



Tax Law Rewrite: the *Corporation Tax Bill* 2008-09

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Author: Antony Seely

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The *Corporation Tax Bill* (Bill 1 of 2008-09) was introduced in the Commons on 4 December 2008. The main purpose of the Bill is to rewrite the charge to corporation tax and the primary corporation tax legislation used by companies in computing their income. The Bill is the fifth to be produced by the Tax Law Rewrite Project - established in December 1996 with the aim of rewriting the UK's existing primary direct tax legislation to make it clearer and easier to use, without changing or making less certain its general effect.

The Bill includes:

- the basic corporation provisions including the charge to tax, accounting periods and provisions relating to company residence;
- provisions relating to trading and property income and income from other sources;
- special provisions for companies affecting the computation of income, such as those for loan relationships, derivative contracts and intangibles; and
- provisions governing particular types of expenditure, for example, expenditure on research and development and films.¹

The Bill is the first of two Bills to rewrite the whole of the primary legislation relating to corporation tax. It is anticipated that the second Bill will be published in draft form early in 2009, and that together, the Acts based on the two corporation tax Bills will take the place of the *Income & Corporation Taxes Act (ICTA) 1988* as the main corporation tax Acts.²

Rewrite Bills are not intended to change the *effect* of legislation in any significant way, although it is anticipated that each Bill will include a number of minor changes: say, to legislate an extra statutory concession or to discard provisions which are now obsolete.³ As a consequence rewrite Bills are subject to a streamlined procedure for Parliamentary scrutiny: in brief, they are

¹ HM Revenue & Customs press notice, *Tax law rewrite – fifth bill introduced*, 5 December 2008

² Prior to the Rewrite Project, the main provisions regarding income tax and corporation tax were consolidated in ICTA. Earlier Rewrite legislation has already replaced ICTA as regards income tax.

³ Inland Revenue, *Tax Bulletin issue 47*, June 2000 p 760-1

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introduced in the House of Commons, referred to a Second Reading Committee, and then to a joint Committee of both Houses. On 9 December the House approved that this particular Bill should be proceeded with as a rewrite Bill.⁴

This note gives an update of the Tax Law Rewrite project, and a short introduction to the Bill. Further background is given in Library briefings on the first four Bills.⁵ The internet site of the Rewrite Project provides full details with access to the legislation it has produced and is working on at present.⁶

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1 Introduction

During the proceedings of the Finance Bill in March 1995 Tim Smith MP proposed a new clause requiring the Inland Revenue to publish a report on the increasing length and complexity of the tax code, and on possible solutions to deal with this problem. The clause was accepted, despite Government opposition and became section 160 of the Finance Act 1995. In December that year the department published its report - *The Path to Tax Simplification* – which recommended that most of the primary legislation on Inland Revenue taxes should be rewritten in simpler, more user-friendly language. In his November 1996 Budget the then Chancellor, Kenneth Clarke, confirmed that the rewrite programme would go ahead. It was estimated that the rewrite would produce over 6,000 pages of rewritten legislation – and as a consequence, a series of coherent and self-contained Bills – containing a single tranche of legislation – would be presented to Parliament over a period of years.⁷ Broadly speaking the project has attracted support across the political spectrum since its inception.⁸

To date the project has produced five pieces of legislation:

- The *Capital Allowances Act 2001* (effective from April 2001)
- The *Income Tax (Earnings and Pensions) Act 2003* (effective from April 2003)
- The *Income Tax (Pay as You Earn) Regulations 2003* (effective from April 2004)
- The *Income Tax (Trading and Other Income) Act 2005* (effective from April 2005)
- The *Income Tax Act 2007* (effective from April 2007).

⁴ HC Deb 9 December 2006 c509

⁵ *Tax Law Rewrite: the Income Tax Bill 2006-07*, Library standard note SN/BT/4204, 22 December 2006; *Tax Law Rewrite: the Income Tax (Trading and Other Income) Bill 2004-05*, Library standard note SN/BT/3309, 3 March 2005; *Tax Law Rewrite: the Income Tax (Earnings and Pensions) Bill 2002-03*, Library standard note SN/BT/2008, 31 January 2003; *Tax Law Rewrite: the Capital Allowances Bill*, Library Research paper 01/04 11 January 2001.

