

**Office of Tax Simplification (OTS) high level strategy consultation:
'Simplifying tax for the future'
Response from the Low Incomes Tax Reform Group (LITRG)**

1 Introduction

- 1.1 We welcome this opportunity to comment on Simplifying Tax for the Future, the stakeholder consultation issued by the OTS about its high level strategy ('the strategy paper').
- 1.2 The LITRG is an initiative of the Chartered Institute of Taxation to give a voice to the unrepresented in the tax system. Those who cannot afford to pay for professional advice are at a greater disadvantage than those who can in coping with a highly complex tax system, and yet their need to understand it sufficiently well to be able to handle their own financial affairs is correspondingly greater. For that reason we have always supported the OTS and have been pleased to contribute to its work. Most recently we have responded to OTS consultations on employment status, income tax and National Insurance contribution (NIC) alignment and reform of small companies' taxation, and submitted both written and oral evidence to the House of Lords Finance Bill Sub-Committee on the Finance Bill clauses making the OTS a statutory body. In addition, members of LITRG have over the years served on OTS consultative committees and been seconded to work on particular projects.

2 Executive summary

- 2.1 In responding to the questions in the strategy paper, we draw out various themes in addition to those mentioned in it.

- 2.2 There is an appetite among the public for debate on tax matters but public understanding of tax is limited. We believe the OTS is better placed than any other public body to inform the general public about the complexities in the tax system and explain them in the most comprehensible way. The OTS should take soundings not only from experts and representative bodies, but also the general public, through surveys, focus groups and the like. The OTS should also be able to engage more freely with the general press and media to facilitate informed debate.
- 2.3 While we appreciate that the remit of the OTS is to look at ways of simplifying the tax system, for many people on low incomes the tax credits and welfare systems play an equally important part in their household finances. We believe the OTS should take account of interactions between the tax and welfare systems when proposing simplification measures, as it is not unusual for the advantages that tax changes are intended to confer being diluted, or even counteracted, by their effect on welfare entitlements.
- 2.4 Other emerging trends that the OTS should take account of include the devolution of aspects of the tax system to the countries of the UK, and – in terms of the wider economy – the likely greater use of automation and robotics in the labour market.
- 2.5 Apart from legislation and policy, we believe there is plenty of scope for simplification in HM Revenue & Customs' (HMRC) administrative systems, and the OTS is well placed to make recommendations in that area.
- 2.6 We suggest various topics that might benefit from the OTS's simplification ideas in due course. While the OTS makes worthwhile recommendations for reform, new complexities continue to be introduced year by year without any regard for simplification possibilities. We therefore believe that the OTS should in future give detailed consideration to each annual Budget, not just from a technical point of view but from its comprehensibility and practical application. In addition, the OTS should be consulted on the draft Finance Bill each December, and no provision that is not in the draft Bill should be discussed in the Committee of the Whole House or in the Public Bill Committee until the OTS has had an opportunity to review it.
- 2.7 The digitalisation of the tax system will give Government the opportunity to bring about some major simplifications, provided that gaining access to the technology is not itself unduly complex and costly to those with restricted funds requiring additional and unbudgeted expenditure.

3 Who we are

- 3.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and

benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.

- 3.2 LITRG works extensively with HMRC and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 3.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

4 Response to consultation

4.1 Question 1

As well as these [changes in traditional working patterns, technological developments], are there other significant trends or issues, in the wider context or on the horizon, that may change the tax landscape that we should take into account?

- 4.1.1 There are three aspects to this question: taxation, the political environment, and the wider economy.

Taxation

- 4.1.2 In terms of taxation, there are two other developments which we believe the OTS should take into consideration in setting its strategy.

Public interest in and understanding of tax matters

- 4.1.3 Over recent years – and particularly since the recession of 2008 – there has been a very significant increase in public interest and awareness in tax and in what constitutes a fair allocation of the tax burden. Politicians of all parties have followed suit. But public understanding of tax has not increased in proportion with public interest in the subject.¹ This poses a constant challenge to governments responsible for balancing the interests of the exchequer with those of the wider economy. The perception that large businesses are treated differently from small, wealthy individuals differently from the less well-off, is widespread, and sometimes reinforced by actual disparities in treatment where the former groups are expertly represented in their disputes with the taxing authority, the latter group either less so, or not at all.

