ICAEW
REPRESENTATION 43/20

STABILISE, SUSTAINABLE, SECURE - PRIORITIES FOR THE UK'S ECONOMIC RECOVERY POST COVID-19 (SUMMER TAX STATEMENT)

FRANK HASKEW'S LETTER TO THE FINANCIAL SECRETARY TO THE TREASURY

Issued 30 June 2020

ICAEW welcomes the opportunity to make further representations ahead of the Summer Economic Update. These were submitted in a letter from Frank Haskew, Head of ICAEW Tax Faculty, to the Financial Secretary to the Treasury, the Rt Hon Jesse Norman MP, on 30 June 2020.

> We believe that there should be three priorities guiding future government policy: stabilising the economy in the short-term, building sustainability into the medium-term recovery plans, and securing the ability of British business to compete internationally in the long-term.
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> Looking forward, the opportunity provided by the UK's withdrawal from the EU, and with the need to redesign the tax system, we believe that now is the time for a national debate on how to reform the UK's tax system to make it simple and easy to understand and comply, help build the recovery and make the UK a more attractive location in which to work and invest.

This response of 30 June 2020 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of strong economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 184,500 chartered accountant members and students around the world. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

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30 June 2020

Rt Hon Jesse Norman MP
Financial Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

(Sent via email)

Dear Jesse

STABILISE, SUSTAINABLE, SECURE - PRIORITIES FOR THE UK'S ECONOMIC RECOVERY POST COVID-19 (SUMMER TAX STATEMENT)

On behalf of ICAEW's Tax Faculty, I would like to congratulate you and all of HMRC for the beneficial and unprecedented measures that were introduced so quickly to protect jobs and businesses as the UK economy weathers the COVID-19 storm.

We believe that the close working between professional bodies, including ICAEW, and staff from both HMRC and HM Treasury has been hugely beneficial. It has ensured that the schemes have worked, as well as established a new level of trust and co-operation between us which we would like to build on as the UK seeks to recover from the current crisis.

We also welcome the very positive response to the recommendations in our letter of 19 March 2020, many of which have been taken up in whole or in part.

In advance of the proposed statement, Michael Izza, ICAEW's Chief Executive, has written to the Chancellor outlining ICAEW's priorities for our economic recovery. This letter is attached for your reference. We believe there should be three priorities guiding future policy: stabilising the economy in the short-term, building sustainability into the medium-term recovery plans, and securing the ability of British business to compete internationally in the long-term.

In this letter, we make some recommendations based around these three themes and which build on previous recommendations to you. To enable quick implementation, our suggestions largely tweak existing provisions.

Looking forward, the opportunity provided by the UK's withdrawal from the EU, and with the need to redesign the tax system, we believe that now is the time for a national debate on how to reform the UK's tax system to make it simple and easy to understand and comply, help build the recovery and make the UK a more attractive location in which to work and invest. We would be happy to support this and help host this important debate.

I hope that you will be able to relay our policy recommendations to the Chancellor so we can stabilise the economy, build a sustainable recovery, and secure our long-term international competitiveness. I would also welcome the opportunity to meet (even if virtually) to discuss our ideas with you in more detail.

Yours sincerely

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ANNEX 1 – ICAEW TAX FACULTY RECOMMENDATIONS FOR THE UK'S ECONOMIC RECOVERY POST COVID-19

STABILISE THE ECONOMY

In our letter of 19 March 2020, we recommended the deferral of a number of non-critical changes to the tax system measures to give HMRC, businesses and individuals across the UK time to focus their resources on meeting the challenges of COVID-19. We are pleased that a number of our suggestions were taken up, but there remain a number of further points which we think should be considered:

Defer and review the proposed introduction of preference for tax debts

You will have received our briefing on these measures in Clauses 95 and 96 of the Finance Bill 2019-21 which are intended to give HMRC priority over certain tax debts where a company goes into insolvency. We appreciate that the start date has already been deferred from 6 April 2020 to 1 December 2020 but we think that there should be a further review about whether the Government should proceed with this measure given its potentially harmful impact on the economy at a particularly critical time.

Help business cash flow by extending loss carry backs from one to three years

The revision to HMRC's guidance to allow companies to make a claim for repayment of some or all instalment payments relating to a previous accounting period will be welcomed by many larger businesses that have been severely impacted by the crisis.

However, a large number of smaller businesses will be making losses in the current financial year and possibly in the next year too. We recommend that the ability of businesses to carry back losses is extended by the reintroduction of a temporary extension of the loss carry back rules as was provided after the 2008 financial crash. The relevant legislation in Section 23 and Schedule 6 of the Finance Act 2009 covered both income tax and corporation tax and provides a suitable model to follow. The 2009 legislation provided for a cap of £50,000 on losses which could be carried back– if this is increased by RPI since March 2009 the cap today would be c.£70,000.

