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SIMPLIFYING AND MODERNISING HMRC'S INCOME TAX SERVICES THROUGH THE TAX ADMINISTRATION FRAMEWORK

Response by Association of Taxation Technicians

1 Introduction

- 1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to respond to the HMRC consultation document *Simplifying and modernising HMRC's Income Tax services through the tax administration framework*¹ ('the Consultation') issued on 15 March 2023.
- 1.2 The primary charitable objective of the ATT is to promote education and the study of tax administration and practice. We place a strong emphasis on the practicalities of the tax system. Our work in this area draws heavily on the experience of our members who assist thousands of businesses and individuals to comply with their taxation obligations. This response is written with that background.
- 1.3 The ATT's responses to the questions raised in the Consultation are set out in sections 3 to 17 below. We have included a number of general observations in section 2.
- 1.4 Our response can be summarised as follows:

Digital services:

- We believe the key barrier to digitalisation is taxpayers' lack of awareness of what tax issues can be dealt with via online 'self-service'. If the Single Customer Account is to be successful, an education campaign will be needed to make taxpayers aware of it, what it can offer them, and to help them create their login.
- HMRC should ensure robust technical support services are available to help users switch to digital, and that reliable systems are in place before digital becomes the default either for communications or repayments.
- Support and non-digital offerings should be maintained for the digitally excluded, and need to be of equal standard to digital channels.

¹ <https://www.gov.uk/government/consultations/simplifying-and-modernising-hmrcs-income-tax-services-through-the-tax-administration-framework>

PAYE:

- Increased payrolling of benefits in kind, and a move away from the P11D process would improve the timeliness of PAYE data and resulting tax collection.
- However, speed alone is not a panacea and HMRC should not rely on better/faster data flow in isolation to improve the PAYE system. PAYE will always require some element of 'sense checking' and HMRC should ensure it has adequate resources to allow for this.
- There is a risk of HMRC overestimating taxpayers' understanding of PAYE codes and their consequences for net pay. Agents have a vital role to play in supporting represented taxpayers, and should have complete access to their clients' PAYE codes, and the facility to update them digitally.

Income Tax Self-Assessment (ITSA):

- We are broadly supportive of digital being the default communication method for ITSA from registration onwards, subject to flexibility being built in for changes in circumstances and to accommodate the digitally excluded.
- There is significant scope to improve understanding of the ITSA registration criteria, particularly some of the apparently arbitrary thresholds used for HMRC's *Check if you need to send a Self Assessment tax return* tool.
- We suggest distinct thresholds written into clear legislation should be the focus here, with guidance only serving to make those criteria easier to find.

2 General observations

- 2.1 The questions raised in the Consultation did not provide an opportunity to address a number of points which we consider to be important. These are explained in this section.
- 2.2 The Consultation is extremely wide-ranging. The three areas dealt with (digital services, PAYE process improvements & ITSA registration) could each warrant an independent consultation in their own right. Due to the breadth of the Consultation, we feel the questions raised do not always address the key issues. A number of important points are raised in the Consultation which are not addressed by the 15 questions posed. We have attempted to pick out and respond to these points where appropriate.
- 2.3 Our impression is that the Consultation focusses more on *modernising* than it does on *simplifying*. Much of the Consultation revolves around digitalisation of services. Whilst this may streamline and simplify the administration of tax from HMRC's perspective, it does nothing to address the issues created by an overly complex tax system, which is hard for taxpayers to understand and comply with, and therefore more difficult and costly for HMRC to administer and enforce compliance with.
- 2.4 The lack of simplification measures in the Consultation is regrettable. Following the closure of the Office of Tax Simplification, HMRC and HM Treasury were given a mandate to focus on simplicity in tax policy and administration. Whilst we welcome attempts to simplify the Self-Assessment criteria, we would like to have

seen greater consideration of making the tax system itself simpler and therefore easier to comply with and administer.

- 2.5 We are concerned that HMRC may overestimate the public's general level of understanding of tax, and their interest in and willingness to engage with the topic. As stated in the Consultation:

“the customer research found a strong feeling amongst participants that it was up to HMRC to get their tax right and that they should not have to do anything”

Although a generalisation, we would tend to agree with this statement, and would caution HMRC against setting unrealistic expectations as to the extent to which the general public will want or be able to engage with managing their taxes. The public may also be wary of engaging with HMRC for fear of getting something wrong. The particular areas of concern in relation to the Consultation are:

1. Taxpayers monitoring PAYE codes and updating HMRC for changes in their circumstances; and
2. Taxpayers understanding the SA criteria and acting as appropriate when they need to register/de-register.

HMRC cannot expect the majority of taxpayers to be able or willing to contribute to improving the timeliness of PAYE information when their employment circumstances change. Our members report that most of their clients (and we suspect the wider public) are unable, or at best lack enthusiasm, to engage with their tax affairs in real-time to provide HMRC with updates when their circumstances change. Many will assume this obligation rests with their employer and/or HMRC. Public education may be required to encourage real-time engagement from taxpayers, and to explain why this is beneficial to them.

