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## British Tax Review

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### Self assessment: revenue authorities v. taxpayers: a state of conflict?

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**Subject:** Tax

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**\*B.T.R. 272** THE purpose of this article is to examine the change in our tax system to self assessment, discussing whether it moves us closer to an "ideal" tax system thereby reducing conflict in the relationship between taxpayer and Revenue.

#### The relationship between taxpayer and tax authorities--does conflict exist?

The relationship between the Revenue and the taxpayer in any tax system may be defined as one of conflict, fundamental and operational. Fundamental conflict is based on the premise that there must be conflict between revenue raising authorities (who wish to maximise the revenue received) and taxpaying individuals (who will wish to minimise what they pay). Operational conflict is based on how the tax system is operated in practice. However, this clear over-simplification ignores the type of tax system we have in the United Kingdom, its effect on taxpayer behaviour and the extent to which taxpayers understand the purpose of taxation in a well-ordered society.

At one end of the spectrum there is an ideal system where revenue raising authorities and taxpayers work in concert to uphold the implementation of tax legislation and goal congruence exists. At the other there is a nightmare scenario where evasion is endemic and rife and there is open warfare between revenue raising authorities and taxpayer. Although neither of these scenarios exists in the United Kingdom, as a generalisation about our tax system, the latter can be seen in some countries--Italy would be a popular choice where it has been stated that '[evasion] is regarded as a moral duty'.<sup>1</sup> No obvious candidates emerge for the former scenario! Therefore it appears that there will always be a certain level of fundamental conflict within any tax system.

The United Kingdom has now taken the same step as many other countries and has introduced self assessment for a significant minority of the taxpaying public, with possible plans to extend this, amidst some fears that levels of tax evasion will increase. It can be wondered at that taxpayers comply at all in paying taxes and that significant levels of under-reporting of income should abound. However, research in countries that have had self assessment for many years now has shown that the "compliance puzzle" cannot be totally explained and that many factors influence a taxpayer's decision to pay. J. Alm (1991)<sup>2</sup> on the self assessment system in the U.S.A. concluded that the threat of detection and punishment were major factors but also that the use of tax revenues in the provision of public goods was significant in getting taxpayers to contribute to their financing. (He also acknowledged that more research was required into theories of behaviour suggested by psychologists, sociologists and anthropologists.)

We do not have a system of hypothecated taxes in the United Kingdom yet there are **\*B.T.R. 273** only isolated incidences of taxpayers withholding a proportion of their due tax because, for example, they do not approve of defence spending. It is notoriously difficult to determine levels of under-reporting of tax liabilities. A comprehensive review was carried out by P. Baker (1993)<sup>3</sup> which suggested that, on average, self-employed incomes had to be multiplied by a factor in the range of 1.2 to 1.5 to give true incomes. This would suggest then that there is a significant minority of taxpayers who do evade tax to a lesser or greater extent but it would be fair to say that the United Kingdom public do not tend to revolt against taxation *per se*. There have been notable exceptions to this social norm of behaviour though with the Community Charge (also known as the Poll Tax) in recent history (and in the 14th century which nearly had the same effect on the effective leadership of this country as it did in 1990); the hearth tax in the 17th century; and the window tax in the 18th century. The latter two taxes were easily and widely evaded and were both ultimately abolished. Clearly then, it is not just raising of any tax for the public good that leads to the acceptance of a particular tax and that certain factors will influence acceptance and compliance.

Self assessment could be said to be necessary because the adversarial features of our previous system of taxing the self-employed exacerbated conflict in the tax system. This involved an almost ritual round of the Revenue raising unrealistically high estimated assessments to prompt taxpayer action with the inevitable appeals and postponement process which followed. The taxpayer and Revenue were “at war” until the protracted negotiations were complete and the appeal determined. This system drove a basis of assessment of taxing prior years' profits, which was considered to be confusing for taxpayers, increasing the level of conflict.

### **Can self assessment influence behaviour so as to minimise any conflict that exists between the revenue authorities on the one hand and the taxpayer on the other?**

It would be expected that a tax system planned bearing in mind the established criteria for an “ideal” tax system would minimise the conflict that exists between the tax raising authorities and the taxpayer. The introduction of self assessment was an opportunity to move in some way closer to an “ideal” tax system.

