ICAEW
REPRESENTATION 66/21

CALL FOR EVIDENCE: TIMELY PAYMENT

Issued 13 July 2021

ICAEW welcomes the opportunity to comment on the Call for evidence - timely payment published by HMRC on 23 March 2021, a copy of which is available from this link.

Earlier payment of income and corporation tax should not be considered until the economy has recovered from the impact of the pandemic; the reassurance that no changes will be made during the current parliament does not allay concerns.

Earlier payment should not be based on in-year estimates without HMRC first demonstrating that they can be a reliable basis for earlier payment. It is far from clear that in-year estimates could be reliable without imposing significant administrative burdens on taxpayers. Discussions about earlier payment are a distraction from the aims of the Making Tax Digital project.

For these reasons ICAEW considers that this call for evidence is premature and that priority should be given to other pillars of the Tax Administration Framework Review, particularly those on identification and registration of taxpayers and establishment of tax liabilities.

If the government wishes to address the tax gap arising from non-payment other options are available and should be explored, for example, changing payment on account rules or changing the due dates within the current regime, along with the promotion of voluntary payments on account.

A voluntary system would be welcomed by some taxpayers with very simple affairs. Significant benefits could also be realised if HMRC were to improve the presentation of information on amounts due by taxpayers, including displaying all amounts due in one place with full account history information, including amounts that are currently treated as standalone liabilities.

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This response of 13 July 2021 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the 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 Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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 156,000 chartered accountant members in over 149 countries. 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.

KEY POINTS

Although the government has been careful to state that no changes to payment dates for income and corporation tax will be made in the current parliament, this does not reassure taxpayers and agents who, despite this commitment, take the view that a decision to require earlier payment of income and corporation tax has already been taken in principle, or at least would be difficult for a future government to resist given the apparent seriousness with which it is being trailed.

Putting the proposals forward at this stage risks undermining the aims of the Making Tax Digital (MTD) for income tax self assessment (ITSA) and corporation tax (CT) projects as it diverts attention away from digital record keeping and reporting, giving the impression that MTD is really about earlier payment.

It is not clear why this pillar of the tax administration framework review appears to be prioritised (by having its own call for evidence) over the more fundamental pillars relating to identifying and registering taxpayers and assessing liabilities which we consider should come first in the sequencing of change.

Earlier payment should not be considered until the economy has recovered from the impact of the pandemic.

ICAEW's major concerns are:

- The impact that earlier payment would have on businesses and the economy due to the reduction in available working capital of many taxpayers following the pandemic which would be exacerbated if during the transition year more than one year's tax were payable; and
- The suggestion that earlier payment should be based on in-year estimates without first demonstrating that they can be a reliable basis for determining earlier payment amounts. It is far from clear that this is possible without imposing significant administrative burdens on taxpayers.

For these reasons ICAEW considers that this call for evidence is premature. If the government wishes to address the tax gap arising from non-payment, other options are available which should be explored, for example, changing payment on account rules or changing the due dates within the current regime along with the promotion of and removing barriers to voluntary payments on account. A voluntary system would be welcomed by some taxpayers with very simple affairs.

Any change to earlier payment would also need to provide for earlier refunds. Harmonising rules between different taxes is not a priority.

Any changes should comply with our Ten Tenets for a Better Tax System (summarised in Appendix 1), in particular they should be embodied in the law (Tenet 1), be certain so that taxpayers, their agents/advisers and HMRC know what their respective rights and responsibilities are (Tenet 2) and be simple and easy to apply so that amounts due to and from HMRC are easy to calculate and to pay/reclaim with all liabilities and payments in HMRC's records clearly and accurately displayed and accessible to taxpayers and their agents (Tenets 3 and 4).

ANSWERS TO SPECIFIC QUESTIONS

CHAPTER 2: PRINCIPLES

Q1. Do you have any comments on the benefits and challenges of timely payment outlined above?

The call for evidence sets out the benefits and challenges fairly comprehensively, but we consider that the benefits are overstated, and the challenges understated.