¹ Indeed the OTS's own recent report on income tax and NICs alignment noted the levels of confusion surrounding the role of NICs (Chapters 1 and 8 on Transparency and the Contributory Principle).

- 4.1.4 A public mainly informed by soundbites and memorable newspaper headlines is not a way to ensure a proper and sensible understanding of a complex subject.
- 4.1.5 As the body charged with recommending simplifications to the tax system, the OTS is arguably in a much better position than any other public body to unravel the complexities and set them before the general public in the most comprehensible way. The OTS could do this by running focus groups or seminars around the country, or contributing to popular (including local) press and media. This could be done either in the course of its reviews or as part of an expanded role which sees the OTS becoming more involved in promoting public understanding, and actively seeking ideas on simplification from a wider public than the usual representative bodies and interest groups.

Interactions between tax and welfare

- 4.1.6 We appreciate that proposing simplification of tax credits and welfare benefits generally are outside the remit of the OTS. Nevertheless, to simplify tax in such a way as to make it easier for the unrepresented taxpayers to understand, regard must be had to the effects that proposals on tax policy or law may have on their welfare entitlements. It is not unusual for the advantages that certain tax proposals are intended to confer to be diluted, or even counteracted, by their effect on tax credits or benefits rules. To take an obvious example, taking income out of tax by raising the personal allowance increases the amount of net-of-tax income assessable for benefit purposes. Thus, any such increase is partly counteracted by a cut in benefit entitlement. To take another example: if a person claims widowed parent's allowance (WPA) as well as universal credit (UC), they will lose out. Not only is WPA deducted £ for £ from an award of UC (for it is classed as 'unearned income'), it is also taxable – so the claimant pays tax on a sum of money that he/she never actually receives which is demonstrably wrong in principle.
- 4.1.7 Accordingly, unless very great care is taken to consider the benefits implications of simplifying the tax system, any simplification is likely to be illusory as it could and probably does actually make the combined tax and benefits position of an individual more complicated to understand.
- 4.1.8 There is particularly a need for synchronicity between the demands of DWP and HMRC in relation to the self-employed. Under tax credits, the treatment of the self-employed was essentially the same for tax and tax credits – the same annual assessment period, the same measurement of profit and loss. Under UC, there is an annual assessment period for tax, but monthly for UC with concurrent reporting obligations; 'profit' is determined on a monthly cash basis for UC and on either a cash basis (but annually) or an accruals basis for tax; while the 'minimum income floor' and the rules about surplus income further distort the computation of profits for UC. The scope for simplification is plain to see; the forthcoming digitalisation of tax may, if well handled, provide the opportunity to bring both into closer alignment and thus save many small and emergent businesses a lot of unwelcome and complex bureaucracy.

The political environment

- 4.1.9 Politically, the trend towards greater autonomy for the countries of the UK has been gathering pace over the past two decades and is now well advanced in Scotland, where devolved taxes are in place and income tax, while still a reserved matter, is in part subject to the rate-setting powers of the Scottish Parliament. Any proposals for simplification of the UK tax system must therefore also take account of the impact on devolved taxes or regional variations in reserved taxes.

The wider economy

- 4.1.10 To the changes in working practices alluded to in the strategy paper may be added the increase in automation and robotics. If – as is sometimes predicted – more and more process-based jobs become automated and carried out by robots rather than individuals, a decline in tax revenues from employment taxes and NIC might ensue. That poses the question how the gap in overall revenue collection is to be filled. There may be new taxes on capital assets – licence fees on the mechanisms used in robotics, for example, or on ownership or occupation of land – or other new sources of revenue which will provide more threats and opportunities for simplification of the system.