- 2.6 A number of taxpayers, especially those with more complex tax affairs, delegate most or all of their tax compliance obligations to a professional agent, and it is critical that the digitalisation measures proposed by the Consultation are designed to allow agent access and interaction on behalf of their clients. This facility has been lacking or overly complex in numerous digitalisation measures to date – for instance digital handshakes for 60 day CGT reporting and Trust Registration Service authorisations are complex, time consuming and unreliable. In addition, the lack of agent copies of correspondence including P2 Coding Notices does not help taxpayers “get their taxes right first time” (paragraph 1.9) as the taxpayer themselves may lack the ability or awareness to check their PAYE code, and their agent is rarely aware of any update.

Agents are often best placed to identify issues early with their clients' tax affairs, and we would like to see agents copied on all correspondence sent from HMRC to their clients. With the increased use of digital services, the additional cost of agent copies should be negligible if HMRC's systems are properly designed to accommodate agents.

- 2.7 The move to digital offers the potential to streamline the administration of tax for HMRC, agents and taxpayers in general. However, HMRC's recent track record with implementing new digital systems is far from perfect. For example:

1. Members reported difficulties accessing the redesigned VAT registration service when it was launched in August 2022, and that it did not make provision for all the circumstances in which VAT registration might be required.

2. The Trust Registration Service was only opened to the trustees of non-taxpaying trusts almost a year after the obligations were imposed on them to register. Despite the significant delay, HMRC still required trusts wound up between 6 October 2020 (when the rules took effect) and 1 September 2021 (when it first became possible for them to register) to immediately register and then deregister themselves, despite the trustees having concluded all their other responsibilities and potentially having no funds to pay advisers to deal with the registration/deregistration requirements.
3. The UK Property Reporting Service was launched in 2020 with no guidance for users, and it was not possible to amend returns digitally for the first few months.

It is critical HMRC build trust and credibility in their digital services by not introducing anything approaching *digital by default* until the digital services which taxpayers will have to use have been thoroughly tested, and are supported by guidance and available telephone support for users.

- 2.8 Members have also fed back that HMRC are behind the times in their lack of support for email correspondence. Expanding the use of email rather than post not only encourages digital processes but can significantly reduce postal/processing delays. We would support greater use of email by HMRC, with appropriate security measures.

We would also like to see a route by which agents (and taxpayers) could provide information and documents securely to HMRC. This could be useful in a number of situations. For example, as part of security checks on refunds, HMRC requests ID documentation via what are known as 'SURF' letters. Taxpayers either need to go to the cost and inconvenience of having copies of personal documents like passports certified, or risk the original documents to the post which HMRC must then return. A secure upload facility would allow agents and taxpayers to provide both necessary evidence and signed forms directly and safely to HMRC.

- 2.9 The ATT (and, we would expect, other professional bodies) along with our members would welcome the opportunity to be involved in the design and testing of new digital services from the outset and throughout development to ensure they accommodate the needs of both taxpayers and agents.
- 2.10 HMRC service levels have been widely publicised as falling short of taxpayers and professional bodies' expectations. The ATT, along with nine other professional bodies, wrote to the Chancellor ahead of the Spring Budget to request proper investment in HMRC to address these issues². We remain concerned that HMRC may lack the resources to introduce the proposed changes in a thorough and effective manner.

DIGITAL SERVICES

3 **Question 1: What barriers do you experience when accessing digital versions of the forms above that drive you to a paper option? Are there any particular forms/processes that cause major issues?**

- 3.1 Most of the forms listed in paragraph 2.17 of the Consultation as being the first to be moved to "digital by default" are issued by HMRC and do not require completion (or in some cases even any action) by the taxpayer. We have therefore responded to this question primarily from the perspective of barriers to taxpayers *accessing* the digital versions, but this does not consider the ease of *completing* forms digitally (e.g. the SA100/SA200 – for which see 3.2). Given many of the forms require no action, HMRC may be unable to gauge the success or otherwise of moving these forms to digital by default.

² <https://www.att.org.uk/sites/default/files/2023-03/Open-letter-HMRC-service-levels-ahead-of-Spring-Budget-2023.pdf>
ATT/ATTTSG/Submissions/2023

Barriers to accessing digital versions of these forms include:

- concerns that notifications informing taxpayers that a digital communication is available may not arrive (e.g. notification emails caught by junk mail filters);
- the risk of 'fakes' associated with digital communications;
- finding logging-in to an HMRC account more difficult than opening post;
- lack of comfort with technology to access digital communications, or lack of compatible devices or internet access.