As long ago as 1776 Adam Smith<sup>4</sup> proposed the four canons of taxation of equity, certainty, convenience and efficiency with which we are all familiar. A century or so later Joseph Stiglitz (1988)<sup>5</sup> was to ask, “are there not some simple principles, some unambiguous principles by which we can evaluate alternative tax systems?” In answer to his own question Stiglitz suggested there were five desirable characteristics: economic efficiency, administrative simplicity, flexibility, political accountability and fairness.

These two sets of criteria have a great deal in common, both recommending to us the importance of equity or fairness and economic efficiency. While the canons refer to convenience, Stiglitz talks about administrative simplicity, and certainty, as described by Adam Smith, appears to fit neatly under the political accountability umbrella. Stiglitz's desirable characteristics merely seem to have extended the canons of a time gone by to include political accountability and flexibility.

**\*B.T.R. 274** Both intervening and subsequent articles concerned with an “ideal” tax system concentrate to a greater or lesser extent on the qualities outlined by Adam Smith and Joseph Stiglitz. We shall accept these qualities as being the basis of an “ideal” tax system.

### **Self assessment--the objectives**

Ann Robinson and Cedric Sandford (1983)<sup>6</sup> and John Tiley<sup>7</sup> amongst others have analysed the history and motivations for various changes to the United Kingdom tax system. It would appear that the primary goal of raising tax revenues is not the reason for long-term changes in the system of taxation. Instead the changes are to fulfil other political motivations. Robinson and Sandford have argued that the Labour Party was concerned with equity or fairness criteria whereas the Conservative Party was more concerned with economic and administrative efficiency.<sup>8</sup> Therefore, at least it is clear that there is serious recognition of the key characteristics of equity and administrative simplicity when formulating tax policy. Achievement of certainty appears to be left to the Revenue to implement the practice and provide advice to Ministers to produce, ultimately, an acceptable Finance Act.

James Callaghan said, when introducing capital gains tax in the 1960s, it was primarily to “provide a background of equity and fair play.” However, John Major also had equity in mind when he abolished composite rate tax for 14 million taxpayers affected by the introduction of independent taxation.

As can be seen from the above, it would be fair to say that the distinctiveness of the political parties' standpoints has mellowed in recent years but there does still remain some of the political polarity as detailed in 1983 by Sandford and Robinson.<sup>9</sup> Thus it comes as no great surprise with the Conservative Party's overall interest in administrative efficiency that the foundations of self assessment were laid by them. In August 1991 the Revenue published a consultative document entitled “A Simpler System For Taxing The Self-Employed” with Norman Lamont, the then Chancellor of the Exchequer stating change was needed as “we still have a system for taxing the self employed which is complex for taxpayers to understand, and difficult for the Revenue to administer.”<sup>10</sup>

The objectives for the taxation of the self-employed outlined in this consultative document were to:

- 1 make the system easier for taxpayers to understand
- 2 make the system simpler and more efficient for both taxpayers and the Revenue to administer

3 make it possible for the Revenue normally to accept the accounts without further correspondence

4 make it possible for taxpayers normally to pay the right amount of tax at the right time without Revenue intervention

5 open up the way for further reforms to simplify, unify and improve the system of personal taxation.<sup>11</sup>

**\*B.T.R. 275** The rationale behind self assessment as stated appears on first appraisal to encompass many of the criteria suggested as being necessary for an “ideal” tax system. A simpler more understandable tax system would result in increased certainty with respect to the manner and timing of tax payment. The possibility of tax liabilities being determined by the taxpayer with minimum correspondence should increase dramatically the administrative efficiency both in terms of cost of collection for the Revenue and compliance costs for the taxpayer.

A simpler tax system would result in a more equitable system. The layman would not be disadvantaged as the tax expert would not be able to gain an unfair advantage by benefiting from loopholes in the complex legislation thus avoiding tax payments. Proponents of self assessment comment that as the system is more transparent and understandable so it will become more politically accountable as the average taxpayer will be able to participate in the debate on future tax changes.

Underlying the objectives outlined above was the very basic tenet that the tax system for the self-employed should become less adversarial. It was hoped that this could be achieved by removing the need for estimated assessments, the inevitable appeals and thus stripping the system of the operational conflict that had long existed.

