

3 June 2026



Opportunities to Extend Uncertain Tax Treatment

Response from ICAS

Opportunities to Extend Uncertain Tax Treatment

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 24,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. 12,000 of our members are based in Scotland and 10,000 in the rest of the UK.
2. The following submission has been prepared by the ICAS Tax Board. The Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community; it does this with the active input and support of over 60 committee members.
3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members into the many complex issues and decisions involved in tax and regulatory system design, and to point out operational practicalities.

General comments

4. We welcome the opportunity to respond to the HMRC consultation – [Opportunities to Extend Uncertain Tax Treatment](#). We appreciated the opportunities to discuss the proposals with the consultation team on 22 April and 11 May.
5. As outlined in these general comments, we do not support the proposals for expanding the UTT regime. However, we have answered the specific questions on the basis that the proposals may go ahead in some form. We have also suggested other possible options for identifying uncertainties.

Certainty for taxpayers

6. The consultation states that the intention behind expanding the scope of the existing Notification of Uncertain Tax Treatment (UTT) regime is to require additional legal uncertainties to be brought to HMRC's attention. It goes on to say that this "will mean that the uncertainties are discussed, clarified and resolved sooner; even if this means they are litigated earlier than would otherwise happen."
7. Feedback we receive indicates that compliant businesses and individuals would welcome an effective route that would allow them to discuss, clarify and resolve uncertainties with HMRC, in a reasonable timeframe; they want certainty. However, we do not believe that expanding UTT would deliver this.
8. The main option currently available to taxpayers is the unsatisfactory non-statutory clearance (NSC) process. A major barrier to using NSCs is the requirement for there to be 'genuine uncertainty'. We receive reports that NSC requests are often rejected by HMRC, on the basis that the position is clear – even though taxpayers (and advisers) have devoted time and effort to applying for clearances because they believe there is uncertainty (which they want to resolve). There are also some areas where issues often arise in practice, but HMRC's guidance states that it will not provide clearances.
9. From the perspective of taxpayers, the current UTT regime would not provide an effective route to resolving uncertainty in a timely manner. It is a notification requirement to provide HMRC with information and give HMRC the opportunity to challenge (and potentially litigate) earlier, rather than a genuine two-way process for discussing and clarifying uncertainties, which would provide some certainty for taxpayers.
10. Rather than expanding UTT, we would like to see additional investment in the NSC process to make it more useful and to enable discussion and early resolution of uncertainties with HMRC. Alternatively, UTT could be amended so that it incorporated a route to certainty, ie a form of clearance process, which did involve HMRC giving a view in a reasonable timeframe.

11. Similarly, we would also like to see the existing Temporary Customer Compliance Manager (tCCM) service (currently available to mid-sized businesses in certain circumstances) expanded and made more widely available, to give those without CCMs better access to the relevant HMRC specialists, which might help them to resolve uncertainties quickly.

