



House of Commons  
Treasury Committee

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# Disputing Tax

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## Thirty-Fourth Report of Session 2017–19

*Report, together with formal minutes  
relating to the report*

*Ordered by the House of Commons  
to be printed 23 July 2019*

## The Treasury Committee

The Treasury Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of HM Treasury, HM Revenue and Customs and associated public bodies.

### Membership at time of consideration

[Nicky Morgan MP](#) (Conservative, Loughborough) (Chair)

[Rushanara Ali MP](#) (Labour, Bethnal Green and Bow)

[Mr Steve Baker MP](#) (Conservative, Wycombe)

[Colin Clark MP](#) (Conservative, Gordon)

[Mr Simon Clarke MP](#) (Conservative, Middlesbrough South and East Cleveland)

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[John Mann MP](#) (Labour, Bassetlaw)

[Wes Streeting MP](#) (Labour, Ilford North)

[Alison Thewliss MP](#) (Scottish National Party, Glasgow Central)

### The Sub-Committee

The Chair of the sub-Committee was John Mann MP.

### Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No. 152. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

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Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

### Committee staff

The current staff of the Committee are Peter Stam (Clerk of the Sub-Committee), Gosia McBride (Clerk of the Committee), Adam Wales (Chief Policy Adviser), Marcus Wilton (Senior Economist), Dan Lee (Senior Economist), Aruni Muthumala (Senior Economist), Matt Panteli (Senior Media and Policy Officer), Maciej Wenerski (Senior Committee Assistant), Nick Berry (Committee Support Assistant), Anne Stark (on secondment), Emily Buckland (on secondment), Yasmin Raza (on secondment), Ria Gill-Williams (on secondment), and Sarah Goodwin (on secondment).

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# Introduction

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## Conduct of the Committee's inquiries

1. On the 27 March 2018, the Treasury Sub-Committee launched two tax-related inquiries. One of the inquiries covered the steps that HMRC has taken to address public concerns around tax avoidance and evasion.<sup>1</sup> The other examined HMRC's approach to conducting tax enquiries and resolving tax disputes, with a focus on its governance and settlement processes.<sup>2</sup>

2. A number of issues raised with the Treasury Sub-Committee were either relevant to both inquiries or closely related. This Report therefore covers matters raised in both inquiries, some of which were also discussed with Treasury ministers and HMRC officials during other Treasury Committee inquiries.<sup>3</sup>

3. As well as accepting written evidence, the Sub-Committee held the following oral evidence sessions:

- 17 April 2018—David Richardson, Interim Director General, Customer Strategy and Tax Design, HM Revenue and Customs; Esther Wallington, Chief People Officer, HM Revenue and Customs;
- 18 June 2018—Victoria Todd, Senior Technical Manager, Low Incomes Tax Reform Group; Paula Ruffell, Tax Investigations and Disputes Senior Manager, Grant Thornton UK LLP; Keith Gordon, Barrister, Temple Tax Chambers; and
- 10 December 2018—Ray McCann, President of the Chartered Institute of Taxation; Tony Lennon, Freelance and Research Officer, BECTU (Broadcasting, Entertainment, Communications and Theatre Union) sector, Prospect.

4. In addition, the main Treasury Committee held one oral evidence session relating to the conduct of tax enquiries and the resolution of tax disputes:<sup>4</sup>

- 30 January 2019—Jim Harra, Second Permanent Secretary and Tax Assurance Commissioner, HM Revenue and Customs; Penny Ciniewicz, Director General Customer Compliance, HM Revenue and Customs; Mary Aiston, Director Counter-Avoidance, HM Revenue and Customs.

5. We also visited the Isle of Man on 4 and 5 July 2019, meeting with members of the Isle of Man government, tax and regulatory authorities, business groups and professional representative bodies in part in relation to these inquiries.

6. We would like to thank all those who engaged with the Committee during the course of these inquiries.

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1 Treasury Sub-Committee, '[Tax Avoidance and Evasion inquiry](#)', accessed 17 July 2019

2 Treasury Sub-Committee, '[The Conduct of Tax Enquiries and the Resolution of Tax Disputes inquiry](#)', accessed 17 July 2019

3 Note that evidence references in this Report refer to the Tax Avoidance and Evasion inquiry unless otherwise labelled

4 Treasury Committee, '[The Conduct of Tax Enquiries and the Resolution of Tax Disputes inquiry](#)', accessed 17 July 2019

# 1 Tackling tax avoidance and evasion

## The landscape of tax avoidance schemes

7. In November 2012, the National Audit Office produced a report entitled *Tax avoidance: tackling marketed avoidance schemes*.<sup>5</sup> That report stated that there was a large backlog of mass-marketed tax avoidance schemes that HMRC was finding it challenging to resolve. The National Audit Office said that HMRC had 41,000 such cases open relating to marketed avoidance schemes used by individuals and small businesses and had not demonstrated how it would reduce that number.<sup>6</sup>

8. When giving evidence to us, Mr Richardson, Interim Director General, Customer Strategy and Tax Design, HMRC told us that analysis had been updated and had concluded that the NAO's work was not a comprehensive estimate. He told us that, after completing a "drains-up" exercise, there were, in fact, 105,000 open cases of which about 80,000 remained unresolved.<sup>7</sup> He went on to tell us that the existing cases had been open for between five and 12 years:<sup>8</sup>

In terms of new schemes, the marketed avoidance picture has changed quite considerably. We set up a new directorate four years ago to deal with marketed avoidance, both to clamp down and shut down, if possible, any future avoidance, and to deal with the legacy of cases that had built up. There are very few new schemes around. If you go back to 2005–06, we were notified of something like 600 schemes. Last year we were notified of 15, so there has been a huge fall in the number of marketed schemes. As for the big schemes, like film schemes, which are the ones that are commonly reported on, because they are the ones that we have been tackling and litigating from the past, there are no equivalents of those schemes around now.<sup>9</sup>

9. We were therefore concerned when HMRC told us that there were still large gaps in the information available about unresolved cases of tax avoidance. In correspondence to us, HMRC outlined the various challenges it faced in identifying historical disguised remuneration schemes, their users and other parties who benefitted from them—including that fewer than half of the known schemes were disclosed under the Disclosure of Tax Avoidance Scheme (DOTAS) regime. HMRC also acknowledged that it may have missed opening enquiries into some cases where information was provided.<sup>10</sup>

10. *It is important for Parliament and taxpayers to be confident that HMRC has a robust picture of the number of people that are involved in tax avoidance schemes or whose past involvement in tax avoidance remains unresolved, how much tax is at risk and the years involved. It is equally important to know all the parties involved, which of those parties may ultimately be liable to pay any unpaid tax and what means they have to settle. That information is not only necessary to ensure that HMRC puts in*

5 National Audit Office, [Tax avoidance: tackling marketed avoidance schemes](#), November 2012

6 National Audit Office, [Tax avoidance: tackling marketed avoidance schemes](#), November 2012, para 3.2

7 Q74

8 Q75

9 Q4

10 Deputy Chief Executive and Second Permanent Secretary of HM Revenue and Customs to Chair of the Treasury Committee relating to the Loan Charge ([dated 24 January 2019](#))

*place efficient and proportionate arrangements to conduct enquiries and collect any tax found to be due, but also to allow proper transparency and scrutiny of the performance of HMRC. We recommend that HMRC should write to the Treasury Committee on an annual basis with a summary of the number and characteristics (sector, income, profile etc) of people it knows to be involved in tax avoidance schemes.*

