

John Whiting
Office of Tax Simplification
1 Horse Guards Road
London
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competitiveness@ots.gsi.gov.uk

30 June 2014

Dear Mr Whiting,

Office of Tax Simplification - Competitiveness review: initial thoughts and call for evidence

Introduction

We are the Quoted Companies Alliance, the independent membership organisation that champions the interests of small to mid-size quoted companies. Their individual market capitalisations tend to be below £500m.

The Quoted Companies Alliance is a founder member of European**Issuers**, which represents over 9,000 quoted companies in fourteen European countries.

The Quoted Companies Alliance Tax and Share Schemes Expert Groups have examined your proposals and advised on this response. A list of members of the Expert Groups is at Appendix A.

Response

We welcome the opportunity to respond to this call for evidence. We support the initiative by the Government and the Office of Tax Simplification to review and improve the UK's tax administration for businesses, namely with the latest project on a 'Review of the competitiveness of the UK tax administration'. While we consider that the UK tax system has developed considerably over the past few years in terms of simplification of procedures, we believe that a few changes would further reduce complexity and allow small and mid-size quoted companies to grow.

For that purpose, we have highlighted a few points below – identified by our members – which we believe merit consideration:

- The effect of the UK's anti-avoidance tax legislation on companies' growth should be considered. Tax guidance should be kept up-to-date on how HMRC is applying the legislation.
- Worldwide Debt Cap and Transfer Pricing are two areas which represent a disproportionate burden on mid-size companies and can be harmful for the UK's competitiveness.
- Regarding the Worldwide Debt Cap, we suggest that the exclusion of debtor balances of less than £3m is eliminated, so that, effectively, the gateway test is on a total UK net debt basis. If necessary, this exclusion could be restricted to groups that meet certain size criteria. We also

believe that groups below a certain size threshold should be allowed to calculate net debt on the basis of UK consolidated group accounting figures. Finally, we suggest making the gateway test optional, which would permit groups, if they so wish, to go straight to the detailed calculations.

- Regarding Transfer Pricing, we suggest confirming that medium-sized groups are not required to compile contemporaneous evidence to support pricing policies, unless they wish to. We also believe that it should be confirmed that HMRC will not seek to discount the value of evidence compiled at a later date following the commencement of HMRC enquiries.
- Certainty is the key factor for business: it would be helpful if HMRC could give pre-transaction rulings in particular areas, even if companies had to pay for them.
- We suggest the removal of the arbitrary 5% threshold for CGT Entrepreneurs' Relief in respect of shares held by employees/officers. The 5% shareholding requirement in Entrepreneurs' Relief is a brake on growth for companies and contributes to the imbalance of the tax treatment of debt vs equity, especially when compared to other European regimes.
- Finally, we believe that payments to non-executive directors (NEDs) is another key issue that should be considered. HMRC has been taking an aggressive approach to requiring NEDs to be paid via a company's PAYE rather than through a personal service company. This could result in NEDs increasing their fees, as well as a potential lack of independence.

If you would like to discuss any of our responses in more detail, we would be happy to attend a meeting.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'TW', with a stylized flourish at the end.

Tim Ward
Chief Executive

Quoted Companies Alliance Tax Expert Group

| | |
|--------------------------------|---------------------------|
| Neil Pamplin (Chairman) | Grant Thornton UK LLP |
| Paul Fay (Deputy Chairman) | Crowe Clark Whitehill LLP |
| Emma Bailey | Fox Williams LLP |
| Michael Bell | Osborne Clarke |
| Nick Burt | Nabarro LLP |
| Christopher Connors/ Ray Smith | Clyde & Co LLP |
| Tim Crosley | Memery Crystal LLP |
| Sam Dames | CMS Cameron McKenna LLP |
| Tim Davies | Mazars LLP |
| David Gubbay | Dechert |
| Richard Jones | BDO LLP |
| Natasha Kaye | Olswang |
| Andrew Prowse | Field Fisher Waterhouse |
| Angela Savin | Norton Rose Fulbright LLP |
| Adam Singer | Bird & Bird LLP |
| Vijay Thakrar | Deloitte LLP |
| Emma Tuppen | K&L Gates LLP |
| Amy Underwood | EY |

Quoted Companies Alliance Share Schemes Expert Group

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|--------------------------------------|------------------------------|
| Fiona Bell (Chairman) | RM2 Partnership Limited |
| Jared Cranney (Deputy Chairman) | ISG plc |
| Michael Landon (Deputy Chairman) | MM & K Limited |
| Isabel Pooley/Nicholas Stretch | CMS Cameron McKenna LLP |
| Barbara Allen/Anika Chandra | Stephenson Harwood |
| Emma Bailey | Fox Williams LLP |
| Martin Benson | Baker Tilly |
| Danny Blum | Eversheds LLP |
| Stephen Chater /Robert Postlethwaite | Postlethwaite & Co |
| Sara Cohen | Lewis Silkin |
| Karen Cooper | Osborne Clarke |
| Rory Cray | FIT Remuneration Consultants |
| David Firth | Penna Consulting PLC |
| Philip Fisher | BDO LLP |
| Amanda Flint | Grant Thornton UK LLP |
| David Fuller | CLS Holdings PLC |
| Mark Gearing | Field Fisher Waterhouse |
| Andy Goodman | BDO LLP |
| Paula Hargaden/Caroline Harwood | Burges Salmon |
| Liz Hunter | Mazars LLP |
| Marcus Kealey/Justin McGilloway | Wedlake Bell LLP |
| Colin Kendon | Bird & Bird LLP |
| Andrew Quayle | Olswang |
| Jennifer Rudman | Equiniti |
| Richard Sharman /Amanda Stapleton | Grant Thornton UK LLP |
| Mia Thursby-Pelham | PricewaterhouseCoopers LLP |
| Nick Wallis | Smith & Williamson LLP |
| Matthew Ward | Hewitt New Bridge Street |