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Modernising Revenue Scotland’s tax administration framework: communications from Revenue Scotland to taxpayers

Response from ICAS

Modernising Revenue Scotland's tax administration framework: communications from Revenue Scotland to taxpayers

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. Approximately 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 Scottish Government consultation: Modernising Revenue Scotland's tax administration framework: communications from Revenue Scotland to taxpayers.

Specific Questions

Question 1: Do you agree that there are challenges with Revenue Scotland's current communications practice, as described above? Please provide commentary to explain the basis of your answer.

5. We agree that there are currently challenges in efficient and effective communication between Revenue Scotland and taxpayers or agents. SETS can be unfriendly for users as a platform and therefore care should be taken around the user experience of any digital communications.

6. ICAS supports the overall objectives of electronic communications, while also acknowledging that digital facilities should be accessible to all, on the terms they want, and that digital services should be so good that everyone wants to use them. Provisions should be made for the digitally excluded and those who do not want to use electronic communication. Care should also be taken that a two-tier level of service and support does not emerge between those using electronic communication and those who opted out. We agree with the aim of clarifying the rules around receipt of information as certainty for taxpayers in this regard is beneficial but means of rebuttal should be easily accessible and timely.

Question 2: Do you agree with the proposal for Revenue Scotland to move to electronic communications by default, where a taxpayer has provided a means of electronic communication (except where they have opted out or are otherwise digitally excluded)? Please provide an explanation for your answer

7. ICAS support electronic communications by default where a taxpayer has provided electronic contact details, subject to appropriate opt out arrangements and protections for the digitally excluded. Digital engagement can improve efficiency, reduce administrative burdens, and enhance timeliness but must be implemented in a manner that enhances taxpayer trust to be most effective. There should be safeguards to ensure that taxpayers who are unable or unwilling to engage digitally are not disadvantaged, and that opting out is straightforward and well signposted. There must also be clear communication on the introduction of electronic communication by

default and what it means for taxpayers. This should be well in advance of the measures coming into force.

8. It is expected that much of the communication between Revenue Scotland and taxpayers/agents will be related to occasional or infrequent tax circumstances such as LBTT returns. We anticipate some challenges with taxpayer communication in these circumstances, since the first contact with Revenue Scotland may be at the time of the return submission and there may not be any regular contact thereafter. Consideration should be given to these circumstances and how best to overcome them, including what proportion of letters are sent to taxpayers versus agents.

9. As more devolved taxes become live, and as we move to a more digital world, we consider it appropriate for Revenue Scotland to develop a digital tax strategy or roadmap. Although this consultation is only considering electronic communications (and not specifically other digital tax initiatives), it can be useful to look at the entire framework of digital transformation, assess the current landscape and consider what a digital tax system in Scotland would look like in future. This would help align the current proposals on electronic communication with that future vision and make it a clear part of a roadmap on the wider digital tax system. In considering the wider landscape of devolved taxes, we would also suggest that a review of Revenue Scotland's powers as contained in the Revenue Scotland and Tax Powers (Scotland) Act 2014 may be appropriate at this time. As digitisation efforts proceed, it is important that Revenue Scotland's tax management powers are suitable for purpose and aligned with the systems required.

Question 3: Are there alternative approaches which Revenue Scotland could take to facilitate greater use of electronic communications with taxpayers?

10. ICAS support a 'taxpayer trust' focused use of electronic communications. We consider this to be where electronic communication enhances taxpayer trust in the tax administration and supports the taxpayer in understanding and complying with their tax responsibilities. Therefore, to facilitate greater use of electronic communication, there should be clear, transparent communication on the proposed changes, accessible information (including easy to read guides and FAQs), strong data security for taxpayer information, strong reliability of any electronic communication system, and the design of electronic systems and processes should be with taxpayer/agent ease of use in mind.

11. Consistent messaging on the benefits to the taxpayer of using electronic communication should be conveyed and Revenue Scotland should provide a clear explanation of how taxpayer data will be used.

Question 4: Do you agree that the definition of electronic communications should provide Revenue Scotland with the flexibility to communicate electronically through a range of measures? Please provide an explanation for your answer.

12. Yes, with some caveats. ICAS would support clarity on the means of electronic communication, rather than leaving it subject to change and/or uncertainty. A taxpayer or agent should be clear on where to expect electronic communication from Revenue Scotland, so that communications are not missed. Clarity would also ensure that only the taxpayer has access to the electronic communication platform (for example, it is not sent to an email account which is jointly accessed or shared) and increase the security of electronic communications. We also suggest that agents/large businesses may benefit from more than one email address being registered, since having a single point of contact can be challenging for these users.

