to a number of taxpayers and we discover new facts that we did not know previously and then seek to apply those facts in a way that is consistent with the law to stop an avoidance scheme or just to collect tax to arrangements that are already in place, I think not to do that would be failing in our job to collect and administer tax. If the taxpayers affected say, "Hold on, last year you were happy with this and now you say you are not", and if the reason we have changed our view is that we have more information and we have new facts, or indeed we have been told that the legal position is slightly different from what we understood, then I am sorry, I think that is what we should do. I am failing your constituents if I say, "I am really sorry, I told these people it was all right, and I have now discovered new facts that say I should have collected tax. I am not going to collect tax." I could not justify that.

Q100 Steve Baker: Okay. To be absolutely clear, for you the deciding factor is whether new facts have come to light?

Edward Troup: I would not say "deciding factor" because you always have to look at the individual case, and we do look at cases individually, although we need to look at them consistently. We have to look at them in the light of the information and the law that the case worker has to hand. I am not saying that every two case workers will come to exactly the same judgment as to whether to ask for more information, and sometimes not even on interpretation of fine points of law. I would not say those are the only circumstances, but normally, that would be a significant number of—

Q101 Steve Baker: If I could just wrap up mine with a couple of questions about governance, how do you ensure that the lessons of experience in all of your work are fed back into strategy and policy?

Edward Troup: That is an extremely good question and it is a very challenging question for an organisation of professionals, whom we do give judgment, we do give them the responsibility of exercising their judgment and doing their jobs across the department. However, there is a great deal of sharing across the department, there are a great number of boards, there are a great number of groups dealing with similar areas who do exchange knowledge and learning, and indeed, some of our most successful work has been through bringing together people. I would cite, for instance, employee benefit trusts, where we pulled together cases from across the department to challenge the abuse of employee benefit trusts in a consistent way, but I think the important question for me is—and it is a challenge to take away—how can we always improve our learning, how can we always keep capturing what comes out and share it across? In an organisation of this size it is never going to be perfect, but it is always something you should be worrying about and improving.

Q102 Steve Baker: Thank you. Just finally, HMRC's latest annual report explains that the Executive Committee's Tax Sub-Committee, which you chaired, has been abolished. Are the new arrangements for the escalation of tax issues to the Executive Committee an improvement?

Edward Troup: I think so. I inherited from my predecessor the Tax Committee, which proved to be a bit of a rag-bag of odd questions that could not find another home, because in a sense everything we do, apart from tax credits, is about tax, so it is a bit odd having a tax committee, because in a sense we are a tax organisation. I found that the only substantive issues that were coming to the Tax Committee—there were issues around people and skills, which have now gone to my Tax Academy team—were some issues around specific cross-cutting avoidance and other cases, which needed central resolution. Those are dealt with now under the issues part of the tax disputes resolution process, as described in my report. That really left the Tax Committee with no specific responsibilities. As I say, I think conceptually, I would much rather feel that the Executive Committee felt it was the Tax Committee, and if there was anything that did not have a home in our governance and our processes, the Executive Committee should be taking it up, because it implies that it was so big and so important that it related to the whole of the department.

Q103 Steve Baker: It sounds like that is a very clear yes that this is a more satisfactory forum.

Edward Troup: I believe it is more satisfactory and I am glad I have had a chance to explain it.

Steve Baker: Thank you very much.

Q104 Chair: We have been going just over an hour and a half and I hope we will not need to detain you longer, but I have a few more points I wanted to raise with you, Mr Troup. Just picking up on some points raised there by my colleague, you would agree that the tax system is more complex?

Edward Troup: The world has become more complex and the tax system has changed with it, yes.

Q105 Chair: Yes, the tax system is more complex. You would agree too, wouldn't you, that complexity increases opportunities for tax avoidance?

Edward Troup: I would agree you also need to adapt the tax system to make sure that we counter those, yes, but the more different bits in the tax system, the more opportunities, the more gaps there are and the greater the need to patrol those gaps.

Q106 Chair: Yes. I was just asking the question: it creates more opportunities for tax avoidance?

Edward Troup: Yes.

Chair: You were answering it by saying, "It creates more opportunities for tax avoidance and of course more opportunities for us to plug them".

Edward Troup: I was more saying we are alive to that and we are, I think, countering any new gaps faster than they are being created.

Q107 Chair: I realise your reluctance to get drawn into policy, which is an area that you have worked on for much of your life, but which isn't now your primary responsibility in your new role, but isn't the obvious solution to complexity simplification?

Edward Troup: I do not want to get drawn into this too much, but I am still going to answer the question. There is a lot made of complexity, but every element of the tax system that is described as complexity has some justification or explanation. That is either a policy justification because Ministers want to pursue a particular objective—which, as an elected Government, they are obviously there to do—or it is an objective to deal with a new business type, a new kind of activity, and if the tax system did not adapt to new kinds of activity, that could just as much create gaps as adapting and creating those new sets of rules for new business types, new kinds of activities. I do not think that it automatically follows that simplifying the tax system removes or reduces the opportunities for avoidance. It may eliminate some specific ones, but very often it will create different ones.

