

Prime Minister

1



cc Mr Hulford
Mr Cattan
Mr. Gow

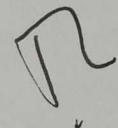
Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

You may want to have
a word with the Chancellor
about his tomorrow morning.
It seems to me it would

be worth considering making
a statement on the lines
of x below in any
case - i.e. without one
being pressed. This would
undo the bad publicity
following Lord Thorneycroft's

PRIME MINISTER

PM sell



THE VESTEY CASE

I should say at once that if the Vestey decision was
allowed to stand the tax loss on the best evidence
available to the Revenue would be of the order of £5-10
million per year. There is no factual basis for the
figure of £1,000 million mentioned by the Sunday Times.

interview. Of
course, it
would be
for the
Chancellor
to make

2. In fact Peter Rees initiated a general review of
tax avoidance earlier this year, with particular reference
to the consequences of the abolition of exchange control.
Scarce staff resources and the size of the Finance Bill
made it impossible to complete this in time for inclusion
of any of the conclusions of this in the last Finance Bill.

such a
statement -
probably
in his
speech.

3. The issues raised by the Vestey case were only part
of this review. The history of previous legislation in
this field makes it important to get any new provision
right.

PL
8/10

4. It will however be possible to separate the Vestey
problem from the more general review. The approach which
Peter Rees favours at this stage, and which could be
implemented in the 1981 Finance Bill, independent of more
general corrective measures, would be to abolish Section 478



entirely and to create a new tax charge covering payments, whether ostensibly a capital or revenue nature, received by UK resident beneficiaries of overseas settlements related to the quantum of the settlement income.

5. Retrospective legislation, and a fortiori retrospective legislation aimed at the Vestey's, would be quite inconsistent with the stance adopted by the party when the last administration legislated retrospectively in the fiscal field.

Points to make

6. I suggest that if we are pressed in the course of this week about the Vestey case we should restrict ourselves to making the following points:-

- (i) Ministers have certainly had the issues raised by the Vestey case under review with a view to early decision;
- (ii) In view of the history of legislation in this field and the complexity of the whole question it was not possible to prepare an adequate and fair provision in time for inclusion in the last Finance Bill;
- (iii) The amount of tax at stake is nothing like as great as has been suggested. In particular the figure of £1,000 million which has been mentioned can have no factual basis;
- (iv) If pressed: it is hoped that an appropriate clause to deal with the issues raised by the Vestey case will be included in the 1981 Finance Bill.

X

||

CONFIDENTIAL



..... 7. I am attaching to this minute a summary of the House of Lords' decision.

G.H.

(G.H.)

7 October 1980

THE VESTEY CASE : REFORM OF SECTION 478 : SUMMARY OF DECISION

The House of Lords published their decision in the Vestey cases in November 1979. The question was whether United Kingdom resident beneficiaries of an overseas trust were liable to United Kingdom tax on the accumulated income of the trust. The Inland Revenue contended for liability under what is now Section 478 of the Income and Corporation Taxes Act 1970 which was designed to protect the Revenue against avoidance of tax by the transfer of income bearing assets into the hands of non-residents, leaving the enjoyment of the income effectively in the hands of United Kingdom residents. The effect of the House of Lords decision (which reversed an earlier decision of the same House in the Congreve case) is that tax is only payable where the beneficiary is the original transferor of the assets. This leaves it possible for income to accumulate for the benefit of United Kingdom beneficiaries of discretionary trusts free of United Kingdom tax, in some other country where the tax is low or non-existent.

The Lords' strongly criticised the overkill in Section 478 and the "extra statutory" approach that the Revenue had to adopt over the years to make it operate in a sensible way. Their opinions have emphasised that Section 478 would need to be reviewed - not exclusively in the direction suggested by the press.