From analysing the original objectives of self assessment perhaps we can say that we have arrived at an ideal system for minimising conflict. However we think it is only reasonable to suggest that the narrow remit of self assessment could not achieve all the above aims by itself; also necessary in the simplification of the tax system is the rewriting of the tax legislation and the abandonment of the preceding year basis (PYB).

### **Self assessment--the proposals**

It should not be forgotten that it was in fact the Revenue that published the Consultative Document outlining “A Simpler System for Taxing the Self-Employed”. Therefore although the motivation for the legislation came from a sound ideological stance the details of how the “simpler system” should be introduced were at first determined by the Revenue in consultation with the Treasury. As noted by Robinson and Sandford<sup>12</sup> the Revenue is predominantly a revenue raising body with only a small research function and so is generally concerned with practical matters and the feasibility of operation preferring incremental changes to the tax system.

This may explain why although the original consultative document explored many options it could be accused of not being as even-handed as its stated intent. For example, though representations were requested for both the current year (CY) and accounting period (AP) as bases of assessment, the summaries of their key features could be accused of being more negative towards the AP basis by highlighting the disadvantages.<sup>13</sup> A change to a CY basis of assessment would obviously not be such a dramatic change as a movement to the AP basis.

**\*B.T.R. 276** The original consultative document strangely provided the taxpayers with the opportunity to submit their tax return to the Revenue before the final filing date so that the Revenue could calculate the tax payable. These provisions would undoubtedly assist taxpayers who have as yet a limited knowledge of the tax system. But we would suggest that if taxpayers found this route attractive the system would not be self assessment but self declaration.

Despite the Consultative Documents' ambitions for the removal of the adversarial features of the tax system it recognised the fact that an “ideal” system is perhaps untenable. The document makes a number of provisions to deter potential tax evasion, increasing the power of the Revenue during tax investigations, introducing the threat of a random audit and a system of penalties and fines should it be discovered that the right amount of tax had not been paid at the right time. The document justifies these provisions as they ensure the tax system operates fairly for the vast majority of taxpayers who do pay the right tax due on a timely basis. But it must be stated that some of these provisions, particularly those increasing the power of the Revenue, appear to be increasing the potential for conflict between the revenue raising authorities and the taxpayer.

Therefore it can be seen that initial objectives appear to have been modified by the need to operate a system in practice. In fact, in retrospect, the objectives set out in the original consultative document do not appear to be capable of being met by the detailed proposals that followed. This begs the question of the existence of a hidden agenda which is dealt with later in this article (see below under Self assessment--the real objectives).

Following the issue of the consultative document, the consultation process began in earnest. The second Consultative Document "A Simpler System For Assessing Personal Tax" was issued in November 1992 having taken into consideration responses from individual taxpayers, tax advisers and bodies representing the self-employed and their advisers. The responses appear to recognise the need for a change to the system (with the basic ideas and objectives remaining unchallenged) but appear concerned with two issues. First the responses are practically based trying to establish ground rules for how the system will operate in practice<sup>14</sup> and second concerned that the system should be simplified. Thus there was broad basic agreement that all forms of income not covered by PAYE should be brought together in one tax return, hence the change in the title of the second consultative document and the expansion of the remit to all taxpayers with untaxed income.

### **Self assessment--in operation**

The new system, although originally titled "A Simpler System for Taxing the Self-Employed" quickly became known as "Self Assessment" in Revenue publicity. Was this an early acknowledgment that simplification was not tenable?

In fact the legislation centres on the change from PYB to CY, the operation of self assessment itself and the increased power of the Revenue. There were very few changes from the second consultative document to the final legislation except for the final filing date and the introduction of the complex rules of commencement for a business.

Simplification does in fact appear to have been delayed with the promised re-write of legislation seemingly still a long way off. So what of the system we actually have--how far does that go to meet the criteria of an "ideal" system? We will concentrate on the *\*B.T.R. 277* characteristics of administrative simplicity, certainty and equity as these are the more relevant when considering self assessment.

### **Administrative simplicity and certainty**

Despite the process of consultation and the re-emergence of topics scarcely considered in the second consultative document,<sup>15</sup> the CY basis implemented has thrown up some very real problems.

