



AUTUMN BUDGET 2021 REPRESENTATIONS: BUILDING A MODERN TAX SYSTEM

Issued 5 October 2021

Representations in advance of Autumn 2021 Budget and Spending Review (scheduled for 27 October 2021) submitted on 30 September 2021 by ICAEW Tax Faculty to the Financial Secretary to the Treasury

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These representations of 30 September 2021 have 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. Our Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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BUILDING A MODERN TAX SYSTEM

Text of letter dated 30 September from ICAEW Tax Faculty to the Financial Secretary to the Treasury

On behalf of ICAEW's Tax Faculty, I would like to congratulate you on your appointment as Financial Secretary to the Treasury. We enjoyed a strong working relationship with the previous Financial Secretary, and we look forward to continuing this with you and your team.

ICAEW believes that it is vital that the Autumn Budget accelerates the process of building a modern tax system, underpinned by simplification and digitalisation implemented at a manageable pace for businesses and taxpayers as they recover from the coronavirus pandemic. The Budget should also outline the Government's plans to reform the tax system following the UK's departure from the European Union, and as we seek to meet the country's net zero target.

As you know, ICAEW supports over 180,000 chartered accountants and students worldwide. Our members – those in business (working in internal finance and management teams), and those in practice (acting as external professional advisers) – guide more than three million companies and across every sector and region as they seek to start up, scale up, and succeed. As the Government seeks to build on the economic recovery and level up our regions, chartered accountants will again be at the heart of this process, whether they are running businesses or acting as a catalyst for local economic growth through their advice and support.

Our closeness to this breadth of economic activity has informed our priorities for this Autumn Budget statement:

Deferral of the start date of MTD for income tax self assessment

We welcome the recent announcement of a year's deferral of the introduction of making tax digital for income tax self assessment (MTD ITSA). This will give more time for businesses to prepare for what will be a fundamental change to their tax filing obligations. It will provide time for HMRC to upgrade its own IT systems and processes and publish guidance and software specifications and for software developers to design and test software.

We propose to use this extra time to help our members and their clients to move towards digital recordkeeping and reporting. We would welcome further discussions with you about how ICAEW and its members can assist in making the roll-out of this programme a success.

Basis period changes

We also welcome the announcement that, if introduced, the Basis Period reforms would not occur before April 2024. As we explained in our recent [ICAEW Representation 77/21: Basis Period Reform](#), we do not think the Government should proceed with this proposed reform. Although the proposal would result in some simplification to the tax system, the extra complexity and uncertainty it will introduce will be considerable for those businesses which do not have a tax year end and could damage the UK's international competitiveness as a place to undertake activities including professional services. We are happy to engage in further discussions with you and your officials to explore other possible options to address any concerns in this area.

Improving the tax policymaking process

We recognise that the nature of the coronavirus pandemic has led to exceptional circumstances which have given rise to the need for tax changes, however we strongly believe government should avoid implementing these without first undertaking a full consultation, especially outside of planned fiscal events. The Health and Social Care Levy was announced on 7 September without any prior consultation and was passed through the House of Commons in a single day the

following week, limiting the ability of third parties to understand, and engage on, the impact of the proposals.

We are concerned that the Levy will not only impose additional compliance costs on employers and HMRC, but will further exacerbate the fiscal imbalance for employers and workers between different employment statuses. We believe that other, better options could have been explored which would have given a similar result but without the considerable increase in cost and complexity. For example, we believe that introducing a new NIC letter might have been a far better solution.

In December 2017 the government **reaffirmed its commitment** to the principles set out in *Tax policy making: a new approach*, published in 2010, to create a more predictable, stable and simple tax system. The Tax Administration Framework Review and tax simplification should be at the forefront of the forthcoming Budget proposals.