Targeting of UTT

12. In our responses to earlier consultations on the introduction of the UTT regime, we called for it to be properly targeted at the uncooperative minority, rather than imposing administrative burdens on all large businesses.
13. We appreciate that the evaluation of UTT published in 2025 reported that only a small number of businesses “disagreed that the costs were reasonable (4% for the one-off cost, and 5% for ongoing costs”. It went on to say that this was supported by interviews “where costs were reported to be low because they were already compliant and proactively engaged with HMRC.”
14. However, this assessment relates to the UTT regime without the proposed ‘substantial possibility’ third trigger, which was removed prior to implementation. As the current consultation notes, it was removed because it was considered too subjective, making it difficult for taxpayers to determine whether notification was required.
15. The current proposal to introduce a third trigger, which will also be subjective and difficult for taxpayers to apply, raises similar issues to those originally raised in the context of the dropped third trigger, ie imposing burdens around governance and controls on all large companies, rather than on the small high-risk population that should be targeted.
16. From the perspective of large businesses, there are already numerous reporting obligations, including the Mandatory Disclosure Rules for cross-border arrangements and the existing UTT regime. Most large businesses also maintain a transparent and cooperative relationship with HMRC in order to achieve and retain a low Business Risk Review (BRR) rating.
17. As we suggested in responses to earlier consultations on UTT, additional reporting requirements should be targeted at businesses which do not want an open and collaborative relationship with HMRC and have high risk BRR ratings.
18. The proposed third trigger will also be an issue for the small number of mid-sized businesses within scope. The 2025 evaluation report noted that a few mid-sized businesses had been supported to make notifications through HMRC’s Mid-Sized Business Customer Support Team. Additional support would be required if the suggested third trigger is introduced.
19. If individuals and trusts are brought within the scope of UTT, as proposed in the consultation, there will be additional issues for HMRC and increased costs for the affected taxpayers. Unlike large businesses, most individuals and trusts will not have a CCM and will not have any regular interaction with HMRC, particularly as the proposed design of UTT means that many will be in scope because of a one-off significant transaction.
20. HMRC will need to raise awareness of UTT and the opportunity to discuss uncertainty with tCCMs (we assume the tCCM service will be used for this purpose). It will also need to provide adequate resourcing for the tCCM service and ensure that all tCCMs have the right expertise and appropriate training to enable them to deal with UTT discussions.
21. Concerns have also been raised with us about the potential impact of expanding UTT (to individuals and trusts) on the cost of fee protection or transaction insurance, leading to additional costs for those affected.
22. For the majority of individuals, who want to engage with HMRC and comply, we do not believe UTT is a proportionate approach. If it is to be expanded, it should be amended, either as set out in paragraph 10 above (to provide a route to certainty) or to ensure that it is more effectively targeted at those who do not want to comply and refuse to engage collaboratively with HMRC.

Tax simplification, better guidance and 'unknown unknowns'

23. Many tax uncertainties arise because of the underlying complexity of the tax system. ICAS has consistently supported tax simplification, including some of the reforms proposed by the Office of Tax Simplification (OTS). Since the abolition of the OTS, there have been some limited attempts at simplification (mainly around processes and administration) but no coherent programme to achieve fundamental tax simplification.
24. We would like to see a commitment from the government to remove as much uncertainty as possible from the system through a meaningful programme of tax simplification. It would be preferable to tackle the main underlying cause of uncertainty, rather than adding further complexity for the taxpayers who would be brought into an expanded UTT regime.
25. HMRC could also assist in removing (or at least reducing) uncertainty by ensuring that all its guidance is kept up to date and is also amended promptly to take account of new developments. It should also take a proactive approach to developing new guidance when required, through active and timely engagement with the relevant stakeholders.
26. The current trigger linked to HMRC's 'known view' is less subjective and easier for taxpayers to deal with than the proposed new trigger, but it does rely on HMRC's view being readily ascertainable from high quality and extensive guidance.
27. HMRC has numerous stakeholder groups engaging with industry, representative bodies and other stakeholders where discussion and collaboration take place (including engagement on guidance). HMRC should explore whether more use could be made of these groups, in identifying 'unknown unknowns'.

Specific Questions

Question 1: Are you responding to this survey as:

- a business
- **a representative body**
- an organisation
- an individual
- other (please provide details)

28. ICAS is a professional body of accountants.

Question 2: Are the views offered in your responses:

- your own views
- your organisation's views
- **your members' views**

29. See the introduction above.

Question 3: What is your industry sector (such as accounting, finance, software, retail, construction, other)?

30. The Institute of Chartered Accountants of Scotland ('ICAS') is a professional body of accountants.

Question 4: To help us determine business size, please provide details on:

- number of employees in your business
- annual turnover

31. We represent over 24,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. 12,000 of our members are based in Scotland and 10,000 in the rest of the UK.

Question 5: Please provide any further information about your organisation or business activities that you think might help us put your answers in context.

32. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members into the many complex issues and decisions involved in tax and regulatory system design, and to point out operational practicalities.

Question 6: Do you agree that we should focus solely on the ‘tax advantage’ amount to identify legal interpretation uncertainties of interest?

33. As set out in our general comments above, we do not agree that expanding UTT is the right way to identify and resolve additional legal interpretation uncertainties. We would prefer HMRC to provide a better route (than the existing NSC service) to assist the majority of taxpayers who want to comply and would like to engage with HMRC to obtain certainty in a timely manner.

34. However, if the proposals go ahead, we agree that a focus on the tax advantage would be a better approach than attempting to define wealthy individuals.