3.2 As the only identified form requiring completion, the SA100/200 would largely be filed by our members online, other than for excluded cases (e.g. MPs). We would expect unrepresented taxpayers to file either online or on paper. We would expect the paper submission option to be chosen by the public if they are digitally excluded, digitally unwilling, or are prevented from online filing due to limitations with HMRC's online service (e.g. non-residents, and executors/personal representatives of deceased individuals filing a tax return to date of death prior to 5 April in that tax year).

3.3 Our principal concern with the forms proposed to be digital by default relates to how many recipients of a P800 are digitally excluded or challenged, and how these individuals will access their tax calculations. Moving to digital by default for the P800 may result in taxpayers being unaware that a tax calculation has been issued, and therefore failing to check and otherwise action any payments/repayments due. Paragraph 2.15 of the Consultation indicates such taxpayers will be catered for, but does not explain how. The option to choose paper communications via a Digital Tax Account (Paragraph 2.14) will not be sufficient to accommodate these individuals.

4 Question 2: How would you like HMRC to provide support and guidance to assist digitally able taxpayers with accessing digital versions of the forms above?

4.1 The current HMRC digital offering is fragmented and confusing to taxpayers – some services can be accessed online (e.g. most Self-Assessment submissions), others require telephone calls (e.g. PAYE code amendments) and some require letters (e.g. overpayment relief claims). The improvements promised in the Consultation by the Single Customer Account (SCA) in combining all tax-related correspondence/notifications/requirements into one place will be crucial in persuading digitally able taxpayers to access digital correspondence from HMRC.

4.2 However, the SCA will be of no value unless taxpayers are aware of it and are supported in setting up and accessing their SCA. We recommend that HMRC provides instructions and training media (videos etc) on how to set up the SCA and what it can be used for. Our experience and feedback from members suggests the Personal Tax Account is under-used as taxpayers are sometimes unable to set up a Government Gateway account, and are offered no clear guidance on how to do this. Many are therefore forced back to non-digital channels. This situation needs to be improved before digital becomes the default for any HMRC correspondence.

4.3 A comprehensive awareness campaign will be needed to ensure taxpayers are aware of any future reduction in non-digital correspondence, and the fact that they need to correspond with HMRC via their SCA. This will need to be launched several months in advance of any reduction in non-digital support, and should emphasise the benefits to taxpayers in being able to self-serve via their SCA.

4.4 Moving these forms to digital by default will require robust notification methods to ensure taxpayers are alerted to the arrival of a digital communication. We would suggest multi-channel notifications are offered to

reduce the risk of e.g. email alerts going into junk mail folders – for instance users should be able to choose from email alerts, app notifications and text messages to alert them to the arrival of a digital communication in their SCA. HMRC should consider retaining post notifications as a backup in the event a taxpayer does not access or action a digital communication.

- 4.5 As well as guidance on how to access digital communications, accessible telephone support should be available from HMRC to support users in the switch to digital. Online chat services and FAQs are unlikely to be sufficient, and even digitally able taxpayers are likely to need occasional telephone support. Telephone support lines will need to have a faster response time than current HMRC telephone lines to prevent taxpayers giving up on digital services when they encounter issues, particularly if users are automatically signed out of digital services after a period of inactivity, with the potential loss of data input already.
- 4.6 Given HMRC is driving the switch to digital, we would like to see improved digital support offered to help taxpayers whose 'digital journeys' do not go as expected – e.g. remote-access/screen share (with appropriate security measures in place) so that HMRC staff can better assist taxpayers with issues they may experience in using HMRC digital services.
- 4.7 Paragraph 2.9 of the Consultation states the first phase of the SCA roll out will cover individuals, and will be complete by 2025. Paragraph 2.12 states that higher-volume letters/forms will be moved to digital "over 2023 to 2024 and 2024 to 2025".

HMRC should ensure digital does not become the default to any extent until its systems are ready. The dates above are cause for concern if the SCA and One Login for Government improvements may not be completed before (some) paper correspondence is replaced by digital.

5 Question 3: What would be your preferred options for the digitally excluded to access non-digital services for the forms above?

- 5.1 As stated in 3.1, most of the specified forms do not require a response from the taxpayer. We would suggest paper versions are sent to the digitally excluded, as we assume is the case now.
- 5.2 Appropriate support (telephone/postal options) should be maintained for the digitally excluded, including methods of identifying and serving taxpayers with additional needs.
- 5.3 Digitally excluded taxpayers may rely on agents to assist them with their tax obligations. It is therefore important that agents are given access to the full range of services available to taxpayers, including the proposed expansion to self-serve facilities promised by the SCA.
- 5.4 (NB In responding to this question we have not commented on how digital exclusion is defined and how such people are identified, but both of these questions do need to be addressed.)

6 Question 4: How can HMRC encourage more PAYE taxpayers to open digital tax accounts to help automate the repayment process?

- 6.1 Our comments in 4.2 and 4.3 regarding lack of awareness of digital tax accounts, and the benefits to taxpayers of using them also apply here. A public awareness campaign will be needed to address this issue if HMRC hope to increase the uptake of digital self-service by taxpayers. The digital repayment message offers a clear incentive for taxpayers to set up a digital account.

