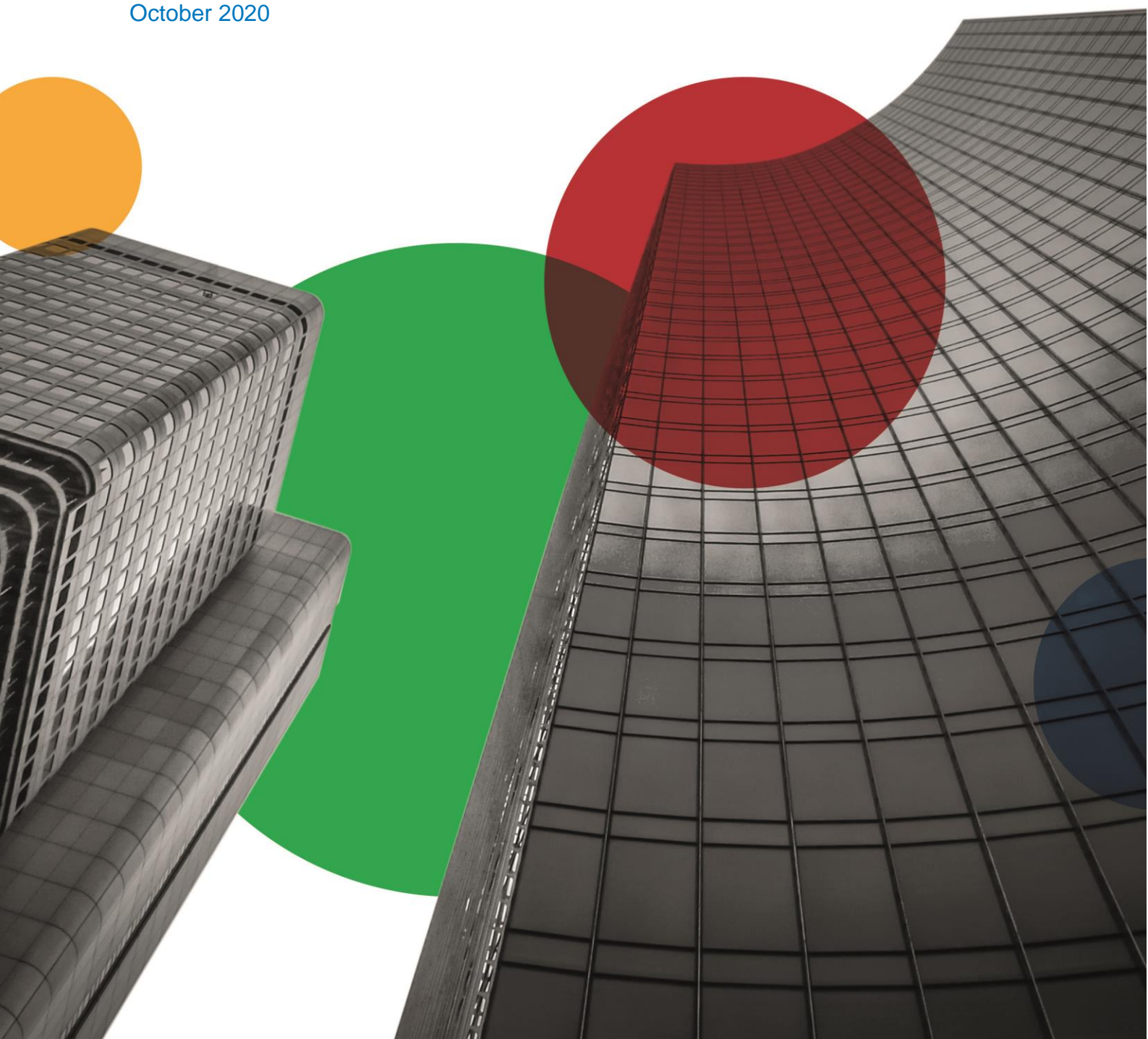


Agent Strategy

ICAS Briefing paper

October 2020



The ICAS Agent Strategy

7 key principles

1. The role of tax agents is vital to the effective operation of the UK tax system

ICAS firms play a crucial role in enabling individuals and businesses to operate successfully within the UK economy and tax system. The UK tax system would not function effectively without agents.

