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further Evidence

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Dear Sir Christopher

Thank you for the opportunity to comment on the draft transcript of my appearance at the Committee on 7 July. There is only one point on which I wish to comment. As recorded, paragraph 656 is potentially misleading although the exchanges that follow are fine. I think it would help if I clarified the tax treatment that would apply for various journeys by an MP to ensure that there is no misunderstanding. You may wish to amend the transcript or add a note at the end of the record.

The following examples should make the point clear. If an MP lives 60 miles from his constituency and receives travel expenses for a journey from the constituency to Westminster via his home in a single continuous journey, we would not regard that as taxable to the extent that the overall cost of the journey does not exceed the cost of a direct journey from the constituency to Westminster. If he travelled from his home to Westminster via his constituency in a single continuous journey we would regard the constituency to Westminster part of the journey as non-taxable. If, however, he started his journey from his home and travelled straight to Westminster without going via his constituency, we would regard the whole journey as taxable.

I also agreed to provide the Committee with further information on four issues. I hope you find helpful the paragraphs which follow:

1. How many random enquiries have we undertaken on MPs?

MPs' returns are included in the population from which HMRC randomly selects a small proportion for enquiry, in addition to those returns selected for enquiry under the normal risk criteria. In fact, there have not been any returns from an MP in the cases so selected in recent years. This is not unusual given the number of MPs as a proportion of the general self assessment taxpayer population.

2. If we do random or other enquiries, do we look at the staffing allowance and office costs allowance?

An enquiry may focus on one or more aspects of information contained within a return, or in other information received by HMRC, and may depend on the aspects identified as risks by HMRC. The Administrative and Office Expenditure Allowance (office costs allowance) is taxable and should be included in the returns of MPs. Accordingly the amount of AOE included in a return and any associated claim for relief for expenditure incurred wholly, exclusively and necessarily in the performance of parliamentary duties may be subject to an enquiry. The Staffing Expenditure Allowance, although taxable, is not required to be entered on the returns of MPs. This is on the basis of a long-standing agreement with HMRC that the allowance is only paid in circumstances where it is covered by matching tax relief. However, where an MP overspends their staffing allowance they are required to enter details of the overspend on their return and may claim a deduction for any expenses incurred wholly, exclusively and necessarily in performing their parliamentary duties. This may be subject to an enquiry by HMRC.

3. The resettlement grant: if an MP stands down voluntarily, how can we say that's compensation for loss of office that ought to attract the £30,000 tax-free?

The Resettlement Grant, payable to MPs who fail to be re-elected or who do not stand at a general election, was introduced with effect from 1 January 1972 under a House of Commons Resolution passed on 20 December 1971. The resolution gave effect to a recommendation made by The Review Body on Top Salaries (Boyle Committee) of Ministers of The Crown and Members of Parliament that in the event of losing their seats following a general election, MPs should be entitled to a terminal grant equivalent to three months salary as an MP.

In their report the Review Body commented on absence of financial assistance made to alleviate the effects of MPs losing their seats or retiring at a general election and noted that general elections occur at little notice, and when they do, Members have little time or opportunity to make arrangements for alternative employment and MPs not retiring on a pension may suddenly find themselves without a regular source of income. They recommended that "in view of the uncertainties attached to the tenure of a Parliamentary seat, which may arise from boundary changes as well as shifts in electoral behaviour, and the widely different circumstances of Members in regard to opportunities to obtain alternative earnings, a severance payment should be available to all members who lose their seat at a general election".

The legislation at section 291 of the Income Tax (Earnings and Pensions) Act 2003 which provides an income tax exemption (subject to the £30,000 tax-free limit for

termination payments generally) in respect of the payment of the Resettlement Grant was originally introduced by the 1972 Finance Act. Under the terms of the resolution under which the Resettlement Grant is paid Members have a predetermined right to the grant if they satisfy the conditions specified. Under the law as it stood at the time, any terminal payments to which an office holder held a predetermined right were taxable as emoluments under the old Schedule E rules. However, the reality of the grants payable to Members under the House resolution is that they have to be determined in advance, simply because it is impracticable to make provision for payments to MPs out of public funds in any other way. The grants are, nevertheless, not emoluments but rather they are compensation for loss of office on the basis that they are paid to help bridge the gap between an MP losing their office and taking up a new employment. The exemption was introduced to put MPs in the same position as other taxpayers receiving tax-free termination payments to which there was no predetermined right.

- 4. London MPs are allowed the costs of travel to Westminster (I think this is provided the residence is within 20 miles of Westminster and the constituency) - how come this is not regarded as ordinary commuting?**

MPs are allowed the costs of travel from their constituency to Westminster. Under a long standing practice agreed by the former Inland Revenue the "constituency" for this purpose includes any point (including the MP's home) within 20 miles of the constituency boundary. It was recognised that, particularly in urban constituencies, members might live outside the constituency boundaries but within the same general area and the Board did not wish to treat their journeys differently from those of members who happened to live just within the constituency boundary. But, since the expense of travel from home to work is not allowable for tax purposes it was not considered right to exempt journeys from homes in the London area to Westminster, unless the home is also within 20 miles of the constituency boundary so that the journey can be regarded as one from the constituency to the House of Commons. HMRC is currently reviewing all of its administrative concessions, with a view to retaining them, putting them on a legislative footing or withdrawing them. Where a concession or practice is withdrawn as part of this review HMRC would provide a reasonable notice period.

Yours sincerely

DAVE HARTNETT