- 6.2 Paragraph 2.14 of the Consultation states that P800s are to be sent digitally by default. Taxpayers who are due a repayment and are not in Self-Assessment will therefore need a digital tax account to access the P800 informing them of the repayment due to them. This notice should therefore state any bank account details HMRC holds, and that repayment will be made by BACS where possible. The notice should also explain how and by when the taxpayer should update the bank details if they are not correct.
- 6.3 For taxpayers without a digital tax account, including the digitally excluded, the P800 will have to be sent on paper. The paper notification would be another opportunity to explain the benefits of opening a digital tax account (e.g. ease of supplying/updating BACS repayment information) and the benefits of electronic repayments in general (e.g. speed and security), but should not make this an expectation, so as to accommodate the digitally excluded.

7 Question 5: What safeguards should be in place for any new data HMRC collects?

- 7.1 New data should be subject to the same data standards as equivalent data HMRC already holds. For example, data on individuals setting up a new digital tax account should be subject to the same safeguards and security standards as data held on existing personal tax account holders.

PAY AS YOU EARN

8 Question 6: What specific processes or data points could be simplified to speed up information flow between employers, employees and HMRC when employees have a change of circumstance, while maintaining quality of data and keeping information secure?

- 8.1 The use of forms P11D can result in significant time-lags in the collection of tax. For example, Private Medical Insurance first provided to an employee on 6 April 2023 will not be reported until the P11D is submitted on/before 6 July 2024. There is therefore up to a 15-month delay during which PAYE is under-collected. This could be resolved by requiring all employers to move to monthly payrolling of benefits, rather than allowing employers to choose between annual P11D returns or monthly payrolling.

Further consultation may be appropriate regarding obstacles to employers payrolling benefits in kind, the expansion of benefits which can be payrolled and whether Class 1A NIC could also be collected monthly, negating the need for an annual P11D(b).

- 8.2 That said, speeding up information flow does not provide the best result in all cases – some require human intervention to prevent unintended consequences.

For example, when a taxpayer dies and their pension income entitlement passes to a surviving spouse, there is often a stream of automatically issued P2 coding notices. These are commonly inaccurate as pension administrators take differing amounts of time to transfer income entitlement. The influx of notifications from HMRC can cause confusion and stress to the surviving spouse at an already difficult time, and the resulting tax collection is unlikely to be correct, so there is no benefit to HMRC or the taxpayer in issuing this volume of P2 notices in quick succession. To avoid this, we suggest the HMRC *Tell us once* service should be linked, where possible, to the surviving spouse's tax account. Once an initial code has been supplied to each pension provider, a hold could then be put on P2 notices for an appropriate period after the death of the original pension holder (say 1-2 months, subject to consultation with pension providers). This delay would allow time

for all pension payments to be transferred, at which point HMRC would have a better overall view of the surviving spouse's tax position, and can issue more accurate PAYE codes.

- 8.3 'Stranded underpayments' are another example where speed of PAYE information processing creates problems.

To illustrate, say an employee has an underpayment included in their current year tax code. They leave one employment and shortly afterwards begin a new employment. On leaving the first employment, the underpayment is immediately removed from the individual's PAYE code and they are sent a payment demand as they no longer have an employment source from which the underpayment can be collected. They therefore face an upfront tax charge for the full amount, when it could instead be collected via PAYE from the new employment.

- 8.4 A further example where the automatic generation of PAYE codes causes issues is with employment expenses – these are often rolled forward from one year's PAYE code to the next, even where they are no longer relevant.

At worst, adjustments for employment expenses can be manually removed but then automatically reinstated – e.g. an employee has allowable employment expenses in one job, but changes job in May 2022 and the expenses are no longer relevant. The adjustment is manually removed from the employee's PAYE code at their request in May 2022. In June 2022 the employee files their 2021/22 tax return, which covers the period of their former employment and therefore includes the allowable employment expense. The employee's 2023/24 PAYE code is automatically updated to add the employment expense back in based on the 2021/22 tax return, despite it having been manually removed in May.

This demonstrates that automatic updates to PAYE codes based on data feeds do not necessarily result in more accurate tax collection. A manual review of the code will often be required rather than relying solely on automated data feeds which do not contain enough information to give the full context. The facility for taxpayers and agents to be able to review and amend PAYE codes via the SCA is essential.

- 8.5 The examples in 8.2, 8.3 and 8.4 are intended to demonstrate that speeding up information flow between employers, employees and HMRC when employees have a change of circumstance is not always beneficial and will not necessarily result in more accurate taxation of employees.

Combined with the issues raised in our response to Question 7, we believe HMRC should not delegate responsibility for improving the PAYE process to employees or rely on increasing data sources or speed. Manual intervention in PAYE coding by HMRC and agents will inevitably be required in some instances, and HMRC must ensure sufficient resource and expertise are available to deal with these situations.