11. Discussing whether HMRC needed any additional powers or resources to stop marketed tax avoidance schemes, David Richardson said that HMRC had “pretty well got the full hand that we have been looking for as a result of measures that have been introduced over the last five or six years.” He singled out accelerated payment notices (by which individuals who used a tax avoidance scheme have to pay the avoided tax upfront) as “probably the biggest game changer” that had had a “seriously large dampening effect on new avoidance”,<sup>11</sup> as individuals would no longer have use of the allegedly avoided tax money while in dispute with HMRC.<sup>12</sup>

### Combatting disguised remuneration schemes (the Loan Charge)

12. David Richardson told us that there had also been significant changes in the nature of tax avoidance since 2005–06:

The sort of avoidance that we see still going on, in quite limited amounts compared with the past, is, generally speaking, the employment sector, where people are being paid with what are described as “contractor loans”, so people are being paid in loans rather than directly in remuneration.<sup>13</sup>

13. In further evidence, HMRC explained that “disguised remuneration schemes are tax avoidance arrangements that seek to avoid Income Tax and National Insurance contributions (NICs) by paying scheme users their income in the form of loans. The loans were never intended to be repaid, so they are no different to normal income and are taxable”.<sup>14</sup> To tackle the use of such avoidance schemes, the Government introduced the ‘Loan Charge’. HMRC explained this measure as follows:

The ‘loan charge’ was introduced to tackle the use of disguised remuneration schemes and came into effect on 5 April 2019. The charge applies to all loans made since 6 April 1999 if they are still outstanding on 5 April 2019 and the recipient has not settled the tax due.<sup>15</sup>

14. HMRC estimated that around 50,000 individuals used disguised remuneration schemes in that period. It has stated that 65 per cent of those who used disguised remuneration schemes work in the business services sector (professions such as management consultants and IT consultants). Ten per cent worked in construction and, three per cent worked in medical services and teaching.<sup>16</sup>

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11 Q5

12 Q5

13 Q4

14 HM Revenue and Customs, [‘HMRC issue briefing: charge on disguised remuneration loans’](#), (accessed 17 July 2019)

15 HM Revenue and Customs, [‘HMRC issue briefing: charge on disguised remuneration loans’](#), (accessed 17 July 2019)

16 HM Revenue and Customs, [‘HMRC issue briefing: charge on disguised remuneration loans’](#), (accessed 17 July 2019)

### *Categories of avoiders*

15. We have heard that participants in disguised remuneration schemes had different degrees of understanding of the arrangements to which they signed up. Ray McCann, President of the Chartered Institute of Taxation, explained that at one end of the spectrum were those who believed they had found a legal loophole to avoid paying tax on their earnings and fully understood that they were involved in tax avoidance. He told us that this was “most of the individuals” that he came across as President of the Chartered Institute of Taxation:<sup>17</sup>

It is quite difficult, certainly for me, to look at most of the individuals I come across and feel sympathy for them, in the sense that I do not understand how they could get into this type of arrangement and not think that there was something untoward about it. [...] I have seen some numbers that are really difficult to look at without wondering how someone could possibly have believed that that was an appropriate way to manage their affairs. How could they possibly think that earning £7,000 a year and getting £150,000 in a loan could possibly be an appropriate way to run their affairs year after year?<sup>18</sup>

16. Mr McCann went on to describe a category of individuals who were given Hobson’s choice—i.e. to enter the scheme or become unemployed. Mr McCann expressed some doubt as to the scale or truth of that:

It has been put to me that a number of people were put into a situation where it was ‘this arrangement’ or ‘no job’. I have never met anyone who was actually in that situation. I do not know the extent to which it is a myth. However, if someone is happy to show me some information to make clear that that is the case, by all means I would accept that it had probably happened. There are so many people involved that I would not lightly dismiss the possibility that there is some category of individuals who fall into that type of scenario, but I think that the majority of people in these loan schemes knew exactly what they were trying to get out of it.<sup>19</sup>

17. Mr McCann concluded that there might be individuals who had been naïve and trusting, who may have been given misleading advice by promoters, or who had been convinced to sign up to a scheme by their employer as a legitimate way to be paid. He stated that, while he believed that most individuals were probably aware that they were involved in tax avoidance against the want of the tax authority, HMRC was still required to treat them fairly and take their appeals into consideration—particularly when someone had disclosed information previously but was only being charged now. He concluded that “I do not think HMRC should easily dismiss that that person has tried”.<sup>20</sup>

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17 Q97  
 18 Q97  
 19 Q97  
 20 Q97

## Sectors

18. We heard that disguised remuneration schemes were taken up by freelance workers in some sectors more than others. For example, Tony Lennon, Freelance and Research Officer from the BECTU sector of Prospect, told us that he believed that freelance workers in film, television, theatre and events had, by and large, steered clear of disguised remuneration loan schemes. However, Mr Lennon’s evidence highlighted the dangers of tax avoidance schemes becoming normalised in certain sectors. Mr Lennon told us that this appeared to have happened in the absence of fully effective enforcement action by HMRC coupled with a vigorous approach by scheme promoters to selling new iterations of their schemes to contractors over a long period of time.<sup>21</sup> Ray McCann agreed that disguised remuneration schemes had been aggressively marketed and described the reasons for the widespread use of these schemes as follows:

Those schemes became incredibly popular simply because they offered huge advantages to those who were able to use them to pay less in national insurance contributions and less tax under the pay-as-you-earn regulations. That is the simple reason, but they are also popular because they do not require sophisticated arrangements; you just need an individual who is potentially liable to quite high levels of pay-as-you-earn or national insurance contributions, and it works. It is not like a scheme within the financial markets, where you need quite sophisticated facts and so on.

The Revenue at one time used an expression, “plug and play”: anybody could use it, you just had to sign on the dotted line and pay whatever fee was there, and you were away. That is why they gained popularity, and they kept being popular because the fixes that were put in place were never really quite there. That was combined with an approach the market took: it found an incredible way of differentiating one scheme from another, even though for all intents and purposes the schemes were identical. I describe it as, “the change in law doesn’t apply to our EBT [Employee Benefit Trust] because ours is on blue paper and yours is on yellow paper”. Sometimes it gets as ridiculous as that.<sup>22</sup>

19. An example of the way in which promoters would adjust disguised remuneration schemes in response to challenges by HMRC or to new anti-avoidance legislation may be seen in a recent decision of the First-tier tax tribunal. The case of *HM Revenue and Customs v Hyrax Resourcing Limited and others* [2019]<sup>23</sup> concerned action taken by HMRC against the promoters of a disguised remuneration scheme that had not been disclosed to them under the Disclosure of Tax Avoidance Schemes (DOTAS) rules. The tribunal found that the scheme and its users should have been disclosed. In reaching her decision, the judge discussed how communications such as e-mails and webinars between promoters and their clients showed that the Hyrax scheme had evolved from earlier versions of loan schemes:

Each iteration ceased and the new one commenced at about the time of introduction of relevant legislation that would have been perceived as

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21 Q95

22 Q96

23 [UKFTT 0175 \(TC\)](#)

putting the arrangements into the scope of a tax charge; for example, Hamilton ceased operations just prior to the para 7A disguised remuneration charge legislation comes into force and was replaced with K2. [...] In fact, one of the webinars for K2 talked about ‘life expectancy’ for each scheme, indicating that each scheme had a life expectancy of about 4 years due to HMRC legislating against them.<sup>24</sup>