⁶ <http://www.hmrc.gov.uk/rewrite/>

⁷ Inland Revenue, *Tax Law Rewrite: plans for 1997*, December 1996 pp 24-5

⁸ Following the General Election in May 1997, the Labour Government confirmed its support for the rewrite project in a written answer in July that year (HC Deb 31 July 1997 cc 449-450W).

Initially it was thought the TLR project as a whole would take about five years, but the original targets set were soon recognised as unattainable. In 1998 the Revenue carried out a wide-ranging stocktake, which suggested that it was infeasible to estimate precisely how long the rewrite might take, though it would clearly be longer than five years. It noted the concerns of some respondents that this might result in a loss of momentum “particularly if considerable amounts of traditional-style new legislation continue to be added to the statute book each year”, adding, “we share this concern and we will continue to make every effort to keep up and increase our momentum.”⁹

The direct cost of the project is about £3 million per year; the project has 34 employees, of whom 29 are full time.¹⁰ A Steering Committee provides strategic guidance to the project, to ensure “that the project is meeting its objectives of clarity and user friendliness, and is taking full account of private sector concerns.” There is also a standing Consultative Committee, whose role is to “ensure continuous consultation on the rewritten law with all the main private sector interests.”¹¹ Both Committees meet several times a year; minutes of their meetings are available on the TLR website.

Since its inception, the TLR project has dealt exclusively with direct taxes administered by the Inland Revenue – not with VAT, excise duties and other indirect taxes administered by HM Customs & Excise.¹² The merger of the two departments in April 2005 to form HM Revenue & Customs has not changed this. Although there has not been any firm deadline for the project to be completed, in the TLR’s 2005/06 annual plan it was noted that the general intention was to deliver a rewrite Bill every two years.¹³ More recently the Government have decided to accelerate this process, as set out in the project’s 2008-09 annual report:

Up to now there has been a gap of two years between rewrite Bills. We discussed and agreed with the two committees plans to accelerate the work on the second of the two Corporation Tax bills. This acceleration means that the income tax and corporation tax codes will be brought more rapidly into line and the benefits of rewritten legislation will be realised more quickly. We have been mindful of the impact of acceleration on consultees and, as a result of discussions with our committees, have streamlined and amended the way we work to ensure the consultation process remains as effective as it has been to date with as little increased consultation pressure as possible. In particular, to help consultees in planning their work, we have agreed our consultation programme with our Consultative Committee and have published it so that consultees are aware of publication dates of draft clauses.¹⁴

Several commentators have argued that the rewrite project is not an effective solution to the complexity of the tax system, and wider reform should be made.¹⁵ For example, in an article

⁹ *Tax Law Rewrite: plans for 1999/2000*, March 1999 p 16

¹⁰ Thirteen of these employees are either secondees or working on fixed-term contracts (HL Deb15 March 2006 c243WA).

¹¹ *Tax Law Rewrite: plans for 2005/06*, May 2005 paras 2.6, 2.10

¹² During the proceedings of the Finance Bill in March 1996 the Conservative Government resisted calls to require Customs to produce a similar report on the tax simplification to the Revenue; the issue is discussed in Library Research paper 01/04, cited above (see pp 28-30).