Reviewing the taxation of work – employment v other ways of providing services

Trying to fit employees, gig workers and the self-employed into two categories for tax purposes is unsustainable. We recommend that the Government reconsiders the recommendations regarding the fiscal imbalance between different employment statuses made by Matthew Taylor in his *Good Work* report of July 2017. We also think that there should be a post-implementation review of the off-payroll working rules (introduced in 2017 in the public sector and this year in the private sector) targeted on specific industry sectors, as this may shed light on what is causing the current supply chain difficulties.

Policy development needs to take software changes into account

Most tax changes nowadays require updates to IT software. The policymaking and consultation timetable needs to allow at least an 18-month lead time to enable developers to design, build, test and install robust software and businesses to implement the new software and train their staff.

Build on the excellent work of the Office for Tax Simplification (OTS)

The UK tax system needs to be simplified. The OTS has done much good work since it was established in 2010 and has built up a solid track record of making sound and sensible recommendations about how the UK tax system could be simplified. However, in that time the complexity of the UK tax system has increased, and we think it is now damaging the attractiveness of the UK as a place to live, work and invest. We suggest that the Government reconsider the ‘back catalogue’ of recommendations made by the Office of Tax Simplification in its various reports. We are happy to discuss priority areas for a tax simplification programme.

CGT reform and reform to the 30-day residential property reporting rule

Following on from the above point, we would like to draw your attention to the recommendations in the OTS *Capital Gains Tax stage 2* report published in May 2021. In particular, we would like to highlight recommendation 3 – over £1.3m in penalties has been levied by HMRC for late compliance with the 30-day reporting and payment deadline for chargeable gains on UK residential property. This rule is causing considerable concern for taxpayers and its introduction has, and continues to be, extremely problematic. We recommend that the existing 30-day reporting deadline is suspended, or as a minimum is extended to 60 days, pending reconsideration and to give time for HMRC systems to be improved. We are happy to discuss these issues with you in more detail and look at what we can do to help resolve them.

Exploring opportunities following the UK’s departure from the EU

The UK’s departure from the EU provides an opportunity for the government to consider afresh what it wants to achieve from VAT and how the existing rules might be simplified. Our members are also becoming more involved with customs duties ‘at the coalface’, and we are considering

how we might work more closely with HMRC to improve education and support for those helping UK businesses make the most of the opportunities now available.

Future tax policy – sustainability

Future tax policy needs to be sustainable, from both a climate change viewpoint and also financially as traditional sources of revenue, for example fuel duties, diminish. We support the Government's commitment to decarbonise the economy, but care needs to be taken not to introduce a complex range of green taxes, as increased administration could damage UK business.

It would be simpler and more effective to work within the framework of the existing UK legislation to address environmental goals – for example, using fuel duty and VAT rates on domestic fuels, air passenger duty, etc. as part of a mid to long-term plan to influence consumer and business behaviour. Similarly, linking enhanced business innovation and investment incentives for research and development activity focused on decarbonisation as well as enhancing capital allowances for business investments that reduce carbon emissions, would be positive steps.

We would also echo the suggestion made by the Public Accounts Committee for a roadmap for tax measures to be introduced to deliver the UK's net zero targets. As revenues from carbon-related levies and duties diminish, the tax base will need to shift to ensure that government can continue to raise the revenue necessary to fund public services – as well as drive behavioural change. A roadmap which outlines the expected timeframe for these changes will allow businesses and taxpayers to make informed long-term decisions, and help them better understand how they can contribute to the delivery of net zero.

We would welcome an opportunity to discuss these points further, as well as how ICAEW and our members across the UK can support you in building a modern tax system.

We have also submitted to your officials as part of the official Budget process some more detailed points on matters of continuing interest and concern to our members, including providing additional context and comments on some of the matters raised above. This is enclosed for your information.

Text of detailed representations, accompanying the letter dated 30 September 2021 to the Financial Secretary to the Treasury and submitted on HM Treasury's portal

In addition to our letter dated 30 September 2021 to the Financial Secretary to the Treasury *Building a modern tax system*, we suggest that the following matters be considered for inclusion in the Autumn 2021 next Budget and Spending Review.

