

This Public Accounts Committee's swan-song tax reports

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The Public Accounts Committee for this parliament [has published its swan-song tax reports](#). It's good enough to share in full. It makes a compelling case for an Office for Tax responsibility that I have proposed and which Margaret Hodge has publicly supported:

The Rt Hon Margaret Hodge MP, Chair of the Committee of Public Accounts, today said:

“Over the last 5 years, partly as a result of the work of this Committee, tax avoidance has become a major issue of public debate and public concern.

“We have been able to shine a light on the unacceptable practices and sheer lengths that some companies go to in order to avoid paying the appropriate amount of tax on the profits they make from their activity here in the UK.

“Our hearings with companies such as Google, Starbucks and Amazon have exposed the artificial structures and complex transactions used to move profits out of the UK into low tax jurisdictions.

“Our hearings with the ‘big 4’ accountancy firms and promoters of marketed avoidance schemes have exposed a tax avoidance industry, comprising many large accountancy firms, tax advisers and lawyers, all of whom are making lucrative business out of designing and selling ways for their clients to avoid tax.

“Some of these firms, for example PwC from whom we took evidence, appear to be selling these schemes on an industrial scale.

“We remain concerned that HMRC’s relationship with these large accountancy firms is too cosy, and it needs to get much tougher in challenging the advice they give to their clients.

“We have also argued for new offences to penalise those involved in advising or helping companies and individuals avoid or evade tax, and we are pleased that Government has now signalled its intention to introduce such offences.

“However it is disappointing that HMRC has rejected our recommendation for a tougher code of conduct for tax advisers - a response which is out of kilter with its wider policy to clamp down on aggressive tax avoidance.

“Furthermore, we do not believe there are enough prosecutions for tax evasion to act as an effective deterrent to those who break the law. As it stands, tax avoidance — and even evasion — can be a risk worth taking.

“HMRC needs to show that it comes down hard on tax cheats and change the perception that it is far too tolerant of these companies and individuals — in contrast to its treatment of small businesses and the majority of the public who pay their taxes through PAYE. We are not persuaded that HMRC and the Crown Prosecution Service are doing enough to prosecute serious tax evasion cases.

“For example, we recently looked at HMRC’s handling of leaked data containing the names of HSBC clients with secret Swiss bank accounts and evidence that suggested staff at HSBC were helping their clients avoid and evade tax. However, only one case has been prosecuted since HMRC received the data in 2010, and we are not aware of whether any action has been taken against the bank.

“We recognise the lead the UK Government has taken on tax avoidance on the international stage, and we call on the next Government to continue this work and undertake to tackle both the industry and culture that surrounds and supports tax evasion and aggressive avoidance.

“However, for as long as the United Kingdom has such a complex tax code, opportunities for aggressive tax avoidance and evasion will continue to be exploited. This Government came into office committed to reducing tax reliefs, but in practice the number of reliefs has increased by almost 100 so that, according to the Office for Tax Simplification, we now have 1,140 tax reliefs.

“HMRC does not effectively monitor changes in the cost of tax reliefs, so is slow in identifying instances where a relief is being exploited for a purpose Parliament did not intend.

“HMRC and HM Treasury often show a worrying lack of curiosity about the cost of tax reliefs. The costs of R&D tax relief increased from around £100 million in 2001 to over £1 billion in 2011-12, whilst the actual amount of business expenditure on R&D stayed more or less the same.

“The complexity of tax law and the constraints on HMRC’s resources mean that it is fighting an uphill battle against those who are determined to cheat the tax system. HMRC could collect more of the tax that is due if it had more resources devoted to this

work and it should be assertive about making this case to HM Treasury and Parliament.”

Margaret Hodge was speaking as the Committee published its 49th and 50th Reports of this Session which — on the basis of evidence from Jim Harra, Director General, Business Tax, Lin Homer, Chief Executive and Permanent Secretary, HMRC, Indra Morris, Director General, Tax and Welfare, HM Treasury and Jennie Granger, Director General Enforcement and Compliance, HMRC — examined the effective management of tax reliefs and improving tax collection.