35. Awareness of the UTT requirements will be a significant issue for many individuals, who do not have CCMs and may only be within scope because of a one-off significant transaction (for example, the disposal of a business on retirement). HMRC will need to consider how to raise awareness and how to promote discussions about uncertainties with a tCCM. As set out in our general comments, adequate resourcing of the tCCM service will be critical and HMRC will need to ensure that all tCCMs have the right expertise and appropriate training

Question 7: Do you agree with how we propose to determine the tax advantage for individuals?

36. We agree that where an individual is a partner in a partnership, only legal interpretations made by the partner should be considered within scope.

Question 8: Do you agree with including all trusts within scope?

37. For the reasons outlined in the consultation, we agree this is probably the only feasible approach. However, we note that bare trusts are not specifically mentioned; we assume that they would fall within the definition of individuals.

Question 9: Can you foresee any practical issues with including trusts within scope of UTT?

38. See our response to Question 6 – there will be similar issues for trusts.

Question 10: Can you foresee any practical issues with including NICs within UTT?

39. The consultation mentions that HMRC is aware of uncertainties relating to NICs that justify bringing NICs fully within scope. It would be useful to understand the nature of these uncertainties and how frequently they arise.

40. We cannot see why bringing NICs within NUTT, would “enable HMRC to work constructively with taxpayers to clarify the matter sooner than would otherwise occur”, as the consultation claims. As set out earlier, we do not regard UTT as a helpful mechanism for compliant taxpayers who want to obtain certainty. It places the burden on taxpayers to notify, without imposing any requirement on HMRC to engage with them to resolve uncertainties.

Question 11: Do you agree with proposed due date to notify a NICs legal interpretation uncertainty, or do you prefer a single due date for all UTT notifications (refer section 4.4)?

41. We agree that if the proposals go ahead, the notification should be linked to the existing return cycle for NICs. We do not support a single due date for all UTT notifications. See our response to Question 24.

Question 12: Do you agree with the due date for notification involving CIS deductions to be the last CIS return due in an accounting period, or do you prefer a single due date for all UTT notifications (refer to section 4.4)?

42. We agree that if the proposals go ahead, the notification should be linked to the existing return cycle for CIS. We do not support a single due date for all UTT notifications. See our response to Question 24.

Question 13: Can you foresee any practical issues with including CIS within UTT?

43. We have no comments on this question.

Question 14: Do you agree with the due date for notification involving SDLT to be when a return covering that transaction would otherwise be due, or do you prefer a single due date for all UTT notifications (refer section 4.4)?

44. See our response to Question 24. We do not support a single notification date.

Question 15: Can you foresee any practical issues with including SDLT within scope of UTT?

45. SDLT is a tax on transactions and those involved want to have a good idea of how much they will have to pay before entering into the transaction. If there isn't a clear route for resolving the uncertainty, the need for a UTT notification could inhibit commercial transactions. As resolution would not be available through UTT (in its current form), we anticipate there would be an increase in requests for clearances.

Question 16: Do you agree with the due date for notification involving CGT to be when a return covering that transaction would otherwise be due, or do you prefer a single due date for all UTT notifications (refer section 4.4)?

46. We do not support a single notification date – see our response to Question 24. For CGT, the proposed notification date would be workable in many cases. However, there might be issues in certain circumstances, for example, where gains are being held over or rolled over. HMRC guidance would be required.

Question 17: Can you foresee any practical issues with including CGT within scope of UTT?

47. See our response to Question 16. As with SDLT, we anticipate an increase in requests for clearances if CGT is brought within scope of UTT.

48. As outlined in our response to Question 6, we also have concerns about individuals who are only within in scope of UTT because of a one-off significant transaction, often likely to relate to CGT (for example, the disposal of a business on retirement). The burdens imposed by UTT seem disproportionate in these cases.

Question 18: Do you agree with the due date for notification involving IHT to be when the IHT return is due, or do you prefer a single due date for all UTT notifications (refer section 4.4)?

49. We do not support a single notification date. See our response to Question 24. As with other taxes, notification should be aligned as far as possible with requirements for returns. However, as the consultation notes, there will be practical issues for IHT around the timing of notifications.