The CY basis is confusing to new and untrained taxpayers who would have more readily understood paying tax on a fiscal year basis.<sup>16</sup> This is not revolutionary; Australia has operated a mandatory fiscal year basis under its self assessment system for some time now and this should make the system simpler for taxpayers to understand. The CY basis does not ease self assessment nor do the new commencement rules introduced (as the Revenue drew back from giving a tax holiday to new businesses that did not have a 12-month accounting period at commencement). Therefore, we still have complications with adjustments to opening and closing years as well as complications arising from the transitional period.<sup>17</sup> These new rules, established after the period of consultation, are out of line with the original objectives. They do, however, have the benefit of accelerating the cash flows from tax revenues for the Treasury as discussed later in this article.

Self assessment now involves the taxpayer submitting a tax return (received in April) by September 30, or January 31, depending on who is calculating the tax liability. The tax liability, based on the completed return, is collected in three parts, the first two each being half the previous year's liability and the final payment due on January 31 following the tax year. Although statements of payments due are issued there is no need for the issue of assessments. Regardless of who calculates the tax, the computation is intended to be based on the taxpayer's figures. There is no necessity to include accounts or separate computations with the return being capable of submission electronically. This system appears to be simpler administratively.

However, the practice has created numerous problems for taxpayers and their advisers. Part of this is due to the tax return and tax calculations sheets themselves (now under review), clearing a backlog from previous years, inconsistent practices at the Revenue through ad hoc policy decisions and their reversal in some cases.<sup>18</sup> Add to this a reorganisation of the Revenue's offices to create Tax Service

Offices (TSOs) and Tax District Offices (TDOs), planned reduction in staff levels<sup>19</sup> and inconsistent training of Revenue staff<sup>20</sup> and it is of little surprise that problems have arisen.

**\*B.T.R. 278** The reorganisation of the Revenue's offices was done to create TSOs to assist taxpayers complete the administrative aspect of tax returns and operate the Revenue's telephone helpline. This is the friendly face the Revenue were promoting via Hector to help the image that taxpayer and Revenue were working together. However, no interpretation of tax legislation is available and assistance from TSOs is no guarantee that TDOs, set up to be the investigative arm, will accept the tax return as accurate.

Taxpayers are not familiar with how TSOs and TDOs now operate. The previous system was at least certain after the assessment and appeals process had run its course; once the appeal was held and determined, that was generally the end of the matter. Under self assessment, the tax return completed by the taxpayer, with limited assistance from TSOs, may be selected within 12 months of the filing date for further investigation with the potential for more tax payable, penalties and charges. No reason need be given. This could be acceptable under a clearer tax code, which was one of the original objectives for simplification. This situation of no real advice from TSOs, and TDOs waiting to wield their investigative powers, is exacerbated by the loss of proposals for pre- and post-transaction rulings.

Could these difficulties have been foreseen? The Revenue conducted some trials<sup>21</sup> of the new system in preparation for its implementation. The results of the 1995 trial showed 94 per cent of returns were processed without recourse to the taxpayer but this did not mean without correction as only 63 per cent required no amendment. The majority of the returns in the trial were submitted by September 30, (49 per cent) and a further 30 per cent were submitted by January 31. 79 per cent of returns were submitted by the deadline of January 31, which compared favourably with the normal expectation of 65-70 per cent returned on time under what was the existing system. The message was that self assessment was performing better than predicted. This did not necessarily mean the right amount of tax as long as it was at the right time. This could again be seen to be a shrewd move by the Government to increase their cash flow at a time when they had been through a period of high set-up costs for a new system.<sup>22</sup>

## Equity

The extent to which equity in our tax system existed before and after self assessment has not altered in any material way. Our underlying tax system has remained virtually the same. The biggest change has come from the timing of the assessments under Schedule D with the move to the current year basis introduced. The other main changes are to the amalgamation of all schedules onto one tax return and the system of penalties and charges. Both of these are more to do with the administrative aspect of the system rather than the fairness of the taxes themselves. At least we could say that the simpler administration, outlined above, was fairer to taxpayers who would know what to expect and went some way to bring Schedule D tax payments more in line with Schedule E PAYE (horizontal equity) but even this could be challenged given the operational difficulties encountered with the standard documentation and lack of real guidance.

