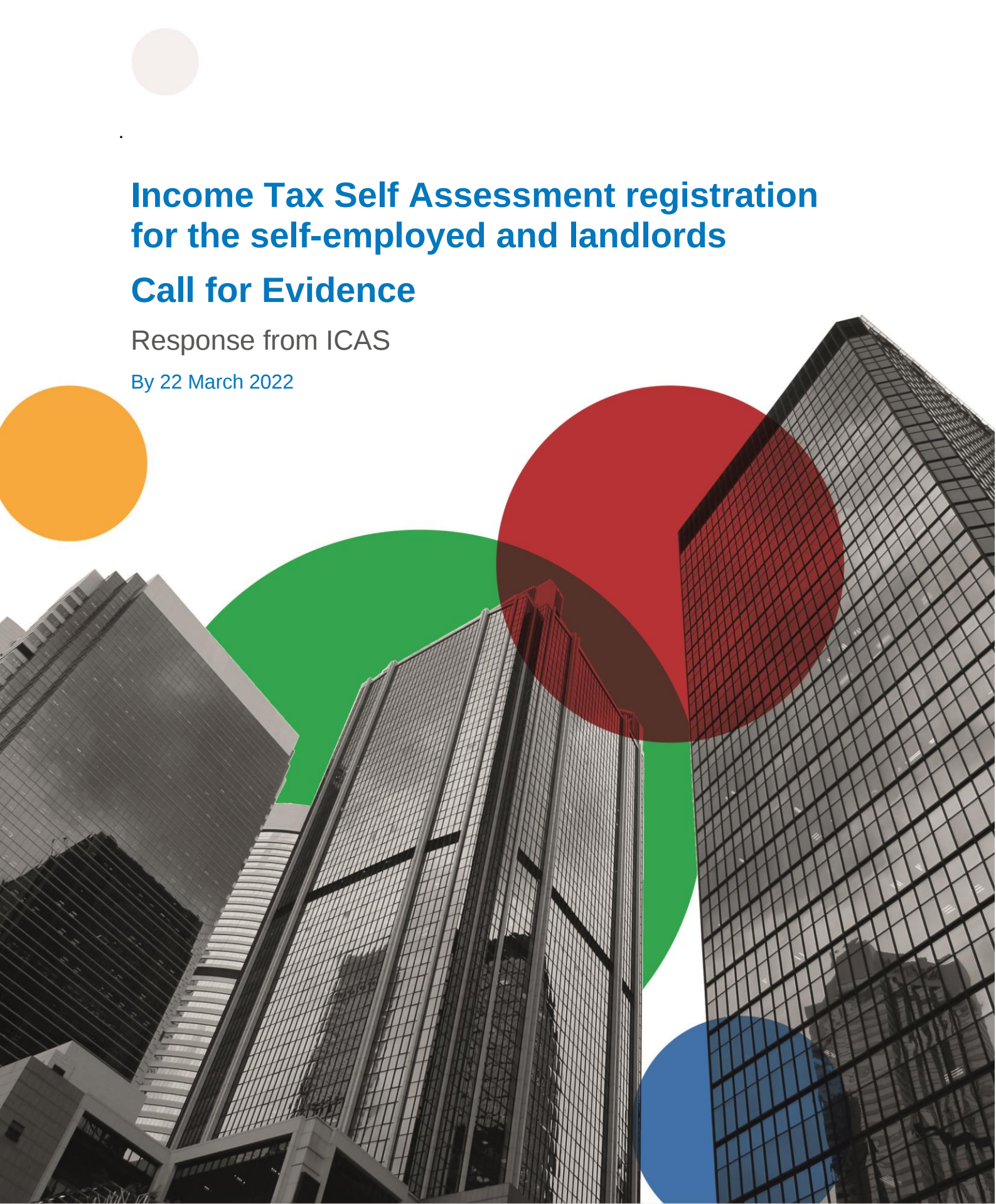




Income Tax Self Assessment registration for the self-employed and landlords

Call for Evidence

Response from ICAS

By 22 March 2022

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 respond to the call for evidence, [Income Tax Self Assessment registration for the self-employed and landlords](#), published on 30 November 2021.
5. In principle, moving to more timely registration of start-ups is better for businesses and landlords. It is clearly beneficial for start-up businesses and new landlords to be more aware of their responsibilities sooner, to be able to estimate tax liabilities earlier and seek more timely advice.
6. The key challenge with any such change would appear to be that of communication. This responsibility must lie squarely with HMRC which must be adequately funded to carry out the task.
7. Communication is key as the primary people who need to know, are those who are not already in business. By the time they are in business, it is arguably already too late. Lack of record keeping or failure to keep track of cash receipts and payments can happen from day one. Hence there are two issues: i) ensuring everyone who needs to know, does know and ii) ensuring that those who are within scope of income tax self assessment notify or register on time.
8. These aspects should be considered separately, for while it is important for anyone who starts trading or letting out property to be aware of their tax responsibilities, many, such as hobby traders and landlords who are letting at cost to family or friends, may not need to be within self assessment. Nevertheless they would still be well advised to keep records to identify how close to the boundary they actually are.
9. For example, those covered by the trading / miscellaneous income allowance or property allowances can only accurately determine if they are within the allowances if they keep accurate records. Yet the essence of the allowances is to keep individuals out of income tax self assessment where profits are minimal.
10. There is a wider issue of tax education. There is no general education/citizenship training about tax and how it is paid, when to register and how responsibilities are divided between HMRC and individuals. What is more, the PAYE system, which applies to the majority of individual taxpayers, is designed to minimise taxpayer contact with HMRC. This itself tends to reduce tax awareness and can lead to the idea that administration of tax is for others to manage – HMRC, employers and large businesses – rather than the responsibility of the individual.
11. We have responded to this Call for Evidence based on our member experience, which is primarily as agents.