The judgment concluded that:

Not only did each scheme arise from the ashes of the old scheme, it was clear from this that those behind the schemes represented them to potential users as different points along a single continuum. To some extent at least, the various iterations were put forward as a single but evolving scheme.<sup>25</sup>

20. In June 2018, HMRC announced that it would introduce ‘time to pay arrangements’ which would automatically allow people earning under £50,000 a year to pay tax on disguised remuneration loan schemes over a period of up to five years.<sup>26</sup> This concession was later extended to automatically allow a payment period of seven years for people earning under £30,000 as part of its Contractor Loan Settlement Opportunity.<sup>27</sup> In addition, HMRC confirmed to the Treasury Committee that it would not make people sell their homes to pay disguised remuneration tax bills.<sup>28</sup> Having said that, HMRC did acknowledge that people were waiting too long for a response to queries or to processing of applications relating to the Contractor Loan Settlement Opportunity. It told us that they were allocating extra staff to improve turnaround times.<sup>29</sup> HMRC also told us that it aimed to respond within four weeks and assured us that nobody who had been in touch with a serious intent to settle before the Contractor Loan Settlement Opportunity deadline would be disadvantaged because of HMRC delays.<sup>30</sup> Many people would not recognise this as their experience.

### ***Unprotected years and the perception of retrospection***

21. When it came to the loan charge, HMRC wielded exceptional powers to reach back and consider tax affairs up to 20 years old,<sup>31</sup> a period of time that individuals may have reasonably considered closed and settled. We received a lot of correspondence and campaign material which argued that, because of this, the loan charge represents a retrospective taxation measure.

22. Contractor loan schemes have operated for a lengthy period of time meaning that it is likely that some people have built up substantial loan balances and are now facing very large tax bills. People have expressed the view to the Committee and in public that the disguised remuneration loan charge is retrospective in effect because it charges tax on a loan balance which has accumulated over several years.<sup>32</sup> HMRC, on the other hand, has

24 [UKFTT 0175](#) (TC), para 51

25 [UKFTT 0175](#) (TC), para 53

26 HM Revenue and Customs, ‘[Disguised remuneration: settling your tax affairs](#)’, accessed 17 July 2019

27 HM Revenue and Customs, ‘[Disguised remuneration: settling your tax affairs](#)’, accessed 17 July 2019

28 Oral evidence taken on 30 January 2019, [HC 1914](#), Q39

29 Oral evidence taken on 30 January 2019, [HC 1914](#), Q54

30 Oral evidence taken on 30 January 2019, [HC 1914](#), Q55

31 HM Revenue and Customs, ‘[HMRC issue briefing: charge on disguised remuneration loans](#)’, (accessed 17 July 2019)

32 For example: Loan charge Action group, ‘[Loan Charge Briefing](#)’, (accessed 17 July 2019)

explained to the Committee that, in its view, the loan charge is not retrospective because it will be charged only on outstanding loan balances at 5 April 2019.<sup>33</sup> On 16 July, the Paymaster General and Financial Secretary to the Treasury, Jesse Norman, told the House of Lords Economic Affairs Committee that HMRC would not impose the charge on individuals in “closed” tax years in which participation in a loan-based scheme had been fully disclosed. However, we note reports that this announcement is likely to only affect a few dozen of people owing the charge and that HM Treasury has since conceded that “on the scale of people who are impacted it is a smaller group of people”.<sup>34</sup>

23. HMRC was unable to tell us how many people had disclosed their use of a disguised remuneration loan scheme at the proper time but would, if they wanted to take up HMRC’s Contractor Loan Settlement Opportunity, have to pay tax for years where HMRC was legally out of time to make assessments (‘unprotected years’). Nor was HMRC able to provide a figure for the amount of tax at stake in connection with such unprotected years.<sup>35</sup>

24. HMRC asserted that cases where they had taken no action at all following a taxpayer’s full disclosure of involvement in a disguised remuneration loan scheme were rare, stating that “it would be extremely unusual to find a case where there has been full disclosure to HRMC and we have taken no action at all because [...] we opened hundreds and thousands of enquiries into these schemes”.<sup>36</sup>

## Conclusions

25. **People who take a tax position that they know might be challenged by HMRC should be aware, regardless of how strong they believe their argument to be, that they may ultimately have to pay the disputed tax. It is HMRC’s responsibility to protect public funds from tax avoidance, and Parliament requires HMRC to fulfil that responsibility assiduously and to apply their procedures consistently, proportionately and in accordance with the law.**

26. **Some taxpayers have fallen foul of anti-tax avoidance measures because they followed professional financial advice to engage in disguised remuneration schemes (or were persuaded to do so by their employer). HMRC has offered individuals who now earn a salary below £50,000 up to five years to pay the loan charge owing; and those earning below £30,000 up to seven years. It has also publicly stated that it would not make people sell their homes to pay their disguised remuneration tax bills or make them bankrupt. Setting aside the policy, we conclude that HMRC has adopted a sensible administrative approach to the payment of large unexpected tax bills by people with limited resources. However, there can be no doubt that the delay in this clarification caused widespread anxiety and distrust of the Contractor Loan Settlement Opportunity.**

27. ***There have been delays in providing settlement terms to those who wished to settle their affairs under the Contractor Loan Settlement Opportunity. We recommend that HMRC closely monitors its response times and reports back to us on progress in providing settlement calculations.***

33 Oral evidence taken on 21 November 2018, [HC 315](#), Q231

34 [“HMRC accused of ‘sleight of hand’ over loan charge concession”](#), Financial Times, 17 July 2019

35 Deputy Chief Executive and Second Permanent Secretary of HM Revenue and Customs to Chair of the Treasury Committee relating to the Loan Charge ([dated 24 January 2019](#))

36 Oral evidence taken on 30 January 2019, [HC 1914](#), Q61

28. *In its response to this Report, we also recommend that HMRC provides an update on the number of cases that have been brought to a conclusion under the Contractor Loan Settlement Opportunity—and how many of the liable population chose not to take it up—providing details of the range of settlement terms and the amount of tax and other duties covered. On the face of it, the Financial Secretary to the Treasury’s announcement that HMRC would not pursue the charge on individuals in “closed” tax years in which participation in a loan-based scheme had been fully disclosed seems sensible. We recommend the Government reports on how many individuals this will impact, and the amount of money being written off.*

## The role of tax advisers in marketing avoidance schemes

29. It appears that most professional tax advisers, including the large accountancy firms, have withdrawn from mass marketed tax avoidance. For example, David Richardson, Interim Director General at HMRC told us that:

You will now not find the large accountancy firms promoting to clients the sorts of schemes that were around in the past. You still get some small firms of promoters, onshore, that will push schemes. They will tend to push them at the small high street accountant, who will then sell them on to clients. The market has changed, but there are still promoters around. We have had success in effectively closing down a number of promoters as they have seen the market dry up.<sup>37</sup>

30. In March 2017 a new Standard came into force stipulating that members of professional bodies must not create, encourage or promote tax planning arrangements or structures that either set out to achieve results that are contrary to the clear intention of Parliament or are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation. The Professional Conduct in Relation to Taxation (PCRT) set out fundamental principles and standards for tax planning. It was developed by seven professional bodies and associations whose members provide tax advice.<sup>38</sup> Ray McCann expressed the view that tax professionals would breach the PRCT if they gave the sort of advice today that some had given in the past to encourage clients to use disguised remuneration loan schemes.<sup>39</sup> He went on to tell us that, if one of his members were caught “advising on loan-type arrangements and pretending that, somehow or other, they were fine and not objected to by HMRC, and if they did not give their clients due warning that they were likely to be involved in a long-running dispute” they would be referred to the independent Taxation Disciplinary Board, which has the power, “in the extreme, to strike a member off”.<sup>40</sup>