Tax and tax reliefs are plainly different and require different accountability arrangements. Put simply, tax is where you get money in through taxation and a tax relief is where you make a conscious decision to forgo that income. Some reliefs are structural parts of the system to ensure a more progressive system or avoid double taxation. But other reliefs, costing some £100 billion a year, are designed to deliver a policy objective that could be met instead through spending programmes. HM Treasury and HM Revenue and Customs (HMRC) do not keep track of those tax reliefs intended to influence behaviour. They do not adequately report to Parliament or the public on whether reliefs are working as intended and what they cost and whether they represent good value for money. While HMRC is accountable for implementing and monitoring all tax reliefs, its statements about the extent of its responsibilities are inconsistent with its actual practices. HMRC accepts it has a role to assess, evaluate and monitor reliefs, but is unable or unwilling to define or to categorise reliefs by their purpose. While HMRC accepts the need for reporting the costs of tax reliefs, it does not see the merit in assessing the economy, efficiency and effectiveness of reliefs, or considering their cost effectiveness alongside that of alternative policy instruments such as spending programmes. HMRC does not generally assess the effectiveness of reliefs with specific objectives although in a few instances it does consider their impact on taxpayer behaviour. HMRC’s failure to articulate a set of principles to guide its management and reporting of tax reliefs is a serious omission which it now needs to rectify.

Tax reliefs form a distinct part of the tax system. New tax reliefs, and proposed changes to reliefs, are introduced through the annual Finance Bill, at which time their expected costs to the Exchequer are published. HM Treasury has lead responsibility for the policy design of tax reliefs, while HMRC is responsible for managing their implementation. Tax reliefs add to the complexity of the tax system and they carry risks, such as the possibility of them being used for tax avoidance. HMRC has the responsibility for ensuring such reliefs are effectively administered and meet the purpose intended by Parliament.

We have made taxation a key area of our focus during this Parliament. We have published 20 reports on taxation and made over 100 recommendations to HM Revenue and Customs (HMRC) and HM Treasury aimed at improving HMRC’s performance and strengthening confidence in the tax system. We have influenced the debate about multinational companies paying the appropriate amount of tax due, based on their

transactions conducted within the UK; exposed serious problems with how the tax planning industry pushes aggressive tax avoidance schemes to businesses and wealthy individuals; helped to reform how HMRC tackles marketed tax avoidance schemes and settles tax disputes with large corporates; and challenged HMRC to provide a better and more even-handed service to customers. We welcome the action that HMRC has taken in response to our recommendations and the progress that has been made. But much remains to be done; for example, HMRC must urgently transform its currently unacceptable levels of customer service. We welcome the lead the UK Government has taken in this area on the international stage and call on the next government to continue this work and undertake to tackle both the industry and culture that surrounds and supports tax evasion and aggressive avoidance.

HMRC administers the tax system and is responsible for putting tax rules into practice. Since 2010, HMRC's primary focus has been to increase the collection of tax revenues, while at the same time reducing the costs of collecting tax and providing a better service to customers. HMRC interacts with over 45 million people and almost 5 million businesses and collects around £500 billion of tax each year. It is important that people have confidence in the way that HMRC works and that it administers the tax system fairly while promoting a culture of compliance. This report draws out some of the major issues we have identified regarding the administration of the tax system and recommends further actions to address the areas of our greatest concern. We also annex to this report an account of the international conference on taxation we held in October 2014, which helped to reinforce and clarify our conclusions on these issues during the final session of the Parliament.

Conclusions and Recommendations of The effective management of tax reliefs

HMRC has not recognised fully its responsibilities for assessing the value for money of tax reliefs. HMRC's reporting of tax reliefs does not enable Parliament to scrutinise them effectively to determine whether they are providing value for money. At present the focus is primarily on assessing new expenditure reliefs before they are introduced. The reliefs may be examined by the Treasury Committee and debated during the passage of the annual consideration of the Finance Bill. But these arrangements do not safeguard the value for money of reliefs once implemented as HMRC and HM Treasury provide little or no information by which they can be held to account for the accuracy of their cost estimates or whether tax reliefs are achieving their intended objectives. HMRC accepts it is accountable for monitoring, evaluating and assessing tax reliefs but contends this excludes the issue of the cost of a relief. We firmly reject this assertion. HMRC has to be accountable to Parliament for the value for money of tax reliefs. This requires meaningful reporting on their costs and the extent to which the intended policy objectives are being achieved.