The most immediate concern is the economic impact of earlier payment, particularly as businesses recover from the impact of the pandemic. This impact is not easy to assess but any requirement to pay tax earlier would take money out of the economy and reduce the flexibility that businesses have to manage their cash flow, potentially leading some of them to fail.

The other main concern is the administrative burden for taxpayers, agents and HMRC.

More frequent payment would significantly increase the number of touchpoints and the amount of contact; although much of that would be digital that does not necessarily make it easier or less costly and there will inevitably be an increase in non-digital contact, especially during the transition period.

The suggestion that earlier, in-year, payments should be based on a current view of the taxpayer's emerging liability is particularly concerning. MTD ITSA quarterly updates are not designed to provide an accurate estimate of taxable profits. It is not clear that they could ever fulfil this function, given seasonal and other variations and the need to make tax and accounting adjustments. Adding further reporting requirements, including for taxpayers not within MTD, would add very significantly to the administrative burden. There is an inherent tension between the amount of effort required to report the information needed to calculate a quarterly tax estimate and its accuracy.

The newly self-employed do often find that their first tax payment comes as a shock, particularly if it includes a payment on account. However, the newly self-employed are not expected to be required to comply with MTD ITSA until the start of the tax year following their first self assessment tax return; without additional reporting requirements HMRC would not hold information on which to base any earlier payments thus providing no helpful improvements over the existing system for the newly self-employed.

While a payment system based on in-year estimates would work for some taxpayers, principally those that provide only their own labour and adopt cash basis accounting, there needs to be an extended period in which HMRC demonstrates that tax estimates can be sufficiently robust to support their use as a basis for payment before that should be considered as an option. Without this there is a significant risk that a false sense of certainty is created for taxpayers, with many still being surprised by their final liability position. Trust in the tax system and in HMRC would be undermined. We do recognise that machine learning and other technological developments may facilitate such an approach in the future, but not at this stage.

We do recognise that some taxpayers with the simplest tax affairs would welcome and benefit from more timely payment as they find it hard to save and would like to avoid unexpected tax bills, but this could be achieved by a better promoted voluntary system for payments on account.

We agree that the timing of third-party data reports needs careful consideration. We note that, despite receiving it for many years, HMRC does not fully utilise PAYE RTI data for in-year tax calculations for PAYE taxpayers and the reconciliation process is still annual. The attempts that have been made to make more use of RTI data to update tax codes have run into difficulty, for example because HMRC's systems cannot recognise one-off payments such as bonuses. We also note that no work has been done to obtain more regular and accurate data from the Department of Work and Pensions (DWP) on taxable state benefits to assist with establishing tax liabilities.

We note the suggestion that this may be an opportunity to consider whether the timing differences between paying tax and national insurance through PAYE and ITSA are justified. Any proposals would need to take account of the significant differences between working as an employee and being self-employed. We have in the past called for an informed debate on how the differences between these two types of taxpayer should be recognised in the tax system and whether it might be possible to reach a broad consensus on possible change. In the absence of any informed debate as to how we resolve this question, any proposals are likely to meet considerable resistance from taxpayers.

Any change to earlier payment would also need to provide for earlier refunds.

If the government wishes to address the tax gap arising from non-payment other options are available which should be explored, for example changing payment on account rules or changing the due dates within the current regime, along with the promotion of and removing barriers to voluntary payments on account.

Q2. Please provide a narrative, with examples if possible, of any other benefits, challenges or impacts which you consider should be of central concern when looking at this proposal.

See response to question 1.

Q3. What are the relative merits and disadvantages of tax payment regimes in other countries compared to the UK's?

We note that payments on account are a feature of the tax regimes in many countries, but we are not aware of any that have attempted to base these payments on account on in-year estimates.

Q4. Are there examples of tax payment timings from other states or territories which the UK should consider?

No comment.

Q5. Where people have experience or data of timing changes in other countries (e.g. recently in France), what have been the impacts and what should have happened differently?