31. *Professional bodies have a role to develop standards for professional conduct in relation to tax. Although tax advice is not regulated and not all tax advisers are necessarily members of professional bodies, clear standards of conduct endorsed by influential professional bodies provide the public with a valuable benchmark against which to judge the conduct of any tax adviser, professionally qualified or not. We*

37 Q6

38 For example: Chartered Institute of Taxation, ‘[Professional Conduct in Relation to Taxation](#)’, (accessed 17 July 2019)

39 Oral evidence taken on 10 December 2018, [HC 733](#), Q97

40 Oral evidence taken on 10 December 2018, [HC 733](#), Q97

*recommend that HMRC works with the professional bodies to consider whether their standards are sufficiently clear about conduct relating to all stages at which their members may be called upon to provide advice on tax avoidance, including stages leading up to settlement of a tax dispute. HMRC should report back to the Committee with progress against this recommendation by June 2020.*

*32. HMRC should vigorously pursue the promoters and enablers of avoidance schemes to the full extent of their powers—whether they are members of a professional body or not. Given HMRC’s evidence that some firms continue to promote tax avoidance schemes, we recommend that HMRC produces a clear strategy for dealing with tax advisers that continue to promote or enable tax avoidance and we look forward to receiving details of this.*

## Offshore tax evasion

### Scale and scope

33. The No Safe Havens 2019 Report published jointly by HMRC and HM Treasury, set out HMRC’s strategy for tackling offshore non-compliance.<sup>41</sup> The Report pointed to HMRC’s success in raising over £2.9 billion by tackling offshore tax non-compliance since 2010. In the past, it has proved difficult for HMRC to estimate how much tax it was able to recover from offshore tax evasion. The Office for Budget Responsibility (OBR), noted that the Budget 2013 measures were originally forecast to bring in over £1 billion in previously unpaid tax from 2013–14 to 2017–18.<sup>42</sup> In November 2015, the OBR lowered its forecast of total yield to £800 million.<sup>43</sup> It did this based on evidence from HMRC about the extent to which the Government would be able to make up for the lower than expected yield from the disclosure facility.<sup>44</sup> In March 2016, the OBR revised the forecast down again by another £530 million, on the basis of further information from HMRC which showed that there had been fewer voluntary disclosures than expected, and that HMRC was less optimistic about how much tax it could recoup through additional compliance activity, “on the basis that [HMRC] are unlikely to be able to work the higher number of additional cases on top of existing workloads”.<sup>45</sup>

### New developments in data and other information

34. The United Kingdom is now part of a network of more than 100 jurisdictions that have committed to automatically exchange financial accounting information under the Common Reporting Standard (CRS).<sup>46</sup> The CRS, and the international framework of information exchange agreements that underpins its implementation, delivers an

41 HM Revenue and Customs, ‘No Safe Havens 2019’, accessed 17 July 2019

42 Office for Budget Responsibility, ‘Economic and fiscal outlook - March 2016’, accessed 17 July 2019

43 Office for Budget Responsibility, ‘Economic and fiscal outlook - November 2015’, accessed 17 July 2019

44 For information about the disclosure facility, see: HM Revenue and Customs, ‘HMRC: disclosure service’, accessed 17 July 2018

45 Office for Budget Responsibility, ‘Economic and fiscal outlook - March 2016’, accessed 17 July 2019

46 *The Common Reporting Standard is an internationally agreed standard, developed by the OECD, for the automatic exchange of financial account information by participating jurisdictions. For more information see: Organisation for Economic Cooperation and Development, ‘Common Reporting Standard (CRS)’, accessed 17 July 2019*

unprecedented amount of data to HMRC about accounts held by UK tax residents with financial institutions overseas. David Richardson from HMRC described the Common Reporting Standard as “the holy grail”.<sup>47</sup>

35. When we asked HMRC whether they had sufficient powers and resources to recover tax from offshore evasion, Mr Richardson went on to explain that the expected impact of the OECD Common Reporting Standard was very significant:

One cannot exaggerate it; that is a huge step forward. I doubt it is the end of the road. I am sure there will be more things that we need to do and look at, but we need to give it a chance to see what impact it has.<sup>48</sup>

36. The No Safe Havens 2019 report stated that in 2018, HMRC received information about the offshore financial interests of around three million UK resident individuals, or entities for which it had oversight, and received CRS records relating to 5.67 million accounts in 2018.<sup>49</sup> HMRC’s early analysis of the information received indicated that one in ten UK taxpayers had an offshore financial interest.<sup>50</sup> The report also stated that in 2018, HMRC wrote tens of thousands of letters to people whom they believed might have tax to pay on an overseas account or investment. It has received more than 18,000 notifications from people who want to correct past offshore tax non-compliance.<sup>51</sup>

37. Finally, we noted that the most recent Finance Act (2019) increased the assessment time limits for income tax, capital gains tax and inheritance tax to 12 years where there is non-deliberate offshore tax non-compliance.<sup>52</sup> These extended time limits appear to reflect an awareness of Government that HMRC may find offshore enquiries to be particularly complicated and require more time to resolve than the normal four or six-year time limits for other forms of non-deliberate non-compliance allow. The Low Incomes Tax Reform Group raised concerns about elderly people and migrants who may have small amounts of income from overseas sources.<sup>53</sup>

*38. Given the extent of the information now available, and the international effort that has gone into reaching the current level of transparency, and the cost to businesses in complying, it is reasonable to expect HMRC to be able to exploit and explain the use they make of bulk data such as the Common Reporting Standard (CRS). We recommend that HMRC produces an annual report on what the data reveals about the scope and scale of offshore non-compliance, including any particular areas of risks identified and how it is addressing those risks.*

**39. The CRS information is a new source of data which may reveal a wide range of non-compliance behaviours from a relatively simple failure to declare interest earned on an offshore account, to more complex cases of tax evasion, fraud or even money-laundering, where the deposits themselves represent illicit funds. We are yet to be reassured that HMRC knows what its baseline is—i.e. what stock of enquiries it already has on hand and what the data is already telling it about the tax at risk from offshore evasion.**

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47 Q39

48 Q56

49 HM Revenue and Customs, ‘[No Safe Havens 2019](#)’, accessed 17 July 2019, page 5

50 HM Revenue and Customs, ‘[No Safe Havens 2019](#)’, accessed 17 July 2019, page 18

51 HM Revenue and Customs, ‘[No Safe Havens 2019](#)’, accessed 17 July 2019, page 19

52 Finance Act 2019, [part 4](#) (Time limits for assessments etc)

53 Low Incomes Tax Reform Group, ‘[Draft Finance Bill 2018–2019: Extension of offshore time limits](#)’, 17 July 2019

40. *We recommend that proper regard be given to the potential impact of the use of extended time limits by HMRC. Specifically, we recommend that HMRC ensures that it leaves good time to ensure that enquiries are opened and, where necessary, assessments made or amended. Throughout its enquiries HMRC should ensure that frequent and regular contact is maintained with the taxpayers involved and that appropriate channels of communication are used. HMRC needs to be alive to the dangers of building up a large stock of offshore evasion enquiry cases and should make sure that sufficient resources are allocated to the conduct of enquiries to ensure that cases are brought to resolution as quickly as possible.*