¹³ *Tax Law Rewrite: plans for 2005/06*, May 2005 para 4.2

¹⁴ *Tax Law Rewrite: plans for 2008/09*, May 2008 para 3.4

¹⁵ Others have stressed that in many cases simplification comes at a significant political cost: see, for example, “Big political obstacles stand in way of pressure for simplification”, *Financial Times*, 8 September 2005.

on the second Act produced by the project, Roger Kerridge (Professor of Law, University of Bristol) wrote: “the rewrite, by itself, reproduces existing law, however absurd, however illogical. It does not involve change To think of the rewrite, in its present form, as the culmination of some sort of simplification process is to be too easily satisfied. What is now needed is to set in train a process whereby the legislation is *first* rewritten and *then* simplified.”¹⁶

Lord Howe, who has been directly involved in the Rewrite Project, has argued that “in spite of the undoubted success of [the TLR project], it has by necessity left the substance of tax law untouched, and as a result has not been able to stem the rapid increase in complexity that we have witnessed in recent years.”¹⁷ Writing in the Institute for Fiscal Studies’ 2008 *Green Budget*, Malcolm Gammie noted the rewrite “uses simpler language but at much greater length and without resolving any of the underlying complexity in the legislation”:

The Tax Law Rewrite has demonstrated that there is more to simplification than just replacing concise technical legal language with more voluminous ‘plain English’. As an element of the tax system, there are undeniable benefits in ensuring that the legislation is written in a more accessible form, even though the overall benefits of doing so may be relatively limited and offset by the greater volume. The majority of complexity, however, surrounds the concepts upon which the legislation is built, the structure the system adopts in terms of tax rates and taxable units, and the extent to which the government chooses to use the tax system to achieve particular policy objectives.

Within this matrix, some taxes are conceptually difficult – for example, taxes on savings and taxes on profits – while others are conceptually simple but may have features that make them administratively difficult – as, for example, aspects of VAT, PAYE and NICs. [Three illustrations of simplifying legislation discussed above] – buildings allowances, capital gains and financial avoidance – fall into the first category of conceptually difficult taxes. In each case, simplification requires some compromise with what would be ideal because what is ideal is likely to be more complex rather than simpler.

At the same time, the choice of tax rates and taxable units – for example, the family or the individual, a single company or a group – can have a profound effect on the relative complexity of any tax. A value added tax that distinguishes many different products and services and taxes them at different rates is likely to be more complex than one that adopts a single rate. A tax system that taxes individuals but pays tax credits to families is liable to be more complex than one where both elements of the system are based on the same unit of assessment. In this respect, the government’s income shifting proposals for small businesses are unlikely to simplify the taxation affairs of those businesses.

Experience suggests that ‘simplification’ is easily espoused but is rarely achieved with any lasting success. The lesson is that simplification is difficult to achieve without more fundamental consideration of tax bases and tax structures and that ‘simplification’ measures are often just one piece of a complex jigsaw that comprises the tax system. Solving the issue of complexity requires that we recognise what is complex and why and concentrate on what can sensibly be done about it. In this respect, the government’s approach of identifying particular elements of the tax system for review is a start. At the

¹⁶ “The Income Tax (Earnings and Pensions) Act 2003”, *British Tax Review* no.4 2003 p 263. Professor Kerridge’s views are discussed at more length in the Library note SN/BT/3309, cited above.

¹⁷ “Why we must change the way tax law is made”, *Financial Times*, 3 July 2008. A working party chaired by Lord Howe has argued for a series of reforms – including an Office of Tax Simplification, operating on the lines of the NAO (Conservative Party, [Making Taxes Simpler : the final report of a Working Party chaired by Lord Howe of Aberavon](#), July 2008).

end of the day, however, government must be clear as to what its policy goals are. We can then see whether its goals are complicated – possibly too complicated – or just its methods.¹⁸

The criticism is long-standing and in response the department have repeatedly drawn attention to the way this type of legislation is approved by Parliament:

The project's remit is to restate, and not to change, the law is sometimes not fully appreciated and can lead to misunderstanding. People sometimes ask: why bother to go to all the trouble of rewriting the law and not take the opportunity to change it substantively?

At the project's inception, the Government decided that rewriting the law (to make it clearer and easier to use) itself provided major benefit and that it was important to focus fully on this aim. The agreed Parliamentary procedures for the project's Bills, which considerably streamline the normal legislative process, are based on the premise that the Bills do not change tax law and are uncontroversial. They allow a very large parcel of legislation to be enacted, in a way that would be impossible if the Bills had to compete for space with the Government's diverse political priorities in the main legislative programme.