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A A TAX SYSTEM FOR THE 21ST CENTURY

TAX ADMINISTRATION FRAMEWORK AND DIGITALISATION

ICAEW supports tax simplification and the modernisation of the tax system through a further move to digital record keeping and reporting, but sufficient time must be allowed for this to happen at a manageable pace.

We welcome the announcements in respect of the deferral of the start date of making tax digital for income tax self assessment (MTD ITSA) and possible reform of the basis period rules.

MTD ITSA has the potential to provide a benefit to taxpayers rather than just result in more administration. To help provide the future benefits a universal identifier is required that can be given to banks, letting agents, dividend payers, etc so that HMRC can automatically link details of income, expenses, etc with the taxpayer. As this identifier would need to be widely circulated, we would suggest that, to protect HMRC and the Exchequer from fraud, this identifier is not used for any repayment claims but only to allow the automation of reporting.

Many taxpayers have more than one agent and we have been told that MTD cannot deal with such cases. We have been informed that ‘the subject was much more complex than had been originally envisaged and there was insufficient funding or capacity to deliver it’. We urge the Government urgently to provide this funding to enable HMRC to achieve the vision of ‘a tax administration system fit for the 21st century’.

POLICY DEVELOPMENT IN A DIGITAL AGE

Most tax changes nowadays require updates to IT software. The policymaking and consultation timetable needs to incorporate at least 18 months lead time to enable developers to design, build, test and install robust software and subsequently enable businesses to implement the new software and train their staff.

We also believe that the consultation approach needs to be updated to deal with digitalisation. Our letter dated 19 July 2019 to the Financial Secretary to the Treasury: *Policymaking in the digital age* outlines our suggestions for improvement.

RETHINK THE HEALTH AND SOCIAL CARE LEVY (HSCL)

HSCL is a new tax which will impose additional compliance costs on employers (owing to having thresholds and rules which are similar to but not quite the same as those already in force for, for example, national insurance contributions (NIC), auto-enrolment and apprenticeship levy). It will require the completion of additional boxes on payslips and on self assessment tax returns and impose costs of changing IT systems to collect the tax on both businesses and HMRC.

The HSCL will also further exacerbate the fiscal imbalance for businesses and workers between different employment statuses.

HSCL is twice as expensive for employers/employees as for the self-employed or those receiving dividend income because there is both an employee and an employer component. It will therefore exacerbate the fiscal disadvantages for businesses and workers of taking on or being an employee or deemed employee over being self-employed or being a service provider. To discourage arbitrage and reduce distortive behaviours, Matthew Taylor in his *Good Work* report of July 2017 recommended that ‘Over the long term, in the interests of innovation, fair competition and sound public finances we need to make the taxation of labour more consistent across employment forms...’. However, the proposed structure of the HSCL is moving in the opposite direction.

HMRC's tax information and impact note (TIIN) was not published until two days after Parliament voted on the HSCL Bill so that the anticipated outcomes cited in the TIIN could not be considered.

We believe that a simpler approach could have been considered had there been proper advance consultation, including using the Office of Tax Simplification (OTS), and other official bodies such as the Administration Burdens Advisory Board, and, we suggest, on a confidential basis, professional bodies whose members work at the coalface and have practical experience of dealing with payroll.

We believe it would have been simpler and less costly to introduce a new NIC letter to raise the charge. The compliance cost saving could then be used to fund the NHS rather than the implementation of the levy.