In France the change to payments on account on profits was part of moving from a prior year to a more current year basis of assessment. It was effective from 1 Jan 2019 but delays meant that most 'normal' (we understand that there was a big debate over what was 'normal') revenues for 2018 were effectively not taxed – which created an 'année blanche'. There were also difficulties with deductions from taxable income in that year (as there was no taxable revenue) and the calculations were complex, in particular to discourage people from deferring deductible costs (to offset against their 2019 taxable revenues). Following the change, in broad terms, payments on account based on income for the latest year for which the tax return has been processed are made monthly by direct debit from September to August and any further amount due or repayable for the year is calculated when the tax return is processed, and the monthly direct debit is adjusted from September. Basing payments on account on actual profit figures with a right to postpone payment if profits are falling would be more sensible than trying to estimate and pay tax liabilities in real time based on in-year estimates. Our conclusion is that the French transition experience is of little assistance in respect of the UK's position.

CHAPTER 3: OVERVIEW OF CURRENT REGIMES

Q6. What are the advantages of the current payment timings? Are there any groups who rely more heavily on these than others?

A significant advantage of the current payment timings is that they allow time for the final liability to be established before payment is due. There can be considerable delays in obtaining information, including from third parties, before the return can be filed and final liability established.

A system with more regular reporting and payment would significantly increase the number of transactions between taxpayers and HMRC and potentially create a need for much more reconciliation and checking of payments, as compared with annual establishment of the final liability and the current payments on account regime based on prior years.

Taxpayers often don't take advantage of the time available by filing their return as early as possible to give themselves an accurate picture of their upcoming tax payments. There seems to a general misunderstanding among certain taxpayers who incorrectly think that if they file early, they need to pay early and HMRC communications do not promote the certainty over upcoming tax payments as the main advantage of early filing.

There is also a link to the time available to HMRC to enquire into a return. Taxpayers will not want to file early if it means that HMRC has more time to enquire into a return. This has largely been addressed for income tax and corporation tax but should be borne in mind if any changes are made.

All businesses potentially benefit from the cash flow flexibility provided by the current payment timings, as it allows them to invest in stock and provides additional working capital.

Q7. What are the challenges with the current payment timings? Are there any groups who are challenged or disadvantaged more than others?

The main group challenged by the current regime is the newly self-employed who often struggle with their first tax payment, especially if it includes a payment on account.

Another significant group is those that cease trading and who struggle to pay tax bills that are due long after they have ceased to earn income from the business.

Q8. Do you have any comments on the specific challenges faced by non-business ITSA taxpayers (i.e. those in ITSA other than the self-employed, landlords, or large partnerships)?

A significant challenge for the non-business ITSA population is the rather arbitrary self assessment criteria and uncertainty over whether they need to complete a tax return, especially where tax is due but the self assessment criteria are not met. This is particularly confusing when some years are finalised within PAYE and a return is required for other years. We discuss this in more detail in the main call for evidence, but it means that taxpayers often have an inconsistent experience year on year and do not have a single view of their income tax liabilities.

It can also be very difficult to keep track of payments where ITSA balancing payments or debts are being collected through tax codes.

Pre-population would be helpful for such taxpayers as they are often prevented from filing early because of delays in receiving the necessary details from investment managers and other financial institutions.

Q9. Do you have any comments on specific challenges faced by low income or vulnerable taxpayers?

Low income and vulnerable taxpayers are particularly affected by there being two different HMRC systems in which income tax and national insurance liabilities are finalised and they are often not sure whether they need to complete a return. They often do not realise when they need to register for self assessment and are often equally unaware of the need to deregister.

The withdrawing by HMRC of payslips and the option to pay HMRC in cash or by cheque at post offices has been difficult for some low income and vulnerable taxpayers who may rely on cash or do not have a bank account.

Low income and vulnerable taxpayers are also more likely to be digitally excluded and to have other non-HMRC debts that they are unable to manage.

The interaction of income tax and universal credit are particularly important to low income and vulnerable taxpayers and it should be possible for a single system to satisfy the requirement of HMRC and DWP.

Q10. Do you have any comments on the specific challenges faced by new ITSA taxpayers?