Rewrite compliments the Government's commitment to tax simplification. Indeed, by clarifying the existing law and providing a more robust legislative base on which to build, rewrite can facilitate simplification. For example, work on the Income Tax Act led to simplification in the provisions relating to charities in Finance Act 2006. By illuminating complicated rules rewrite can help in the development of proposals for change. For example, work on the Income Tax (Earnings and Pensions) Act highlighted a relatively simple way of sidestepping liability on remuneration in the form of shares. This led to changes in the legislation to close this loophole.¹⁹

This issue was discussed during the proceedings of the Finance Bill in July 2005, when Mark Field put down a new clause, to require the Treasury to review the case for a 'tax law commission' – a body mirroring the work of the Law Commission, to review and modernise UK tax legislation.²⁰ In response the then Financial Secretary, John Healey, argued, a commission of this type would "add little, and would duplicate something that is probably the task of Government. It is unnecessary and inappropriate to franchise out that task to a separate body." On the rewrite project, the Minister acknowledged, "the project makes the law clearer and easier to use. That may not be regarded as simplification in its fullest sense by all parties, but the law should be simple to understand and practical to comply with, and that is precisely the impact of the project's work."²¹

Writing in the *Tax Journal* in May 2007, Maurice Parry-Wingfield, a practitioner and adviser to the department in the project's earlier phases, noted "people complain that the new legislation is too long, and they were comfortable with the original anyway":

This is to miss the point. Just as I was handicapped by the lack of electronic equipment when starting my career, so are today's tyros held back by having to fathom the meaning of traditionally-written legislation, often terse and arcane. I believe the structure and

¹⁸ IFS, *Green Budget 2008*, January 2008 pp 260, 266-7

¹⁹ *Tax Law Rewrite: plans for 2008/09*, May 2008 paras 2.16-9

²⁰ HC Deb 6 July 2005 c 329

²¹ *op.cit.* c 337. In the event the new clause was negatived.

language of the rewritten legislation is infinitely easier for a newcomer to get to grips with.

He goes on to observe:

The rewrite throws up plenty of examples of legislation that desperately needs simplifying or even removing. Sadly the challenge hasn't been taken up and once the provision are rewritten there's less incentive to do so. What a pity we didn't learn from the Antipodean approach: try to get the principles sorted out in front of the rewrite (Australia) or alongside it (New Zealand). I'm afraid it's too late to change course now.²²

2 The future of the Tax Law Rewrite

In March 2007 the project's fourth Bill received Royal Assent: the *Income Tax Act 2007* came into force on 6 April 2007. Two sections in the Act are worth highlighting:

The Act ... contains, in sections 1028 and 1029, powers to enable an order to make additional consequential amendments or to correct any errors which might be made by the Act. The power to make additional consequential amendments is on all fours with that in section 882 of the *Income Tax (Trading & Other Income) Act 2005*. The power to correct errors is new. It will be limited to undoing changes made by the Act so as to restore the law to what it was before the Act was enacted. In particular, it is envisaged that it will serve to enable errors in making consequential amendments to be corrected. Neither power can be used after 5 April 2010 (three years after the Bill is due to come into force). An undertaking has been given in Parliament that neither power will be used without the agreement of both the Tax Law Rewrite committees.²³

The Act completed the project's work on rewriting the income tax code, and the main focus of the project turned to corporation tax: Bills 5 and 6.

