



# Review of the Office of Tax Simplification: Call for Evidence

Response from ICAS

6 July 2021

## About ICAS

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 22,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. Approximately 10,000 of our members are based in Scotland and 10,000 in England.
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. ICAS welcomes the opportunity to provide evidence for the Review of the Office of Tax Simplification.
5. ICAS believes that the underlying complexity of the UK tax system causes considerable difficulties for taxpayers and HMRC. Last year the government launched its 10-year tax administration strategy, "Building a trusted, modern tax administration system". It would be easier to implement all strands of the strategy and greatly improve the experience of dealing with tax administration for taxpayers, agents and HMRC, if the UK tax system could be simplified.
6. Complexity increases costs for everyone engaging with the tax system. Complex tax law is reflected in complex tax administration systems which are difficult to use and do not facilitate compliance. HMRC and taxpayer resources are diverted into dealing with corrections, appeals and disputes. Digitalisation does not remove the need for simplification.
7. Trust in HMRC and the tax system is undermined because many individual taxpayers and small businesses cannot understand their basic tax obligations. Complexity also gives rise to uncertainty which deters business investment.
8. The Office of Tax Simplification has a significant role to play in simplification. However, the degree to which it can fulfil that role depends to a large extent on the government's attitude to tax simplification and how far the government is willing to adopt OTS recommendations (or to use OTS research and reports in developing alternative proposals) to enact changes which would simplify tax.
9. To enhance the effectiveness of the OTS, the government should set out a clear policy on tax simplification, including the reasoning behind the policy, the level of importance it attaches to simplification, the methods it would use to implement that policy and the role of the OTS in implementation.
10. The focus of the OTS should be on simplification but this could be divided into two main areas. The OTS already identifies opportunities to reduce complexity in existing legislation and to improve administrative processes – and should continue to do so. It should play an ongoing role in implementation of reforms to the Tax Administration Framework. However, it should also have a role in the process for introducing new legislation, or amending existing legislation, to avoid adding to existing complexity.
11. Throughout its existence the OTS has demonstrated a willingness and ability to engage with a wide range of stakeholders – well beyond tax professionals and extending to individual taxpayers, businesses and employers. Many of those the OTS consults would be unlikely to contribute to 'normal' tax consultations. It has a very useful role as a bridge between government and a wide range of taxpayers and businesses.

## The OTS's objectives and functions

### Question 1: What do you think the functions of the OTS should be? Why should they be a priority for government?

12. ICAS supports the work of the OTS and welcomed the government placing it on a permanent statutory footing in Finance Act 2016.
13. The core function of the OTS should be to identify opportunities to reduce complexity in existing tax legislation and to improve tax administration processes. Making tax administration run more smoothly for taxpayers, agents and HMRC, requires simplification of the underlying tax rules.
14. As part of its core function, the OTS should also have an ongoing role in implementation of the reform of the Tax Administration Framework. It is already involved in reviewing the use of third-party data and a review of the tax year. There are many other aspects of the framework review which would benefit from the involvement of the OTS – particularly because of its ability to engage with a wider range of taxpayers and businesses, than would usually respond to tax consultations.
15. In addition to this core function, the OTS should also be given a role in the process for introducing new legislation (or amending existing legislation) to avoid adding to existing complexity. A new stage should be added to the process for enacting new tax legislation or amending existing rules - the measurement of the proposals against agreed simplification criteria, with a presumption that enactment will not proceed if the criteria are not met. The OTS should have a useful role in developing the criteria and in the measurement process.
16. The government should give a high priority to tax simplification – and the role of the OTS in achieving that – because it needs the tax system to function effectively to deliver the money it needs to pay for public services and ambitious commitments around levelling up and tackling climate change.
17. Complexity increases costs for everyone engaging with the tax system. Complex tax law requires complex tax administration systems which are difficult to use and do not facilitate compliance. HMRC and taxpayer resources are diverted into dealing with corrections, appeals and disputes.
18. Making Tax Digital and wider digitalisation have the capacity to improve tax administration but without simplification of the underlying rules, the full benefits will not be realised. As has already been illustrated by Making Tax Digital for VAT, software does not guarantee correct tax outcomes, where users have no understanding of the underlying rules. There will always be some complex areas of tax, but it should be possible for the majority of businesses and individuals to have some understanding of their tax position.
19. Voluntary compliance is vital to the functioning of the UK tax system. Compliance and trust in the system are undermined if many individual taxpayers and small businesses cannot understand their basic tax obligations and come to believe they are being treated unfairly. Complexity also gives rise to uncertainty which deters business investment.
20. ICAS believes that the government should set out a clear policy on tax simplification, including the reasoning behind the policy, the level of importance it attaches to simplification, the methods it would use to implement that policy and the role of the OTS in implementation. The resources needed for simplification – at the OTS and more broadly within HMRC and for the parliamentary legislative processes, also need to be provided.