### **Tackling offshore promoters of tax avoidance**

41. When we explored the availability of sanctions that could be applied against promoters in offshore locations, Ray McCann, President of the Chartered Institute of Taxation, told us that currently there was little that could be done:

There is no real sanction that the UK can apply against someone based, say, in the Isle of Man. Obviously, the UK could complain to an Isle of Man regulator, but it is uncertain in my mind as to whether or not the person acting in that way would necessarily breach any regulatory structure offshore. It is only in recent years that the UK has introduced rules that would allow the UK or HMRC to punish a promoter who was making outlandish claims and selling egregious tax schemes, irrespective of whether they were successful under the law or not. Those rules have only appeared from 2015 onwards. HMRC's sanction against an offshore promoter is very limited.<sup>54</sup>

42. Mr McCann stated that “a very substantial proportion of [avoidance] schemes were marketed and promoted from offshore. Certainly, some of the more notorious providers of these schemes are based in the Isle of Man and have been based in the Channel Islands”.<sup>55</sup> HMRC's No Safe Havens 2019 report flagged an intention to “explore opportunities to work with other jurisdictions to promote comparable standards for UK tax advice in their jurisdictions”. It hoped this would help prevent non-UK agents providing advice that resulted in “customers paying less UK tax than they should”.<sup>56</sup>

43. *We welcome HMRC's initiative to work with other jurisdictions and will watch for further information about its progress with interest. We recommend that HMRC sets out which—if any—powers and measures it feels need tightening or enhancing through legislation, as well as which resources need strengthening when it comes to dealing with offshore promoters, taxpayers or jurisdictions concerning tax avoidance and evasion.*

44. *We recommend that HMRC engages with the professional bodies in the UK that are signatories to the Professional Conduct in Relation to Taxation standards. In its response to this Report, HMRC should report back to us on progress made on the work referenced in its No Safe Havens 2019 Report on promoting comparable standards for UK tax advice in other jurisdictions.*

54 Oral evidence taken on 10 December 2018, [HC 733](#), Q93

55 Oral evidence taken on 10 December 2018, [HC 733](#), Q94

56 HM Revenue and Customs, '[No Safe Havens 2019](#)', accessed 17 July 2019, page 16

## 2 HMRC's approach to dispute resolution

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### Vulnerable taxpayers

45. When we raised concerns with HMRC about its treatment of vulnerable taxpayers it responded by setting out how they aspired to treat vulnerable customers involved a tax dispute:

Where we are aware that a customer is vulnerable, and that vulnerability means they have difficulty in complying with their obligations, we take action to provide extra support to them during their dispute with HMRC. This might mean arranging meetings at particular times, allowing more time for information to be gathered or longer for the customer to make decisions.

Cases involving potentially vulnerable customers should also be identified prior to any hearing (or at the earlier review stage, if a review has been asked for) and the relevant risks, issues and approach to handling considered carefully there too, including by more senior managers as necessary.

When a case reaches tribunal, HMRC will check whether there are any additional needs and, if the taxpayer is unrepresented or vulnerable, we will support them in developing their position.

It is sometimes the case that HMRC is not aware of the fact that a customer is vulnerable, or the degree of their vulnerability, until we reach either the statutory review stage or First-tier Tribunal when more evidence is presented. Often customers who are vulnerable do not respond to queries raised by HMRC because they are unable to. This makes it more difficult for HMRC to provide support to allow them to comply with their tax obligations.<sup>57</sup>

46. Finally, HMRC told us about recent changes it had made to better handle vulnerable customers. It explained that it had:

- Strengthened our assurance and governance mechanisms for our reviews and appeals teams and looked at whether there should be additional governance mechanisms when dealing with cases involving vulnerable customers, including urgent escalation routes to more senior managers;
- Reviewed the skills and training the relevant teams receive to ensure they are able to exercise their discretion appropriately; and
- Fed the lessons from this case into on-going work looking at how we support vulnerable customers, and around the exercise of discretion.<sup>58</sup>

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57 HM Revenue and Customs ([TRE0198](#))

58 HM Revenue and Customs ([TRE0198](#))

47. Finally, HMRC explained that dealing with vulnerable customers was becoming embedded in the normal way of doing business:

We have extended the scope of our Needs Enhanced Support (NES) service and are piloting its use in compliance areas to provide additional support and guidance to customers undergoing compliance checks. We are currently working with the NES team to establish a referral process, to support caseworkers on when they should refer a case to them;

We have revisited our external communications, making them more customer-focussed and inviting the customer to tell us at the earliest opportunity of issues that HMRC need to be aware of. Changes to some HMRC letters and factsheets have been made already; for example, we have moved the section regarding the assistance that is available to vulnerable customers to near the top of the fact sheet we send when we are undertaking an intervention and enhanced the visibility of the “Your Charter” section, and more letters and fact sheets are currently being reviewed;

We are developing more detailed guidance, case studies and support for frontline officers in compliance, reviews and appeals teams to help them recognise when a customer may need additional support and what that support might look like;

We are creating a network of senior officers to provide additional support and guidance for caseworkers who are working a tax dispute with a customer who has a particularly challenging situation;

We are working with colleagues across the public sector to develop a training programme particularly focussed on supporting vulnerable customers through a dispute situation.<sup>59</sup>

48. However, we have heard evidence that the way in which HMRC conducted enquiries and disputes with vulnerable or unrepresented taxpayers often fell short of the standard of service implied by that statement. For example, Victoria Todd from the Low Incomes Tax Reform Group told us about the lack of specific reference in HMRC’s LSS or its wider governance statements to the needs of such ‘customers’:

Most unrepresented taxpayers would never have heard of the litigation and settlement strategy. [...] Although the guidance says it applies to everybody that HMRC deals with, there is no specific mention of unrepresented taxpayers; there is no mention of the support services, like the needs enhanced support service that HMRC run; there is no mention of the HMRC charter in terms of rights and responsibilities. We think it could certainly be strengthened to cover those situations.<sup>60</sup>

49. Ms Todd pointed out that, while HMRC has resources in place to help vulnerable taxpayers, there were obstacles within HMRC in identifying those taxpayers and providing them with the support they require:

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59 HM Revenue and Customs ([TRE0198](#))

60 Oral evidence taken on 18 June 2018, [HC 733](#), Q32

We have been very supportive of the needs enhanced support service that I mentioned, which effectively replaced the network of enquiry centres. From all the reports we get, that team is excellent, but they only become effective when they have identified that need. That relies on everybody else in HMRC who is coming into contact with people to recognise that there is an issue. That is where we feel things fall down.<sup>61</sup>

Ms Todd noted that HMRC was aware of this issue because it had recently fought a tribunal on the subject:

There was a recent tribunal case, the Sandpiper case,<sup>62</sup> where the judge highlighted that having all of these things in place is fine, but it is of no use if staff either ignore or are not aware of the processes. As I say, the help is there within that team, but it relies on the people on the frontline being able to identify issues.<sup>63</sup>

50. Ms Todd did concede that “HMRC have a difficult job because when you are dealing with people it might not be obvious that they have a mental health problem, or they might not want to disclose it. Sometimes you are looking for something they have said to give you a clue that there might be a problem. It is not always easy, as our experience and those cases show”.<sup>64</sup> However, she stated that, in the Sandpiper instance, that was not the case:

In that particular case, the gentleman told HMRC several times in his letters that he was deaf and he could not speak to them on the phone. The reply that kept coming back was, “We cannot move this payment to another system. You need to ring the PAYE helpline and speak to them”. That came back in several letters.<sup>65</sup>

51. We asked whether HMRC’s stated objective to “maximise revenues”<sup>66</sup> had hurt vulnerable people. Victoria Todd acknowledged that the problem was a more complex picture and HMRC was “maximising revenue at the same time as it is facing cuts in resources”.<sup>67</sup> She concluded that this had fundamentally affected the way HMRC had to deal with its customers:

As time has gone on, resources have become tighter in HMRC and they have lost their enquiry centres and public face, that has led to more pressures in terms of dealing with these cases.<sup>68</sup>

**52. *Given the stress and anxiety that disputes with HMRC can cause a vulnerable taxpayer, we welcome the steps taken by HMRC to improve its approach to vulnerable taxpayers and look forward to receiving an update on progress. However, it is clear that more can be done. We recommend that HMRC provides a clearer explanation of its definition of ‘vulnerable’ when it comes to identifying this sub-set of customers.***

61 Oral evidence taken on 18 June 2018, [HC 733](#), Q33

62 [UKFTT 0267](#) (TC)

63 Oral evidence taken on 18 June 2018, [HC 733](#), Q33

64 Oral evidence taken on 18 June 2018, [HC 733](#), Q33

65 Oral evidence taken on 18 June 2018, [HC 733](#), Q33

66 HM Revenue and Customs, ‘[Single Departmental Plan – June 2018](#)’, accessed 17 July 2019 (since updated), section 1.1

67 Oral evidence taken on 18 June 2018, [HC 733](#), Q47

68 Oral evidence taken on 18 June 2018, [HC 733](#), Q57

53. *We recommend that HMRC reports on how it has reflected on the insights of groups such as the Low Incomes Tax Reform Group, the tax charities and other advice bodies to gain a full insight into the difficulties faced by taxpayers who cannot afford to pay for advice. This should be provided to the Committee in the response to this Report.*

## Litigation and Settlement Strategy and governance framework

54. HMRC describes its Litigation and Settlement Strategy (LSS) as its “policy governing the conduct and resolution of all enquiries likely to be settled through civil law processes (rather than prosecution), whether that resolution is by agreement or by litigation through the civil tax tribunal”.<sup>69</sup> During this inquiry, we heard from tax advisers dealing with large corporates who told us that the perception that HMRC took a ‘lighter touch’ with large corporates was not the case. Pinsent Masons LLP argued that large companies often felt a greater level of scrutiny and explained that there was actually a perception that HMRC took a harder line with large corporates.<sup>70</sup> This was put down to “perhaps reflecting the fact that higher value settlement proposals for large corporates are typically subject to greater levels of scrutiny at a policy level or beyond, including potential external scrutiny”.<sup>71</sup> Slaughter and May expressed a similar view that increased external scrutiny of HMRC’s relationship with large businesses had led to a more aggressive and inflexible approach, concluding that “it is certainly not the case that HMRC is inclined to offer any kind of preferential treatment to big businesses when it comes to enforcing the law”.<sup>72</sup>

55. We heard that the LSS may have fostered an inflexible approach that made it more difficult to resolve disputes in a cost-efficient manner. For example, Slaughter and May stated that:

A predominant theme of the LSS is that tax disputes must be resolved in accordance with HMRC’s view of the law. The LSS states that “HMRC will not compromise on its view of the law to secure agreement”; and “where HMRC believes that it is likely to succeed in litigation and that litigation would be both effective and efficient, it will not reach an out of court settlement for less than 100 per cent of the tax, interest and penalties (where appropriate) at stake”.<sup>73</sup>

Slaughter and May went on to explain that:

This “all or nothing” approach creates difficulties in practice, and in our view, it is too simplistic and inflexible. It often prevents HMRC from acting as a rational party to a commercial dispute would. For example, in circumstances where HMRC believes that it is likely to succeed in litigation and that litigation would be both effective and efficient, the LSS does not permit HMRC, in its assessment of a settlement proposal, to factor in the costs and risks that are nonetheless inherent in pursuing litigation.<sup>74</sup>

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69 HM Revenue and Customs ([TRE0195](#))

70 Pinsent Masons LLP ([TRE0183](#))

71 Pinsent Masons LLP ([TRE0183](#))

72 Slaughter and May ([TRE0174](#))

73 Slaughter and May ([TRE0174](#))

74 Slaughter and May ([TRE0174](#))

It concluded that the inflexibility in the LSS could “force tax disputes to be resolved by litigation where a mutually acceptable settlement might otherwise have been achieved”, arguing that this was “inefficient and costly, and increases the pressure on the court system”.<sup>75</sup>

56. Similarly, KPMG stated that that—while the LSS did provide a “rational and sound framework for resolving tax disputes”—it argued that “HMRC appears to have been less willing to explore legitimate options for dispute resolution which might not result in the maximum possible tax payable; this largely results in a longer and more contentious, adversarial and ‘binary’ process”.<sup>76</sup>

## Penalties

57. We also heard evidence that indicated HMRC took a similarly strict line to applying penalties to large businesses. For example, KPMG stated that:

There has been a noticeable change in HMRC’s approach to penalties in recent years with Inspectors seeking to apply penalties much more often. It should be noted that this change is not as a consequence of there being any change to the basic penalties legislation.<sup>77</sup>

58. KPMG went on to state that this was combined with a more aggressive stance being taken by HMRC when making enquiries:

We have noticed a trend for HMRC to assert that inaccuracies are the result of ‘deliberate’ taxpayer behaviour. The consequences for taxpayers of being charged a ‘deliberate’ penalty are severe, including a much higher penalty which cannot be suspended and potential reputational damage by being named on the deliberate defaulters list.<sup>78</sup>

59. Similar concerns were expressed by the Chartered Institute of Taxation:

There often appears a tendency for HMRC to initially suggest an inappropriate category of behaviour (in the sense of categorising the behaviour as worse than it is). This not only affects both the level of any penalty, and whether it can be suspended, but importantly also affects the time limits for assessing the underlying tax amounts (20 years in cases of dishonesty, four or six years in cases of innocent or careless errors).<sup>79</sup>

It noted that the decisions made in such circumstances “often leads to decisions which are overturned on appeal” and that “such litigation is normally a costly exercise for both the taxpayer and HMRC”.<sup>80</sup> The Institute highlighted that “genuine errors can arise simply by virtue of genuine mistake or misunderstanding, with no carelessness, recklessness or deliberate conduct”, a fact that it concluded HMRC appeared to have forgotten.<sup>81</sup>

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75 Slaughter and May ([TRE0174](#))

76 KPMG LLP ([TRE0152](#))

77 KPMG LLP ([TRE0152](#))

78 KPMG LLP ([TRE0152](#))

79 Chartered Institute of Taxation CIOT ([TRE0182](#))

80 Chartered Institute of Taxation CIOT ([TRE0182](#))

81 Chartered Institute of Taxation CIOT ([TRE0182](#))

60. **HMRC must ensure that taxpayers are incentivised to pay the correct amount of tax at the correct time. To that extent, we welcome the evidence that HMRC is stringent when applying penalties. HMRC’s role is that of collecting tax liabilities as defined by tax law. This is not the same as a ‘commercial’ two-way relationship. We have heard that HMRC may be being particularly strict in applying penalties to large corporate businesses and take this opportunity to remind the tax authority that it must be fair and consistent in its application of tax measures.**