The government correctly acknowledges the impact that the current payment timing rules have on the newly self-employed who can often struggle to pay their first tax bill which can, depending on the particular circumstances, relate to one and a half years' tax. Newly self-employed taxpayers will not be required to comply with MTD ITSA requirements until the tax year which starts after their first self assessment return. A change to earlier payment would not help such taxpayers to avoid debt unless there were new requirements for them to provide information to HMRC on which in-year liabilities might be estimated as a basis for payment.

We would also highlight the confusing and rather arbitrary self assessment criteria as a challenge for new ITSA taxpayers.

The challenge is greater for those whose business or property income is their main source of income and less for those where it is a secondary source.

Q11. What are the benefits of the existing payment timings for CT? Are there any types of company, sectors, or other distinctions which rely more heavily on the long payment window than others?

The current payment timings fit well with the time needed to prepare and file statutory accounts and the corporation tax computation.

Smaller entities whose customers are large businesses often face long delays in obtaining payment from their customers so benefit from the current corporation tax regime.

This also applies to any company that has an accounting profit higher than their cash income (eg, those with accrued income who cannot get stage payments from their customers, or those at a commercial disadvantage in negotiations, or anyone who gets only completion payments/success fees for project work).

Q12. What are the challenges with the current payment timings? Are there any types of company, sectors, or other distinctions which make the current payment timings challenging or disadvantageous?

The Exchequer can face the disadvantage of being a creditor for unpaid corporation tax when companies become insolvent. This is a particular problem with phoenix entities, though HMRC has fairly robust powers in this regard.

Problems can arise for members of large groups who enter the QIP regime despite having very low profits (£50,000 for those in very large groups). They can find that the profits arise entirely through exchange rate variations and other year-end adjustments that could not have been anticipated in-year. Problems can also arise for those with lumpy sales where, for example, a single property disposal can shift them into QIPs even where the disposal occurs late in the year.

CHAPTER 4: HANDLING MORE REGULAR PAYMENT

Q13. Do you agree that if there is to be a more frequent tax payment regime, it should generally be based on current year liability?

We do not agree that an earlier payment regime should be based on current year liability and we are particularly concerned about this aspect of the proposals.

MTD ITSA quarterly updates are not designed to provide an accurate estimate of taxable profits and adding further reporting requirements, including for those not within MTD, would add very significantly to the administrative burden. There is an inherent tension between the amount of effort required to report the information needed to calculate a quarterly tax estimate and its accuracy. The current design of MTD ITSA requires an upload of summaries of transactions only and there is no requirement for tax and accounting adjustments such as accruals to be included.

While a payment system based on in-year estimates might work for some taxpayers, principally those that provide only their own labour and adopt cash accounting, there needs to be an extended period in which HMRC demonstrates that tax estimates can be sufficiently robust to support their use as a basis for payment before that should be considered as an option. Without this there is a significant risk that a false sense of certainty is created for taxpayers, with many still being surprised by their final liability position. Trust in the tax system and in HMRC would be undermined.

We do recognise that machine learning and other technological developments may facilitate such an approach in the future, but not at this stage. In the meantime, the estimates will not be reliable for many businesses including seasonal businesses, those with significant stock or work in progress and those who need to make significant accounting and tax adjustments at year-end.

A system which bases payments on account on the prior year’s results, with the ability to elect to reduce the payments on account, is the simplest and most predictable.

Q14. Do you have any initial comments on the benefits and challenges of different calculation options to meet diverse taxpayer needs versus one process for all taxpayers in scope?

We do not support mandatory in-year tax calculations for the reasons explained in response to question 13. A single process is unlikely to suit all taxpayers within scope, but different calculation options would bring significant complexity, especially where taxpayers' circumstances change.

Q15. What are your views on using digital solutions to facilitate in-year calculation, and what and how could specific groups be affected negatively by this?

We do not support mandatory in-year tax calculations for the reasons explained in response to question 13. If the government and HMRC were to proceed with in-year calculation we consider that it would be impractical for those who cannot engage digitally with the tax system.

Q16.Do you have any comments on how the needs of taxpayers for whom digital solutions are unavailable or challenging could be met when considering calculating tax liability in-year?