### Question 2: How have you understood the OTS to interpret their remit (or in other words define 'tax simplification') and does this match your own interpretation of the OTS's remit and definition of 'tax simplification'? If not, how does this differ?

21. The OTS undertakes formal reviews at the request of the Chancellor and undertakes some work on its own initiative. Its overall aim, as set out in the two most recent annual reports it makes to parliament, is to recommend ways of making taxpayers' (and others') experience of the UK tax system, as simple as possible.

22. In its annual reports it also sets out its approach to tax simplification and its interpretation of its remit. For example, the [2018/19](#) report includes comments on simplification and identifies various signs of complexity. It notes that *“a key way to reduce complexity is to make the framework of a tax easier to understand by a taxpayer, without needing tax training. Reducing and removing distortion also helps. There shouldn’t be two ways to achieve a similar result – aside from differences in tax.”*
23. Paragraph 2.16 of the call for evidence notes that the OTS applies three underlying principles to its work:
- make recommendations which affect the greatest number of taxpayers on the largest number of occasions
  - achieve ‘quick wins’ where possible to maintain momentum and deliver practical benefits for taxpayers, and
  - tackle the difficult areas where they can make a difference in the longer term.
24. Our interpretation of the OTS remit and its approach to tax simplification broadly matches that of the OTS, as outlined above. However, where the OTS undertakes work at the request of the Chancellor there may be some movement away from a focus on simplification. We discuss this further in our responses to Question 4 and Question 8.

### **The resourcing, funding and governance of the OTS**

#### **Question 3: Do you think the OTS has the right breadth of expertise on its board? If not, what sectors need additional representation and why?**

25. The OTS has always appeared to have access to a wide range of expertise through its Board, secretariat and consultative committees.
26. If there is a sector where the OTS may wish to extend its representation, it would be to bring in additional expertise on devolution and how devolved taxes interact with the wider UK tax system.

### **The OTS’s relationships with HMRC and HMT**

#### **Question 4: Given its role as the Chancellor’s independent adviser on tax simplification, do you think the OTS is sufficiently independent from government?**

27. The location of the OTS within HM Treasury could give the impression of a lack of independence. However, this does facilitate access to, and discussion with, HM Treasury and HMRC, which is vital, given that the OTS is an adviser. Implementation of any of its recommendations relies on the government adopting them and on practical input from HMRC.
28. In its work the OTS has always made considerable efforts to seek input and evidence as widely as possible; from all parts of the UK and from a range of taxpayers (businesses and individuals), advisers, representative bodies, academics and others affected by the aspects of the tax system under consideration. As set out in our response to Question 1, it engages with a wider range of taxpayers and businesses, than would usually respond to ‘normal’ tax consultations. In some cases, it publishes a survey, aimed at taxpayers, as well as the more formal call for evidence.
29. Where the OTS is responding to a specific request from the Chancellor this can give rise to the perception that there is, or could be, less of an independent approach. For example, in the recent CGT review, some of the questions inevitably arose from the government agenda and appeared to go beyond identifying possible areas for simplification.
30. ICAS believes the independence of the OTS is a major strength, enabling it to provide a valuable bridge between taxpayers, agents, employers and businesses on one side - and the government, HM Treasury and HMRC on the other. It is important that the OTS maintains its independence – and that it continues to be perceived as independent (and not tied to a government agenda).



## The OTS's work to date

### **Question 5: Can you give examples of OTS work which you felt was particularly successful, or alternatively, where you would have liked the OTS to have taken a different approach?**