When the project was first launched in 1996, the department's working assumption was that *all* direct taxation would be rewritten – including capital gains tax, stamp duties and inheritance tax. However, in May 2008 the department reported to the Steering Committee that the Government had agreed that the project should wind down after completing the rewrite of the corporation tax code:

The Director delivered his report. This included confirmation of the Financial Secretary's agreement to the proposal that after completion of work on the rewrite of corporation tax the project should be wound down and not continue with the rewrite of further complete Acts. The Financial Secretary had also agreed to the production of Bill 7 covering international and other cross-cutting matters. The Financial Secretary had not at this stage made a final decision regarding the future of the project beyond Bills 6 & 7. The Committee were aware that certain representatives had lobbied heavily for the ending of the project. The Financial Secretary would consider further the various options available. To this end, the Director would be providing the Financial Secretary with further briefing.²⁴

Following this meeting the project published its annual report, which gave a little more detail on Bill 7:

²² "A valedictory", *Tax Journal*, 28 May 2007

²³ *Tax Law Rewrite: plans for 2007/08*, May 2007 paras 3.4-5

²⁴ *Minutes of the Tax Law Rewrite Steering Committee*, SC (07) Minutes 7 May 2008 para 7

International Bill (Bill 7)

The Consultative and Steering Committees have agreed proposals for a further Bill to focus principally (but not only) on subjects dealing with matters with an international dimension, such as transfer pricing and double taxation relief. As this Bill will not focus exclusively on income tax or corporation tax, our intention is to take the opportunity, where users agree it would be helpful to do so, to rewrite and/or relocate a number of provisions that would otherwise be left unhelpfully stranded in ICTA or the Finance Acts. As some of the provisions we are proposing to include in the Bill are subject to possible change/reform, we shall be working closely with officials with responsibility for policy and technical matters relating to those provisions.²⁵

The report also discussed the future of the project after Bill 7:

The support and highly skilled input of representative bodies has been vital to the success of the project. During 2007-08, some of the representative bodies most actively engaged in the work of the Tax Law Rewrite project suggested that the project should be brought to a close upon completion of the rewrite of corporation tax. Subsequent consultation on the future of the project indicated widespread (though not universal) support for this proposal. Significantly, most of those who have made major contributions to the project's work expressed the view that to rewrite capital gains tax, inheritance tax or other complete Acts would not now represent the best use of scarce technical resources. There was, however, support for targeted rewrite of particular areas of legislation.

After the rewrite of corporation tax, the Tax Law Rewrite project will not proceed to rewrite complete Acts. Bill 7 covers aspects of international taxation and a range of other measures, identified by customers as being in particular need of attention. Consideration will be given to the rewrite of other areas of legislation identified by customers as in need of rewrite and to which representative bodies are prepared to commit necessary resources.²⁶

3 The Bill

The scope of the *Corporation Tax Bill* (Bill 1 of 2008-09) is set out in the explanatory notes:

The Bill:

- contains the basic corporation tax provisions including the charge to tax, accounting periods and provisions relating to residence;
- contains provisions relating to trading and property income and income from other sources;
- contains special provisions for companies affecting the calculation of income, such as those for loan relationships, derivative contracts and intangible fixed assets;
- contains provisions governing particular types of expenditure, for example, expenditure on research and development and films; and
- will take the place of many provisions within ICTA, FA 1996, FA 2001 and FA 2002 as the main Act for the areas of corporation tax covered by this Bill.²⁷

²⁵ *Tax Law Rewrite: plans for 2008/09*, May 2008 paras 4.9-11

²⁶ *Tax Law Rewrite: plans for 2008/09*, May 2008 paras 5.1-2

²⁷ Bill 1-EN (I) para 17

The Bill has 1330 clauses and four Schedules. It is the largest the project has produced so far. The Bill is expected to have effect for Corporation Tax accounting periods ending after 31 March 2009.

