



**HM REVENUE AND CUSTOMS AND THE TAXPAYER:
MODERNISING POWERS, DETERRENTS AND SAFEGUARDS
PAYMENTS, REPAYMENTS AND DEBT:
THE DEVELOPING PROGRAMME OF WORK**

**Response by
THE SOCIETY OF PROFESSIONAL ACCOUNTANTS**

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**PAYMENTS, REPAYMENTS AND DEBT:
THE DEVELOPING PROGRAMME OF WORK**

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1. Executive Summary

SPA welcomes the opportunity to respond to the Consultation Document dated 25 June 2007.

- 1.1 SPA's members have wide and intimate experience of the tax collection system, which enables us to respond to questions posed in a practical and constructive manner. Our responses are listed in Section 3.
- 1.2 Whilst SPA can agree there is probable efficiency of operation available from HMRC's suggestions, our willingness to endorse now any modification to the existing tax payment system is predicated by the growing concern with and the need now to correct the present service provided by HMRC where many areas of unacceptable delay exist.
- 1.3 We believe this service to have deteriorated considerably in recent months and, until HMRC can demonstrate there is coordination between the various HMRC departments, together with a response to communications that matches that expected in business, SPA believes that no date should be set for introducing any suggested changes.

- 1.4 SPA does not feel it is the HMRC staff that are causing the problems found; it is thought to be a lack of synchronicity in systems and their linkages to HMRC tax departments, the complexity and continuous amendment of taxation laws, national security considerations – particularly affecting issue of VAT registrations - compounded by what is understood to be an ongoing programme of HMRC staff reductions.
- 1.5 It is not many years since HMRC published its “Taxpayer’s Charter” which sets out the targets to respond to various categories of public correspondence or enquiries; it would be very revealing to reflect today’s performance against your previously chosen ideals.
- 1.6 The present deterioration in HMRC service demands it be given urgent attention, and that a planned improvement plus ‘catch up’ programme be published to restore public confidence that acceptable standards of response and treatment will be provided in the near future.
- 1.7 Currently HMRC are drawing heavily on the goodwill of the general public and their representatives; the situation is reaching the point where descent into chaos beckons; urgent action is desperately required - please help us help you by being open about your problems and determined in your efforts to return to normal service.

Our concerns are listed separately in Section 4.

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2. Background to SPA

- 2.1 SPA is a wholly independent society of small practitioners holding a qualification issued by a recognised professional accountancy Institute. It was formed in early 1996 and currently there are some 1800 principals in 1400 member practices. Our members provide accountancy and taxation services to an estimated 175,000 private businesses, small limited companies and individuals.
- 2.2 The Society's stated policy is to promote and improve the relationship between members and their Institutes by providing constructive criticism together with practical proposals for improvements. Further to provide commentary and proposals to other authorities influencing our practising environment.
- 2.3 SPA has previously made submissions on small businesses and limited company activities to the DTI on Audit Exemption levels, to the Accountancy Standards Board on Financial Reporting Standards for Small Entities (FRSSE), to the DTI on Modern Company Law 'Developing the Framework' and to the Chancellor of the Exchequer on 'Advancing Self Assessment Tax Return Filing Dates'.

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3. Responses to Questions posed

Chapter 3

3.1 Setting off repayments of one tax against debts of another

3.1.1 In principal offset could apply to any taxes paid or repaid by or to an individual or business. Offset should be applied chronologically to the oldest tax due first.

3.1.2 Because of the problems widely published with the management of tax credits and child benefits we would not wish to include these in any offset scheme.

3.1.3 Set off between related entities might be considered at later stage given success with the 'within an entity' offsetting.

3.2 Removing inconsistencies in current enforcement powers

3.2.1 Debt collection and repayment processes should be a level playing field within any HMRC department.

3.2.2 Interest on overdue or overpaid tax should be at the same rate, we suggest LIBOR.

3.2.3 Inconsistencies between taxes or processes need to be eliminated. For example, for an individual a late Income Tax Return where no tax is due correctly attracts no penalty, however for a late filed Limited Company Corporation Tax Return there is a minimum fine even when no tax is due.

3.2.4 Currently Collectors require confirmation of action from the Inspector when dealing with a stand-over request or other appeal. Frequently, because of delays in the system, taxpayers are pressurised for a payment not due, and should be able to tell the Collector to defer collection pending receipt of any outstanding confirmation. After all, interest will be applied.