31. We believe that much of the OTS work has been valuable – even where its recommendations have not been adopted – particularly where it has identified practical issues causing difficulties. As the OTS noted in its [2017 evaluation of its recommendations](#), whilst recommendations are not always taken up in full, the work behind them may inform follow up work by HMRC or alternative proposals. Alternatively, the OTS may not make detailed recommendations but identify the case for change (and problem areas) to help inform future work by the OTS or HMRC.
32. We consider that the following OTS work has been particularly useful, although in some cases, we would like to see the government either taking up more of the recommendations, or using the OTS work to develop alternative proposals – with a view to consultation and implementation:
- Partnerships review.
  - Small business tax review 2012 (the cash basis stemmed from OTS work – although it was not implemented precisely in line with the OTS recommendations).
  - Employee benefits and expenses (including trivial benefits and reforms to PAYE Settlement Agreements and dispensations).
  - Review of tax reliefs – although as discussed in our response to Question 11 we think there is scope for the government to do more.
  - Second OTS report on CGT (administration); this contains some useful suggestions for improving CGT administration. We assume that these are still under consideration by the government for possible action.
  - First OTS report on IHT (administration): two suggestions have been adopted and others are being considered by HMRC as part of the ongoing wider tax administration work. We would like to see more of the recommendations considered for implementation.
  - Second OTS report on IHT (simplifying the design of the tax): it is unclear whether the government intends to adopt any of the recommendations. Many of them have the potential to be helpful and it would be useful to understand the government's intentions around adoption – or possible development of alternative proposals (informed by the OTS work) to address issues identified by the OTS.
  - VAT Review: there has been some useful progress on some areas identified by the OTS (guidance and communication, partial exemption and the capital goods scheme). Post-Brexit there may be scope for wider VAT reform – where the OTS work and recommendations could be useful in developing proposals.
33. As a general rule, we consider that the more practical reports that focus on simplifying administrative processes or design issues that cause day to day problems, are more useful. In this context we note that the second OTS report on CGT administration was more useful than the first OTS CGT report.
34. The OTS 2019 'lifecycle' reports (Simplifying everyday tax for smaller businesses and Simplifying tax for individuals) were both good reviews and provided useful overviews of the issues. Some recommendations from the smaller business report were adopted by the government – but overall there does not appear to have been significant positive change to date, as a result of the two reports. However, some issues may be addressed as part of the wider work on the tax administration framework – with the OTS work informing development of proposals.

### **Question 6: Does the OTS engage with, and consider the views of, an appropriate number and variety of stakeholders when conducting a review?**

35. See our response to Question 4. Yes, it does this very effectively. One of its strengths is that it engages with a range of taxpayers (businesses and individuals), advisers, representative bodies, academics and others affected by the aspects of the tax system under consideration. Many of these, particularly individual taxpayers and small businesses would be unlikely to respond to 'normal' tax consultations.

**Question 7: Who do you think OTS reports focus on recommending simplifications for? Who should the OTS focus on offering simplifications for?**

36. The precise focus of OTS recommendations has inevitably varied, depending on the area of tax covered by each report. However, the three underlying principles the OTS applies to its work (set out in paragraph 2.16 of the call for evidence and referred to in our response to Question 2) give a good general framework.
37. The OTS should continue to use the three principles to guide its approach to producing recommendations. Where it undertakes work on its own initiative, it might be useful for the OTS to consider areas which particularly affect individual taxpayers and small businesses who do not have easy access to advice and struggle to deal with the tax system and HMRC.

**Question 8: To what extent should the OTS take account of wider policy objectives outside of simplification and the impacts of suggested changes on households and businesses, when making recommendations to government?**

38. As set out in paragraph 2.18 of the call for evidence, changes to simplify the tax system are part of wider tax policy decisions and need to be considered alongside other objectives. These wider objectives clearly affect government willingness to adopt OTS recommendations.
39. We would expect the OTS to comment on the tax consequences of implementing its recommendations – including an analysis of ‘winners’ and ‘losers’ or a cost/benefit analysis, where relevant. Beyond that we believe it is the government’s responsibility to determine how any tensions with wider policy objectives should be resolved – which in part depends on the importance the government places on simplification and improving the effectiveness of the tax system.
40. In our 2020 policy paper [The Future of Taxation in the UK](#) we noted that the government should be more transparent in its approach to taxation and the link between raising tax revenues and paying for improved public services. In recent years governments have been unwilling or unable to increase the main revenue-raising taxes but have still needed to raise revenue; the result has been opaque tax changes and a lack of transparency about revenue raising. This has contributed to increasingly complex and lengthy tax legislation, which makes it harder for taxpayers (particularly unrepresented ones) to understand and comply with their tax obligations. We would expect the OTS to highlight the issues caused in practice by this approach – it is for the government to decide how far it is willing to address them.
41. It is also very important that the remit of the OTS is not made so broad that it loses sight of its core function – to identify opportunities for simplifying the tax system. As set out in our response to Question 1, its core function should include an ongoing role in implementation of the reform of the Tax Administration Framework. The OTS has already carried out useful work identifying problems with administration in numerous areas, so is well placed to look at proposals for TAFR reform and to comment on the likely effectiveness and possible consequences of potential changes. This would be preferable to the OTS taking a wider policy role – which could also affect perceptions of its independence.
42. There is also a wider issue about how far tax should be used to try to further other policy objectives – how effective this is, whether negative consequences for tax administration outweigh any benefits and whether there are non-tax measures which would be preferable. For example:
- In recent years there have been various tax measures to try to drive behaviours around the housing market. These have added complexity to the tax system. Would it have been better to address government objectives through more proactive, direct housing policy?
  - The High Income Child Benefit charge was introduced in 2013, effectively to reduce the child benefit paid to higher earners. Again, it has added complexity to the tax system, there are practical difficulties for taxpayers trying to comply and problems with awareness amongst affected taxpayers. Would it have been preferable to address the objectives directly through the benefits system?