4.2 Question 2

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

- 4.2.1 It is noteworthy that according to the strategy paper the administration of tax, as well as legislation and policy, is within the simplifying remit of the OTS. Complex administration can bear very harshly on unrepresented individuals who find HMRC systems impossible to fathom and official communications incomprehensible, and have no adviser to turn to. Simple inability to navigate these complex structures have led to many taxpayers unwittingly underpaying tax or overpaying tax credits, or failing to reclaim tax overpaid or tax credits underpaid. The experience of falling into debt in this way can be highly traumatic. As one of our Tax Help for Older People volunteers has said:

“There is nothing simple about a tax system which makes a non-taxpayer complete a self-assessment return each year just because she has a small foreign pension;¹ or one that extracts NICs but no tax from her earnings; or one that puts an incomprehensible restriction on a P2 and then fails to collect it; or one that loses completely a newly widowed person's pension and leaves her unaware that she is building up a large liability if/when HMRC eventually discover it. Or any of the myriad problems major and minor which I have personally dealt with over the last 15 years.”

¹ Clause 155 and Schedule 23 of the current Finance Bill are intended to address this particular complexity. More such simplifying laws can only be welcomed.

4.2.2 Clearly, there is plenty of scope for simplification in HMRC's administrative systems, and the OTS is well placed to study the systems and make the appropriate recommendations.

4.3 Question 3

Do you have particular suggestions for areas of the tax system that the OTS should consider in the coming years? How do you see our main priorities?

4.3.1 A simpler tax system is intrinsically desirable, but mainly benefits those whom complexity puts at the greatest disadvantage – unrepresented individuals and businesses. The main priority of the OTS should therefore be those aspects of tax law, policy and administration which have the most impact on individuals on low to modest incomes, or the smallest businesses, so as to improve their understanding of the law and ability to navigate the systems unaided. The need to spend time and resource simplifying areas of tax whose complexity is experienced only or mainly by those wealthy enough to afford professional advisers is perhaps less pressing.

4.3.2 On that basis, areas to prioritise include:

- employment taxes and the mechanisms by which they are collected
- the taxation of the self-employed (given that the simplification aspects of the OTS's previous recommendations on small business taxation were ruthlessly stripped out on implementation)¹
- pensioner taxation, on which the OTS has reported twice already but nearly all of its recommendations remain unfulfilled
- HMRC powers and penalties for late filing, inaccuracy, late payment, etc. (we understand further proposals may come from HMRC as part of the making-tax-digital package)
- the tax status of couples and the inconsistent definitions of the term in different parts of the tax – and benefits – systems
- the newly introduced savings rates and allowances which are proving difficult for the public to understand and for HMRC to administer, not helped by the completely misleading names of 'personal savings allowance' and 'dividend allowance'. This could indicate a role for the OTS to advise on the suitability of nomenclature in the tax system, to encourage the use of appropriate terms and names for new policy proposals
- the taxation of state benefits and how that is notified to the individual.

4.3.3 In addition, the OTS should give detailed consideration to each annual Budget, not just from a technical point of view but from its comprehensibility and practical application.

4.3.4 The digitalisation of the tax system will give Government the opportunity to bring about some major simplifications, provided that gaining access to the technology is not itself unduly complex and costly to those with restricted funds requiring additional and

¹ Finance Act 2013, s. 17 and Sch 4.

unbudgeted expenditure. It is also vital that whatever technological systems are used to deliver simpler processes are protected by security that is sufficiently strong without being excessively difficult for people to gain access to their digital accounts.

4.4 Question 4

Do you have any comments, principles or ideas in addition to the above, that you would like us to consider as we further develop our approach?

4.4.1 The principles set out in the strategy document are sound and in accordance with what the OTS has been doing so successfully to date.

4.4.2 We would particularly draw out two of the points made:

1. Holding 'discussions outside normal stakeholder groups'. As we say in our answer to question 1, it is important for the OTS to take soundings not only from experts and representative bodies, but also the general public, through surveys, focus groups and the like. As observed in para 43 of the strategy document, the OTS has already started to use surveys more regularly. The survey on income tax and National Insurance alignment seemed particularly popular, judging by the number of hits when we posted an article on our website entitled 'Have your say on the future of National Insurance', linking to the OTS survey. There is a great appetite among the public for expressing views on tax matters, and the OTS – as we have observed previously – could with great authority assume the mantle of enhancing the public understanding of such matters.
2. The OTS should be engaged in policy making at the earliest possible stage. Advocates of tax simplification within the profession have sometimes looked on in impotent frustration as OTS-inspired legislation is brought in alongside other enactments replete with old-style complexity and opacity. We have recommended elsewhere in this response that the OTS should review each annual Budget; in addition, the OTS should be automatically consulted on any new policy proposal so that it can contribute simplification ideas at the start. Failing that, it should at least respond to any consultation (including finance bill consultations from December to February) which seems to it to offer simplification opportunities. In relation to finance bill consultations, we believe that no provision that is not in the draft Bill should be discussed in the Committee of the Whole House or in the Public Bill Committee until the OTS has had an opportunity to review it.

