

Hartnett holds forth

HMRC director general
Dave Hartnett shares his
views on tax advisers,
avoidance and tax
authority service
standards with
Chris Quick

Dave Hartnett has been the public face of HMRC through a tricky patch in its relationship with the tax profession. There has been strain on several fronts. The avoidance crackdown, the avalanche of changes to the UK's tax rules and practices, concerns over HMRC service standards and its reorganisation have all fanned flames of frustration on both sides.

Hartnett is HMRC director general (business), responsible for tax co-ordination, tackling tax avoidance, the Large Business Service, international relations and for the department's links with businesses of all sizes. He has been very active in communicating with the tax profession, speaking at many gatherings organised by the CIOT and other professional bodies. For more gadgety-inclined tax professionals, he has even produced podcasts on HMRC's relationship with advisers. He is one of nine executive members of HMRC's board, led by chairman Paul Gray (interviewed in *Tax Adviser's* January 2007 issue). But his remit and willingness to engage means he has become perhaps the best known Revenue figure among tax advisers since Hector the tax inspector, and certainly a more controversial one.

Above the parapet

Although generally viewed as welcome and necessary, his willingness to put his head above the parapet has not earned him universal popularity among tax advisers. He does not shy away from the issues at hand, but this doesn't necessarily mean he gives the answers his audience wants to hear. And that is the case in this interview, especially when it comes to avoidance and service standards. Tax advisers, he emphasises, should bear their share of responsibility for problems that arise.

Senior tax practitioners report that their relationship with HMRC has started to take a turn for the better – and the willingness of Hartnett and his colleagues to talk and engage has been a major factor in this turnaround. But this thawing of the chill has not necessarily permeated the rest of the Revenue and the wider tax adviser community.

In the open-plan world of HMRC's Parliament Street headquarters, Hartnett does not have his own office – although his desk does look a little further apart from colleagues than the norm – so we adjourn to a meeting room. So what does he think of tax advisers? 'I think the overwhelming majority of tax advisers are knowledgeable, hard-working, determined to do a good job for the client, and determined to have a

good, but in no way cosy, relationship with the UK tax administration,' he responds.

There is of course a 'but' – in fact a few of them. 'I think we've been through a bad spell with a minority and we started coming out of it in 2005 following the introduction of the disclosure rules for tax avoidance.'

Aggressive avoidance

The disclosure rules, he says, transformed the environment, helping to clamp down on those tax advisers who were 'making money for themselves and saving tax for their clients by very aggressive schemes of tax avoidance'.

It was the major accountancy firms, he says, who tended to be the ones promoting such schemes in the early 2000s. But things have since changed and their relationship with HMRC has become much more collaborative, although not cosy. 'Today there are relatively few marketed schemes about,' he says. But he still has 'spivvy boutiques' in his sights. 'These tend to be a mixture of accountants, lawyers and people with other backgrounds who are determined to save money for clients, who are quite aggressive in their tax schemes and, frankly, pay no attention at all to the disclosure rules.'

Hartnett emphasises that the impact of the disclosure rules was about more than just the rules themselves. Within days of Gordon Brown's announcing they were going to be introduced in 2004, and well before they came into force, the Revenue started to receive a huge flow of information about schemes involving charity tax relief and all sorts of other things. 'It was clear there was a pent-up frustration in the profession about the way in which some of those peddling schemes were damaging the reputation of the profession. People wanted to tell us about it.'

Stakes in the ground

The clampdown on avoidance begs the question that tax advisers often ask: when exactly does acceptable and reasonable tax planning turn into unacceptable tax avoidance? Hartnett responds: 'I think the best way is to put some stakes in the ground here. Any tax economist will tell you that tax schemes and tax legislation creates distortions, and you have to plan around the distortions. I don't think any tax administration objects to sensible planning. There's no requirement for business or individuals to pay more than they have to.' But he goes on to say that some of the 'extraordinary convolutions and artificialities that we saw in some of the

arrangements that were deeply hidden away from us' are a different matter.

He adds that there is also the question of whether a government can afford the saving that will come out of tax planning, be it aggressive or otherwise. He concludes: 'The courts haven't really succeeded in giving any bright lights here, and I'm afraid I've got no bright lights for you either.' So is it all just grey? He responds: 'We just look at it on a case-by-case basis. What's going on? What's the intention? What has it achieved? What damage does it do to the tax system and the Exchequer? Those are the sort of questions.' Those advisers hoping for more clarity than this, it seems, will not find it here.

The other big issue for many tax advisers at the moment is HMRC's standards of service. Many have been expressing their frustration at slow and inadequate responses, and confusions related to the reorganisation of the tax authority – a huge project involving melding together and rationalising the former Inland Revenue and Customs in terms of both staff and geographical location.

Moving forward

Hartnett says that morale is good, considering the extent of change, and that most HMRC staff are absolutely determined to do a good job, come hell or high water. But he adds that the average age of Revenue staff is high, and morale takes a bit of a battering in that context. He says that integration for former Inland Revenue staff with Customs staff is moving forward.

'I'm very conscious,' he says, 'that tax advisers are saying to me and my colleagues quite often that the service is not as good as it used to be. If advisers believe that, then send in the evidence, the letters which apparently display this. Send us a copy of their letter to us and our reply to show the time lapse. We really want to understand this because there are things to be put right here, and we are going to put them right.'