We do not support mandatory in-year tax calculations for the reasons explained in response to question 13. We do not think that a non-digital solution to in-year calculation would be feasible, but we note that care would need to be taken to ensure that taxpayers who cannot engage digitally do not receive a poorer service from HMRC; their needs should be built in from the early stages of design rather than be considered at a later stage.

Q17. If tax payment and calculation was more regular under ITSA, what are the key ways in which it would need to align with PAYE, Simple Assessment, and more widely to get the best result for taxpayers?

The priority should be for income tax, national insurance and capital gains tax (CGT) liabilities, whether PAYE, self assessment, simple assessment or real time or UK residential property CGT, to be consolidated into one system and displayed together in a single digital account. This should be done before consideration is given to aligning payment rules.

HMRC should develop the PAYE system so that individuals' liabilities are reconciled on a regular basis rather than annually as is currently the case, with adjustments for under and overpayments being made through in-year tax code adjustments.

HMRC might also reconsider the rules for collecting PAYE underpayments (in-year and prior year), self assessment balancing payments and self assessment debts through tax codes.

We note the £50 tolerance for PAYE underpayments provides a valuable administrative solution to simplify underpayments of PAYE each year and would welcome a discussion on whether something similar might be adopted for other taxpayers.

Q18. Do you have any initial comments specifically on the impact of basis periods on more timely payment of ITSA?

If basis period rules were to be reformed that would need to be done before earlier payment of income tax is considered; we have commented on basis periods in the main call for evidence.

Q19. Do you have any initial comments on other reforms that could support bringing tax payment closer to the point of transaction?

The government and HMRC should recognise that, unlike VAT, income tax and corporation tax are not transaction taxes but are annual taxes. Profits inevitably fluctuate across time and are inherently difficult to calculate until the period for which they are charged has finished and the profits/income etc can be determined with certainty and the tax liability established.

If the government wishes to address the tax gap arising from non-payment other options such as changing payment on account rules, or even the due dates within the current structure, could be considered.

We also recommend enabling taxpayers to make voluntary payments on account without the remittances being allocated to a suspense account or repaid to the taxpayer when no liability has been established.

Q20. Do you have any initial comments on the feasibility and benefits for MTD customers of paying in-year instalments towards their tax bill, informed by their quarterly MTD updates?

We do not support in-year tax calculations for the reasons explained in response to question 13. Quarterly MTD updates require only a basic download of transaction summaries which in most cases will not provide a reliable basis on which to estimate the tax that will ultimately be due as that will not be established until after the end of the tax year. To inform a quarterly tax bill the updates would need to be full returns rather than updates and, in justifying the administrative burden of MTD, government and HMRC have consistently said that the requirement is for quarterly updates and quarterly returns will not be imposed.

Even if full quarterly returns were required that would not solve the problem for seasonal businesses and those where averaging of liabilities across tax years is available.

Q21. Are there customers for whom MTD updates would be a particularly unreliable guide for in-year tax payments, and what alternative basis might be more reliable for them?

We do not support in-year tax calculations for the reasons explained in response to question 13. Quarterly updates will be particularly unreliable for seasonal business, businesses that make significant investments that qualify for capital allowances, businesses that carry either stock or work in progress and those that make large transactions but do so irregularly.

Q22. Do you have any initial comments on how income and expenses could be reported in-year for non-MTD customers or on a more frequent basis than required by MTD?

We do not support in-year tax calculations for the reasons explained in response to question 13. Any additional obligation on non-MTD ITSA taxpayers to provide in-year updates to HMRC should be the subject of a separate consultation rather than being dealt with as something of a side issue to earlier in-year payment. Such a requirement would impose a significant administrative burden on top of quarterly reporting for MTD ITSA, to which there is already considerable resistance.

Q23. Do you have any comments on potential interactions between reporting for Universal Credit and reporting for more timely payment of tax?

It may help universal credit claimants to spread their tax payments and avoid the impact that twice yearly payments of tax can have on entitlement for universal credit. A single income report should be capable of satisfying whatever requirements are imposed by the Department of Work and Pensions (DWP) and by HMRC.

Q24.Do you have any comments on the benefits and disadvantages of flat rate expenses?