9 **Question 7: In what ways could advances in Information Technology allow for an alternative to the tax code or more real time interaction between employer, employee and HMRC to ensure that tax and employee NICs deductions keep pace with changes as efficiently as possible?**

- 9.1 As noted in 2.5, we urge HMRC not to overestimate the extent to which taxpayers are able or informed enough to engage in providing updates to HMRC/employers on their circumstances and improving the flow of tax/PAYE coding information.

Our members report a significant majority of their clients lack the knowledge or awareness to correlate changes in circumstances with changes in their tax deductions. Furthermore, it must be remembered that our members' clients are likely to have more need to engage with HMRC than much of the taxpayer

population. We expect unrepresented taxpayers may be even less informed about their tax affairs, and potentially less understanding of any expectation of them to update HMRC regarding changes in their circumstances.

- 9.2 Given the above, where an agent is engaged by a taxpayer, their role is invaluable in providing a link between the taxpayer and HMRC. Agents have knowledge of their clients' circumstances and understand tax systems and can therefore act as a link between changes in a client's circumstances and their PAYE code. In the past, agents were sent copies of their clients' PAYE coding notices but this is now rarely the case. Agents also report often being unable to access PAYE codes via their agent access to a client's HMRC record, especially where the code was issued before the agent started to act. These retrograde steps have made it more difficult for agents to monitor their clients' PAYE positions and act to prevent coding errors building over the course of a tax year.

With the proposed move to digital by default for P2 forms, we urge HMRC to ensure agents are notified automatically every time a client's PAYE code changes, so they can review the change and action any issues in good time. With a digital process it should be possible for agent copies of P2 coding notices to be sent at no extra cost to HMRC.

- 9.3 The existing PAYE coding process is not perfect, but provides a basis for calculating employees' tax liabilities throughout the tax year. The onus has to remain on HMRC to review taxpayers' tax positions at the end of each year and to collect underpaid tax/issue repayments as necessary. Uncertainty arises due the variable timing and lack of formal processes around P800s, which means taxpayers cannot be certain when they will be informed of any under/overpayments arising in respect of the previous tax year.
- 9.4 Replacing the tax code with an alternative system would be a major change to the taxation of employees, and we suggest is too broad a concept to be realistically dealt with via this already wide-reaching consultation. We would be happy to engage with a bespoke consultation on that matter if the Government sees fit.

INCOME TAX SELF ASSESSMENT

10 Question 8: Would you support a change to require new ITSA registrations to be made online, with a digital by default approach to subsequent notices to file, and a requirement for annual returns to be delivered digitally?

- 10.1 We have interpreted this question as covering *all* situations requiring a new ITSA registration – e.g. new landlords, self-employed, partners, Capital Gains Tax (CGT) requirements, High Income Child Benefit Charge – and have assumed the registration process would be tailored to accommodate each situation. For instance, if the reason for registering was to declare new self-employment, the registration process should also allow the taxpayer to register as self-employed for National Insurance Contributions purposes at the same time.
- 10.2 Paragraph 4.2 of the Consultation states that “the vast majority of ITSA taxpayers go on to submit annual returns online and therefore should also be able to interact with a digital registration service”. This inference does not necessarily follow and consideration needs to be given to the role of agents here. Thousands of taxpayers have their tax returns submitted online by agents, without whom we suspect many taxpayers would be unable to interact digitally with HMRC.

- 10.3 Subject to the above points, and to accommodation being made for digitally excluded taxpayers (as per Consultation paragraph 4.5) we support a move to digital by default for new ITSA registrations. We believe this will force progress towards digitalisation, which will help reduce confusion arising from mixed-channel communication options for HMRC and taxpayers alike.
- 10.4 Regarding the expectation for a digital by default approach to apply going forward, flexibility needs to be retained to accommodate subsequent changes in circumstances which mean a taxpayer becomes unable to deal with HMRC digitally. This might be due to ill health/loss of capacity, or to a change in circumstances which means the taxpayer can no longer be accommodated through digital channels (e.g. an unrepresented taxpayer becoming non-resident, which HMRC's online filing system does not support).
- 10.5 The digital by default approach requires reliable, workable systems as well as good support being available from HMRC. Our concerns at 2.7 and 4.5-4.6 respectively apply again here.

