



ICAS response to the OTS consultation:

**Simplifying Tax for the Future
Our high level strategy**

29 July 2016

OTS – Stakeholder Consultation - Simplifying Tax for the Future

About ICAS

1. The following paper has been prepared by the ICAS Tax Committee. This Committee, with its five technical sub-Committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants and ICAS Tax Professionals working across the UK and beyond, and it does this with the active input and support of over 60 committee members. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 21,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.
2. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. Evidence provided by ICAS aims to inform in a positive and constructive manner. ICAS is apolitical and will not take a stand for or against a particular political position. From a public interest perspective, our role is to share insights from ICAS members into the many complex issues and decisions involved in the design and implementation of fiscal measures, and to point out operational practicalities. Our representatives also contribute based on the collective experience of decades of work which ICAS members and staff have undertaken with both the UK and Scottish Parliaments and tax authorities, and other European and worldwide institutions, on a shared agenda that seeks better outcomes for all stakeholders.

General comments

3. ICAS welcomes the opportunity to contribute to the stakeholder consultation 'Simplifying Tax for the Future', issued by the Office of Tax Simplification (OTS) in the Spring of 2016.
4. ICAS supports the work of the Office of Tax Simplification (OTS) and welcomes the fact that it is being placed on a permanent footing. ICAS looks forward to continuing to work with the OTS.
5. Complexity and volume of legislation continue to cause difficulties for individuals and companies trying to comply with their tax obligations. In some cases, it may also lead to bad advice being given by advisers – not deliberately but simply because of an inability to cope, especially in smaller firms. Despite the concerns of many taxpayers and agents, and the good work of the OTS, the Government has introduced legislation of significant volume and complexity in recent Finance Acts. We continue to call upon the Government to address this and to adopt more of the OTS recommendations. One of the key issues for the OTS to address in future is how to prevent further complexity from being introduced.
6. Consideration also needs to be given to the impact of devolution on taxes and tax collection and the consequential impact on simplification. Devolution is driven by the desire to locate tax powers with local accountability, which is important and to be respected, but the downside is that differing taxes bring in complexity. There is a role for the OTS in assisting devolved jurisdictions to be aware of potential complexities and how to minimise these.

The wider context - Question 1: As well as these, are there other significant trends or issues, in the wider context or on the horizon that may change the tax landscape that we should take into account?

We agree in large part with the analysis in the consultation paper of the wider context within which the OTS work will be based. We have, however, identified the following additional trends and issues which we believe the OTS should take into account.

Digital does not necessarily equal simplification

The UK Government's road map for making tax digital is a vision for a new digital tax administration. It includes the requirement for most businesses and individuals to interact digitally, and in real-time, with HMRC by 2020. This is a bold vision on a tight timescale that envisages a future where tax administration is transformed.

ICAS supports the overall objectives of Making Tax Digital but making processes digital does not necessarily simplify the tax system for taxpayers. For example, quarterly reporting is likely to impose onerous requirements on businesses where accounting processes are generally on an annual timescale. And for a significant proportion of the population who are 'digitally vulnerable' the move to digital will produce complications: for such taxpayers 'simplification' may require personal contact with the revenue authorities.

Nor does digital address the complexities of the underlying taxes. Concerns have been expressed by our members that the potential to make tax administration digital has in fact led to considerable complications in some parts of tax law, such as the Finance Bill 2016 measures with the £5,000 dividend zero rate band and the personal savings allowance of £1,000 or £500. These are detailed and unduly complicated measures for those who will continue to pay tax on their savings or dividends.

Devolution of tax powers

The OTS should have a role to play in the recognition and analysis of the impact of devolution and decentralising of taxes. Consideration needs to be given to the impact of devolution on tax policy and its consequential impact on simplification, which can be negative. Devolution is driven by the desire to locate tax powers with local accountability, which is important and to be respected but the downside is that different taxes, in different parts of the UK, bring in complexity so extra care is required to minimise unnecessary elements of complexity for both taxpayers and businesses.

Areas the OTS might consider could include:

- Different definitions and slightly different conditions in devolved legislation, for example, SDLT compared to LBTT (and in future the Welsh Land Tax).
- Different interpretations adopted by the different tax authorities.

In both cases these might arise from deliberate, conscious decisions made for good reasons. However, they undoubtedly add to complexity and potentially cause confusion and uncertainty; the OTS might have a role in highlighting the differences so all parties could consider whether they are really necessary and therefore whether the additional complexity is desirable.

The OTS has been asked to produce two further reports on possible simplification in the area of aligning tax and national insurance and we hope these will bear fruit. In this context, however, we note that income tax rates and bands are being fully devolved to Scotland from April 2017, whilst NIC remains reserved. It remains to be seen how this affects the desire for simplification and the impact of devolution is part of wider background that may need further consideration by the OTS. Measures such as the apprenticeship levy, which is charged under reserved powers but disbursed via devolved powers, may also give rise to confusion and might have benefited from the input of the OTS in its design.