The department anticipate publishing its second corporation tax bill early next year:

Second corporation tax Bill (Bill 6)

Our present plans show that Bill 6 will include clauses on:

- losses, various reliefs and distributions
- close companies and exempt bodies
- groups of companies
- activities subject to special treatment and avoidance
- the calculation of tax
- general corporation tax definitions

We plan to publish for initial consultation and respond to comments on the further corporation tax provisions planned for inclusion in the Bill. We then intend to issue a draft Bill early in 2009. This will allow sufficient time for full further consultation and enable us to take account of comments received in good time for introduction of the Bill in Parliament before the end of 2009.²⁸

As noted above, rewrite Bills are not intended to change the *effect* of legislation in any significant way, though it is anticipated they may make minor changes to the law: to clarify existing provisions, make them consistent or bring the law into line with established practice. The 2008-09 plan gives details of the project's approach:

To achieve our overall aim our rewritten legislation has to be not only clear, but also technically accurate. It must reproduce the effect of the existing legislation, except where we can make a minor change in the interests of further simplification. The Project Team is responsible for the overall accuracy of the rewritten legislation. Accuracy is assured largely by exposing the draft clauses to the close scrutiny of a series of internal and external experts through our extensive consultation processes.

The minor changes in law or in approach that we propose typically involve correcting small errors, legislating an extra-statutory concession, or dropping material from the existing legislation which is no longer necessary. We aim at every stage of the consultative process to identify clearly all such changes and to highlight any issues that may arise. In this way we seek to ensure that each minor change is fully examined before Parliament is asked to enact it.

It is difficult to define in precise terms what constitutes a 'minor change' for the purposes of the project. The project's Steering Committee have suggested that we should take a reasonably bold approach in the first instance, in identifying and proposing such changes as part of the project's work. All changes are subject to the thorough and open consultative process through which our product is scrutinised; those which go too far can be (and are) challenged by users and rejected. Ultimately, the rewrite Bills are considered by Parliament and it is for Parliament to decide what is acceptable and should be enacted.²⁹

²⁸ *Tax Law Rewrite: plans for 2008/09*, May 2008 paras 4.7-8

²⁹ *Tax Law Rewrite: plans for 2008/09*, May 2008 appendix B

When the first rewrite Bill was considered by Joint Committee in January 2001, the Chairman, Kenneth Clarke MP, discussed the particular role the Committee would have in scrutinising these changes in the law:

Our principal aim is to report on whether or not we are satisfied that the drafting of the Bill is indeed an improvement on the drafting of the previous legislation, that the rewrite has achieved its purpose and that it will be of practical benefit to users of legislation in future, including Ministers and both Houses of Parliament. The second thing we are going to concentrate on is considering each of the minor changes which have been made. It always was contemplated that minor changes would have to be made to accommodate the rewriting of the tax law in simple English, but we think we have a particular duty to ensure that the changes which have been made are minor in the literal meaning of that term as conjugated by the House of Commons, necessary for the purposes of rewriting the Bill in plain language and that they do not involve any policy change or shift in the burden of taxation which really ought to be done in primary legislation, either in a Finance Bill or in a Tax Bill.³⁰

Annex 1 to the Bill's explanatory notes lists the 106 minor changes the Bill is to make to the law; by way of comparison the two previous rewrite Bills made 155 & 159 changes respectively.

In October 2004 the question of what the project should turn to, after completing the rewrite of income tax, was discussed – and, as noted in the following year's annual report, "the feeling of the Committees was that Bill 5 should start the rewrite of corporation tax. HM Revenue & Customs specialists are also in favour of us tackling corporation tax next."³¹ Work began the next year, and the first draft clauses published in summer 2006:

Mr. Gauke: To ask the Chancellor of the Exchequer what representations he has received on his proposals for a corporation tax law rewrite Bill.

Dawn Primarolo: The Tax Law Rewrite project was set up in 1996 under the right hon. and learned Member for Rushcliffe (Mr. Clarke), the Chancellor of the Exchequer. Shortly after this the project issued a consultation document outlining proposals for taking the work forward. There were over 70 written responses including responses from most of the representative bodies in the tax field.

There was unanimous support for the general proposals and nearly the same level of support for rewriting and separating the income tax and corporation tax codes, a proposal which has been adopted. Extensive consultation has always been a key aspect of the project's work. It has a steering committee and a consultative committee made up of representatives of professional bodies. Its work is also published on the internet for wider consultation.