Flat rate expenses can offer a significant simplification. However, the benefits are limited by the inevitable tension between the cost to the Exchequer and making the flat rates sufficiently generous that they will be adopted without taxpayers feeling that they need to continually check whether using actual expenses would give a larger deduction. They only offer an administrative saving if the record keeping obligation is removed.

Flat rate expenses work well only where costs are roughly the same every tax period (so not where expenditure is lumpy such as with capital expenditure) and are similar for all within an industry ie, there are no major variations in skill levels, working practices or different levels of service in the industry).

Q25. What examples are there that work well and would be appropriate for Income Tax expenses that would not be captured through any MTD updates?

The current flat rate expenses available when using cash basis accounting might work for those with income from trading or property who are not within MTD but should remain optional. We have not identified any further examples.

HMRC regularly carries forward estimates of income and expenses and entitlements to allowances in tax codes and PAYE tax calculations. This generates a lot of contact with HMRC to correct figures and some taxpayers fail to update these figures and HMRC should use the experience of this system to inform the use of estimates in tax calculations.

Q26. If there were flat-rate expenses, should they replace the actual expenses or only act as a proxy for in-year calculation?

We consider that taxpayers should always have the option of claiming their actual expenses. Flat rate expenses only offer an administrative saving if the record keeping is removed.

Q27. If flat-rate expenses were introduced, should they be restricted to smaller businesses?

In principle we would expect that flat rate expenses are most appropriate for smaller businesses, but some members have suggested that they could also be appropriate for larger businesses, so the question probably needs further consideration.

Q28. Do you have comments on the impact and challenges of recognising annual reliefs, allowances, deductions, and other amounts?

Any move away from annual assessment of income or corporation tax would bring added complexity and should not be considered. It is because of the need for complex calculations to reflect annual adjustments and cross-year adjustments such as loss relief and averaging (amongst many other reasons) that we do not think that in-year estimates would be reliable as a guide to the eventual liability for most taxpayers, let alone as a basis for payment.

It should be possible for capital allowances to be recognised more frequently, especially where most or all of the expenditure will be covered by annual investment allowance.

Q29. Do you have any initial views on the benefits and challenges of monthly, quarterly, or other, payment frequency?

Our major concerns are the cost and complexity of producing accurate in-year estimates, the potential additional requirements to provide information to HMRC and loss of cash flow flexibility for businesses.

The problems with in-year estimates and having to provide data to HMRC could be resolved by basing payments on prior year data with a taxpayer having the right to reduce the payment (and the associated responsibility). Any requirement to provide updates to HMRC more often than quarterly would be extremely burdensome.

Cash flow concerns will be different for different businesses. In the short term any acceleration in payment is likely to cause cashflow problems, in the longer term there will be a trade-off with businesses that struggle to budget possibly finding regular payments easier to manage than the current system, particularly if the year-end true-up can be spread over a number of months, while businesses that manage and optimise their cash flow will lose the ability to benefit from the current payment regime. Monthly payments might suit some taxpayers, so long as they did not bring with them additional reporting requirements.

Q30. Do you have any comments about how over- or under- payments of tax could be resolved in -year?

We do not support in-year tax calculations for the reasons explained in response to question 13. If that approach were to be taken payments and repayments should be treated in the same way (ie, repayments should be made as quickly as HMRC expects payment). An option to spread underpayments would help businesses with unexpected underpayments.

Q31. What systems and processes exist that would help to ensure protection against fraud and organised crime, whilst also allowing quick and easy repayment?

There may be potential for HMRC to use the confirmation of payee scheme, which was adopted by many banks in 2020, or a similar scheme more suited to the scale of HMRC's operations to gain additional assurance when making repayments.

HMRC might wish to consider additional identity verification checks when a taxpayer first registers for a particular tax, to provide additional assurance if and when a repayment is due. HMRC might also wish to consider whether bank details should be provided on returns, as is currently the case for ITSA and corporation tax, or whether they should be provided separately and held securely on HMRC's systems linked to a taxpayer's confirmed identity.

HMRC might want to consider differentiating between repayments being made to third parties and to the taxpayer themselves and have additional controls over the former, particularly where the return or claim is submitted by the third party rather than the taxpayer.