2. The tax system needs to be designed with agents in view

The majority of business taxpayers have agents and the relationship between HMRC and tax agents is of fundamental importance to the UK tax system. Digital transformation should lead with agent services – we are pleased to see this recognised in [‘Building a trusted, modern tax administration system’](#), issued by HMT/HMRC in July 2020.

3. Agents need access to HMRC staff

The impact of tax on personal and business decisions can be wide-ranging and complex. Commercial decisions are often time-sensitive and uncertainty over tax consequences is damaging. Appropriately qualified HMRC staff should be available to agents for resolution of tax issues in real-time.

4. HMRC investment decisions should take account of the wider economy

HMRC needs to be encouraged to invest in agent services. Investment decisions should be based on the economic impact on the UK economy, not evaluated on the impact within HMRC alone.

5. Agents assist taxpayers in getting their tax affairs right

The vast majority of taxpayers aim to pay the right amount of tax on time. Having an agent helps taxpayers who wish to be compliant. HMRC and agents need a good working relationship to promote taxpayer compliance.

6. Chartered Accountants are business advisers. Tax advice is not given in isolation

Chartered Accountants are trusted business advisers. Their advice balances the economic, regulatory, social, personal, business and taxation demands on the business and its owners. Tax should not be divorced from the economic realities of business life, nor should compliance for the few drive up the regulatory burden for the many.

7. Digitalisation is key

Digitalisation is key, and digital tax is a significant part of the whole. Yet, digital tax alone should not drive change. Mandated digital interaction on a short timescale is not best for business. Total digital is not a one size fits all. Different businesses need different levels of digitalisation for maximum efficiency.

Digital taxation needs to include the viewpoint of the business and the tax agent, as well as HMRC. It needs to be part of an overall streamlining of processes. Suitable, effective use of digital frees up business time for the business owner. It enables the agent to give more real-time proactive advice including managing tax compliance. It yields efficiencies for HMRC.

We support the Government's overall ambition of making tax digital.

The Agent's Role

The Agent's role faces both HMRC and their clients. Tax agents are engaged by, and owe a primary duty of care to, their client. They also owe a wider duty of care, as evidenced by the ICAS ethical standards and Professional Conduct in Relation to Taxation. While a successful relationship with HMRC is key, the agent strategy cannot rest solely on agents meeting HMRC objectives.

We consider the Agent's Role to be

- to represent the taxpayer, the agent's client;
- to support tax compliance and compliant taxpayer behaviour;
- to make complex tax systems workable for businesses and individuals, and reduce the risk of unexpected tax costs for taxpayers, including:
 - proper utilisation of available tax reliefs, and
 - tax planning where conducted in the commercial context relevant to the client
- to work within the relevant professional principles and the standards set out in Professional Conduct in Relation to Taxation (PCRT).

HMRC's Agent Strategy aims to transform the relationship between HMRC and agents by

- gaining a better understanding of agents and their clients to help HMRC target its services and communications;
- aligning HMRC and agent processes where possible, and enabling agents to carry out more transactions with minimal HMRC involvement;
- eliminating duplication and reworking to make it easier for agents to do business with HMRC and reduce agent costs;
- supporting agents in improving services for their clients, including tackling the small minority of agents with poor performance more effectively;
- working closely with representative bodies on the development of Agent and Client Statistics.

While broadly in agreement with the overall direction of HMRC policy, ICAS sees the need for clarification and balance. An agent strategy needs to deliver an efficient and effective interface for practices to act on behalf of their clients.

This must be congruent with the professional principles of Integrity, Objectivity, Professional Competence, and Confidentiality. It must also take account of the commercial environment in which tax services are provided within the UK.

ICAS seeks an effective tax system where

- The role of agents in making the tax system work is recognised and appreciated.
- Agent services are available at the same time or ahead of services for individuals or businesses so that agents can properly support their clients.
- HMRC and tax professionals in practice can work together to enhance the tax system across the UK, bringing efficiencies, more effective administration and better net tax yields.
- The tax gap is minimised through appropriate, properly targeted action which discourages evasion without burdening the compliant.

The ICAS Agent Strategy is established in relation to three parties

One - the taxpaying public

ICAS will inform the public on matters relating to tax agents and represent the public interest as it relates to the rights of taxpayers to representation in their tax affairs.