Q108 Chair: Maybe that is a subject that we will explore on another occasion, because your answer opens up a lot of—

Edward Troup: If I can very briefly say, if you consider how the world would work if we did not tax benefits in kind and what sort of abuse there would be, it is quite interesting to say, "The benefits in kind legislation is extremely complex and creates all sorts of problems", and I think taking those two worlds together and comparing the drafts—

Q109 Chair: Simplification may lie not at the level of trying to work out how to maintain a particular schedule in the direct tax system, but may lie at the balance between direct and indirect tax.

Edward Troup: It might do.

Q110 Chair: You have said that it is very important that people have confidence in the Revenue in order to collect, in order to secure the yield today. The HMRC are seeking the power for direct recovery of debt from individuals' bank accounts. Do you think that will increase people's confidence in HMRC?

Edward Troup: I am afraid I am not going to go into that in great detail. We have just finished the consultation on that and decisions will be taken in due course. I know you had a good discussion with Lin on this in July and then maybe—

Q111 Chair: There is considerable concern in this Committee about this.

Edward Troup: Absolutely, no, and I understood that and I read the transcript.

Chair: To put it mildly.

Edward Troup: Yes, I understood that. I understand that.

Q112 Chair: That was, without doubt, the shortest reply you have given today.

Edward Troup: I am looking at my watch.

Chair: Is there anything else you would like to add on that point?

Edward Troup: I have nothing to add.

Q113 Chair: Okay. We might come back to that one another time. I have one more question I want to ask you. You are in a relatively new role and it is a relatively new thing for this Committee to be scrutinising taxation and getting involved in tax policy. You were just answering questions a moment ago on a paper specifically about tax policy. I have been on this Committee on and off for a long time, going back many years, and if you look back at the Committee, you will find that very little was done. How should Parliament go about scrutinising HMRC and tax—this is a relatively new area: the PAC has been active, we are active—beyond looking at the administration? Given your long experience in the area, what thoughts do you have for us on that?

Edward Troup: Interestingly, if I may digress very slightly, I think I first appeared before this Committee in 1999 to talk about whether Inland Revenue and Customs & Excise should be merged, so it is quite—

Chair: You gave some good advice, as I recall, which was ignored a few years ago.

Edward Troup: It is very nice to be back here, having seen that we have a good and effective single tax administration. I do not think it is for me to tell you how to do your job, but I think if I was honest—

Chair: But I am inviting you to do exactly that.

Edward Troup: Yes, I know. I think what I would say is first of all, it is very important that there is a parliamentary scrutiny of what we do. Parliament has entrusted with us, the seven commissioners in HMRC, the responsibility for collection and management of tax and it is really important that we are held to account to that. We are in a general way answerable to Ministers and clearly we are very much a Chancellor-led department, but we are subject to only general directions from the Chancellor and we are answerable through our accounting officer to Parliament. I think what I would ask is this question of any parliamentary scrutiny: what makes it effective? What would make scrutiny effective?

I think effective scrutiny for us doing our job is scrutiny and questions that we can take away and say, “That is a good point. We need to do something about that”, and I can go and talk to whichever of my 60,000 colleagues it is and say, “They have raised some good points. We have not performed as well as we should have done. We have not demonstrated the confidence or the fairness” or whatever it is we are being asked to do, “sufficiently. We need to do something about it”, and I can find something to do. I think effective scrutiny is something that holds us to what we are committed to and helps us improve the way we work. I think less effective scrutiny is where we sit before a committee, we defend some point that is not anything to do with us, but in our case, let us say it is about policy, and our reaction when we go back to our home base is to just think up more defensive lines and not to do anything to change the department, because there is nothing we can do. I would put that test out.

If I could just make one more point, because I do not need to remind you of this, I am sitting here as the sort of representative of an awful lot of people behind me—I do not mean physically behind me—in the department, and I think for those people, who by and large are really committed to what they are doing, it can be very dispiriting to see a parliamentary committee beating up their representative about something that he or she cannot then go back to the department and say, “Look, we have to do something about this”. I would see effectiveness of your Committee being tested by what I can do with it or Lin can do with it in going back to the department. Is that helpful?

Q114 Chair: It is an interesting set of remarks. Have we been beating you up today?

Edward Troup: No. I think this has been very fair challenge and I have taken some good points, particularly about what I should do to provide more evidence, and in a sense I will take them back to colleagues because they are points that bother me anyway. So I think you have reminded me of the responsibility I have and the need to satisfy you and, through you, the public on this.

Chair: I expect we will be seeing more of you in the months and years ahead. Thank you very much indeed for your initial set of evidence in your new job.

Edward Troup: Not at all. Thank you very much.