## Guidance

61. Finally, we took evidence about the quality of tax guidance and specifically about the online guidance provided on the gov.uk website which was designed to help people navigate their tax responsibilities. We heard that people who do not have accountants or tax advisers to help them if they become involved in a dispute with HMRC struggled to use that guidance. For example, Victoria Todd from the Low Incomes Tax Reform Group told us that the poor standard of guidance available to unrepresented taxpayers was increasing errors and therefore raising the number of enquiries and disputes:

The ideal thing, of course, is to avoid these disputes in the first place. You do that by providing guidance, help and support and education to people. That is definitely one of the areas HMRC are not strong on: educating people to avoid these disputes in the first place and pointing them to help and advice. If you look at all the letters that go out to people and the communications, they do not say, “You can go to Citizens Advice. There are tax charities. You can get help in these places”. There is nothing like that in any of the initial letters, and they do not tell people about that until quite far along the debt recovery line.<sup>82</sup>

62. Ms Todd went on to explain that the poor quality of available guidance was a specific issue when a dispute concerned HMRC’s judgement about a taxpayer’s behaviour rather than, for example, how tax law applied to a transaction:

A lot of the cases we see do not involve legal issues; they are mainly about judgement decisions, which are more subjective, around reasonable excuse. Most of the people we are in contact with do not know what is available to them, so they do not know about reasonable excuse; they do not know about special reduction.<sup>83</sup>

She told us about the resources available:

I went through the process as if I was having to deal with a penalty appeal and looked at what information and guidance I received. Much of it relies on the HMRC decision maker considering whether there is a special circumstance or considering the issues, because the taxpayer does not have enough information to request those sorts of things.<sup>84</sup>

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82 Oral evidence taken on 18 June 2018, [HC 733](#), Q47

83 Oral evidence taken on 18 June 2018, [HC 733](#), Q32

84 Oral evidence taken on 18 June 2018, [HC 733](#), Q32

63. The Chartered Institute of Taxation agreed, raised similar concerns about the quality of guidance on the gov.uk website:

Tax law can be extremely complex and hence difficult, if not impossible, for the ordinary person to understand. We understand the basic guidance on gov.uk is written for persons with a reading age of nine; in practice this means that the information available to ordinary taxpayers can omit important points of detail to such an extent that it is actually inaccurate. Accurate guidance, on which taxpayers can rely, would reduce disputes and hence costs incurred by taxpayers and HMRC.<sup>85</sup>

***64. We have heard that it is too difficult for anyone involved in a dispute with HMRC and with little knowledge of the workings of the tax system to find adequate information from HMRC to help them understand the law and find out about their rights and the help that is available to them. We recommend that HMRC urgently reviews and improves the accessibility, quality and level of detail of guidance it makes available to vulnerable taxpayers. In its response to this Report it should set out a clear timetable to achieve this.***

# Conclusions and recommendations

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## Tackling tax avoidance and evasion

1. *It is important for Parliament and taxpayers to be confident that HMRC has a robust picture of the number of people that are involved in tax avoidance schemes or whose past involvement in tax avoidance remains unresolved, how much tax is at risk and the years involved. It is equally important to know all the parties involved, which of those parties may ultimately be liable to pay any unpaid tax and what means they have to settle. That information is not only necessary to ensure that HMRC puts in place efficient and proportionate arrangements to conduct enquiries and collect any tax found to be due, but also to allow proper transparency and scrutiny of the performance of HMRC. We recommend that HMRC should write to the Treasury Committee on an annual basis with a summary of the number and characteristics (sector, income, profile etc) of people it knows to be involved in tax avoidance schemes. (Paragraph 10)*
2. People who take a tax position that they know might be challenged by HMRC should be aware, regardless of how strong they believe their argument to be, that they may ultimately have to pay the disputed tax. It is HMRC's responsibility to protect public funds from tax avoidance, and Parliament requires HMRC to fulfil that responsibility assiduously and to apply their procedures consistently, proportionately and in accordance with the law. (Paragraph 25)
3. Some taxpayers have fallen foul of anti-tax avoidance measures because they followed professional financial advice to engage in disguised remuneration schemes (or were persuaded to do so by their employer). HMRC has offered individuals who now earn a salary below £50,000 up to five years to pay the loan charge owing; and those earning below £30,000 up to seven years. It has also publicly stated that it would not make people sell their homes to pay their disguised remuneration tax bills or make them bankrupt. Setting aside the policy, we conclude that HMRC has adopted a sensible administrative approach to the payment of large unexpected tax bills by people with limited resources. However, there can be no doubt that the delay in this clarification caused widespread anxiety and distrust of the Contractor Loan Settlement Opportunity. (Paragraph 26)
4. There have been delays in providing settlement terms to those who wished to settle their affairs under the Contractor Loan Settlement Opportunity. We recommend that HMRC closely monitors its response times and reports back to us on progress in providing settlement calculations. (Paragraph 27)
5. *In its response to this Report, we also recommend that HMRC provides an update on the number of cases that have been brought to a conclusion under the Contractor Loan Settlement Opportunity—and how many of the liable population chose not to take it up—providing details of the range of settlement terms and the amount of tax and other duties covered. On the face of it, the Financial Secretary to the Treasury's announcement that HMRC would not pursue the charge on individuals in "closed"*

*tax years in which participation in a loan-based scheme had been fully disclosed seems sensible. We recommend the Government reports on how many individuals this will impact, and the amount of money being written off. (Paragraph 28)*

6. *Professional bodies have a role to develop standards for professional conduct in relation to tax. Although tax advice is not regulated and not all tax advisers are necessarily members of professional bodies, clear standards of conduct endorsed by influential professional bodies provide the public with a valuable benchmark against which to judge the conduct of any tax adviser, professionally qualified or not. We recommend that HMRC works with the professional bodies to consider whether their standards are sufficiently clear about conduct relating to all stages at which their members may be called upon to provide advice on tax avoidance, including stages leading up to settlement of a tax dispute. HMRC should report back to the Committee with progress against this recommendation by June 2020. (Paragraph 31)*
7. *HMRC should vigorously pursue the promoters and enablers of avoidance schemes to the full extent of their powers—whether they are members of a professional body or not. Given HMRC’s evidence that some firms continue to promote tax avoidance schemes, we recommend that HMRC produces a clear strategy for dealing with tax advisers that continue to promote or enable tax avoidance and we look forward to receiving details of this. (Paragraph 32)*
8. *Given the extent of the information now available, and the international effort that has gone into reaching the current level of transparency, and the cost to businesses in complying, it is reasonable to expect HMRC to be able to exploit and explain the use they make of bulk data such as the Common Reporting Standard (CRS). We recommend that HMRC produces an annual report on what the data reveals about the scope and scale of offshore non-compliance, including any particular areas of risks identified and how it is addressing those risks. (Paragraph 38)*
9. *The CRS information is a new source of data which may reveal a wide range of non-compliance behaviours from a relatively simple failure to declare interest earned on an offshore account, to more complex cases of tax evasion, fraud or even money-laundering, where the deposits themselves represent illicit funds. We are yet to be reassured that HMRC knows what its baseline is—i.e. what stock of enquiries it already has on hand and what the data is already telling it about the tax at risk from offshore evasion. (Paragraph 39)*
10. *We recommend that proper regard be given to the potential impact of the use of extended time limits by HMRC. Specifically, we recommend that HMRC ensures that it leaves good time to ensure that enquiries are opened and, where necessary, assessments made or amended. Throughout its enquiries HMRC should ensure that frequent and regular contact is maintained with the taxpayers involved and that appropriate channels of communication are used. HMRC needs to be alive to the dangers of building up a large stock of offshore evasion enquiry cases and should make sure that sufficient resources are allocated to the conduct of enquiries to ensure that cases are brought to resolution as quickly as possible. (Paragraph 40)*
11. *We welcome HMRC’s initiative to work with other jurisdictions and will watch for further information about its progress with interest. We recommend that HMRC*

