

## Response by the Professional Contractors Group to the consultation paper “HM Revenue and Customs and the Taxpayer: Modernising Powers, Deterrents and Safeguards”

### Introduction

The Professional Contractors Group represents the UK’s freelancers and welcomes the current period of scrutiny of HMRC’s powers and their exercise. PCG will submit responses both to this consultation and to the consultation paper “Working towards a new relationship: a consultation on priorities for reducing the administrative burden of the tax system on small business.” Both submissions will respond to each paper in full, even at the risk of some duplication of comment.

PCG has long called for consistency, clarity and common sense in the tax system. It is therefore heartening to see the proposal that the reforms to HMRC should be underpinned by a set of consistent principles. Hopefully this will have the effect of avoiding anomalies such as the retrospective reinterpretation of existing statute which, irrespective of the legal merits or otherwise of the new interpretation, is a deeply immoral practice in which the Inland Revenue was known occasionally to engage.

Freelancers represent a group of workers outside the normal division of employer and employee. This has on occasion caused the previous tax bodies, notably the Inland Revenue, some confusion and uncertainty in how to apply the law to them. This has resulted in some of the UK’s most experienced and flexible, and therefore valuable, workers finding their efforts to pay their taxes highly vexatious. PCG will always be willing to work with HMRC and other bodies to enhance their understanding of freelance workers and looks forward to a constructive dialogue with HMRC, working towards making the tax system easy for all small businesses to navigate.

### HMRC’s general approach

PCG feels that it is entirely right that individuals and businesses should pay the correct amount of tax that they owe according to statute. It is also our experience that the vast majority of businesses are willing to comply and pay the correct amount. It is to be hoped, therefore, that HMRC will proceed in all cases on the presumption that the taxpayer has endeavoured to comply unless concrete evidence emerges to the contrary. Historically it has been widely perceived, not inaccurately, that rather than acting as a facilitator and assisting people to pay their taxes correctly, the old Inland Revenue investigated people vindictively and aimed to “get” them for as much tax as possible, almost as if they presumed the taxpayer to be guilty of evasion unless proven otherwise. A wholesale change in approach, from presuming guilt to presuming compliance, is necessary for HMRC to gain broad acceptance and trust among the UK’s small businesses.

In line with this, the principles on which HMRC’s practices will be based should be published and incorporated into all avenues of redress so that all inspectors’ activities will be measured against these principles. Redress should be available to the taxpayers for any actions by HMRC that contravene these principles.

PCG would particularly welcome a statement within these principles that one of HMRC’s core aims is to create a tax environment conducive to enterprise. Many of the specific proposals suggested in the

consultation paper will, if implemented correctly, be extremely helpful in this regard. The inclusion of this aim at the heart of HMRC's stated goals would be a further reassurance to business in the UK.

#### **Specific proposals: items to be welcomed**

Among the consultation paper's specific proposals were many that PCG is pleased to see and which instill a welcome dose of common sense into the administration of the tax system. These include: the principle that taxpayers should only provide information once; the pledge that information and returns will be obtained in a way meeting the taxpayer's preferences; the use of new technologies to allow matters to be dealt with more speedily and certainty therefore given to taxpayers earlier; the principle that HMRC must continue to deal with information lawfully; and the suggestions that there should be no inspection without reason.

#### **Specific proposals: items of concern to PCG**

While many fine principles are espoused in the consultation paper, PCG would like reassurance that their implementation will not be enacted to the detriment of its members. For instance, the risk-based "no assessment without a reason" principle is entirely sensible. The difficulty the Inland Revenue experienced, as noted above, when dealing with freelancers, however, causes some to suspect that they will be unfairly regarded as being "high risk" and therefore subject to a disproportionately high amount of inspection. As micro-enterprises, they are precisely the businesses who can least afford to sustain the administrative burden of regular inspections and PCG hopes that this fear will prove unfounded.

Similarly, while PCG wholly supports the principle of "vigorous action against those who choose not to comply" it remains adamant that non-compliance must be proved by HMRC as the result of an investigation rather than assumed from the outset. We would also remind HMRC that "non-compliance" is evasion of taxes, not avoidance. If the government wishes to pass new statute to clamp down on avoidance, subject to normal parliamentary scrutiny, PCG will raise no objection in principle. But elastic interpretations of the rules by tax inspectors should not be used as a substitute for legislation. However laudable the aim of reducing avoidance may be, it remains legal and legitimate until Parliament says otherwise. Unlike in cases of non-payment of tax rightfully owed - evasion, which PCG unequivocally condemns - HMRC has no remit to penalise taxpayers for legal avoidance.

Finally, PCG would like to see an explicit and binding assurance from HMRC that ordinary tax inspectors administering mostly taxes formerly within the purview of the Inland Revenue will not have the strong powers of entry routinely held by officers of the former Customs and Excise.

#### **Further Suggestions**

PCG has a small number of suggestions for useful reform in addition to those proposed in the consultation paper. Our members have pinpointed a number of areas in which useful changes might be made relatively easily, one of which is the naming of forms; more descriptive names for forms than simply, for instance, "annual return" might make it easier for taxpayers to keep track of exactly what forms they need to fill in.

Similarly abbreviations that relate to the forms' names might make it easier for taxpayers to navigate the system.

Similarly our members would like all deadlines for the submission of forms and information to be sensible and memorable, preferably at the end of a month. If processes can be made clear and easy to follow complaints about "unnecessary red tape" will decline very quickly.

One further suggestion raised by our members has been that the possibility of aligning the personal tax year and the financial year so that they end on the same date. We appreciate, of course, that such a reform would require a legislative and consultation procedure all of its own, but the birth of a new tax body would seem to be the ideal point at which to contemplate the idea.