The first draft corporation tax clauses were published for consultation in 2006 and a response document will be published shortly. The project has also published papers on the scope of the corporation tax rewrite. Its scope has been agreed by both the steering and the consultative committees. The intention is to complete the rewrite of corporation tax in two Bills.³²

³⁰ Joint Committee on Tax Simplification Bills, *Minutes of evidence taken on 24 January 2001: Capital Allowances Bill*, 31 January 2001 HL 24-i HC 175-i 2000-01 Q1.

³¹ *Tax Law Rewrite: plans for 2005/06*, May 2005 para 4.8

³² HC Deb 27 March 2007 c1507W

Further parts of the draft Bill were published at regular intervals between February 2007 and February 2008.

The explanatory notes to the Bill give some details of this consultation process:

The work produced by the project has been subject to public consultation. This has allowed all interested parties an opportunity to comment on draft clauses. This consultation took the form of a series of papers which published clauses in draft. There were 20 of these, published between July 2006 and November 2008 and a draft Bill was published for consultation in February 2008. All these documents are available on the Tax Law Rewrite website. The project also held detailed informal discussions and workshops with leading private sector tax professionals and HMRC specialists to consider the drafting of the more complex areas of rewritten tax legislation, for example, loan relationships and derivative contracts.³³

As noted here, the draft version of the Bill was published in February 2008; a Ministerial statement issued at the time commented:

The scope of this new Bill and the timing of consultation were agreed with the project's consultative and steering committees which together include the main representative bodies and other users. It benefits from a style and structure that has been developed as a result of consultation over the previous rewrite Bills. Earlier versions of the legislation in this new Bill have been revised in the light of comments and suggestions from tax professionals and others who engaged in the consultation process. There has been extensive dialogue on them between the project team and business interests, tax practitioners, the legal profession and HMRC specialists.³⁴

In August 2008 the project published a document setting out the responses it had had, and the changes it would make to the Bill as a result. This process was discussed in a meeting of the Steering Committee in October, when the project presented its proposals for the Bill:

The project said that it had received helpful comments [to its draft Bill and it] had been generally well received, including the loan relationships and derivative contracts legislation that had previously proved controversial. The project reported that the ICAEW on their website had been very complimentary about the work and about the role of consultation in improving the clauses. The paper included revised clauses that took into account criticism from consultees about the Chapter dealing with the charge to corporation tax. The Consultative Committee had found the presentation of the clauses to show how they had been changed to be extremely helpful, and recommended that this approach should be used in future where relevant.³⁵

In the impact assessment of the Bill itself, the department note that, "one indication of the impact of the project is that most users' representatives continue both to support the project and to contribute substantially by commenting on draft clauses and other publications."³⁶

By contrast with the procedure on earlier Bills, a revised draft Bill was *not* published. This was noted in the meeting of the Consultative Committee on 4 November:

³³ Bill 1-EN (I) paras 12-14

³⁴ HC Deb 22 February 2008 c61WS

³⁵ *Minutes of the Tax Law Rewrite Steering Committee*, SC (08) Minutes, 8 October 2008 para 19-22

³⁶ HM Revenue & Customs, *Implementation Impact Assessment : Tax Law Rewrite Bill 5 (Corporation Tax)*, December 2008 para 24

The Committee commented that following publication of draft Bill 5 in February; only new draft legislation had been published. Unlike the procedure followed with previous TLR Bills, a further draft Bill reflecting these changes had not been published, meaning that consultees would not see the complete revised picture until early December on introduction of the Bill. By this time, it was too late to review the Bill and make any last minute observations prior to the Parliamentary process.

The project explained that the draft Bills published in the past had been produced to draw attention to significant changes and had not been the subject of consultation. They were, however, very resource intensive to produce. For this Bill, the project instead published all new draft clauses in specific consultation papers and, where rewritten pre-existing draft clauses had been substantially revised, the project published papers presenting the new drafts for consultation. Otherwise, the changes set out in the response document were followed. This approach reduced the burden on the project's resources which instead, could be re-employed on producing Bills 6 and 7 under the accelerated process and reduced the volume of material received by consultees by focusing on significant new material.