B IMPROVING HMRC'S SERVICES AND SYSTEMS

We remain concerned about HMRC's poor levels of customer service and processes which are creating real burdens – and costs – for business and individual taxpayers and employers, as well as for HMRC when taxpayers or advisers contact HMRC when there have been delays or something seems to have gone wrong. We appreciate that HMRC has been at the forefront of delivering the coronavirus support schemes and assisting taxpayers in a time of crisis, but the recovery programme needs to be expedited and, in the meantime, systems improvements are needed to help eliminate problem areas in processing

To improve HMRC's customer service, as well as recommending more funding for HMRC staff we suggest the following:

JOINING UP HMRC'S PROCESSES

CGT 30-day reporting for property disposals

HMRC's capital gains tax (CGT) 30-day in-year reporting process for residential property disposals is a stand-alone system. This means that taxpayers who have agents authorised to act for self assessment (SA) must set up a UK property account via the government gateway before going through a process to authorise their agent to submit the return within the 30 day period and must report the gains again on their SA returns.

We recommend that the CGT 30-day reporting system is integrated into HMRC's SA system, so that:

- gains reported in-year are pre-populated on SA returns and in-year overpayments of CGT are set against any amounts of income and CGT due or automatically refunded when the SA return is processed; and
- existing SA agent authorities automatically apply to returns made by the same taxpayer under the CGT 30-day residential property in-year reporting rules.

The introduction of this 30-day reporting regime has been, and continues to be, extremely problematic, as evidenced by the amount of penalties (£1.3m) levied for non-compliance. Pending reconsideration, and the upgrading of HMRC's systems and a publicity drive, the 30-day reporting deadline needs to be suspended, or as a minimum extended to 60 days.

Trust registration service

Where trusts were registered by agents when the trust registration service was first introduced, it is necessary for the trustees to set up a government gateway account to 'claim' the trust and then go through a process to authorise the agent before the agent can maintain the registration.

We recommend that HMRC links agent authorities for its trust registration service to existing trustees' agent authorities so agents can easily maintain and update clients' trust registrations.

IMPROVEMENTS TO EMPLOYMENT TAXES PROCESSES

We recommend that the following issues be resolved:

- Since PAYE real time information (RTI) reporting was introduced in 2012, HMRC's payments and liabilities records have consistently differed from those of employers. This means that HMRC asks employers to pay amounts that are not due, and, owing to misallocations of liabilities and payments in HMRC's records, neither party can easily reconcile their records to the other's. HMRC published the results of its **PAYE RTI post implementation review** in 2017 but the review's March 2019 action plan remains unfulfilled.
- Despite the use of RTI, the system still issues incorrect PAYE codes that do not accord with stated policy, such as W1/M1 codes in the first half of the tax year where known income values (eg, pensions) should mean that cumulative codes are issued.
- Amendments to forms P11D by employers and their agents must be made using paper forms which are not processed promptly, and mistakes are made when HMRC staff manually transfer the data onto HMRC's records. We recommend that an end-to-end online process is introduced, which links amendments by employers and agents to employees' records on HMRC's databases.
- HMRC also wishes to abolish the form P11D (both electronic and paper). While this is an admirable aim, it cannot be achieved until all benefits-in-kind are capable of being payrolled. Until that time, the form P11D urgently needs a revamp because it is no longer fit for purpose. Funding should be provided for an updated version of form P11D and surrounding processes to ease administration until the form can be abolished.
- There are long delays in HMRC replying to correspondence which are not solely due to the pandemic. As well as letters, specific examples include HMRC not agreeing applications for s690 ITEPA 2003 determinations (which, once agreed, enable employers to not account for PAYE on employment earnings that are not liable to UK tax – see further below), NT codes and NIC deferrals, to the extent that in some cases a year has passed without a response from HMRC. Applications for deferrals of NIC can take up to 18 months to be agreed, and cannot be agreed once the employee is marked as a leaver.
- HMRC needs to ensure that its guidance covers the tax and NIC aspects of UK employees who have worked abroad during the pandemic and may well continue to do so. To help taxpayers in this situation we have published our correspondence with HMRC on this at **TAXguide 08/21**.

These problems compound the workload of HMRC owing to taxpayers, employers and agents needing to contact HMRC to try to obtain a resolution. The perception of the UK among many overseas investors is that it is not an easy place in which to do business. HMRC needs to be properly resourced so it can update its business-as-usual processes and guidance and thereby regain its place as a world-class tax authority.