### **\*B.T.R. 279 An "Ideal" Tax System**

Self assessment was heralded as a great success with the Treasury announcing that taxpayers put £2 billion more than forecast into the Exchequer under self assessment during the first year.<sup>23</sup> It was also reported that only 900,000 (10 per cent) missed the final January 31 deadline.<sup>24</sup> It does seem that if these figures are correct (and there is no reason to doubt them) there is a high degree of compliance and minimal conflict.

However is it fair to say that 10 per cent non-compliance with the filing deadline is a success? And what of the £2 billion extra cash?--can it realistically be claimed that this is a result of taxpayers who had previously underdeclared now complying and working in concert with the Revenue or could it be that self assessment has merely accelerated tax receipts that would eventually have been paid by the taxpayer? In future years the "Red Book" will show whether tax receipts from self assessment stabilise or keep rising in real terms.

The lack of implementation of the original objectives and the way the system has actually operated highlights some concerns that there were more issues on the agenda than were originally spelled out.

## The Revenue and taxpayer--the balance of power

Having studied the objectives behind the introduction of self assessment and how it has operated during its first fraught year it would seem appropriate to reconsider the role of the Revenue and the taxpayer within the new scheme. The Revenue has had a dual role under self assessment being in some way responsible for its formulation and as acting as the administrator of tax policy.

The Revenue was responsible for formulating much of the procedural details of self assessment by issuing and collecting responses to the two Consultative Documents. D. Goldberg described the ability of the Revenue to influence Ministers at the inception of an idea as a form of political power.<sup>25</sup> The involvement from the beginning makes it more likely that Ministers will accept the Revenue's viewpoint in preference to any subsequent view. Let us then look at what the Revenue may have gained in helping define self assessment. Alongside the legislation necessary to enable taxpayers to self assess are new wide powers of investigation, the power to audit randomly, expect certain records to be maintained, kept and produced during an enquiry and only to conclude an enquiry when deemed satisfied. Williams and Morris<sup>26</sup> comment "these new powers are a severe erosion of the protection previously afforded to the taxpayer and are far more than mere alteration to accommodate new legislation ... the Revenue has used the opportunity of self assessment to introduce powers that it has been trying to obtain for years." Again, it may now seem that the objectives as outlined in the original consultative document were not the real objectives.

The operation of self assessment under the current complicated tax system in the United Kingdom also appears to have increased the Revenue's power in the taxpayer/collector relationship. During an enquiry, individual inspectors review and correspond **\*B.T.R. 280** with taxpayers on particular transactions. The individual taxpayer can disagree with the Revenue's interpretation of the law applying first to the Commissioners and then to the courts in theory but, in practice, this may not be a viable option. Disagreement with the Revenue is very costly in both time and expense and where the legislation is uncertain either the Revenue or the taxpayer can lose. The Revenue can undoubtedly afford the time and expense but can individual taxpayers? Therefore the Revenue not only has political power when formulating the legislation but discretionary power in its operation. The uncertainty for taxpayers when completing their tax returns is compounded by the absence of pre- and post-transaction rulings. "The tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment and the quantity paid ought to be clear and plain to the contributor, and to every other person. Where it is otherwise the taxpayer is put more or less in the hands of the tax gatherer."<sup>27</sup> An 18th century reminder that we still have not arrived at this ideal.

The Revenue in the United Kingdom appears to have more discretionary power than their Australian counterparts which only offers guidance on proposed or completed transactions on specific application by individuals. In Australia, there is also a system of public rulings which applies to a class of persons and which individuals can apply where appropriate to their circumstances. Taxpayers may also claim a tax deduction for the costs of an enquiry and any interest on overdue tax.<sup>28</sup>

The Revenue has also been responsible for the documentation necessary for self assessment to operate the tax return and the statement of account. Both these documents have been accused of being unnecessarily complex with recent surveys<sup>29</sup> reporting 33 per cent of its members found the tax return difficult to work with and 81 per cent having difficulty in comprehending statements of account. This is in line with the Revenue trials noted above where only 63 per cent of tax returns were completed without amendment. The confusing nature of these documents also provided the tax gatherer with further power. It is perhaps unsurprising therefore that so many taxpayers submitted the tax return by September 30, 1997 for the Revenue to calculate the tax liability (boycotting self assessment in favour of self declaration) and the 58 per cent of taxpayers required to submit a tax return felt the need to use an agent. If we look at the reported statistics from the Treasury<sup>30</sup> 80 per cent of self assessment returns from unrepresented taxpayers were submitted by September 30, 1997. This compares to 44 per cent<sup>31</sup> of returns submitted by tax practitioners on behalf of their clients and 49 per cent of all returns from the 1995 trial noted above. This seems to underline the lack of certainty for the unrepresented taxpayer who has submitted their tax return early to use the Revenue to calculate the tax.