*sets out which—if any—powers and measures it feels need tightening or enhancing through legislation, as well as which resources need strengthening when it comes to dealing with offshore promoters, taxpayers or jurisdictions concerning tax avoidance and evasion. (Paragraph 43)*

12. *We recommend that HMRC engages with the professional bodies in the UK that are signatories to the Professional Conduct in Relation to Taxation standards. In its response to this Report, HMRC should report back to us on progress made on the work referenced in its No Safe Havens 2019 Report on promoting comparable standards for UK tax advice in other jurisdictions. (Paragraph 44)*

### HMRC's approach to dispute resolution

13. *Given the stress and anxiety that disputes with HMRC can cause a vulnerable taxpayer, we welcome the steps taken by HMRC to improve its approach to vulnerable taxpayers and look forward to receiving an update on progress. However, it is clear that more can be done. We recommend that HMRC provides a clearer explanation of its definition of 'vulnerable' when it comes to identifying this sub-set of customers. (Paragraph 52)*
14. *We recommend that HMRC reports on how it has reflected on the insights of groups such as the Low Incomes Tax Reform Group, the tax charities and other advice bodies to gain a full insight into the difficulties faced by taxpayers who cannot afford to pay for advice. This should be provided to the Committee in the response to this Report. (Paragraph 53)*
15. *HMRC must ensure that taxpayers are incentivised to pay the correct amount of tax at the correct time. To that extent, we welcome the evidence that HMRC is stringent when applying penalties. HMRC's role is that of collecting tax liabilities as defined by tax law. This is not the same as a 'commercial' two-way relationship. We have heard that HMRC may be being particularly strict in applying penalties to large corporate businesses and take this opportunity to remind the tax authority that it must be fair and consistent in its application of tax measures. (Paragraph 60)*
16. *We have heard that it is too difficult for anyone involved in a dispute with HMRC and with little knowledge of the workings of the tax system to find adequate information from HMRC to help them understand the law and find out about their rights and the help that is available to them. We recommend that HMRC urgently reviews and improves the accessibility, quality and level of detail of guidance it makes available to vulnerable taxpayers. In its response to this Report it should set out a clear timetable to achieve this. (Paragraph 64)*

## Sub-Committee Formal Minutes

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**Tuesday 23 July 2019**

Members present:

John Mann, in the Chair

Nicky Morgan      Alison Thewliss

Draft Report (*Disputing Tax*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 64 read and agreed to.

*Resolved*, That the Report be the First Report of the Sub-Committee to the Committee in this session.

*Ordered*, That the Chair make the Report to the Committee.

[The Sub-Committee adjourned

# Committee Formal Minutes

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**Tuesday 23 July 2019**

Members present:

Nicky Morgan, in the Chair

John Mann      Alison Thewliss

Draft Report from the Sub-Committee (*Disputing Tax*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 64 read and agreed to.

*Resolved*, That the Report be the Thirty Fourth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 24 July at 9.45am]

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Tuesday 17 April 2018

**David Richardson**, Interim Director General, Customer Strategy and Tax Design, HM Revenue and Customs, **Esther Wallington**, Chief People Officer, HM Revenue and Customs

[Q1–90](#)

### Monday 18 June 2018

**Victoria Todd**, Senior Technical Manager, Low Incomes Tax Reform Group, **Paula Ruffell**, Tax Investigations and Disputes Senior Manager, Grant Thornton UK LLP, **Keith Gordon**, Barrister, Temple Tax Chambers

[Q1–90](#)

### Monday 10 December 2018

**Ray McCann**, President of the Chartered Institute of Taxation, **Tony Lennon**, Freelance and Research Officer, Broadcasting, Entertainment, Communications and Theatre Union (BECTU)

[Q91–120](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

tre numbers are generated by the evidence processing system and so may not be complete.

- 1 Ainslie, David ([tre0057](#))
- 2 Alderton, Mark ([tre0083](#))
- 3 Amphlett, Tim ([tre0079](#))
- 4 Anderson, Mr Alistair ([tre0161](#))
- 5 ap Owen, Mr Hugo ([tre0056](#))
- 6 Association of Accounting Technicians (AAT) ([tre0092](#))
- 7 Association of Revenue & Customs ([tre0177](#))
- 8 Ball, Mr Matthew ([tre0006](#))
- 9 Berney, Mr Kevin Michael ([tre0130](#))
- 10 Blundell, Mr Colin ([tre0069](#))
- 11 Brayton, Mr James ([tre0011](#))
- 12 Bromfield, Mr Alan ([tre0027](#))
- 13 Chartered Engineer Buchanan, Robert ([tre0023](#))
- 14 Buck, Mr Michael ([tre0101](#))
- 15 Burroughs, Colin ([tre0020](#))
- 16 Campbell, Mr Colin ([tre0100](#))
- 17 CBI ([tre0175](#))
- 18 Chisholm, Mr Simon ([tre0012](#))
- 19 Christophers, Thomas ([tre0191](#))
- 20 Clark, C ([tre0067](#))
- 21 Clough, Mr Gregory ([tre0047](#))
- 22 Cochrane, David ([tre0088](#))
- 23 Corrigan, Mr Wayne ([tre0044](#))
- 24 Cowley, Miss Helen ([tre0141](#))
- 25 CPAA ([tre0137](#))
- 26 d'Angelo, Mrs Jacqueline ([tre0104](#))
- 27 Daly, Stephen ([tre0134](#))
- 28 Davies, Dr Graham ([tre0042](#))
- 29 Deloitte LLP ([tre0185](#))
- 30 Donkin, Matthew ([tre0085](#))
- 31 Duncan, Mr Brian ([tre0078](#))
- 32 DWF LLP ([tre0168](#))
- 33 Entwistle, Mr Neil ([tre0025](#))

- 34 Faulkner, Peter ([tre0163](#))
- 35 Forbes, Mr Mike ([tre0188](#))
- 36 Fraser, Mr Mark ([tre0126](#))
- 37 Fyfe, Mr Robert ([tre0090](#))
- 38 Fyfe, Mrs Jenny-Lee ([tre0089](#))
- 39 Garden, Anna ([tre0139](#))
- 40 Gordon, Keith ([tre0145](#))
- 41 Goswami, Ms Minal ([tre0129](#))
- 42 Graeme Purdy ([tre0015](#))
- 43 Grant Thornton UK LLP ([tre0171](#))
- 44 Green, Mr Geoffrey ([tre0026](#))
- 45 Greenacre, Mr Oliver ([tre0055](#))
- 46 Grobler, Jason ([tre0063](#))
- 47 Hamilton, Mr Nathan ([tre0091](#))
- 48 Harrington, Mr Paul ([tre0071](#))
- 49 Hart, Mr Alan ([tre0062](#))
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