C MODERNISATION OF THE TAX SYSTEM

EMPLOYMENT TAXES

Hybrid working

Employment tax and NIC law needs to be changed to reflect how people work.

For example, welcome though the COVID-19 easements over the past couple of tax years have been, this year's COVID-19 easements will cease from 6 April 2022 and employers need clarification and certainty as soon as possible so they can plan for the coming year. The drip-feeding of announcements and HMRC's often unclear guidance (which included the £6pw working from home allowance, relief for office equipment and Christmas parties) has caused confusion and uncertainty and thereby wasted employers' and advisers' time in working out what employers must do to comply.

To support hybrid working, we believe that there should be no difference between the tax and NIC treatment of employment-related disbursements paid by employers directly and those paid by employees and reimbursed by employers. The tax effect should reflect the economic effect, namely that the employer has paid for and provided the asset or paid the expense whether directly or by reimbursement. This would avoid the need for employees who incur employment-related expenses to tell sellers that they are making purchases as agent for the employer (known as the 'Overdrive litany') to prevent a NIC liability. It would also simplify the tax system. Our letter dated 20 August 2020 to HMRC *Homeworking - the future* published as [ICAEW REP 73/20](#) explains in more details the changes to be considered.

PAYE settlement agreements (PSAs)

This issue relates to the situation when employers calculate in a PSA the tax on benefits-in-kind and expenses provided to employees for which the employer rather than the employees will be paying the tax and NIC. HMRC is of the view that regulation 108 of the Income Tax (PAYE) Regulations 2003 does not permit the tax on benefits and expenses allocated to employees who are non-taxpayers (eg, because they earn too little or are expatriate employees who have been allocated code NT) to be calculated at a tax rate of 0%. This means that these employees must be included in the calculations as if they were basic rate taxpayers, ie, at a tax rate of 20% rather than 0%.

The objective of a PSA is to provide an administratively simple way to enable employers who wish to do so to pay the correct amount of tax and NIC on a grossed-up basis instead of the liability falling on their employees. HMRC's guidance [PSA1160](#) says that 'Employees should be apportioned accordingly to their marginal rate of tax'. More recently, presumably in the light of increases in the income tax personal allowance, the guidance has been augmented with the words: 'Where an employee pays no tax with the employer, they should be included as being liable at their first chargeable rate of tax...'.

HMRC' position is arguably not supported by the legislation, and we believe that it is also not supported by the Charter as HMRC is imposing a tax charge when one should not exist. We suggest that reg 108, Income Tax (PAYE) Regulations 2003 is amended to clarify that, as formerly accepted by HMRC, benefits-in-kind and expenses allocated to employees who are non-taxpayers should be included in PSAs at a 0% tax rate.

Negative employment income

Whereas for negative employment income there are income tax provisions including the ability to claim loss relief against general income of the same or previous tax years in s11, Income Tax (Earnings & Pensions) Act 2003 and s128, Income Tax Act 2007, there are no equivalent provisions under the NIC legislation. Although HMRC refunds NIC where there is negative employment income, technically under NIC law a NIC liability is final and conclusive when the original earnings are paid and there are no legislative vires allowing NIC to be refunded. We believe that this is an unintended lacuna that warrants a legislative remedy (perhaps in the current NIC Bill) to align it with the income tax provisions.

Where employment income becomes repayable to the employer, often what becomes negative employment income arises in a year when the individual does not have any income against which the loss can be offset or when their marginal income tax rate is lower. The decision in [HMRC v J](#)

Martin [2014] UKUT 429 (TCC) rejected the approach of retrospectively amending the amount previously treated as taxable earnings from the employment. However, there is a parallel provision in the CGT code which allows just that. We feel that it is inequitable that this discrepancy exists and feel that the income tax and NIC codes should be extended to replicate the provision in the CGT code to cover negative employment income.