Recommendation: Government may choose to implement particular policy objectives through tax reliefs. These decisions should be subject to the same

examination of economy, efficiency and effectiveness as its pursuit of policy objectives through expenditure. HMRC should draw up a set of principles to guide its management and reporting of tax reliefs which make clear how it will discharge its responsibility to monitor, evaluate, and assess tax reliefs.

HMRC does not maintain or publish a complete and accurate list of tax reliefs setting out what each is intended to achieve. HMRC publishes a list of current tax reliefs each year, showing an estimated cost, but the list is poorly defined, incomplete and inaccurate. Definitions of what is a tax relief is in itself contentious. The Office of Tax Simplification has identified 1,140 reliefs, compared to HMRC's list of 398. HMRC has identified only 46 reliefs that it considers are tax expenditures, but has not generally sought to define tax reliefs by their purpose. Yet the NAO estimates that 196 tax reliefs—about half of those on HMRC's list—were designed to have a specific impact on behaviour or to benefit particular groups. Our examination found that HMRC does not publish any data on the cost of 42% of these 196 expenditure reliefs; HMRC does not collect data in 53 cases, and in a further 28 cases cost data is provided in tax returns but is not collected or published by HMRC. The National Audit Office also found published costs could significantly exceed forecasts, the most significant difference being the cost of Entrepreneurs' relief which exceeded HMRC's forecast by £2 billion. HMRC acknowledges it must produce more data and accepts it can improve the accuracy and consistency of such data.

Recommendation: HMRC should set out how it intends to improve transparency of the costs of tax reliefs to Parliament. HMRC should publish and maintain an up to date list of tax reliefs using a definition agreed with the Office of Tax Simplification that sets out each relief's purpose and its cost to the Exchequer.

Tax reliefs add to the complexity of the system and may be exploited as a way of avoiding tax. HMRC does not effectively monitor changes in the cost of tax reliefs so is slow in identifying instances where a relief is being exploited for a purpose Parliament did not intend. Monitoring whether the cost of a policy instrument is in line with expectations is a basic principle of sound financial management. But HMRC and HM Treasury often show a lack of curiosity about the cost of tax reliefs. HMRC has investigated sustained increases in the cost of seafarers' earnings deduction to rule out abuse, but has yet to do so for Entrepreneurs' relief which cost £2.7 billion in 2013-14. The costs of R&D tax relief increased from around £100 million in 2001 to over £1 billion in 2011-12 whilst the actual amount of business expenditure on R&D stayed more or less the same. We have seen examples of large increases in the cost of reliefs as a result of abuse. Spikes in the cost of Share Loss relief, Business Premises Renovation Allowance, and Film Tax Relief were all caused by the systematic use of these reliefs for tax avoidance. While HMRC has other means of detecting avoidance activity, it cannot be confident of the scale of avoidance activity without knowing and analysing changes in the cost of the relief over time.

Recommendation: HMRC should regularly monitor variances between its forecasts of what tax reliefs will cost and what they actually cost. Where costs significantly exceed forecasts, it should seek positive evidence that the relief is working as intended and not being targeted for tax avoidance.

HMRC does not systematically evaluate the effectiveness of all tax reliefs intended to change behaviour. Despite their significant costs, those tax reliefs with specific policy objectives are subject to much less scrutiny than government spending. We welcome HMRC's acceptance that it should be accountable for assessing, monitoring and evaluating tax reliefs. But HMRC does not systematically and consistently evaluate the impact of tax reliefs on taxpayers' behaviour. For example, HMRC is seeking to evaluate the extent to which R&D tax credits are influencing businesses' decisions to invest in R&D. However, there are other reliefs, some of which have existed for many years, such as Agricultural Property Relief, which have not been evaluated. HMRC rarely, if ever, assesses whether a tax relief is an economic, efficient and effective way of meeting its policy objectives.

