

The Office of Tax Simplification - a permanent, statutory body

General Features

01 May 2016

The OTS becomes a permanent, statutory body

Tax policy - simplification

The late Lord Geoffrey Howe once picturesquely compared the task of the Tax Law Rewrite Project – the team that was established in 1996 to rewrite the UK’s direct tax legislation in clear English – to repainting Brighton pier at the same time as it was being extended to the French coast. There must have been times during the past five years when the members of the [Office of Tax Simplification](#) (OTS) have felt the same way about their own task of advising the government on how to simplify the UK tax system.

Set up in July 2010 (the same year as the Tax Law Rewrite Project ended) as an independent office of the Treasury, the OTS’s mandate then extended to the end of that parliament. But after the general election in May 2015, the new government announced that the OTS would be made permanent and put on a statutory footing. In December 2015, draft clauses on continuing the OTS were exposed for consultation and are now included in the Finance (No.2) Bill.

The clauses (172 to 177 and Sch 25) prescribe the functions of the ‘refreshed’ OTS – that is to ‘provide advice to the Chancellor of the Exchequer, on request or as the OTS considers appropriate, on the simplification of the tax system’. That system includes taxes that the HMRC Commissioners ‘are responsible for collecting and managing’, including duties and National Insurance contributions, and the term ‘simplification’ includes improving the efficiency of tax administration. Although the remit of the OTS does not extend to tax credits, in practice it does take them into account when looking at simplification options elsewhere in the tax system.

Specifically, the Bill's clauses propose that the OTS should:

- at the chancellor's request, conduct a review of an aspect of the tax system to identify whether, and if so how, it could be simplified, make recommendations, and report to the Chancellor on the results of the review. The Chancellor must then publish the report, lay a copy before parliament, and respond to it; and
- prepare a report of how it has performed its functions in each financial year, which the chancellor must publish and lay before parliament.

In addition, the Treasury is required to conduct a review, every five years, of how effective the OTS has been in performing its functions. Doubtless this new proposal stems from the fact that the OTS is now permanent, whereas previously its duration was coterminous with the last five-year parliament.

It is noteworthy that the OTS can now of its own accord advise the chancellor on matters it considers appropriate.

Schedule 25 sets out how the membership of the OTS is to be constituted and regulated. There is to be a chair (now Angela Knight), a tax director (John Whiting continues in that role), a representative of each of HMRC and the Treasury, and up to four other board members. The schedule also provides for funding and staffing.

The OTS's two most recent pieces of work have been its review of the taxation of small companies (published on 3 March) and the report on closer alignment of income tax and National Insurance contributions (7 March). Among the recommendations in the latter report were that further work should be done on the impact of moving employee NICs to an annual, cumulative and aggregated basis, and on reforming employer NICs. The Office of Tax Simplification have written an article on this on page 21. The government has now asked the OTS to proceed with those [two reviews](#) between now and the autumn.

The government has also accepted six of 13 recommendations of the small companies review and has agreed to consider six others. Those accepted include outlining a 'sole enterprise personal assets' model to provide self-employed people with limited liability for their assets without the complexity of incorporation; exploring a cash basis of accounting for the smallest companies; a look-through system primarily for one-person businesses that do not intend to increase in size; and, interestingly, a formal role for the OTS in developing the Making Tax Digital programme to ensure that simplification issues are considered. Other previous

recommendations of the OTS, such as reforming corporation tax losses and abolishing Class 2 NICs for self-employed people, also find a place in the government's new Business Tax Road Map.

Apart from the further work on reforming employee and employer NICs, the OTS has also been given the go-ahead to review options for simplifying the computation of corporation tax. Terms of reference will be agreed in the next few weeks.

So what difference will the OTS's new statutory, permanent status make to the way it does its work or to the prospects for simplifying the UK's tax system? The answer will no doubt become apparent in time. Perhaps there will be little in the way of substantial or immediate change; rather, the OTS might be able to do more of what it has been doing so successfully over the past five years, perhaps even play a more prominent role in developing tax policy before implementation instead of identifying and sorting out newly introduced complexities after the policies giving rise to them have been developed and implemented. But that will depend on the extent to which the government is prepared to do what the OTS recommends, which is in turn dependent upon the priority assigned to simplification.

Perhaps more investment in the OTS will encourage the government to do just that – if so, that can only be good for the prospects of simplification in the longer term.