11 Question 9: How much notice would taxpayers and agents need for this change, and how could HMRC best communicate it?

- 11.1 A transition to digital by default cannot be communicated solely by digital means. A multi-channel and largely non-digital awareness campaign will be needed to ensure HMRC reach the correct audience. Given the target audience is unlikely to already be engaged with HMRC, a public awareness campaign will be necessary (e.g. national mainstream media, together with targeted campaigns for internationally-mobile individuals) which highlights the benefits to taxpayers of going online.
- 11.2 The chosen notice period may have little impact on the actions of unrepresented taxpayers – for instance we would not expect any to register for ITSA early purely to avoid having to register digitally and subsequently engage with HMRC digitally.
- 11.3 The Consultation does not make clear the impact on agents of any change in policy for ITSA registrations. If agents' ability to register clients for ITSA is to be affected, we would ask that agents and professional bodies are given as much notice as possible. The minimum required notice period would depend on the time of year when the change was introduced, and how close this was to the current ITSA registration deadline of 6 October.
- 11.4 There are certain registrations which agents cannot currently complete digitally – e.g. new partnerships and new partners. This facility should be introduced as part of the move to digital by default for ITSA registration.
- 11.5 We would like to see HMRC focus less on digitalising particular forms, and more on reviewing processes as part of digitalisation. For instance combining a facility for agent authorisation as part of the digital by default ITSA registration process. This would remove the need for a taxpayer to wait for a UTR to be issued before they can authorise an agent to correspond with HMRC on their behalf.

From HMRC's perspective, if an agent authorisation could be set up simultaneously with ITSA registration, this should, subject to sufficient taxpayer authorisation being built in to the process, avoid the current two-stage system of having to deal with a 64-8/digital authorisation request at a later date. It would also streamline the facility for correspondence to be copied to agents, as requested in 2.6.

12 Question 10: HMRC would like to better understand the difficulties taxpayers and their representatives experience when navigating the [ITSA registration] criteria. Do you agree these are the main issues? Where possible please rank in order of magnitude/impact.

12.1 The ATT's response³ to the HMRC "Call for evidence on Income Tax Self-Assessment ('ITSA') registration for the self-employed and landlords" indicated mixed views as to how well understood the current ITSA registration requirements are. Based on our feedback to that document, there is clear scope to improve understanding of the ITSA registration criteria.

12.2 We believe the issues identified in paragraph 4.24 of the Consultation encompass the main difficulties in this area and would rank them in the following order. We have commented further on each below.

1. Thresholds
2. Legislation
3. IT systems
4. Guidance

12.3 Thresholds

The *Check if you need to send a Self Assessment tax return* tool⁴ sets out non-statutory requirements for ITSA registration. Using this tool can provide misleading results due to the arbitrary thresholds used.

For instance, the tool states that a tax return is not required if savings/investment income is under £10,000, and gives an instruction⁵ to "tell HMRC if you had ... between £1,000 and £2,500 in any other untaxed income ... You do not need to send a return for this. You can either:

- [check your Income Tax](#) and go to 'Tell us about a change'
- [call HMRC](#)"

This does not make the user aware that a tax liability is likely to arise on the income.

The same tool also reports that a tax return is not required when any other untaxed income, such as commission or money from renting out a property is between £1,000 and £2,500, without giving any indication that tax is likely to be payable.

While intended as a simplification, pushing individuals towards calling HMRC to report small amounts of income rather than completing a return means that HMRC's view of who should be in Self-Assessment appears to be inconsistent with the relevant legislation.

We believe it would be helpful for HMRC to first define and clarify exactly who they want in Self-Assessment, as this is not the same as who the legislation establishes as in scope (i.e. anyone who is chargeable to income tax or CGT and has an actual tax liability). HMRC's position and the legislation should be unified, before any changes to the registration guidance are considered.

Finally, we agree the threshold of £100,000 of income, regardless of its nature, should result in an ITSA registration requirement, but note that this has increased to £150,000 for 2023/24 since the Consultation was issued. The £100,000 threshold helps to ensure taxpayers' liabilities are calculated using the correct tapered Personal Allowance (PA), as well as informing wider implications such as eligibility for childcare support.

³<https://www.att.org.uk/sites/default/files/220321%20ITSA%20Registration%20for%20SE%20and%20landlords%20-%20ATT%20response%20website.pdf>

⁴<https://www.gov.uk/check-if-you-need-tax-return>

⁵<https://www.gov.uk/check-if-you-need-tax-return/yes/no/less-than-50-000/no/no/none-of-these/no/no>

The £150,000 Self-Assessment threshold for 2023/24 will not allow taxpayers with income closer to the £100,000 PA taper threshold to have their PA entitlement verified via a tax return. For example, details of any non-PAYE income will not be known, potentially resulting in the personal allowance being too generous. Dividends or savings income within the relevant dividend/savings allowance will not give rise to a tax liability in themselves, but should result in a restricted personal allowance. This is unlikely to be identified without tax returns being required where income is between £100,000 and £150,000. Conversely, taxpayers making personal pension contributions (outside payroll) or Gift Aid payments may overpay tax due to these outgoings not being recognised in their PAYE code. Again, requiring anyone earning over £100,000 to submit a tax return should avoid this issue.

Given the above complications where income is over £100,000 (but not necessarily over £150,000) it was very disappointing to see this change announced without any apparent consultation.

12.4 Legislation

The thresholds set by HMRC for who should in in ITSA need to be harmonised with legislation (or vice-versa), as highlighted in 12.3 above.