Stimulating employment

The development and implementation of the Coronavirus Job Retention Scheme (CJRS) and the Self-Employment Income Support Scheme (SEISS) has been an unprecedented achievement by HM Treasury and HMRC. We particularly welcome the way that HMRC and HM Treasury staff have come together with staff from professional bodies such as ICAEW to work in the public interest as trusted partners. We would welcome the opportunity to discuss how we can foster this approach and build on it as the UK seeks to rebuild the economy. This is also something we have been considering as part of our response to the out for comment call for evidence into raising standards in the tax services market.

The Government has made it clear that these two grant schemes will come to an end and, as they are wound down, the UK needs to decide on the best way to stimulate employment, reduce the number of workers laid off and to ensure that the economy retains skills that might otherwise be lost. Possible options could include an employers' NIC holiday or an increase in the employment allowance.

The adverse exchequer impact of reducing NIC liabilities would need to be measured against the potential social security bill for those who would otherwise be laid off. Such a measure could be linked to conditions but, in the interest of simplicity, such conditions need to be objective and easy to apply, for example dependent on trade classification or where the part of the business that the employee works for is located. It could include a training/re-training requirement.

Off-payroll working

We welcomed the announcement that the introduction of off-payroll working changes in the private sector would be deferred until April 2021 but, as there are still a number of operational problems that need to be resolved, we remain concerned that this is too soon. More generally, post the COVID-19 crisis, and with an urgent need to stabilise the economy, the uncertainty it creates in the jobs market needs to be reduced, at least until the crisis abates.

More generally, we reiterate our previous recommendation that there should be a fundamental review of the world of work, which should include employment and self-employment and which takes both tax/NIC law and employment law into account. The extension of the IR35 rules will move many more people onto the payroll, but many of them will end up with little or no employment rights: in short they have all the tax disadvantages of employment but with none of the advantages that come with having an employment contract.

This is an unsatisfactory position which has been brought into sharp focus by reports that there are substantial numbers of people in the UK workforce (we have seen reports of between 1m and 1.7m) who are in this category and their circumstances mean that they are shut out of both the CJRS and the SEISS.

MTD, digital tax systems and tax agents

The crisis has driven the need to develop better digital solutions and improved ways of HMRC interacting with taxpayers. Those services where there wasn't an existing digital service, even for taxpayers, have faced issues during this crisis – for example, IHT and SDLT returns and forms. With both of these examples, HMRC have had to introduce temporary workarounds which haven't been as effective as those services with existing digital solutions. This has underlined the need for a proper digital solution.

We welcome the deferral of the start date for mandatory digital links for MTD to April 2021 but this decision might also need to be reviewed depending upon how the economy recovers in the next few months. We will continue to work with HMRC on MTD development and to ensure that the services are easy to use, both for taxpayers and any agent they have appointed.

We believe that HMRC should prioritise the roll-out of a secure digital email service or an equivalent which should cut down on the need to contact HMRC by phone or letter. This service should be built in to the development of agent services and authorisation procedures. We support the further roll-out of digital services but they must be easy to use and support the valuable role played by good tax agents.

Further flexibility to Statutory Residence test

We welcome the amendments to the Statutory Residence Test tabled as New Clause 21 in the list of tabled amendments published on 26 June 2020, but we believe they need to go further. They do not go far enough to remove the issue that employees who were non-resident under the third automatic overseas test will become resident if they are stuck in the UK and work for more than 30 days here. Equally if they cannot work overseas then they will also fail the test because they will have a significant break from overseas work. Being taxable on the work they perform in the UK is clearly reasonable, but becoming taxable on worldwide income in the UK whilst they may remain resident in the overseas country they were working in and hope to return to is not.

This will greatly increase their compliance costs as they may need to deal with the interaction of the UK and the overseas tax regime on worldwide income. We recommend that the tabled New Clause 21 is amended to relax the 30 workday and significant break conditions.

Temporary workplace

Employees can claim expenses when they are working away from their permanent workplace for a period of up to 24 months. Where employees have been unable to work at the temporary workplace owing to government-imposed COVID-19 restrictions under which the employees have either been furloughed or told to work from home, the 24 month clock should temporarily be stopped. If this flexibility cannot be accommodated by way of amended guidance, then we recommend that the law is changed to allow this.

Taxation of Benefits – Key Workers

The impact of COVID-19 has required changes in how key workers operate, but the tax treatment of relevant workplace benefits has not kept pace with the changes in circumstances. We believe that there are opportunities for the Government to adjust the tax system in order to support the actions of key workers during this period:

- **Accommodation for NHS workers:** We have heard from our members of many NHS staff who are isolating away from home in order to protect their households from infection. While these members are staying in accommodation for free, this counts as the provision of accommodation at a permanent workplace and the relevant guidance states that this will be taxable. We believe that NHS staff should not have to incur tax liabilities in these circumstances and that there should be a temporary exemption for such costs incurred as a result of COVID-19 and taking effect from March 2020. This could be done by extending the relief in Section 245 of the Income Tax (Earnings and Pensions) Act 2003 to cover global pandemics.

- **Transport for key workers:** We have heard from our members of housing organisations paying for their staff who support vulnerable residents with high support needs to travel by taxis rather than use public transport. This has been done to minimise the risk of infection to both staff and residents, as well as reducing pressure on public transport when capacity is constrained. HMRC guidance states that these transport costs should go on the PAYE settlement agreement, and tax and NI paid on a grossed up basis. This will be expensive for these businesses who are trying to protect vulnerable residents with high support needs. This could also be addressed through extending the relief in Section 245 of the Income Tax (Earnings and Pensions) Act 2003 to cover global pandemics.