Tax is complex

Tax is complex and many taxpayers choose to have an agent, so they have assurance that their tax affairs are efficiently handled. Tax agents assist with routine tax compliance and help to ensure that taxpayers are not exposed to penalties or unexpected tax bills.

Business is challenging

Businesses operate in a challenging environment where changing conditions can necessitate rapid decisions; decisions which have tax consequences. Agents, with a knowledge of the tax rules, the taxpayer's circumstances, and the industry and wider economy, are well placed to support taxpayers in complying with their responsibilities and managing tax liabilities.

Day to day decisions, both business and personal, can have unanticipated tax consequences. Tax agents are there to minimise unexpected tax consequences and ensure that business, personal and tax decisions are sensibly aligned.

Rapid change

Devolution, digitalisation, the Covid-19 pandemic and increasing regulation are contributing factors to an ongoing rapid pace of change. It is difficult for taxpayers to be sure that they are up to date, and to plan for the future. Chartered Accountants bring the breadth of business, accounting, regulatory and tax knowledge to assist businesses in a competitive market. Their remit is wider than tax and they contribute to overall economic development through providing expert business support.

Getting tax right

Agents help to reduce the tax gap through correction of errors, reconciling and reviewing accounts and advising on accounting systems. ICAS supports the role of agents in practice and engages with Government to simplify the tax system, particularly for smaller businesses. Simplification leads to improved compliance as rules become easier to understand and apply.

Protecting the public

HMRC owes the public a duty of care not to be seen to promote the services of unqualified tax agents. The situation in the UK is somewhat anomalous given that no formal training or regulation is needed before individuals or firms hold themselves out to provide tax services.

ICAS has, and will continue to, contribute to the debate on standards in the tax advice market. However, it would be helpful to have a clear decision on whether some form of regulation of the tax profession is to be introduced. It is very difficult, if not impossible, to enforce standards when anyone is permitted to act as a tax agent. ICAS recommends that the long term aim should be to require that all tax agents should be qualified and should belong to one of the main professional bodies.

Taxpayers should be able to rely on any agent being suitably qualified.

The ICAS Agent Strategy is established in relation to three parties

Two - HMRC

ICAS will work with HMRC towards achieving an efficient tax system. It will use its expertise to provide constructive challenge, with the aim of reducing inefficiencies for all.

Taxpayer choice

Many taxpayers prefer to have an agent looking after their tax affairs rather than dealing directly with HMRC themselves. HMRC needs to build this taxpayer preference into all their delivery models.

Agent access

ICAS agrees with HMRC's proposition that it will 'design services to enable agents to do and see everything their clients can do and see'. There is a considerable challenge in making this a reality.

Adding economic value

HMRC's investment in time and resources should not be evaluated solely, or mainly on the basis of in-house cost savings. It is unacceptable for taxpayers and their agents to suffer significantly increased costs simply to reduce HMRC's operating costs.

HMRC's resources are stretched and small errors in HMRC systems can have a very significant impact in terms of disruption and expense for taxpayers and their advisers.

Resolving disputes effectively

The need for face to face contact for effective resolution of complex tax issues should be included in system design. Digitalisation and centralisation can be cost-effective for 'bulk processing'; but tax includes many grey areas where the proper operation of the system requires the tax authority to make a judgement call about specific transactions.

The limited availability of rulings from HMRC on commercial transactions causes uncertainty, inhibits business activity and potentially causes distortions in the market.

Working with the profession on compliance

HMRC needs to operate in line with the HMRC Charter which recognises that most taxpayers want to get their tax right. Work to reduce the tax gap should be transparent, targeted and proportionate. It is best achieved through cooperation with the tax profession. HMRC's approach needs to factor in an understanding of accounting and business and not simply focus on tax rules in isolation.

Conflicting interests

Care is needed that HMRC does not take on roles where there is an inherent conflict of interest. For example, being a regulator for Anti-Money Laundering, does not sit easily with being a default supervisor.

The ICAS Agent Strategy is established in relation to three parties

Three - ICAS members

ICAS members

ICAS will support its members, both in practice and in business, so that the benefits of having a tax agent are maximised. ICAS will represent its members' views to HMRC and support those in practice to achieve the highest standards.