But he adds that the problems are nothing like as dramatic as tax advisers make them out to be: 'When we start pushing for evidence, quite often very little comes forward. That's why I make this request for evidence.'

He also says that tax advisers should understand that the tax authority is modernising things, and that will involve breaking a few things on the way, and that it's going to change some ways of doing things.

'All over the world tax administrations are being asked by government to do more

CTA INTERVIEW

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for less, and we have to work out how to do that,' Hartnett says. 'And so things aren't going to be the same. People aren't going to be able to pick up the phone to Harry Smith four doors down the high street and say "Harry I've got this tax problem, can we get it sorted?" because that's not how we are reorganising ourselves.'

So what is his vision of how the new tax administration will work? Modern tax administrations, he says, cannot afford to carry out the sort of activities that can be done in one place in lots of different places. Hence big, fast, cheap, value-for-money and effective processing centres will become the normal way of doing things.

More emphasis on risk

He says that the future will involve much more emphasis on risk, and says that we can expect more initiatives in the same style as this year's offshore disclosure project. 'Some of the disclosures we received in relation to the project have involved millions of pounds,' he says. 'And some of the cases that get investigated locally involve just a few hundred pounds.'

'I think our strategy – our vision of the future – is that people will find the risk of getting caught creeping off a few hundred pounds a year too great, and that will

change behaviour. And we will apply our valuable, scarce resources to those cases where they can be much more effective.'

On the subject of the offshore disclosure initiative, Hartnett says there will be more action in this area, pointing out that HMRC only obtained notices requiring seven banks to deliver information, when there are more than 550, some of which have strong offshore connections.

'Offshore bank accounts will be a key thing for us for a while,' he says, 'but we'll look at other things.'

A particular issue that has caused widespread concern is the delay in VAT registration, which advisers say is causing great frustration, difficulties and in some cases costing businesses significant sums of money.

Hartnett acknowledges the seriousness of this: 'We recognise that making a huge improvement in the time for VAT registration is of crucial importance. We've got plans to do that. People will see significant improvements through the autumn.'

He admits that the closure of two offices and the centralisation of work in two others has had an impact. He also points to missing trader fraud, 'a scourge of UK tax administration'. Billions have been lost to it, and Hartnett says that close checks have



been needed to stop it.

But he says that practitioners also have to shoulder their share of the blame for the problems. A minority of advisers, he says, responded to the Managed Service Company rules by establishing tens of thousands of new companies in an attempt to thwart the effect of the legislation.

'So you can see that while the VAT registration issue may be significantly down to us, tax advisers – in fairness a minority of them – have a significant accountability.'

Arctic Systems – no regrets

Another issue that has been closely followed is the Arctic Systems case, which was pursued to the House of Lords (see last month's issue, p14). Any regrets? 'It was and still is a really important issue, and we tackled that case in a thoroughly professional way. I think it is really interesting the way that private sector tax professionals were split on Arctic Systems. Many agreed with us and many didn't. We have the decision from the House of Lords and it tells us what the law is today. Treasury ministers have made it clear that they plan to bring forward, in consultation, new proposals in relation to income splitting.

'And that's where we are.'

Hartnett in brief

On tax advisers 'I think the overwhelming majority of tax advisers are knowledgeable, hard-working, determined to do a good job for the client, and determined to have a good, but in no way cosy, relationship with the UK tax administration...but I think we've been through a bad spell with a minority.'

On Arctic Systems 'It was and is a really important issue, and we tackled that case in a thoroughly professional way.'

On the offshore disclosure initiative 'We've obtained notices requiring seven banks to deliver information to us and they've done so. But there are more than 550 banks in the UK and some of them have strong offshore connections...I think offshore bank accounts will be a key thing for us for a while.'

On defining tax avoidance 'We look at it on a case-by-case basis. What's going on? What's the intention? What has it achieved? What damage does it do to the tax system and the Exchequer?'

On talking to tax advisers 'Go to the podcasts. We are looking for new ways to talk to intermediaries and to the world at large, and we are getting lots of hits.'

On regulating tax advisers 'I think it's a very difficult proposition for a tax administration to be responsible for the regulation of tax advisers...I think registration is a different issue.'

On HMRC service levels '(The problems) are certainly not as dramatic as some tax advisers make them out to be.'

On VAT registration delays 'People will see significant improvements through the autumn, and that's important...but the problems are not simply down to HMRC. Practitioners are there in part too.'

On HMRC modernisation 'I think tax advisers should complain vigorously to us when they need to. But by the same token they should understand that we are modernising things, that we're going to break a few things en route, and that we're going to change some ways of doing things.'

Dave Hartnett CB

Hartnett joined the Inland Revenue in 1976. He spent nearly 10 years on investigation work before becoming director of Claims Branch in 1991. In 1994 he was appointed director of the Financial Intermediaries and Claims Office, moving in 1996 to lead the technical team on personal taxation. In 1998 he was appointed director of Capital and Savings, with tax policy responsibility for capital taxes, savings, pensions, share schemes, charity tax issues and stamp duty. He led the 2000 quinquennial review of the Valuation Office Agency before joining the Inland Revenue Board in the same year. He led the development of tax credits and new share schemes, and the introduction of the tax disclosure rules in 2004.

He is married to a divorce lawyer, has three children and is chair of the audit committee of Birmingham University, where he studied Latin. He was awarded a CB in the 2003 new year's honours list.