## **The impact of the OTS's work on both the government's approach to simplification and on wider public debate**

### **Question 9: Can you provide examples of where you think the work of the OTS has led to genuine improvements regarding simplification for taxpayers, and if so, for which groups of taxpayers?**

43. See our response to Question 5.
44. There would have been more improvements for taxpayers arising from simplification, if the government had made better use of the work of the OTS – both in terms of adopting recommendations but also in utilising OTS research and reports to inform the development of alternative proposals to address the problems identified by the OTS.
45. **Question 10: How influential do you think the OTS is, including regarding: a) political decision-making b) policy development c) public debate in the media d) academic or tax specialist debate.**
46. The OTS has had some influence both in political decision making and policy development – particularly in respect of its earlier reports, as indicated by OTS evaluations of its work in [2015](#), [2017](#) (and in its specific evaluations of several of its reports). In the last few years there seems to have been less willingness on the part of government to take up OTS recommendations with a view to progressing to detailed proposals and implementation (or to use OTS work as the basis for developing alternative proposals to address issues identified by the OTS). This may in part be due to pressures on government and parliament arising from Brexit and the pandemic.
47. As set out in our response to Question 5 we hope that there will be further progress arising from the OTS work on VAT, IHT and on CGT administration (the second OTS report on CGT).
48. OTS reports do generate discussion in the media and amongst tax specialists. As set out in our response to earlier questions there is also considerable willingness amongst tax specialists, academics – and taxpayers – to engage with the OTS. To some extent this may be undermined in future, and the OTS may lose credibility if:
- the OTS reports and recommendations do not usually lead to any changes – either because the government does not adopt its recommendations or because it does not use the OTS research and reports to develop alternative proposals to address the issues identified by the OTS, or
  - the OTS is generally perceived to be driven by a government agenda, rather than by the OTS aim to achieve simplification for taxpayers (there was a perception that this was the case with the recent first report arising from the CGT review).

## **Further steps which could be taken to enhance the effectiveness of the OTS**

### **Question 11: Are there any particular issues or areas of the tax system which the OTS have not considered, which should be examined by the OTS?**

49. See our responses to Question 1 and Question 8. The OTS should have an ongoing role in implementation of reform the Tax Administration Framework. The OTS is ideally placed to be involved in this work because of its ability to engage with a wider range of taxpayers and businesses, than would usually respond to tax consultations.
50. The OTS should also be given a role in the process for introducing new legislation (or amending existing legislation) to avoid adding to existing complexity. A new stage should be added to the process for enacting new tax legislation or amending existing rules - the measurement of the proposals against agreed simplification criteria, with a presumption that enactment will not proceed if the criteria are not met.
51. It would be useful if the OTS revisited its work on tax reliefs – but only if the government is prepared to consider removing additional reliefs, where they add to complexity without providing

significant benefits. We believe that there is considerable scope for further simplification in this area.

52. An immediate decrease in complexity could be achieved by repealing tax reliefs which no longer meet their objectives, and where retention cannot be justified on an analysis of the costs and benefits. The original OTS reports on tax reliefs would be a useful starting point – supplemented by additional work to bring recommendations up to date.

**Question 12: What other further steps, if any, could be taken to enhance the effectiveness of the OTS in performing its functions as the Chancellor's independent adviser on tax simplification?**

53. See our responses to Question 1 and Question 4. To enhance the effectiveness of the OTS, the government should set out a clear policy on tax simplification, including the reasoning behind the policy, the level of importance it attaches to simplification, the methods it would use to implement that policy and the role of the OTS. It is also important that the OTS continues to be independent and is perceived to be independent (and concentrating on simplification, rather than following a different government agenda).
54. It is also important that the work of the OTS is perceived to have an impact, so that stakeholders continue to want to engage with the OTS. This does not mean that every OTS recommendation has to be taken up – it could be that OTS work is seen to be used to inform the development of other proposals intended to address issues identified by the OTS.
55. We believe there could be a useful role for parliamentary scrutiny – by the Treasury Committee or the Public Accounts Committee – to review how the government responds to OTS reports. This could include considering how far the government has adopted OTS recommendations or has used the OTS work to develop alternative proposals – and seeking an explanation from the government where no action at all has been taken to address issues identified.



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**Contact us**

CA House, 21 Haymarket Yards, Edinburgh, UK, EH12 5BH

+44 (0) 131 347 0100

[connect@icas.com](mailto:connect@icas.com) | [icas.com](https://www.icas.com)

 [@ICASaccounting](https://twitter.com/ICASaccounting)  [ICAS – The Professional Body of CAs](https://www.linkedin.com/company/icas)