Agents add value

Tax agents should be valued as an integral part of the tax system: rather than as an optional add-on. This is particularly so as HMRC digitalises its services. The digital environment offers many opportunities for tax practitioners and HMRC, with the potential to enable a more efficient and streamlined service. This goal should not be undermined by over hasty implementation.

Working collaboratively

Working collaboratively with professional firms, while respecting the constraints of a commercial professional relationship, will enhance confidence of practitioners in HMRC's digital rollout. ICAS would like to see a commitment from HMRC not to withdraw non-digital services to agents until a fully functioning digital alternative is available.

Being professional

Chartered Accountants are covered by wide ranging professional standards which require continuing Professional Indemnity Insurance, professional development and ongoing assessment of professional competency in each client-facing role. CAs are bound by published standards, such as Professional Conduct in Relation to Taxation (PCRT) and the ICAS code of ethics.

Competence in tax is not the acquisition of a practising certificate, or a one-off qualification, rather it is the ability to make ongoing professional judgement calls. This is developed and tested through experience, training, and professional accountability. It is being part of a framework within a professional firm; being part of a professional body; being part of a process of continuing improvement and adaptation to an ever-changing field of work.

Unregulated advice

There has long been a concern that unregulated individuals and firms, without affiliation to any professional body, can currently offer tax services to the public without the safeguards of professional training, Professional Indemnity Insurance, supervision and support.

Upholding standards

Upholding standards in tax must cut both ways. Digitalisation and the reorganisation of tax offices appears to have resulted in a 'brain drain' from HMRC, making it difficult to access appropriately qualified HMRC staff when trying to resolve tax issues.

Professional Conduct in Relation to Taxation

ICAS is committed to maintaining high standards in professional practices – its members adhere to the ICAS [Code of Ethics](#) and the [Professional Conduct in Relation to Taxation](#) principles and standards.

A member must comply with the Fundamental Principles and the Standards for Tax Planning

The Fundamental Principles

Integrity: to be straightforward and honest in all professional and business relationships.

Objectivity: to not allow bias, conflict of interest or undue influence of others to override professional or business judgements.

Professional competence and due care: to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques; and act diligently and in accordance with applicable technical and professional standards.

Confidentiality: to respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose; nor use the information for the personal advantage of the member or third parties.

Professional behaviour: to comply with relevant laws and regulations and avoid any action that discredits the profession.

The Standards for Tax Planning

Client Specific: Tax planning must be specific to the particular client's facts and circumstances. Clients must be alerted to the wider risks and the implications of any courses of action.

Lawful: At all times members must act lawfully and with integrity and expect the same from their clients. Tax planning should be based on a realistic assessment of the facts and on a credible view of the law. Members should draw their clients' attention to areas where the law is materially uncertain, for example because HMRC is known to take a different view of the law. Members should consider taking further advice appropriate to the risks and circumstances of the particular case, for example where litigation is likely.

Disclosure and transparency: Tax advice must not rely for its effectiveness on HMRC having less than the relevant facts. Any disclosure must fairly represent all relevant facts.

Advising on tax planning arrangements: Members must not create, encourage or promote tax planning arrangements or structures that: i) set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation; and/or ii) are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation.

Professional judgement and appropriate documentation: Applying these requirements to particular client advisory situations requires members to exercise professional judgement on a number of matters. Members should keep notes on a timely basis of the rationale for the judgments exercised in seeking to adhere to these requirements.

The ICAS Role

ICAS (The Institute of Chartered Accountants of Scotland) is the oldest professional body of accountants. We represent over 22,000 members who advise and lead businesses. Around half our members are based in Scotland, the other half work in the rest of the UK and in almost 100 countries around the world.

ICAS regulates over 1,000 practices providing tax, accountancy and business services across the UK and beyond.

ICAS has a public interest remit – a duty to act not only for its members but for the wider public good. Our technical experts work in a positive and constructive manner to advise policy makers on legislation and to raise issues of importance to our members, individual taxpayers and businesses alike.

Taxation is one such area of importance and ICAS has contributed, and will continue to contribute, to tax policy in Scotland, the UK and beyond.

The Tax Board's objectives in establishing its policy positions are to:

- act in the public interest
- provide constructive input to the authorities, and
- represent the interests of ICAS members, affiliates and students.

##



Contact us

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

+44 (0) 131 347 0100

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)