Updating the ITSA registration requirements in legislation would not in itself be sufficient. Guidance from HMRC will be needed to interpret the legislation and make it available to taxpayers.

12.5 IT systems

Expanding the range of services available via IT systems should result in more accurate collection of taxes, and help reduce the number of taxpayers who need to register for Self-Assessment. For instance, if employees (and, where relevant, their tax advisers) had access to report small amounts of untaxed income (e.g. bank interest/dividends) via their SCA, with the resulting tax liability collected via PAYE, those individuals would not then need to register for Self-Assessment.

Making this facility available to taxpayers and agents, rather than relying on either party calling HMRC, should improve the take-up of this method of collecting tax underpayments. It would also reduce demand on HMRC's phone lines, freeing up capacity to make it easier for the digitally excluded to contact HMRC to arrange the same type of adjustment to their PAYE codes.

12.6 Guidance

We have ranked guidance after legislation in importance because in the event of a dispute, the Courts will always look to the law. While there will always be a need for guidance, as very few people will be minded to read legislation, guidance will be easier to produce if based on well-designed legislation.

The current guidance available on Gov.uk (predominantly <https://www.gov.uk/check-if-you-need-tax-return> and <https://www.gov.uk/self-assessment-tax-returns/who-must-send-a-tax-return>) is user-friendly for the digitally capable.

However, it is neither comprehensive, nor consistent with legislation (see 12.3 above), nor available to the digitally excluded. These areas should be resolved, but the *Thresholds* point in 12.3 needs to be addressed as the first step.

12.7 Summary

We suggest the existing ITSA registration requirements (thresholds) set by HMRC should be reviewed against the legislation, with the two brought into line. This may include updating legislation, if required, to reflect who HMRC consider should be in or out of Self-Assessment.

Once the HMRC thresholds and legislation are consistent, guidance can be updated to assist taxpayers in navigating the ITSA registration requirements. IT systems have a role to play here, but the digitally excluded should be equally well catered for in terms of guidance and assistance from HMRC.

13 Question 11: What other difficulties do taxpayers face in understanding and navigating the ITSA criteria?

13.1 The overarching issue for many taxpayers is the complexity of the tax system itself. The obligations are complex, and then there are a range of different systems dealing with individuals' tax positions which they need to interact with to get their tax right - e.g. PAYE, Self-Assessment, Simple Assessment, R40 repayment claims. It is often unclear to taxpayers when their circumstances mean they need to move either into or out of ITSA.

13.2 Non-income based factors further complicate the ITSA criteria, such as the High Income Child Benefit Charge, pension annual allowance charges and student loan repayments on non-employment income. None of these are addressed well by the current ITSA registration guidance.

13.3 CGT obligations further complicate matters – for instance for UK residents, many residential property disposals giving rise to a CGT liability have to be reported to HMRC within 60 days of completion and an estimated amount of tax paid at that point. Depending on the taxpayer's circumstances, this report may be sufficient and the individual may not always need to register for Self-Assessment but this is not always the case. In contrast, share disposals are only returned via an annual Self-Assessment return with all tax payable by the following 31 January. There does exist a Real Time Transaction service which allows taxpayers to report gains in-year, but it is little known and not available to agents so of limited benefit to their clients.

13.4 Tax residency and tax domicile can also create complexity for an individual's ITSA registration obligations. In most cases we suspect these individuals have to seek professional advice in order to understand their ITSA obligations.

14 Question 12: What additional complexity exists for taxpayers who are navigating multiple criteria or for those whose circumstances change frequently? Where possible please give examples, including how you think HMRC can resolve the issues.

14.1 Taxpayers whose circumstances mean they may have occasional, but not annual, Self-Assessment filing obligations face additional complexity in having to record/recollect their changing circumstances for each year and apply the Self-Assessment criteria to each year's position. This relies on accessing and understanding HMRC guidance which, as detailed in our response to Question 10, can be unclear.

14.2 For example, a taxpayer in receipt of an occasional bonus which brings their adjusted net income over £50,000, who would need to consider the need to file a return to pay the High Income Child Benefit Charge for some but not all tax years. The same would apply for a taxpayer for whom an occasional bonus brought their adjusted net income over the (pre-2023/24) £100,000 Self-Assessment requirement.

14.3 In many cases, those with changing circumstances which mean tax returns are required in some but not all years find it easier to remain in Self-Assessment to avoid the need to register/deregister and contact HMRC

to cancel or request tax returns. Even in years when a tax return is not technically required, the 'round up' facility explained in 14.4 is also valuable.

- 14.4 Paragraph 4.22 of the Consultation queries why "many taxpayers who do not meet the criteria ... exercise the right to send a tax return even though they do not have a liability". This is an important question, which does not appear to be explicitly asked. We believe many taxpayers value the Self-Assessment process as a 'round up' of the tax year as a whole, allowing them to report all sources of income and all claims for relief to ensure they have paid the correct amount of tax.