Deeds of assignment present particular difficulties as they are often not well understood by taxpayers, in particular that they can only be revoked by agreement with the assignee. HMRC should consider additional controls over acceptance of deeds of assignment.

Q32. How could more frequent payment based on current year liability be phased in?

We have no particular comments at this stage other than to agree that any change would need to be phased in over a considerable period to avoid taxpayers encountering cash flow problems.

Lessons could be learnt from the introduction of QIPs, which did not go smoothly even though the regime only applies to the largest taxpayers and continue to create difficulties owing to even the early payments in the year being based on current year's profits.

A voluntary scheme would help with identifying the likely impact.

Q33. Do you have any comments on any specific impacts that more frequent payment of tax could have on large partnerships and how these might be mitigated?

HMRC needs to consider the impact on the members of large partnerships who are liable to pay the tax due, not just the impact on the partnerships as entities.

Large partnerships allocate total profits annually, often basing profit shares on individual partner performance over the year. In-year allocations needed for more frequent payment of tax would need to be continuously adjusted as individual partner performance varied over the year. This would demotivate some partners as well as causing uncertainty on profit shares to be taxed.

CHAPTER 5: CASH-FLOW IMPACTS

Q34. What methods do taxpayers use to budget for their tax bill?

Taxpayers use a variety of methods to plan for their tax bill. Many, particularly the well advised, set aside a percentage of their income in a separate bank account. Some partnerships will mandate a retention from drawings to cover the individual partner's tax bill.

Q35. Do you have any comments on what more HMRC could do to help taxpayers pay their tax on time?

HMRC could do much more to improve the presentation of information on amounts due by taxpayers. This applies across online systems and HMRC paper outputs including paper statements and calculations such as SA302s, P800s and PA302s.

The paper outputs referred to and the HMRC online self assessment return system do not reflect amounts already paid which regularly confuses taxpayers. It is not easy for taxpayers to see exactly how much income tax and national insurance is due, especially where the liabilities are spread across PAYE and self assessment and some amounts are being collected through tax codes. Paper self assessment statements are very unhelpful as they show a brought forward figure and no breakdown of how the closing balance is made up.

It is not clear why HMRC does not issue statements much more frequently as a regular reminder to taxpayers of amounts due. For example, for self assessment there are only two regular statement runs each year and the January statement run misses those who file their return in January. With the move to digital systems, it should be much easier to bring statements closer to real time.

Confusion over payment references causes problems for both taxpayers and HMRC and they need to be simpler and more consistent across all taxes. Significant benefits would also be delivered if all amounts due by a taxpayer were displayed in one place with full account history information, including for amounts that are currently treated as standalone liabilities.

Greater use could be made of electronic prompts as tax becomes due or overdue but the difficulty here is how the taxpayer determines whether the communication is genuinely from HMRC.

Greater use could also be made of direct debits. For example, it is not clear why a new direct debit mandate is required for each ITSA payment.

Q36. Do you have any comments on the positive and negative cash-flow impacts for businesses of more timely payments?

The cash flow impact on businesses of earlier payment is wholly negative. Paying smaller amounts more frequently is less likely to give rise to debt but ultimately the funds are not available to the taxpayer to manage their cash flow.

Some small and/or fiscally unsophisticated taxpayers operate on a ‘I have money in the bank and therefore can spend’ approach with no thought given to future liabilities; such taxpayers would benefit from regular smaller payments as they often struggle with annual tax bills.

Q37.What wider economic impacts do you foresee from reducing the time between the income and the taxation?

The economic impact of earlier payment would depend on exactly how much earlier the payments needed to be made and how much money is removed from the economy.

A reduction in tax cashflow differences between employment and self-employment might, in a very small number of cases, encourage people to be employed but the different national insurance liabilities would remain as a major incentive for self-employment.

Q38. Which taxpayer groups will be most or least affected by the cash-flow impact of more timely payments?

Those most affected would be seasonal trades and businesses that carry significant stock or work in progress or who make significant capital investments. Also affected would be businesses that have significant cash flow needs because they have large amounts of debtors and few creditors (eg, smaller entities with large business customers who are slow to pay, those with accrued income who cannot get stage payments from their customers, and those who receive completion payments/success fees for project work).