13. With an increase in electronic communications, Revenue Scotland should consider the challenges of phishing attacks and related scams. With the use of text messaging and emails, there will likely be an increase in these types of activities. If there is no clear message from Revenue Scotland on what types of electronic communications they will use, then it will potentially be easier for these scams to succeed. Encrypted emails may provide more security for the recipients, and we would encourage Revenue Scotland to consider this.

Question 5: Are there any specific circumstances, excluding consideration of opt-out arrangements, where you consider that the use of electronic communications would not be appropriate?

14. ICAS do not consider social media to be an appropriate means of electronic communication, except for general publicity, awareness and information.

15. We would caution that those taxpayers who do not communicate by electronic means should not be disadvantaged compared to those using electronic communication. Legal notices or notices with high importance should have extra protections to make sure it reaches the intended recipient.

Question 6: What process do you think Revenue Scotland should put in place to enable taxpayers to opt out of receiving electronic communications?

16. The process for opt-out should include the following:

- Opt out at any time
- Clear and accessible – if they have a SETS account it should be available via the SETS platform, or else on the Revenue Scotland website
- Acknowledgement or confirmation provided when an opt-out made
- Appropriate security check on a taxpayer/agent who wants to opt-out (to ensure communication is not being re-directed to an unrelated party)
- Opt out can be based on not providing electronic communication details when prompted (if not already provided)
- Should be able to opt back in easily

Question 7: What measures should be put in place to ensure that taxpayers are aware of the opt out?

17. Every taxpayer/agent with a SETS account should receive a notice on the system when they log in to their account to inform them of the upcoming changes to electronic communication by default and direct to the opt out option.

18. If a taxpayer does not provide electronic communication details, then this should be considered an opt-out. If electronic communication details are already in the system, but the taxpayer does not have a SETS account then they should receive appropriate communication (e.g. via email, text or post) on the opt out process and contain a link or the address for the relevant page on the Revenue Scotland website.

19. Given the importance of having correct contact details for the presumption of delivery, Revenue Scotland should make efforts to regularly communicate the responsibility to keep contact details up to date to taxpayers and agents.

Question 8: Do you agree with the proposal that a copy of an electronic communication will be proof that information was delivered by electronic communications, unless there is evidence to the contrary? Please provide an explanation for your answer

20. We anticipate that there will be issues with proving that emails were not received in certain circumstances (for example, where the email address is no longer in use, it is quarantined by a firewall, an email system is hacked). We would stress that the repercussions of not receiving an electronic communication are considerable in cases where there may be tax, penalties and interest at stake. We would therefore encourage clarity on how these circumstances would be treated.

21. Additionally, electronic communications may be read on several different types of devices and care should therefore be taken that electronic communications are compatible (e.g mobiles, laptops, tablets etc). Incompatibility may mean that the message displays incorrectly or incompletely on certain devices.

22. We acknowledge that there are issues with the functionality and usability of SETS, and that this system would be difficult to use as a point of contact for circumstances where the taxpayer interacts with Revenue Scotland for the first time, or irregularly. Therefore, we see that a mixture of email and SETS use should be carefully balanced, to make sure that the taxpayers/agents receive information in the most effective way.

23. We note that Revenue Scotland aim to align with the rules currently in place for income tax and corporate tax. We do not oppose this, but we would highlight that this may be difficult to apply for transactional taxes like LBTT.

24. The nature of the taxpayer population (transactional basis rather than on-going compliance) and the limitations of the SETS platform, make reliance on the transmission of information via SETS difficult for all taxpayers/agents. However, we would encourage as part of a long-term plan that Revenue Scotland look at increasing the functionality and usability of SETS. We see this as having several benefits: a record of delivery is maintained, there is a reliable audit trail, better control over the system and delivery method, sensitive information is not shared via unencrypted email.

Question 9: Do you agree with the proposal that a notice transmitted by electronic communications is received on the day of transmission, unless there is evidence to the contrary? Please provide an explanation for your answer.

25. Please see response at question 8.

Question 10: If in agreement with the proposal, do you agree that it would be appropriate to align with the presumptions already in operation for HMRC?

26. We agree with this on the basis that alignment across tax administrations reduces uncertainty and confusion for taxpayers.

27. We also encourage, as far as possible and practical, to align with HMRC practices and technology. This would create a consistent approach for taxpayers and agents. However, as noted above, there may be challenges in applying this to the more transactional population of taxpayers.