We have seen therefore an increase in the power of the Revenue with the introduction of self assessment. This increase in power may well lead to increased operational conflict if it is not used appropriately and the system is not administered effectively. With regard to the **\*B.T.R. 281** operation

of the system the CIOT and ICAS<sup>32</sup> reported in their survey 75 per cent of members considered relations to be constant, 10 per cent worse and 15 per cent better than before self assessment. Many of those that felt relations were better had attended a self assessment forum held by the local Revenue office. This can be contrasted with the results from a more recent survey by CIOT<sup>33</sup> where 81 per cent of CIOT members' responses wanted to see communication links opened up again as in pre-self assessment days and 48 per cent considered that communication with the Revenue had deteriorated.

The Adjudicator's Report for 1998 commented that there had been an improvement in the way the Revenue dealt with people in the last five years but it was too early to judge the success of self assessment.<sup>34</sup> This comment is particularly true in light of the fact the Revenue have still to flex their muscles as far as the random audit is concerned with the comment that "Revenue annual investigation caseload may increase five-fold as a result of the resources that will be freed up by self assessment"<sup>35</sup> is not yet borne out in practice. The percentage of clients investigated in the 12 months to January 1998 was only 0.98 per cent (previous year--1.75 per cent) from a survey of practitioners.<sup>36</sup> However, there is a logical expectation of future lower running costs for the Revenue from their reorganisation and the shift in responsibility for compliance to the taxpayer.

The biggest problems noted in the Adjudicator's Report continue to relate to Revenue errors and delays when dealing with the Revenue which means increased penalties for the taxpayer.<sup>37</sup>

The removal of the adversarial features of the old estimated assessment system appears to have been replaced by a more powerful Revenue. The complexities of the old system still exist with new confusing mandatory documentation. These appear to mean errors and delays by both the taxpayer and the Revenue which in turn cause conflict. The new system does not appear to have removed the operational conflict that existed in the old system, merely exchanged it.

### **Self assessment--the real objectives?**

We argued at the beginning of the article that the five objectives set out in the original consultative document did seem to be in line with the characteristics of an ideal tax system and therefore could remove much of the conflict that existed in the old system. However it appears to us that during the process of devising the legislation either the legislators have lost sight of these objectives or perhaps the stated objectives were not the real ones. So what could have been the real objectives in introducing the self assessment legislation?

First, the Revenue could have been concerned with reducing administration costs. The Revenue Management Plan 1994-95 to 1996-97 notes the costs of collecting income tax and capital gains tax from the self-employed is 3.7 times higher than the corresponding collection costs from the employed.<sup>38</sup> It is also noted that the United Kingdom tax system has higher administration costs than countries operating self assessment systems with administration cost expressed as a percentage of tax revenue for 1986/87 being 1.53 per **\*B.T.R. 282** cent (whereas the figure for Canada was 1 per cent and Australia 1.13 per cent).<sup>39</sup> Administration costs under self assessment will certainly have been reduced as a system of "process now, check later" is adopted although as yet the Revenue have been unable to provide us with figures.

Second, the tax receipts from self-employed taxpayers under the old system were received on a more fragmented basis. The full amount of tax was not due to be paid until the round of estimated assessments and appeals had been agreed or in two parts January 1, in the tax year and July 1, following the tax year. In addition, the preceding year basis was used for assessment and therefore tax received in any one tax year was generally based on lower levels of income than that based on current year basis. Under self assessment, cash is received in three parts with the majority to be received by July 31, on a current year basis. Therefore it can be seen the system of self assessment does produce a substantial cashflow advantage to the Revenue over the previous system.

It may be argued the administrative savings and cashflow advantage offset the fact that the right amount of tax is not paid by some taxpayers. The receipts from the self-employed are small in proportion to receipts from the employed and therefore the Revenue may be willing to trade off accuracy in tax returns both in their favour (rough justice for the taxpayer) and allowing for an increased risk of evasion (rough justice for the Revenue) for the cost savings and cashflow advantages. This is against the stated objective of receiving the right amount of tax at the right time.