Those least affected would be those who supply only their own labour and adopt cash accounting, and wealthy taxpayers with savings.

Q39. Are there particular ways in which accruals accounting might lead to greater impacts on certain groups or types of business?

Any business which uses accruals accounting could find themselves having to pay tax before they have received the relevant income. This could apply to any sector. Those businesses with delays between acquiring stock/equipment to do work and receiving payment for that work would be affected the most.

Q40. Do you have any comments on the cash-flow impacts on the case studies outlined above?

The case studies do not reflect the full range of businesses within self assessment income tax and corporation tax. It would be useful to see the impact on more substantial businesses such as a large farming partnership, building or civil engineering company or a professional practice where work in progress is a significant feature of the business.

A voluntary system would provide the benefits highlighted for the gig worker, the tutor, the director and the state pensioner without the need to require earlier payment by all taxpayers.

The role of agents and the valuable business and tax advice they can offer is not mentioned other than as a negative reference in the business professional case study. For example, in the landlord case study the often difficult distinction between revenue and capital expenditure is likely to require advice from an agent to ensure that it is treated correctly.

The examples should identify with more candour the difficulties that would arise in the transition period, and what reliefs might be available to mitigate these and with the cash flow problems that many businesses would experience.

Q41. Is there a better way of grouping people to consider the level and nature of impact on cash-flow, outside of trades?

Other ways of grouping taxpayers might include whether the trade is a main or secondary source of income, whether the business is only supplying labour services only or is supplying goods, whether the business has employees and the business structure (sole trade, partnership, single company or group).

Q42. What are the common uses for the funds that will become due as tax on income during the period before it is payable? Does this differ by business, trade, or other factors? Is there research, data, examples, or other supporting evidence to build up a picture?

The common use for funds is to smooth the natural variations in cash flow that most businesses experience. This might be late payment by a customer or paying for staff or goods in advance of when payment will be received after completion of a project. Other possible uses include: having to cover unexpected costs, dealing with a sudden drop in revenue, unplanned expenditure on equipment, research and development, covering staff absences or seasonal variations in income. These uses can apply in almost any sector.

CHAPTER 6: WIDER QUESTIONS

Q43. Are there other taxes administered by HMRC that the government should consider for more timely payment of tax?

We have not identified any other taxes where earlier payment should be considered.

Q44. Do you have any initial comments on the opportunities and challenges of more timely payment of CGT?

The implementation of the requirement to report and pay CGT on disposals of UK residential property within 30 days of completion has been extremely poor; the problems have still not been resolved and a fundamental rethink is required. The issues relate to both poor awareness by individual taxpayers of the obligation and a standalone system which was poorly designed and not linked to other HMRC systems, including self assessment. The poor implementation of the CGT residential property system and the resulting large amount of penalties (over £1m) that have been charged for non-compliance will inevitably colour views from taxpayers and their agents about more timely payment of tax generally.

There needs to be a coherent approach to establishing capital gains tax liabilities and the payment of CGT. We currently have a mixture of reporting and payment through self assessment returns, a voluntary pay as you go system (which raises some concerns around its legal standing) as well as the UK residential property reporting service.

We consider that CGT should be formally assessed and paid alongside income tax and national insurance. An alternative might be a system for reporting, assessing and paying CGT which is completely separate from income tax and national insurance but that would only be practical if CGT rates were to be independent of income tax rates.

Q45. Is there anything else you would like to suggest to help progress the exploration of this policy?

We would reiterate our concerns over the potential use of in-year estimates. We are still in the very early stages of MTD ITSA and no substantial work has been done on MTD for corporation tax. Substantial work is required on the identification and registration of taxpayers and on how tax liabilities are assessed, and this should be prioritised over any work on payments other than a voluntary system for earlier payment and other improvements to current systems and processes. Our focus should be on helping HMRC to deliver MTD for ITSA successfully, but the more changes are made, the greater the risks that it will fail.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see https://goo.gl/x6UjJ5).