50. HMRC would presumably want to be notified at the time when any arrangements are put in place. This might also be easier for taxpayers, as advisers will usually be involved and information will be readily available. However, there will not be a requirement to make an IHT return in many cases, for example, where the transfers are PETs. If UTT notifications were to be mandated at this point, there would need to be transitional provisions to exclude notification of arrangements that pre-dated introduction of the requirement.
51. It could also be the case that circumstances change between implementation of initial arrangements, when it is expected that any tax advantage would be below the threshold, and the point when a charge might arise (and a return might be required) years later.
52. At the time of a PET, there is no obvious route to certainty for taxpayers: we have feedback that there is a good IHT clearance procedure for APR and BPR, but that if the transaction is a PET, HMRC will not give a view. As outlined in our general comments, we would like to see more investment in clearance processes and wider availability of clearances, rather than an expansion of UTT (unless UTT could be amended to include a form of clearance process, as outlined in our general comments).

Question 19: Do you foresee any practical issues with including Inheritance Tax within the scope of UTT, particularly regarding the timing difference between when a legal interpretation is made and when notification would be required? If so, how do you think these issues could be overcome?

53. Yes. See our response to Question 18. The long time periods involved in some IHT cases, will cause practical problems. Arrangements may have been put in place many years before any potential charge (and requirement to make a return) would arise. Circumstances could change over time, potentially affecting the size of the tax advantage.
54. Concerns have also been raised with us about the potential for UTT notifications to cause delays in distributing assets and winding up estates. Where clearances are available for IHT cases, these provide some certainty for taxpayers. However, if a UTT notification requirement arose after a death, executors might be reluctant to complete the distribution of the estate without confirmation from HMRC that it accepted the approach adopted.

Question 20: Are there specific scenarios where applying UTT would be inappropriate, duplicative or unnecessary? If so, how could an approach be designed to avoid unnecessary notifications while still capturing relevant legal uncertainties?

55. The consultation states that HMRC expects that the number of IHT cases generating a potential tax advantage of £5 million or more would be “very limited”. We understand that existing reporting for IHT is effective and should allow HMRC to identify high value cases. Given the practical difficulties of including IHT, we consider that excluding it from UTT would be an appropriate and proportionate approach.

Question 21: Do you agree that requiring taxpayers to tell us about legal interpretations where there is more than one credible interpretation and HMRC’s view is not known, will capture the uncertain tax treatments that it is intended to identify?

56. As outlined in our general comments, the proposed new trigger raises similar issues to those originally raised in the context of the dropped (‘substantial possibility’) trigger. It would be similarly subjective and difficult for taxpayers to apply.
57. The consultation comments that “the government accepts that a large part of the legal interpretation gap consists of genuine uncertainty, and not entirely of intentional speculative interpretations”. As set out in our general comments, feedback we receive indicates that compliant businesses and individuals would welcome an effective route that would allow them to discuss, clarify and resolve uncertainties with HMRC, in a reasonable timeframe. They want certainty. Unfortunately, UTT is currently a ‘one-way-street’ which does not provide that route – an improved and expanded NSC process would be better, or an amended UTT that did offer a route to certainty.