Chapter 4

3.3 Making it easier to pay

3.3.1 Any individual or business should be allowed a flexible approach to paying any of their taxes within the statutory dates set and, given our suggestion covering interest in 3.3.2, would be given this interest on any balance held in their favour prior to payment dates. This approach would also eliminate the need to issue tax deposit certificates.

3.3.2 The basic structure to enable and manage regular variable payments may already exist in the statement maintained of each taxpayer's 'account' with HMRC. Effectively HMRC would act like a bank, all accounts would be interest bearing, and any method of payment would be acceptable (see 3.4).

3.4 Paying by credit cards

3.4.1 Payment of tax should be possible by any of the banking methods currently available. In particular HMRC should accept credit card payment whenever offered as this is now a long accepted method of payment, is instant and eliminates most clerical activity. No charge should be made for accepting such payments.

Chapter 5

3.5 Direct attachment of taxpayers' assets

3.5.1 This is the most contentious suggestion and, whilst SPA has no wish to protect the villain or taxpayer wilfully ignoring tax due, SPA would not wish HMRC to be granted a higher security of payment than other unsecured creditors.

3.5.2 We do not agree with the recommendation made by the Public Accounts Committee in 2004, where SPA maintains that any freezing or seizure of a taxpayer's funds must be approved by the Courts to protect the taxpayer's rights of representation and defence.

3.5.3 Without Court approval the freezing or seizure might cause permanent financial damage – bankruptcy or liquidation – to innocent taxpayers.

3.5.4 We can suggest no guidance how protection might be provided to joint account holders or those holding monies on trust should such access be granted to HMRC.

3.5.5 Even if such powers were granted SPA suggests that they should only be applied to significant sums of tax due, say exceeding £5,000.

3.6 Tax clearance certificates

3.6.1 After considerable debate SPA concluded no useful purpose would be served by the issue of such certificates, which in our view would add a general level of infrequently used information at cost to all taxpayers. As such we offer no positive comment on your suggestion.

3.7 Tracing missing taxpayers

3.7.1 Where third parties are asked to volunteer known information all such requests should be made by HMRC in writing – not by telephone – to protect the third party from complaint that no permission had been given to release such information.

3.7.2 Any enforcement for the release of known information in 3.7.1 should be made within the law.

3.8 Collecting small debts through PAYE

3.8.1 SPA feels that the coding out of small amounts of tax due up to £2,000 may be generally acceptable.

3.8.2 The small advantage accruing to a PAYE taxpayer, that no interest would be charged on the amount due, is seen as immaterial and may be ignored as insignificant.

3.9 Award of costs in litigation

3.9.1 HMRC should be entitled to recover the same costs in litigation as are available to all other creditors applying to the Courts.

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4. Concern with Existing HMRC Service

4.1 It is no secret that there has been widespread concern voiced with existing HMRC service levels, and where the extensive delays evident in dealing with various aspects of the taxation system are causing added difficulty and waste of resources for individuals, businesses and their agents alike; huge frustration is evident by taxpayers, and dealing with this backlog cannot be helping HMRC staff morale.

4.2 Specific concerns include:

4.2.1 Unreasonable and, by business standards, unacceptable delays in processing correspondence. We believe that general correspondence is on average several weeks late being 'actioned' by HMRC staff and, in the coming weeks, SPA will submit the findings of its current survey amongst SPA members to substantiate this statement.

4.2.2 Unacceptable delays, running into several months, in the issuing of VAT registrations to new businesses.

4.2.3 A lack of sensitivity by Collection Offices relating to collection of 'overdue' payments under appeal, but where HMRC staff have not actioned correspondence dealing with appeals, reductions or postponements.

4.2.4 A lack of synchronicity in approach to the same situations if personal or corporate when dealing with late 'tax due' returns.

4.3 Impact on Relationships between Clients and their Agents

It is important that HMRC staff recognise that an avoidable strain – and cost – is placed on all relationships by HMRC processing errors or unacceptable delays, and where a client may initially suspect that the ‘problem’ is the agents fault.

‘You told me you had filed my tax return/cheque on dd.mm.yy – why have I received a penalty/interest demand?’ or similar comments have to be defended and defused – usually at cost to the agent as the client doesn’t expect to pay ‘to put things right’.

In these demonstrable circumstances it appears entirely reasonable that the agent should be entitled to compensation direct from HMRC for wasted effort: HMRC’s present practice requiring that a client first pay a further invoice is like rubbing salt into a wound - it adds avoidable effort and irritation to an already wasteful process.

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