Restarting HMRC activity with clear policy alignment

HMRC staff have rightly been focused on supporting customers through the economic crisis, and on preparing for the end of the transition period. However, ‘business as usual’ will be returning to HMRC as the economy begins to recover, for example with a restarting of VAT payments as the deferral comes to an end today. As this activity restarts, as well as others such as individual tax inquiries, it is essential that HMRC remains sensitive to the circumstances which business and taxpayers will continue to face as the economy recovers.

Additionally, this crisis has led to an increase in tax debts owed to HMRC, and there will come a point where enforcement activity is pursued. There would be an economic consequence to HMRC taking money out of the wider economy during a recovery, and it would have a substantial impact on individual taxpayers affected. It is a similar case where HMRC is a creditor in insolvency cases. It is essential that these activities are aligned with the Government’s wider policy objectives in supporting an economic recovery.

A SUSTAINABLE RECOVERY

Boost capital spending by businesses

Capital spending is a long term decision. The crisis has highlighted the need for greater investment in business resilience, which will include the need to re-engineer supply chains and to invest in digital solutions which will help make business operations more resilient and capable of operating effectively in a crisis. Frequent changes to capital allowances rules/rates etc discourage investment so need to be kept to a minimum and announced well in advance.

On this basis, retaining the temporary increase in the amount eligible for Annual Investment Allowance at £1m (it is due to revert to £250k on 1 January 2021) would not only provide welcome stability but help support capital investment by all businesses seeking to rebuild and strengthen their capabilities.

Encourage training

Consideration might be given to extending the National Retraining Scheme set up in Autumn 2019 to more regions, or specific skillsets, or a wider class of employee, for example graduates, and simplifying apprenticeship funding for employers who train apprentices. This could be aligned with wider cross-departmental policy objectives, such as the delivery of green skills and jobs to build a sustainable economy.

Reform of VAT

We continue to support the re-introduction of postponed accounting for VAT on all imports at the end of the transition period. There have been numerous calls for a cut in the VAT rate. Whether this would stimulate spending and the recovery will depend upon whether the full benefit of the rate cut is passed on to consumers or retained by vendors. It would be helpful to examine the impact of the last cut in the main VAT rate (from 17.5% to 15% from 1 December 2008 to 1 January 2010) to see whether it was effective and value for money.

In the longer term we believe that there should be a fundamental review of the VAT system which should include a review of the multiplicity of rates and the numerous exemptions. Although zero- and reduced-rating and exemptions were all introduced for understandable policy reasons, many of them stretch back nearly 50 years now and their continued existence or relevance today should be reviewed. In particular, exemptions add complexity and encourage tax planning and avoidance. We would be happy to contribute to such a review.

Starting a debate on tax reform

The UK's finances have been badly affected and we need to consider fair and equitable ways in which the UK might increase revenues. We have already suggested above that the time has come for a national debate on the world of work and the VAT system, but the debate needs to go further and consider how and what should be taxed in the digital age which will produce a sustainable stream of revenues which support our society. There is also the role of the tax system in delivering our Sustainable Development Goal commitments, including a Net Zero economy.

This should include all areas of the tax system, and should include, but not limited to, how we tax all businesses, the role of business rates in a digital world, the tax treatment of savings and investments, the income tax and NIC systems and rates, and IHT. The review could start by re-examining the nature and scope of tax reliefs. The UK tax system is incredibly complicated with, at the last count, well over a 1,000 reliefs across the tax system, making it complicated to administer, understand and increasing the risk of avoidance. In principle, we would favour a broadly based tax system with few reliefs and fair and reasonable rates.

We would welcome the opportunity to help host the start of a debate on what sort of tax system we need in a digital, post COVID-19 world.

SECURING INTERNATIONAL COMPETITIVENESS

Alleviate the 5MLD trust registration requirements

The UK must do all it can to remain competitive while remaining fully compliant with our anti-money laundering obligations. The current proposals for trust registration are damaging the UK's competitiveness as a place in which to locate trust administration. Potential clients are not using UK trustees due to concerns that, for example, data about potential beneficiaries of a trust may not be protected from disclosure and could become publicly available.

We would welcome discussions with your officials about how the UK can ensure that the 5MLD rules are framed so as to prevent money laundering but do not damage the UK's competitiveness in the provision of trust services to international clients who would otherwise comply with all the necessary UK anti-money laundering requirements and client take-on procedures.

DAC6 reporting requirements

We welcome the six-month deferral of DAC 6 reporting. While supporting in principle measures to increase transparency between revenue authorities we remain concerned that the administrative burden to be imposed even on the ordinary compliant taxpayer not seeking to avoid tax is disproportionate. We recommend that HMRC should continue to work with taxpayers and their agents to try and minimise admin burdens and help ensure that the scheme is focussed on those transactions which cause concern to HMRC.