Third, there is the claim that the Revenue have sought to increase their powers via the introduction of



self assessment, as discussed in the previous section. The Revenue were not slow to wield their new powers with respect to penalties with minimal periods of grace given after January 31, 1998 despite the difficulties taxpayers, agents and the Revenue had encountered.<sup>40</sup>

These alternative objectives appear to have little to do with the planned ideal system and therefore go no way to reducing the conflict that still exists between the taxpayer and revenue raising authorities.

## Conclusions

The respondents to the Revenue's Consultative Documents generally considered that changes to our tax system were required to achieve simplicity and certainty for taxpayers in particular. Some aspects of the changes have done this, for example, the aggregation of all sources of income onto one tax return, the need to deal with only one tax office and the rationalisation of payment dates. However more fundamental issues remain.

We consider that not only do we not have the objectives as laid out in the original Consultative Document but we have neither simplification nor self assessment. Our underlying tax system is as complex as ever with recent Finance Acts compounding this.<sup>41</sup>

The Revenue appears to be increasingly insular. The picture emerging is of the Revenue's continuing unwillingness to make meaningful responses: to comments during *\*B.T.R. 283* the process of consultation;<sup>42</sup> to participate in surveys;<sup>43</sup> no pre- or post-transactions rulings to assist certainty; reluctance to accept when they are in the wrong.<sup>44</sup> Added to this is the ability to apply significant penalties, interest charges and investigate at random with no explanation required.

Self assessment appears a misnomer with many taxpayers side-stepping calculating their own liability with the use of the September 30 deadline and the level of Revenue amendment to taxpayers' self assessment returns. It is not surprising that large numbers of taxpayers do use the September deadline as a means of avoiding tax calculation sheets, but unless they are represented they have little means of checking up on the Revenue's accuracy. The argument that self assessment empowers the taxpayer is disingenuous given the above scenario; the taxpayer has really been disabled with complicated standard documentation and lack of guidance. The September deadline sits uneasily in a true self assessment system. It may be considered that this option would eventually be withdrawn as taxpayers become more familiar with self assessment but it does appear to suit the Revenue. It does spread their workload and perhaps reveals the more cautious approach the Revenue display towards changes in the administration of tax.

Although fundamental conflict remains and may be endemic a lot could be done to ease operational conflict and done quite easily and quickly. A full review of the tax calculation sheets and statements of account would make these more comprehensible; pre- and post-transactions rulings would at a cost reduce uncertainty until the time arrives when we do have a simple tax code; allowing the taxpayers' costs of a Revenue enquiry which produced no extra tax or penalties due would ameliorate the random nature of selection. The move to a current year basis is really not such a significant conceptual shift from a prior year basis in simplification terms. We would advocate a move to a fiscal year basis as soon as possible for real simplification.<sup>45</sup>

What is still needed though is a clearer picture of the overall impact of self assessment on taxpayer and the Revenue relationship. As self assessment progresses and more information becomes available from the Revenue's database and tax agents' experiences of investigations, there should be useful information provided on:

- the changing extent to which tax agents are used;
- the level of investigations and their outcome;
- level and type of complaints to the Adjudicator;
- the Revenue's administration costs for TSOs and TDOs.

There is also a need for an updated review of taxpayers' compliance costs to establish the extent to which the Revenue have shifted their compliance work costs onto the taxpayer.

This information, together with a real drive towards simplification of our tax code and procedures, is required if we ever wish to get this amendment of the tax system "back on track" to achieve the original stated objectives of self assessment. Otherwise the tax system will remain far from "ideal"

with levels of conflict remaining unresolved.