Brexit may add an extra dimension to devolution, with potential pressure to increase the movement of tax powers to the devolved jurisdictions. Greater complexity could be an unintended consequence and the OTS could assist in minimising this where possible.

Brexit

The consultation paper was published before the EU referendum had taken place but Brexit is now a key part of the wider background in which the OTS will be working. Clearly, it is too early to consider the more detailed elements of this but from a tax simplification point of view there will be both opportunities and risks. One risk, however, is that change in itself frequently causes complexity and uncertainty; this should not be overlooked when determining how far to pull back from EU-driven tax rules.

Transparency and the public understanding of tax

There is a need for greater public understanding of tax to improve the quality of public discussion about who pays tax, how much they pay and tax avoidance. Tax policy needs to be transparent and the underlying principles on which it is based should be clear; successive governments have agreed that simplification should be one of these principles. Any significant simplification is likely to produce both winners and losers so to obtain broad public support the wider benefits have to be explained clearly. The OTS is ideally placed to provide independent explanation and analysis to enhance public understanding of the issues.

The OTS's purpose and aims - Question 2: Bearing in mind our legislative framework, do you have any comments on the observations above on the OTS's purpose and aims?

ICAS agrees with the comments in the consultation paper regarding the OTS remit and approach.

In addition, the OTS should have its own roadmap of what it seeks to achieve over the following, say, five years; and it should have a role to play in developing other tax roadmaps. The Business Tax Roadmap issued in March 2016 would have benefited from OTS input.

What work should the OTS undertake? - Question 3: Do you have particular suggestions for areas of the tax system that the OTS should consider in the coming years? How do you see our main priorities?

Tax reliefs

The OTS has conducted a number of excellent studies in which complexities in our tax system have been clearly identified, including the significant project on tax reliefs in 2011. There has been disappointment with the Government's follow up on these findings; therefore, ICAS would strongly support the proposal that the OTS revisit their earlier study on reliefs. We suggest that an analysis of the cost and take up of reliefs should be undertaken, including a review of whether they have had the intended behavioural impact. This could provide evidence to support removing reliefs which are infrequently claimed or tend to lead to abuse – and which therefore add complexity for little or no benefit. The OTS could also review the benefits of including 'sunset clauses' in new reliefs to ensure that they are assessed after a set time to determine whether they should continue or be allowed to expire.

Forthcoming tax legislation

Whilst looking ahead at changing business and economic structures, a forward looking role is also needed for the OTS in the development of future tax law. One of the frustrating aspects of the OTS's good work is that whilst it examines existing law with a view to simplification measures, the Government is introducing further complexity in each new Finance Act. This mismatch needs to be addressed.

Government tax pronouncements

In recent years, and with the general desire for tax simplification, a significant proportion of the announcements made by the government at the Budget, and in consultation documents herald new proposals as 'simplification'. It would be helpful if the OTS evaluated these assertions in future, and established whether the measures do genuinely represent

'simplification'. If necessary, there could be a matrix of when the term might be applicable. For example, the recent measures regarding the nil rate allowances for both dividends and savings income do simplify tax compliance for the vast majority of taxpayers, those estimated 95% who no longer need to pay income tax on their dividend and savings income. However, for the remaining 5%, which is still a large number of taxpayers, the resulting provisions are extremely complicated.

How should the OTS operate? - Question 4: Do you have any comments, principles or ideas in addition to the above, that you would like us to consider as we further develop our approach?

The OTS should continue with its existing way of working, which has a strong emphasis not only on consultation but involves extensive face to face contact with stakeholders and the active canvassing of views (including from those who might not normally contribute to government consultations). As consultees, ICAS members have always found this to be a very positive and valuable experience. Our members are always pleased to contribute to OTS projects and appreciate the willingness of OTS staff to travel out and about meeting tax practitioners and other stakeholders.

As well as working with HMRC and HMT, we suggest that there would be benefits from the OTS raising awareness amongst stakeholders of the complexities that can be introduced by devolving tax powers. The OTS could also assist devolved jurisdictions in reaching a balance that minimises complexity and burdens on business, whilst respecting the desire to introduce local accountability through different tax measures. So, for example, addressing ways in which differing tax policies can be adopted but be kept simple involves an understanding that:

- Administrative ease is all important
- Frequent changes add to complexity
- Using tax reliefs to incentivise behaviour leads to lengthy, difficult legislation, and
- There is a need for devolved administrations to continue working closely with the UK authorities to ensure that tax is kept as streamlined as possible whilst implementing the devolved tax powers.

How should the OTS be staffed? - Question 5: We are sure it is right to have a mix of private and public sector people but do we get the balance right? Are there pools of expertise we are not tapping? Or particular skills and expertise we could aim to recruit into our staff?

Given the quality of output over the existence of the OTS, the approach to staffing has worked very well. There do not appear to be any significant gaps. The OTS is respected for its independence and it is vital that this is maintained.

Our impact and influence - Question 6: How should the OTS measure its success? Do you agree with the broad measures of success sketched out above or are there other objective measures or subjective criteria we should use?

We are in agreement with the measures set out.