Specific questions

Question 1 – How simple and well understood are the current legislation and processes for notifying liability and registering for ITSA? What are the benefits and/or drawbacks of the current system?

12. For the business that aims to be more than a gig worker, the current system seems to be broadly well understood. The relatively relaxed timeframe means that for many businesses, detailed understanding of the rules may not be put to the test. They are likely to have contacted a tax professional in advance of the formal deadlines.
13. The situation would largely seem to depend on business size and objectives. Any business which expects to be VAT registered or works in the construction sector could be expected to be aware of the basic tax requirements early on. Awareness of one set of tax liabilities is likely to enhance understanding of others. Taking advice on one aspect is likely to lead to advice on other taxes.
14. Recordkeeping and other obligations may too depend on business size. Taking over an existing business, or entering a business area with the expectation of significant business growth, are likely to prioritise business advice and administration.
15. Unincorporated businesses who choose not to use an adviser, or the scale and nature of whose activities is such that they do not recognise themselves as being in business, are perhaps more at risk of misunderstanding and falling foul of the correct notification and filing timeframe.
16. As discussed in our introductory comments above, a communications programme is needed by HMRC to encourage awareness of tax responsibilities. This is particularly so, for those who have either not been taxpayers or have only contributed via PAYE.
17. A main benefit of the current system is that business ventures which never really take off do not need to become embroiled in the formal system. By the time engagement is required, there is more of a track record and some expectation as to whether a business is likely to survive.
18. A drawback of the current system is that few start-up businesses are likely to have any clear idea of personal tax liabilities resulting from a new venture until long after the profits have been earned. This can initially make budgeting difficult. Though, once registered and established, businesses can quickly fall into a routine and have a significant degree of certainty about forthcoming tax liabilities.

Question 2 – If you have experienced registration processes across different UK taxes or internationally please tell us more about how they compare. What works well and what could be better?