58. It seems likely that the minority of taxpayers who do adopt “intentional speculative interpretations” and do not want to engage with HMRC, may well ignore UTT requirements. It will be compliant taxpayers who are likely to engage with CCMs (or tCCMs) and/or make notifications. Given the subjective nature of the proposed trigger, they are likely to err on the side of caution, generating notifications that are not of interest to HMRC. The consultation itself recognises that this is a risk.
59. We understand that HMRC does not want to set out a percentage chance of success attached to different interpretations because it perceives there would be a risk of advice shopping. However, “more than one credible legal interpretation” is vague and could indicate that counsel’s opinion is required to determine what is credible.
60. The proposed third trigger is specifically stated to be intended for cases where there is no HMRC guidance (including new and novel products and processes), so there is no HMRC known position. The consultation also notes that the trigger will “link in with Guidelines for Compliance GfC13”. However, the section of GfC 13 relating to novel interpretations of the law (ie something that a court or tribunal – or presumably HMRC – has not considered) suggests that a question that should be asked is “if, on balance, the courts and tribunals are most likely to find that interpretation to be correct”. If this is effectively being imported into UTT by the third trigger, it introduces a similar degree of subjectivity to the ‘substantial possibility’ trigger that was dropped because it was too subjective.
61. This is not a reasonable or proportionate approach. As several recent cases illustrate (PGMOL, Orsted West and Innovative Bites), predicting the approach that the tribunals and courts will take is difficult. Again, it seems to indicate that counsel’s opinion would be required to determine what is credible, raising additional concerns about costs.
62. From the corporate perspective, we have also been told that a trigger based on “more than one credible legal interpretation” could cause duplication of existing processes (and a risk of divergence between tax and accounting reporting thresholds), where companies are already required to assess uncertain tax positions under IAS 37. This involves a robust assessment of the likelihood of challenge and the technical merits of the position: disclosure of a contingent liability would be required where the risk of an outflow is more than remote.
63. Rather than adding the third trigger currently proposed in the consultation, it would be more proportionate to align with IAS 37. A UTT notification could be required where an uncertain tax treatment gives rise to a contingent liability that is disclosed in the financial statements. This would reduce duplication and administrative burdens, compared to the proposed trigger; large companies will already have the necessary processes in place.
64. We appreciate that HMRC wants to be told about ‘unknown unknowns’ but a better approach than expanding UTT would be more active engagement with taxpayers who want collaborative discussions, including through an improved clearance process.
65. For novel products and processes, there have been some good examples of discussion and collaboration with stakeholders (including affected sectors), to produce and develop guidance. For example, the development of Cryptoasset guidance (through HMRC’s Cryptoasset Roundtable) and the guidance on the Trust Registration Service (through the TRS working group).
66. HMRC has numerous stakeholder groups engaging with industry, representative bodies and other stakeholders where discussion and collaboration take place – apart from discussing questions arising in practice and potential new guidance, these often highlight gaps or defective guidance. HMRC should explore whether more use could be made of these groups, in identifying ‘unknown unknowns’.

Question 22: Are there additional triggers that would identify uncertain tax treatments that would not be identified by the proposed trigger, or the existing 2 triggers?

67. As set out in our general comments and in our response to Question 21, we believe there are better options than additional UTT triggers.

Question 23: In addition to transfer pricing calculations, are there any other uncertainties that should be excluded from the proposed trigger?

68. We have no comments on this question.

Question 24: Do you think that having a single annual notification due date would make it easier for taxpayers to comply with the UTT obligation? If so, what date or timing would you consider most appropriate?

69. No, we do not think that having a single annual notification due date would make it easier for taxpayers to comply with the UTT obligation.

70. We do not support expansion of UTT but if the proposals are taken forward, the best approach will be to continue to align notification with the timetable for returns for the tax regime concerned. Subject to specific issues noted above for IHT (and potential issues with CGT), this should generally ensure that UTT can be considered at the time when taxpayers will be taking advice and assessing the correct legal interpretation. Having an arbitrary deadline with no connection to the tax concerned would be unhelpful.

71. Individuals are probably more likely only to need to make a notification for one tax (for example, CGT), so linking notification to the return cycle for that tax makes the deadline less likely to be missed.

72. Even where taxpayers might need to make more than one notification in a year, for several taxes, different advisers may be involved for the different taxes and work will be aligned with preparing returns (or considering whether a return is required), so a single date for UTT would not offer an easier compliance option.

Question 25: Can you foresee any problems with taxpayers obtaining confirmation from HMRC that the notification has been brought to its attention?

73. Yes, particularly if the proposed additional trigger is added to UTT because it is likely to generate more discussions with CCMs and put pressure on CCM resources. HMRC will need to ensure that there are enough CCMs in place to deal with increased demand for discussions about UTT and provide formal confirmations in a timely manner.

74. If individuals and trusts are brought within scope, additional resourcing will also need to be put into the tCCM service to ensure that discussions about uncertainties can take place and confirmations provided before the UTT notification deadline. As set out in our general comments, it will be essential for HMRC to ensure that all tCCMs have the right expertise and appropriate training to enable them to deal with UTT discussions and confirmations.

75. HMRC will also need to clarify its position where a clearance has been requested, HMRC has refused to provide a clearance, but later HMRC suggests that a UTT notification should have been made. We hope this issue would rarely arise but (as outlined in our general comments), we receive feedback that HMRC does reject requests on the basis that the position is clear, even though the taxpayer believes there is uncertainty which they want to clarify. If HMRC had refused to deal with the clearance application, we assume that it would normally accept that information had been provided, removing the need for a UTT notification (unless the application had not disclosed material details).



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