Question 11: What action could Revenue Scotland take to address the risks of error and uncertainty highlighted above?

28. As set out at question 8, we would encourage clarity around emails/electronic communications not being received and how this can be evidenced by a taxpayer or agent. There should be some form of monitoring system in place for unopened or undelivered emails.

Question 12: Do you consider that the audit process and support that Revenue Scotland has in place are effective in supporting taxpayers in their interactions with Revenue Scotland? Please provide an explanation for your answer

29. The audit process and support seem adequate in supporting taxpayers in a digital by default system. It is important that taxpayers are still able to contact Revenue Scotland for timely guidance and support. ICAS would be happy to consult further on this with Revenue Scotland as plans progress.

Question 13: Do you agree that service by ordinary post is a proportionate alternative means of communication to those taxpayers who do not have a digital means of communication or who otherwise opt out of electronic communications? Please provide an explanation for your answer.

30. We agree but high priority, time sensitive or otherwise contentious issues (such as where there has been a noted dispute over delivery receipt) should be sent by signed for or recorded post.

Question 14: Do you agree with the opportunities, benefits, challenges and risks associated with the use of ordinary post as set out above? Please provide an explanation for your answer.

31. We broadly agree with the caveat above at point 13.

Question 15: Where correspondence is served by ordinary post, do you agree with the proposal that second class post would primarily be used? Please provide an explanation for your answer.

32. Whether second class post is appropriate will depend on the circumstances. Non-priority or non-time sensitive information may be appropriate to send by second class post. We note that in the consultation it differentiates between routine items and high priority items.

Question 16: Do you agree with the proposed rebuttable presumptions of delivery for service by first and second class ordinary post within the UK? Please provide an explanation for your answer.

33. We broadly agree but highlight that the method of making a rebuttal and confirmation/communication from Revenue Scotland on the rebuttal should be timely and easily accessible.

34. We would also note that there are wider legal implications to this proposal and this change would need to be considered within the wider judicial framework and in further consultation with the judicial and legal community.

Question 17: If presumptions were introduced, on what grounds do you think these should be rebuttable by the intended recipient?

35. High priority or sensitive information should be sent by recorded/signed for delivery. In the case of first or second class post, the following circumstances may be considered for rebuttal:

- Evidence of postal disruption
- Incorrect address details
- Demonstrable delay or non-receipt
- Vulnerability or exceptional personal circumstances

36. We would also raise concerns where information is sent by first/second class post to addresses without secure delivery – for example, a share office building where post is left in a communal area, or a residential building with the same circumstances (where buildings have been converted into flats and each resident may not have a separate post box or secure delivery place). Taxpayers should be able to work with Revenue Scotland to address such issues and find suitable alternatives.

37. Detailed guidance should be prepared by Revenue Scotland on rebuttal and evidence required, subject to engagement/consultation with relevant stakeholders.

38. We also highlight, as mentioned above at question 16, that this matter needs wider engagement with the judicial community and legal stakeholders.

Question 18: Relatedly, what steps could be taken to address the risks set out above? Are there other risks or issues which should be considered and addressed?

39. We have no comments on this question.

Question 19: How much notice would taxpayers and agents need for these changes, and how could Revenue Scotland best communicate it?

40. We have no comments on this question.

Question 20: Do you have any information which could inform a draft BRIA relating to the proposals set out in this consultation?

41. We have no comments on this question.

Question 21: Are you aware of any examples of particular current or future impacts, positive or negative on young people, (children, pupils, and young adults up to the age of 26) of any aspect of the proposals in this consultation?

42. We have no comments on this question.

Question 22: Are you aware of any examples of potential impacts, either positive or negative, that you consider any of the proposals in this consultation may have on the environment?

43. We have no comments on this question.

Question 23: Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on these with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

44. We have no comments on this question.

Question 24: Are you aware of any examples of potential impacts, either positive or negative that you consider any of the proposals in this consultation may have on groups or areas at socio-economic disadvantage (such as income, low wealth or area deprivation)?

45. We have no comments on this question.

Question 25: Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland or other areas?

46. We have no comments on this question.

Question 26: Are you aware of any examples of how the proposals in this consultation might impact, either positively or negatively, on rural communities on mainland Scotland?

47. We have no comments on this question.

Question 27: Are you aware of any examples of how the proposals set out in this consultation may impact, positively or negatively, on consumers in Scotland?

48. We have no comments on this question.

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