19. Making taxpayers aware of new obligations is not a simple task. 30 day CGT reporting is a case in point here. The extension of the notification period to 60 days is acknowledgement of some of the obstacles to be encountered. Given that CGT reporting is consequent on a specific event, namely a property sale, it might be expected that awareness would be more easily achieved than for smaller scale 'dabbling' in trade.

Question 3 - What are your experiences of closing an ITSA record of self-employment or property income? Is it easy to understand and complete?

20. The following scenario has been reported to us as occurring on a regular basis. When attempting to give HMRC online notification of ceasing self-employment, tax agents are finding that the submission is rejected on the basis that the address details don't match. But the address input is identical to the one held HMRC's files. Agents resorting to paper/ telephone contact to complete the process, meaning that the overall journey is more complex and time consuming.

21. It would be beneficial to have a means of notifying and finalising the position for ceased traders closer to the date of cessation. At present finalisation is not possible until after 5 April following the cessation date.
22. For example, if a business ceases on 30 April 2022 it will not be able to officially bring the business to a close with HMRC for almost another year, until after 5 April 2023. The final tax liability not being due until 21 months later. Many businesses owners express frustration at not being able to close off their business records shortly after the closure of the business.
23. It can require careful planning to ensure that sufficient funds are set aside to settle the final tax liability, which may not be due for a considerable period after the business has ended. Some business owners forget, or assume that because their business has ended they need have no further dealings with HMRC. A more timely finalisation process would alleviate these difficulties.

Question 4 – What difficulties do taxpayers new to ITSA face in complying with their obligation to notify liability? What are the causes of these issues?

24. The situation as regards the current system is as noted above. Many taxpayers appear to have little clarity over the distinction between notification and registration. A recurrent reason cited for failure to notify is lack of awareness that the activity is taxable.
25. This has been particularly highlighted by practitioners with property clients. Individuals may become landlords largely by accident. For example, those who inherit a house, or move home for work reasons but are unable to sell their former home. In such cases there was no intention to carry on a taxable activity.
26. Furthermore, income from the property might barely cover outgoings. Yet there may be a taxable profit due to mortgage repayments being included as part of expenses, the capital (and even part of the financing costs) being ineligible for relief against taxable income.
27. The move from hobby to trade can similarly be unintentional in some cases. In the trading scenario, fear of the consequences of coming forward with undisclosed income can be a significant barrier.
28. Discretion for amnesty is worthy of consideration to break the cycle of non-notification and non-compliance.

Question 5 – How do customers new to self-employment or property income learn about the ITSA registration process and associated tax obligations? What are the issues with this?

29. This was reviewed in question 1. As regards tax agents, those newly in business are more likely to approach an adviser when they have already been in business for some time. This might be, for example, a year after commencement when they start to consider the need for business accounts.
30. Where borrowings are involved, this may be at the prompting of the bank or other lender.

Question 6– What challenges do taxpayers experience as a result of the delay between a business starting and the deadline for notification?

31. Challenges include those around recordkeeping, evaluation of business performance and profitability, factoring in tax liabilities and level of remuneration.

Question 7 – Are taxpayers clear on what trading is, and when they started or stopped trading? What factors about trading make it difficult to decide whether or not to register?

32. The Trading Allowance can blur the boundary between being in business with a notifiable obligation and having exempted income. Many individuals will not make distinctions such as between £1,000 of gross sales and £1,000 of profit.

33. Some activities, such as for example, breeding and selling puppies, would not appear to many people to be anything other than a private activity.
34. The ease with which online market places can be used for disposal of unwanted goods also blurs the boundary. Selling an unwanted pair of expensive trainers online, rather than throwing them away, looks like an environmentally friendly choice. But it is a small step from here to actively buying and selling clothing at a profit.

Question 8 - What are taxpayers' experiences of interacting with different government departments when starting self-employment?

35. No specific comments

Question 9 – Do you agree that chapter 3 sets out the challenges presented by the current registration system? Are there others?