Recommendation: Where the objective of a relief is to influence the behaviour of taxpayers, HMRC should regularly evaluate and report on whether it is achieving the desired impact and is doing so in a cost effective manner.

Departments' budgets are set without taking into account the cost to the Exchequer of relevant tax reliefs. Unlike the practice in some other countries, decisions to increase or reduce a department's funding do not take into account the impact on expenditure of the revenue foregone through tax reliefs that operate in the department's area of responsibility. For example, Parliament votes on funding for arts organizations without taking into account the effectiveness of tax reliefs intended to stimulate more theatre and film productions, which is simply another way of funding the arts. Clear and accurate data on the costs of reliefs are essential to help Parliament consider the value for money of reliefs and whether their costs reflect its priorities in providing financial support to different areas and services.

Recommendation: The cost of spending and expenditure on tax reliefs should be considered alongside one another in setting annual departmental budgets so that the true level of financial support to each area of public policy is transparent.

Conclusions and Recommendations of Improving tax collection

The complexity of tax law and the constraints on HMRC's resources mean that it is fighting an uphill battle against those who are determined to cheat the tax system. During this Parliament, we have repeatedly challenged HMRC to improve its performance. In particular, we have pushed HMRC to be more robust in addressing tax avoidance by multi-national companies, tackle the promoters and users of tax avoidance schemes, improve customer service, and be more even-handed in its

treatment of taxpayers. HMRC has accepted over 80% of our recommendations and has made some significant improvements to its business. We note that HMRC has continued to reduce its headcount, which fell by 24,600 between 2008 and 2014. To address the deficit in the public finances, it is critically important that HMRC collects as much of the tax revenue that is due as is possible. Investment in HMRC more than pays for itself, with a minimum return of £10 for every £1 invested in HMRC staffing. Its resources must also reflect the scale of the challenge it faces in tackling a vast and sophisticated tax planning industry which supports aggressive tax avoidance by wealthy people and large companies.

Recommendation: HMRC could collect more of the tax that is due if it had more resources devoted to this work and it should be assertive about making this case to HM Treasury and Parliament. It should set out how much additional tax it could collect if it was granted more funding to build its capability in the most critical areas.

We remain concerned that some multi-national companies who transact business in the UK are not paying the appropriate amount of tax. The evidence we heard from Google, Starbucks, Amazon, Shire and the large accountancy firms showed that the practice of creating artificial structures and transactions to exploit international tax boundaries and so avoid tax in the UK is widespread. Designing ways for multi-national companies to avoid tax is a lucrative business and it is clear that the voluntary code of conduct for tax advisors is not working in all cases. We note that some of the companies which avoid UK tax and those that provide advice on how to do so continue to benefit from large public sector contracts. Work is underway to reach international agreement on changes to tax rules and to improve the exchange of information and transparency of reporting. While we expect the Organisation for Economic Co-operation and Development (OECD)'s work in this area to have a positive impact, it will take some time. We expect HMRC to take a much more proactive approach to challenging and tackling artificial tax arrangements.

Recommendation: HMRC and government must set out how they will tackle tax avoidance by multi-national companies more robustly, rather than waiting for the OECD's work to bear fruit. This should include introducing new offences to penalise those involved in advising or helping companies and individuals avoid or evade tax.

We are concerned that HMRC's relationship with large accountancy firms is too cosy. In our February 2015 report on the role of large accountancy firms we drew attention to the need for HMRC to take a more active role in challenging the advice given by large firms to their multinational clients. In its response, published on 19 March, HMRC disagreed with our recommendation for it to challenge tax advice, citing only what it does to challenge non-compliance by the multinationals themselves. We also recommended the introduction of a new code of conduct for tax advisers and consultation on how it could be best implemented. The Department also disagreed with

this recommendation, despite our assertion that existing codes of conduct are simply not preventing firms from promoting tax avoidance schemes. The Department's response to our February report is out of kilter with wider policy to clamp down on aggressive tax avoidance and is not in taxpayers' best interest. We urge the Department to reconsider its response.