The Committee agreed that in practice, there were highly unlikely to be any comments on a revised draft because there was so much material and there would be very little time to review it. But it was unfortunate that they did not have the opportunity to see how the Bill knitted together in advance of introduction. The project said it would bear the comments in mind for Bills 6 and 7, but it may be even more difficult for these Bills if introduction has to be somewhat earlier in the year.³⁷

The Bill was published on 4 December. In a Ministerial statement the Financial Secretary, Stephen Timms, stated that the Bill "maintains the Tax Law Rewrite project's high standards in making tax legislation significantly easier to use":

The Bill rewrites the charge to corporation tax and the main provisions used by companies in computing their income. Its scope was agreed with the project's Steering and Consultative Committees which together include the main representative bodies and other users and I am pleased for the wide support it has among the tax community. Like all previous Bills prepared by the project, it rewrites the law without changing its general effect. All the provisions have benefited from detailed consultation and the drafting style and structure is in line with that of the previous rewrite Bills.³⁸

There does not appear to have been any substantive comment on the Bill since it was published – something which reflects on the lengthy consultation procedure the project has used.

The cost of the project's work on corporation tax was the subject of a PQ in March 2007:

Mr. Gauke: To ask the Chancellor of the Exchequer what his estimate is of the cost of the corporation tax rewrite to (a) the Government and (b) business. [129694]

Dawn Primarolo: The cost of the work of the Tax Law Rewrite project in relation to the rewrite of corporation tax is estimated to be £10 million spread over the years 2005-06 to 2009-10. The cost of the rewrite to business will mainly arise through tax professionals spending time becoming familiar with the rewritten legislation. It has not been possible

³⁷ *Minutes of the Tax Law Rewrite Consultative Committee*, CC (08) Minutes 4 November 2008 para 20-24

³⁸ HC Deb 4 December 2008 cc3-4WS

to quantify this cost. But users have expressed confidence that the clearer legislation in those Acts will result in efficiency savings many times greater than this initial cost.³⁹

The department's impact assessment of the Bill suggests that the total savings to companies from the rewritten legislation could be of the order of £25 million. It also notes a number of non-monetised benefits:

The complexity of corporation tax legislation is greater than that for income tax. Corporation tax legislation has to be able to cater for extremely complicated things that are part of the affairs of some companies. As an example, the legislation on derivative contracts has to cope with complex financial instruments. A benefit for small company users may be in realising which legislation applies to them and which they do not need to consider. This may not always have been apparent prior to the rewrite.

For a variety of reasons in the past few years small businesses have incorporated regardless of any expectation of growth and the need to finance that growth. This has meant that accountants and advisors who may previously have dealt only with income tax have recently had to master corporation tax, with all its complexities. On the experience of surveys from previously written legislation which show that it is easier to understand and use, it is possible that the benefits of the rewritten legislation which show that it is easier to understand and use, it is possible that the benefits of the rewritten corporation tax legislation will be more readily apparent for these users.

UK corporation tax is a matter of international as well as national concern. This arises both as a competitive matter: should a company be a UK company rather than one registered and/or resident elsewhere; and also as a practical matter – dealing with the problems as the UK corporation tax interacts with similar taxes in other jurisdictions through the European Union's rules, double tax agreements or in specific double tax claims and negotiations. Having a clear corporate tax law that can be understood by overseas companies and advisers is therefore a matter of importance.⁴⁰

More generally the department note that, "it is very difficult to quantify the actual benefits to users of a particular body of rewritten legislation until it has been in force for some time. The project has recently proposed, in consultation with its Steering Committee, that a more valuable and significant result would be obtained by evaluating all the rewritten legislation after the final Corporation Tax Bill is enacted."⁴¹

³⁹ HC Deb 27 March 2007 c1506W

⁴⁰ *Implementation Impact Assessment : Tax Law Rewrite Bill 5 (Corporation Tax)*, December 2008 para 24

⁴¹ *op.cit.* paras 25-6