Off payroll working – tax and NIC offsets when employment status determinations are rectified but reasonable care was taken originally

Where an employment status determination over which reasonable care was taken by the client is changed and PAYE has either not been withheld or has been withheld when it should not have been, the tax and NIC accounted for and paid to HMRC by the parties in the labour chain will need to be adjusted so that the liabilities are borne by the correct parties. The parties involved will at minimum comprise the end client to whom the services of the contractor have been provided, the contractor's personal service company which has provided the contractor's services, and the contractor. In some cases, there may also be an intermediary agency which is the fee-payer responsible for paying the contractor's personal service company, and in yet other cases there may even be other intermediary parties in the labour chain. The taxes involved will comprise income tax and Class 1 NIC, and possibly corporation tax and dividend tax as well.

In the simple situation where a contractor provides services directly to a client and it transpires that the employment status of the contractor was wrongly determined so that PAYE has either not been withheld or has been withheld when it should not have been, there is a statutory process under which the tax and NIC accounted for and paid to HMRC can be adjusted so that the liabilities are borne by the correct parties. This is colloquially known as the *Demibourne* solution following a case of that name. The tax legislation is in reg 72F of the PAYE regulations and the Class 1 NIC can be resolved using reg 51(1) Social Security regulations.

We suggest that in the interests of good administration and to enhance trust in the tax system, similar legislation be introduced to enable the *Demibourne* solution to be used in off-payroll working situations, so that all parties pay the right amount of tax and NIC, and interest and repayment supplement is calculated on the net amounts due and repayable with as little bureaucracy as possible.

Determinations under s690, ITEPA 2003 to authorise an employer to operate PAYE on their best estimate of the employee's remuneration liable to UK taxation

HMRC does not appear to appreciate that its delays in issuing s690 determinations in response to applications by employers are causing costs which are making UK businesses uncompetitive.

A s690 determination authorises the employer to operate PAYE on the best estimate of their employee's remuneration liable to UK taxation. Pending HMRC agreeing this direction in response to an application by the employer, the employee can be liable to PAYE withholding in both the UK and another country. HMRC's view is that while waiting for HMRC to meet its legal and charter obligations to issue a direction the employer could either loan the employee the cost of the tax and NIC that will not be due or pay the tax and NIC that will not be due on behalf of the employee.

Both these options impose unnecessary costs on businesses. In addition, if the employer pays the tax that will not be due on the employee's behalf, the tax must be grossed up. This grossed up tax is also subject to NIC. The tax can eventually be reclaimed but NIC is not refundable.

To simplify the administration of these determinations, we propose that s690(2)(c), ITEPA 2003 is amended to provide that if an officer of Revenue and Customs has not issued a direction within 30 days of receipt of an application, the 'appropriate person' (eg, the employer) may operate PAYE as if a direction had been issued in accordance with the original application.

Overseas workday relief (OWR) and special mixed fund rules

The extremely complicated provisions commonly known as overseas workday relief should be replaced with a provision that encourages employees to move their income to and spend it in the UK rather than keeping it offshore. We believe a replacement would be supported by HMRC who find the provisions difficult and time-consuming to police.

Overseas workday relief is a misnomer as it is not technically a relief but it is the common shorthand for the situation where in the year of arrival/commencement of residence and the subsequent two tax years a non-domiciled employee, who is entitled to remittance basis without a claim or can claim the remittance basis, is taxable on remuneration for UK workdays but is only taxable on remuneration for non-UK workdays to the extent that the remuneration for those workdays is remitted to the UK.

The intention of the relief is to encourage overseas business to send assignees, etc to the UK. The problem with the relief is that it not only extremely complicated but encourages employees to keep money outside the UK when instead they could be encouraged to spend it in the UK.