4.4.3 There is a reference (para 43) to gathering evidence from overseas where possible. We do not know if there are any similar bodies to the OTS in other jurisdictions – but if there are, and if the OTS has not already made contact with them, it might be a useful thing to do.

4.5 Question 5

We are sure it is right to have a mix of private and public sector people but do we get the balance right? Are there pools of expertise that we are not tapping? Or particular skills and expertise we could aim to recruit into our staff?

- 4.5.1 Mixing public and private sector people on the staff of the OTS has worked well hitherto and will no doubt continue to do so. While we are unaware of the exact mix, it seems to us that project management and administration is as important as the tax technical expertise among the functions performed by staff, and civil servants together with recruits from private practice seem to combine those two functions well.
- 4.5.2 It may be that the technical or policy side could be strengthened by recruitment of academics on temporary research assignments.
- 4.5.3 If the OTS is to expand its 'public understanding' remit, as we have suggested, another discipline that ought to be represented on the staff is that of marketer/facilitator to set up and make the best use of surveys and focus groups.

4.6 Question 6

How should the OTS measure its success? Do you agree with the broad measures of success sketched out above or are there other objective measures or subjective criteria we should use?

- 4.6.1 We do not think the length of the tax code is an appropriate measure of success for the OTS, partly because the OTS is an advisory body and has no power to implement its recommendations unless Government decides to implement them; and partly because a simpler tax code is not necessarily a shorter one. Indeed, more words may be needed to explain a complex concept that may itself expressed very succinctly by initials – for example, a scientific formula containing a very few letters, numbers or symbols may take a paragraph or two to explain to a lay person. So it is with tax.
- 4.6.2 Measuring the savings generated by simplification measures may be an effective tool, if it can be done in such a way as to compare the cost effectiveness of a simplification measure with that of its predecessor – difficult to do, one would imagine, unless the original, pre-simplification, measure remained in place in one sector of the economy as a 'control' while the post-simplification measure were piloted in another sector. We do not know how realistic that would be in practical terms – in fairness terms, it would involve treating two groups of people differently on an entirely random basis, which could give rise to discrimination unless carefully managed.
- 4.6.3 If greater public engagement is to be part of the OTS's future remit, a useful measure of success – and easily measurable – would be the number of focus groups, seminars, surveys etc held, combined with numbers of responses coming from the general public rather than the usual stakeholder groups.
- 4.6.4 Numbers of calls and other enquiries to HMRC helplines and the tax charities might serve as an indicator of the general state of complexity, or indeed clarity, of the tax system, although they would not be a barometer of the success of the OTS unless the calls and enquiries being monitored were about areas of the tax code that had passed through the hands of the OTS. Even then, certain reforms, while inspired by OTS thinking, are not implemented in accordance with OTS recommendations and do not necessarily serve the cause of

simplification. A prime example is the cash basis for small businesses in FA 2013, s 17 and Sch 4.

- 4.6.5 Otherwise, we agree broadly with the measures set out. If (para 69) the OTS wants to raise its profile and be more effective at getting its message across, it may find a solution in greater engagement with the media and press – particularly those sectors of the press that have misunderstood and misrepresented the OTS position on certain matters in the past (eg the ‘granny tax’ episode). We appreciate the constraints that public servants face when dealing with the press and media and a framework of principles for guidance when carrying out such work would have to be carefully drafted and agreed. But provided such a framework was in place, there seems to us to be merit in making the OTS an exception to the general rule.

5 Conclusion

- 5.1 We hope these observations are of some assistance to the OTS in framing its future strategy, and look forward to holding further discussions.

LITRG
30 June 2016