The alternative P800 process relies on HMRC to carry out the calculation based on their records, which the taxpayer has no sight of or control over and which can be difficult or time consuming for the taxpayer to get corrected.

Taxpayers who are due a repayment often prefer submitting a tax return, as they or their agent have control over when the return is submitted to trigger a repayment request. By comparison, the P800 process rests with HMRC and taxpayers cannot know when their tax position might be reviewed and their repayment issued.

For taxpayers owing money, remaining in Self-Assessment allows the taxpayer to make a one-off payment of any tax due, rather than having this collected via their PAYE code up to two years after the year to which it relates.

From our members' perspective, the Self-Assessment process is accessible and easier to monitor as an agent. By contrast, the alternative P800 or R40 processes do not allow agents any access to their clients' HMRC records and are therefore much more difficult to use as a basis from which to deliver good service to clients. For these reasons, agents may prefer clients to be in Self-Assessment even if technically not required. Where clients' circumstances are changeable, agents are also likely to leave that individual in Self-Assessment rather than incur the administrative time and costs of cancelling/requesting tax returns from year to year.

15 Question 13: Are these the right changes and opportunities to be considering? Are there others?

- 15.1 Our responses to Questions 14 and 15 address each of the proposed areas for change. We have no other suggestions for areas to address.

16 Question 14: In what way will each simplify things for taxpayers?

- 16.1 Clear, simple and well-designed thresholds would be easy for taxpayers to understand and follow, reducing the amount and complexity of guidance required. For example – the current requirement for a Self-Assessment return once income reaches £100,000 (or £150,000 for the 2023/24 tax year) is simple and easy to follow. By contrast, the thresholds around property/interest income identified in 12.3 are much less straightforward.
- 16.2 Legislation (1) – legislating the Self-Assessment criteria would create clear and unambiguous registration conditions. However, given the current complexities around registration thresholds identified in 12.3, there would need to be significant simplification of the triggers for registration in order for these to be legislated. Any legislative instrument used to create an obligation to file a tax return would need to be sufficiently flexible to allow for updates to be made in a timely manner as circumstances change – for instance, the rise of crypto assets has created tax complexities which did not exist even a relatively short time ago. Finally, revised

legislation would require updated guidance from HMRC, consistent with the legislation, to make it accessible to the public. This would also need to be provided in formats suitable for digitally excluded taxpayers.

- 16.3 Legislation (2) – “a list of criteria that sets out when taxpayers need to engage with an Income Tax digital service, which would then determine the appropriate course of action” (Consultation paragraph 4.25) would have to be sufficiently broadly worded in legislation as to direct most taxpayers to that digital service (e.g. those with small amounts of bank interest/sundry income).

Two concerns arise here:

- i) the reliance on the digital service to advise the required course of action (see comments under 12.3 regarding the advice generated by the current system for dealing with non-PAYE income).
 - ii) the need for a non-digital alternative which is of equal quality and consistency of outcome. This may place additional burden on HMRC in dealing with phone calls for the digitally excluded requiring HMRC operatives to go through the digital process on behalf of the taxpayer.
- 16.4 Improved IT systems which allow the majority of taxpayers to self-serve online should facilitate tax compliance and make processes more efficient. Some taxpayers will lack the ability to use such systems, and there remains a risk that taxpayers will make errors which may be automatically processed and require correction later. For these reasons, HMRC staff will need to be able to support taxpayers (as noted in 4.6) and there will need to be alternative processes of equal standard to support the digitally excluded.
- 16.5 Better guidance should interpret the legislation and registration thresholds into more ‘user friendly’ language, making these easier for taxpayers to access, understand and apply to their circumstances. This would promote clarity, reduce accidental non-compliance and increase taxpayers’ confidence in ‘self-serving’ through digital channels.

17 Question 15: Which are better? Could you rank in order of preference or greatest improvement?

- 17.1 We consider the order of importance of these areas to be identical to our response to Question 10:

1. Thresholds
2. Legislation
3. IT systems
4. Guidance

Thresholds and legislation are inherently interlinked and should be consistent. Thresholds should be made clear via HMRC’s messaging around Self-Assessment (digital and non-digital). We consider guidance follows on as if (1) and (2) are clear and unambiguous, guidance will be easier to write. Sensible thresholds written into clear legislation should be the priority, as legislation forms the basis of obligations for taxpayers and HMRC, and will be interpreted to determine which party is right or wrong in the event of a dispute.

IT systems should allow taxpayers with simpler affairs which do not require full Self-Assessment returns to self-serve in order for the correct tax to be collected, e.g. via updating PAYE codes through the SCA.

18 Contact details

- 18.1 We would be pleased to join in any discussion relating to this Consultation. Should you wish to discuss any aspect of this response, please contact atttechnical@att.org.uk.

The Association of Taxation Technicians

19 Note

- 19.1 The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has more than 9,500 members and Fellows together with over 5,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.