We suggest that the remuneration for non-UK duties is tax free whether remitted to the UK or not. This would remove the very time-consuming enquiries that HMRC undertakes and provide a boost to the economy. The special mixed fund rules and other remittance rules are so complicated that despite the rules having been introduced from 6 April 2013 and outstanding issues having been raised via HMRC's Joint Forum for Expatriate Tax and NIC, there is still no agreement with HMRC on how they work.

VAT

We set out the following suggestions, many of which we have made previously, which merit re-examination now we have left the EU.

VAT simplification

1. This could be done in stages – for example, by removing the exemptions (see our response to the Land and Property consultation [ICAEW REP 70/21](#)), with appropriate reliefs for charities (this could be a refund system like that for local authorities). France is introducing an option to tax financial services (FS) (from next year) on a transaction-by-transaction basis to make France a more competitive business location for FS. This is an interesting development, and we would be happy to discuss it further, along with possible options for reform in the UK.
2. The UK now has a multiplicity of VAT rates and there may be some scope to rationalise them although we recognise the political difficulties that might arise.
3. Amend the tour operators margin scheme (TOMS), which now only applies to the UK, to ensure that no distortions arise where the customer is a business able to recover VAT, to promote the UK as an attractive meeting, incentives, conference and events (MICE) location.

Fraud prevention

1. For all non-established businesses supplying goods/services B2B, move to a generalised reverse charge system to prevent missing trader (non-established) fraud.
2. If the above is not acceptable, impose a tax representation system systematically using only accredited tax representatives established in the UK.

Deduction of VAT on business expenditure

1. Align more closely VAT and direct taxes deduction rules.
2. Clarify distinctions between “entertaining” and “promotion” expenditure.

3. Simplify the non-established refund system and reduce the numbers of requests by HMRC for detailed information which presently make the UK a less business-friendly destination for business events, conferences, etc.

VAT registrations

1. Simplify the process and ensure HMRC requests only relevant information from businesses (eg, desist from asking wholesalers if they sell B2C and import under £135 threshold).
2. Remove delays by HMRC in issuing VAT numbers.

POLICYMAKING IN THE DIGITAL AGE

Text of letter dated 19 July 2019 from ICAEW Tax Faculty to the Financial Secretary to the Treasury (and enclosed with the letter dated 30 September 2021 to the FST)

Further to our meeting on 10th July 2019 we are writing to suggest how the implementation of taxation policy could be improved in response to the requirements of digitalisation.

While ICAEW supports HMRC's digitalisation agenda and believes the changes are necessary to ensure the efficient operation of the tax system, we believe tax policy implementation could be improved by considering the mechanics of implementation at the start of the consultation process. It appears that this essential step is only considered after the law is finalised leaving in some cases less than nine months for implementation by software developers. Changes to the PAYE schema are, frequently, only released less than nine months before the start of the tax year. For example, we understand the 2020/21 schema will not be released until late summer 2019.

As well as being, in our view, far too late, the documents produced are also not full specifications leaving many questions unanswered. Overall it often appears as though the digital consequences are only considered after the event. Consequently, to improve implementation we suggest the following changes:

- **Initial Consultations** - All consultations should ask whether any proposed changes would be difficult to implement digitally and how could they be improved to facilitate the collection, compliance and audit by computers and Artificial Intelligence.
- **Response documents** - Response documents should include comment on and a road map of how the policy will be implemented digitally.
- **Draft legislation**- Draft legislation should be accompanied by not only HMRC's draft guidance but also draft specifications of any IT changes/requirements.
- **Final Specifications** - Final specifications should be available at least a complete tax year before the effective legislative date.
- **Pilots** - When pilots are required for major changes such as MTD for VAT, proper pilots which include all functionality should be run for at least a complete tax year. The pilot for MTD for VAT was not sufficient.

We believe such an approach whereby the digital implementation is considered from the start of the consultation policy will result in improved implementation and a more efficient tax system.

We would be happy to discuss this further with you and/or the relevant HMRC and Treasury officials.

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>).