For as long as the United Kingdom has such a complex tax code, opportunities for aggressive tax avoidance and evasion will continue to be exploited. This Government came into office committed to reducing tax reliefs but in practice the number of reliefs has increased by almost 100 so that, according to the Office for Tax Simplification, we now have 1,140 tax reliefs. Even the most ethically-based reliefs like Gift Aid tax relief can be exploited to avoid tax by those determined to cheat the system. We have reported separately on tax reliefs and made recommendations for improved management and accountability, but the fact we have so many inevitably impacts on the efficiency and effectiveness of HMRC.

Recommendation: HMRC and HM Treasury should renew their efforts to review all tax reliefs and radically reduce the number in the tax code.

There are not enough prosecutions for tax evasion to act as an effective deterrent to those who break the law. HMRC clearly favours bringing in revenue quickly over prosecutions—which it told us can take many years to complete—but we are not convinced that they have struck the right balance between prosecuting tax evaders and allowing them to settle their affairs. The tax system relies on people following the rules, so HMRC needs to show that it comes down hard on tax cheats and change the perception that it is far too tolerant of those who break the law by hiding their income. HMRC must work within inter-governmental agreements such as the Liechtenstein Disclosure Facility. However, we are concerned that the current system still causes the odds to be stacked in favour of tax evaders using offshore accounts when the worse that will happen if they are caught is that they will pay the tax they owe and a fine. HMRC told us that it had increased the number of prosecutions overall, but these are for a wide range of tax offences. We are not persuaded that HMRC and the Crown Prosecution Service are doing enough to prosecute serious tax evasion cases.

Recommendation: HMRC should gather evidence to establish the effectiveness of prosecutions in deterring tax evasion by wealthy individuals. HMRC should work with the Crown Prosecution Service to significantly increase the number of prosecutions.

We welcome new powers obtained by HMRC to tackle marketed tax avoidance, but the number of unresolved cases is still a major concern. When we reported in 2013, HMRC appeared to be on the back foot in tackling marketed tax avoidance as its approach of challenging the users of tax avoidance schemes after the act made it too easy for the promoters and users of such schemes to benefit from them. In response to our recommendations, HMRC has established a new directorate to

tackle this problem and it has asked for and received new powers which should allow it to disrupt the behaviour of promoters and serial tax avoiders. It is too early to see an impact from these new measures. Meanwhile, HMRC has identified a further 24,000 unresolved cases involving marketed tax avoidance since 2012. Its best estimate is that more than 65,000 cases remain unresolved.

Recommendation: HMRC should set a timetable and a trajectory for bringing down the number of open cases that relate to marketed tax avoidance schemes. HMRC should also consider where else in its business it could strengthen its compliance approach by applying the same principles it has used to address marketed avoidance schemes.

Our evidence shows that some HMRC customers receive an unacceptable quality of service. HMRC accepts that its recent customer service performance has not been good enough. It has not met its own targets and it forecasts that it will not be able to answer over a fifth of phone calls from customers this year. HMRC's customer charter commits it to provide an even-handed service, but only 63% of individuals and small businesses say that they think HMRC acts fairly, compared to 87% of large businesses. HMRC accepts that small businesses who seek to make contact with HMRC too often receive a service that is not good enough. It told us it was aiming to provide a better and more personalised service for small businesses and to offer more ways for customers to provide and obtain information electronically.

Recommendation: HMRC should aspire to provide a service on a par with good practice in the private sector to all its customers, and should set out how and when it will achieve this.

We are deeply disappointed by HMRC's handling of whistleblowers. We consider that HMRC's use of powers reserved for tackling serious criminals against Mr Osita Mba was indefensible. HMRC told us that it had changed how it deals with whistleblowers and that it now provides information to its audit and risk committee who can use this to challenge how HMRC handles whistleblowers.

Recommendation: HMRC should tell us when it makes use of the powers granted to it under the Regulation of Investigatory Powers Act against whistleblowers from within HMRC. It should also provide us with the information on whistleblowing that its audit and risk committee receives so that we can gain assurance over the appropriateness of HMRC's approach to managing whistleblowers.