36. While the challenges outlined appear to be those frequently faced by the newly self employed, there is the associated issue that finding out about tax liabilities late in the day, can be too late. Businesses operate in real time and business owners are likely to draw remuneration from the business dependent on their needs and the demands of the business.
37. If remuneration levels are set which ignore taxation, then effectively a business may be trading in a way which is not viable. Either charges to customers would need to be increased or cost savings and efficiencies made which would enable tax costs to be factored in, like any other business cost, to ensure long term viability.
38. If this situation is identified early on, then it may be possible to revise the business model in time before the business falls into debt. Paying tax on time is part of staying in business.
39. For individuals who have been working as employees, the scale of tax bills can easily be underestimated. Monies taken from the business are essentially a net wage and need to be grossed up to take account of tax and NIC liabilities. If this is not recognised early on, the cost can soon become more than the business is able to bear.

Question 10 – Are these the right options for changing the obligation? Which is better? Are there others?

40. The options outlined seem reasonable. Decoupling notification from the tax year seems sensible. Notification at a set time after commencement is reasonable, but is dependent on good communication.
41. When there was an obligation to notify liability to National Insurance within 3 months of commencement of trading, the obligation did not appear to be widely understood by potential new businesses.
42. Given the improvements in communication, the prevalence of social media and the experience of publicising coronavirus support schemes to businesses, such as SEISS and CJRS, a key issue is HMRC publicity and communications strategy and funding. There would be a significant job to be done in terms of raising awareness and HMRC must take primary responsibility for this role, as well as being given sufficient resources to achieve a satisfactory outcome.

Question 11 - What is the right period after the start of the new self-employment or property income for the obligation to be triggered?

43. In line with the answer to question 10, publicity around any changes is of primary importance, and arguably more important than setting the exact period.

44. Notification on too short a timeframe is likely to overburden the system with unnecessary registrations and cause difficulties for businesses in terms of uncertainty over when the trade actually commenced. A period of, say three months would seem appropriate. This would allow time for hobby traders to test the water. For new business start-ups, paying tax should be more closely tied into registration. It seems illogical and anomalous that MTD for ITSA quarterly reporting is not currently envisaged to be a part of this at the outset. Simple, clear, communication would be enhanced by having all measures in a single, easily understood package from the beginning.
45. Regarding the notification period, 3 months seems reasonable for most trades. It also fits with the MTD ITSA objective of quarterly reporting. Some concerns have been raised that seasonal businesses might struggle to meet a 3 month deadline, if it falls mid-season. For example, seasonal property letting businesses, who may claim that they do not to have time to deal with paperwork at the height of the season, particularly in their first year.
46. The vast majority of property businesses use letting agents. HMRC might more effectively target publicity through letting agents to provide nudges and prompts to register for self-assessment. Tax agents are often not involved until much later in the process.
47. Particularly in view of record keeping requirements, it would make sense for any widespread publicity to make mention of both registration and MTD for ITSA requirements. This prompting businesses to go digital ab initio.
48. Awareness of obligation to notify / register should be clear to all start-ups and hobby traders, even if they do not go on to register. Awareness is key. Traders should be aware of the need to keep records ab initio, even if the venture proves unprofitable and does not last more than a few months. Trading for even three months without any record keeping would create significant challenges in terms of re-creating what has happened.
49. To comply accurately with the requirements for Trading and Property Allowances, adequate record keeping is essential.

Question 12 - Do these ideas for using intermediaries and third party data to improve tax registration merit further exploration? Are there others?

50. Considerable caution is needed in terms of third party data. Unless there is a unique identifier, such as the National Insurance number, it is very possible that third party information is not attached to the correct individual.
51. The possibility of using third party data as the basis for nudge letters could be an option, though individuals would need to be clearly informed that the third party evidence was not conclusive and that they may still be under no obligation to notify.
52. The situation with property can be particularly complex. Examples have been cited where properties under different ownership (often in a family context) are included on the same website. Taking publicly available data it might then seem that one individual was liable to register, but reality might be more complex.

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