

Hopefully, though, not many will feel quite as strongly as the early Quaker Thomas Elwood (1639–1714) with respect to the correct use of the singular or plural, as he fulminated against:

‘the corrupt and unsound form of speaking in the plural number to a single person, ... contrary to the pure, plain, and single language of truth ... which had always been used ... from the oldest record of time till corrupt men ... brought in that false and senseless way of speaking you to one, which has since corrupted the modern languages, and hath greatly debased the spirits and depraved the manners of men’ (*The History of Thomas Ellwood*, written by himself and published posthumously (ed. H Morley, 1885)).

What is the correct usage when referring to HMRC? The answer seems to lie in the Commissioners for Revenue and Customs Act 2005

And so, what is the correct usage when referring to HMRC? The answer seems to lie in the Commissioners for Revenue and Customs Act 2005 (‘2005 Act’) which:

- provides that Her Majesty may appoint Commissioners for Her Majesty’s Revenue and Customs (Commissioners) by letters patent (s 1);
- confers certain powers on the Commissioners, including the ability to appoint staff (known as ‘officers of Revenue and Customs’) (s 2); and
- provides that the Commissioners and officers may ‘together’ be referred to as ‘Her Majesty’s Revenue and Customs’ (s 4).

The 2005 Act distinguishes between:

- ‘initial functions’ conferred on the Commissioners when s 5 came into force on 18 April 2005 (i.e. (i) responsibility for the collection and management of revenue, and the payment and management of tax credits, which previously had been the responsibility of the Commissioners of Inland Revenue, and (ii) the collection and management of revenue which had previously been undertaken by the Commissioners of Customs and Excise); and
- functions transferred, after 18 April 2005, to the Commissioners.

Section 8(1) of the 2005 Act inserted s 5A into the Ministers of the Crown Act 1975 (‘1975 Act’). The 1975 Act operates as follows:

- s 5A provides that for the purposes of transferring a function to the Commissioners, the Commissioners are treated as if they were a ‘Minister of the Crown’;

- s 6(1) states that the provisions of Sch 1 apply to any minister eligible for a salary under head 2 of Part II of Schedule 1 to the Ministerial and Other Salaries Act 1975. Head 2 of the Ministerial and Other Salaries Act 1975 applies to a ‘Minister in charge of a public department of Her Majesty’s Government in the United Kingdom who is not a member of the Cabinet, and who is not eligible for a salary under any other provision of this Act’; and
- Sch 1 para 5 provides that a minister ‘shall for all purposes be a corporation sole’.

A corporation sole is an escapee from the realm of ecclesiastical property law, perhaps most often associated with the Crown, which subsists in a single person such as (to borrow from *Plowden’s Reports* (1571)) in the Queen’s ‘body natural’. The great medievalist, F W Maitland, identified only one instance (clerks of the peace between 1858 and 1888) when statute had conferred the ‘quality of sole-corporateness or corporate-soleness’ on multiple individuals. Consequently, a corporation sole subsisting in multiple Commissioners feels like it ought to be a legal impossibility and that may perhaps be reflected in the 2005 Act’s reference to the Commissioners being ‘treated’ as if they were a minister of the Crown.

Ultimately, the Commissioners may be said to be consubstantial. The Commissioners:

- appear to be a ‘they’ where a specific responsibility was conferred upon them on 18 April 2005 by s 5 of the 2005 Act; and
- are deemed to be an ‘it’ for the purposes of a transfer of responsibility to them after 18 April 2005 using the mechanism provided for by the 1975 Act.

Occam’s razor may, however, point the way to a conclusion. Given the breadth of the functions conferred on the Commissioners on 18 April 2005 and also that the phrase ‘Her Majesty’s Revenue and Customs’ refers to the Commissioners and the ‘officers of Revenue and Customs’, it seems that HMRC is generally a ‘they’ (rather than an ‘it’).

By way of a little light relief after all that, this advice from a member of the Scriblerus Club (1727), an informal association of authors, may serve as a refreshing tonic:

‘The expression ... must not be always grammatical, lest it appear pedantic ...; nor too clear, for fear it become vulgar; for obscurity ... throws an oracular dignity upon a piece which hath no meaning.’

If, therefore, you are one of those inclined to worry about whether HMRC is a ‘they’, an ‘it’ or even a ‘deemed it’, I hope this may help settle the point, at least on the balance of probabilities. ■

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HMRC: ‘they’ or ‘it’?

Finally, an answer to one of the great tax debates of our times.

I am not sure how many of us worry away of an evening as to whether they risk erring by referring to HMRC as a ‘they’ or an ‘it’? However, judging from a recent debate on LinkedIn, this is a concern, at least for some. And there is very definitely a risk, to which this piece owes its origin, that if you are unwise enough to reply to such a debate, *Tax Journal’s* eagle-eyed editor may just reach out and (metaphorically) tap you on the shoulder...