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  7. J. Tiley, "Away from a Virtuous Tax System," [1998] B.T.R. 317-347.
  8. A. Robinson and C. Sandford, *Tax Policy-Making in the United Kingdom*, 1983, pp. 80-81.
  9. *ibid.*
  10. Consultative document, August 1991, foreword.
  11. *ibid.* at para 2.13.
  12. A. Robinson and C. Sandford, *Tax Policy-making in the United Kingdom*, 1983, pp. 226-227.
  13. For example, from the Consultative Document, August 1991: Smaller businesses would be forced into making up their accounts to March 31 or April 5 (para 4.17) No special rules for commencement and cessation on the current year basis (para 3.22) but the accounting period basis would, by implication, be placed on the complexity of the tax return and computations for the accounting period basis (paras 4.6 and 4.14). There was no serious consideration of the fiscal year basis in the first Consultative Document.
  14. From the responses by ICAEW Tax Faculty TR 859 and Tax 2/93.
  15. The re-emergence of consideration of the fiscal year basis which had been dismissed in the first consultative document. Consultative document, November 1992, ch 7, pp. 27-32.
  16. This merely requires taxpayers to prepare accounts to the tax year *i.e.*, to March 31, or April 5.
  17. The choice of accounting date influences overlap profits for businesses commencing after the start of self assessment and affects transitional relief for established businesses. This raises the issues of equity and simplification: few unrepresented taxpayers will appreciate the significance of these nor the fact that their real value is eroded by the time they can be "claimed back".
  18. "Assessing Self Assessment", a Survey by CIOT and ICAS, February 1998. Members' responses reported different treatments from different districts. The example used was the coding out of underpayments and how strictly the Revenue adhered to September 30 deadline to ensure liabilities could be discharged in this manner.
  19. *Financial Times*, January 19, 1998--3,000 job losses planned.
  20. Survey by CIOT and ICAS, *op. cit.* Only 44 per cent of members' responses thought the training of the Revenue's staff was adequate; 27 per cent of tax returns sent back to agents were due to Revenue errors; Adjudicator's Office 1998 annual report notes Revenue mistakes as the second largest cause of complaint (p. 35).
  21. *British Tax Library*, CCH Weekly Tax News April 12, 1996 reported on the 1995 trial results in Leicester.
  22. *The Times*, December 21, 1998--£800 million including £60 million for retraining.
  23. *Financial Times*, July 29, 1998.
  24. *ibid.*
  25. D. Goldberg, "Between the Taxpayer and the Executive; Law's Inadequacy; Democracy's Failure?", [1996] B.T.R. 9-27.
  26. D. Williams and G. Morris, *Taxation*, July 20, 1995, pp. 403-406.
  27. A. Smith, *The Wealth of Nations*, 1776.
  28. C. Sandford and I. Wallschutzky, "Self Assessment of Income Tax: Lessons from Australia," [1994] B.T.R. 213-220.
  29. A. Hansford, "Self Assessment: Working Towards Better Practice" Chartered Institute of Taxation, March 1999. Hansford noted 81 per cent of respondents had difficulty with Statements of Account; CIOT and ICAS survey, February 1998, *op. cit.* noted 33 per cent of respondents had difficulty in working with tax returns.
  30. *Financial Times*, July 29, 1998.
  31. CIOT and ICAS survey, February 1998 *op. cit.* A further 55.5 per cent of practitioners had submitted their tax returns by January 31, 1998.
  32. *ibid.*
  33. See n. 29.
  34. Adjudicator's Office, 1998 Annual Report, p. 35
  35. *British Tax Library*, CCH Weekly Tax News, March 22, 1996.
  36. CIOT and ICAS survey, February 1998 *op. cit.*

- [37.](#) Adjudicator's Office, 1998 Annual Report, p. 35.
- [38.](#) C. Sandford, "Self Assessment for Income Tax--Another View", [1994] B.T.R. p. 675.
- [39.](#) *ibid*, p. 679.
- [40.](#) *Financial Times*, July 29, 1998--775,000 penalty cases, 190,000 cases in which surcharges were levied. This is against a background of 900,000 missing the deadline.
- [41.](#) For example, the complications introduced to capital gains tax in the Finance Act 1998.
- [42.](#) *Taxation Practitioner*, September 1998 p. 32 noted that both CIOT and ICAS were disappointed at the level of action following their responses.
- [43.](#) *Taxation Practitioner*, April 1999, p. 34. The Inland Revenue declined an invitation to participate in the project.
- [44.](#) See n. 29..
- [45.](#) See the discussion by G. Macdonald and E. Whitehouse in "Changing Tax for the Self-Employed" *Fiscal Studies* (1993) Vol. 14, no. 1, p. 107. They considered it at p. 118: "... probably the option most comprehensible to the majority of taxpayers."

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