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INCOME TAX SIMPLIFICATION

Budget Representation by Association of Taxation Technicians in respect of the Autumn Budget 2024

1 Introduction

1.1 Following the abolition of the Office of Tax Simplification, the previous Chancellor of the Exchequer set a mandate to officials in the Treasury and HMRC to focus both on the simplicity of new tax policy design and on simplifying existing tax rules and administration¹. Whilst the current Government has not yet made clear its stance on tax simplification, we would support ongoing efforts to simplify the tax system for the benefit of taxpayers and HMRC alike. Accordingly, we recommend four simplification measures relating to income tax and Self-Assessment. We consider these would both make systems simpler to understand and easier to comply with for taxpayers while reducing administrative burdens on HMRC.

1.2 Our recommendations are as follows:

1. Provide an enduring 'opt-in' to Income Tax Self-Assessment (SA)
To simplify the position for taxpayers who would prefer to file tax returns despite not being obliged to under HMRC's existing criteria.
2. Simplify jointly-owned property rules
Align the income tax treatment of assets jointly owned by co-habiting spouses/civil partners with that applying to other joint owners, to simplify the position by removing this differentiation in treatment and to avoid unnecessary side effects of abolishing the Furnished Holiday Lets regime.
3. Relax the rules on carrying back Gift Aid donations
Allow carry back of Gift Aid donations to the previous tax year via amendments to that year's tax return, to remove an unnecessary complication, to increase flexibility, and to remove a potential obstacle to charitable giving.
4. Remove income covered by the savings allowance and dividend allowance from the calculation of Adjusted Net Income
This would align the treatment of income covered by the savings allowance and dividend allowance with income covered by the property and trading allowances for the purposes of the Adjusted Net Income calculation. The result would be reduced complexity for taxpayers, and fewer tax coding adjustments for HMRC to make.

¹ <https://committees.parliament.uk/publications/34633/documents/190670/default/>

- 1.3 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.

2 Recommendation 1: Provide an enduring 'opt-in' to Income Tax Self-Assessment

- 2.1 In 2023, two changes were announced affecting when a tax return needs to be filed where a taxpayer has PAYE income only, and no other reason to be in SA (such as self-employment or letting income).

In May 2023, HMRC announced² that the SA threshold for taxpayers with PAYE income only would rise from £100,000 to £150,000 for 2023/24 tax returns. This was followed at Autumn Statement 2023 by a further relaxation³, abolishing the £150,000 threshold with effect from 2024/25 tax returns.

- 2.2 The ATT has previously expressed concern about both the first⁴ and second⁵ changes to the SA thresholds, highlighting the risk of taxpayers being removed from SA and inadvertently paying the wrong amounts of tax as a result.
- 2.3 Our members report that taxpayers often prefer to continue filing SA returns, even though they are not strictly obliged to, in order to ensure they pay the correct amount of tax. For taxpayers with agents, it allows their agent to review their overall tax position rather than relying on HMRC's piecemeal approach. It also allows taxpayers to manage the timing of finalising their tax affairs for each year, as otherwise they need to wait for HMRC to complete an annual reconciliation which can occur any time between July and October.
- 2.4 For example, many higher earners will exceed their personal savings allowance (or not be entitled to one at all if their income is over £125,140). Tax due on bank interest received can theoretically be collected via PAYE, but this relies on an opaque matching process within HMRC, of which the taxpayer has no visibility. Taxpayers cannot easily see a list of which bank accounts HMRC has matched to them. Accordingly, identifying and resolving any errors in this process can take more time and effort than filing a SA return to declare the interest.

Errors in HMRC's calculation of an individual's tax liability can also arise due to:

- A lack of detail regarding dividend income, which is not automatically reported to HMRC
- Omitted or inaccurate estimates of personal pension contributions or Gift Aid donations
- Incorrect personal allowance entitlement where income fluctuates around £100,000 and/or ad-hoc Gift Aid or pension tax reliefs affect the available personal allowance.

- 2.5 Individuals affected by the SA threshold changes referred to in paragraph 2.1 are generally removed automatically from SA by HMRC. Those wishing to exercise their right⁶ to continue filing tax returns then have

² <https://www.gov.uk/government/publications/agent-update-issue-108/issue-108-of-agent-update>

³ <https://www.gov.uk/government/publications/autumn-statement-2023/autumn-statement-2023-html>

⁴ <https://www.att.org.uk/technical/news/hmrc-change-means-some-high-earners-wont-pay-right-amount-tax> and <https://www.accountancyage.com/2023/08/07/self-assessment-threshold-change-solution-or-problem/>

⁵ <https://www.att.org.uk/technical/news/rule-change-could-mean-people-pay-wrong-amount-tax> and <https://www.accountingweb.co.uk/tax/personal-tax/self-assessment-thresholds-if-it-aint-broke-dont-fix-it>

⁶ <https://www.legislation.gov.uk/ukpga/2003/1/section/711>

to arrange with HMRC each year for a notice to file to be issued. Following submission of that return, they are then likely to be automatically removed from SA again, and so the cycle goes on.

- 2.6 Whilst digital services have improved for unrepresented taxpayers in this respect, agents still have no ability to request a tax return online for their clients via their digital accounts, and need to either call HMRC to request one on behalf of their clients, or re-register that client for Self-Assessment. The need to re-register is problematic and not widely understood, and tax return processing issues can arise where taxpayers or their agents file returns voluntarily (ie without a notice to file having been issued by HMRC).
- 2.7 To avoid this cycle of SA registration and automatic de-registration, the ATT would like to see an enduring facility to opt-in to SA, which would override the automatic removal process for those not meeting the SA filing criteria.

It should be possible to make the opt-in election both digitally and via other means, with equal access for authorised agents to do so on behalf of their clients. Once in place, the election should endure until the individual or their agent revokes it.

3 Recommendation 2: Simplify jointly-owned property rules

- 3.1 For simplicity, in this section we refer to marriage, spouses and married couples, and assume they are living together, but this recommendation should be read as applying equally to cohabiting civil partners.
- 3.2 Where property is jointly owned by a married couple who are living together, under ITA 2007 s836, any income arising from that property is, by default, deemed for tax purposes to be split 50:50 between the owners – regardless of their actual, underlying beneficial entitlement.

This mainly affects land and buildings, but references to property should be read as applying equally to other assets such as bank accounts. This is subject to certain exclusions specified in current legislation⁷.

- 3.3 By way of contrast, income arising to unmarried joint property owners is generally divided for income tax purposes based on each party's beneficial ownership of that property. HMRC Manual PIM1030⁸ also states that:

“joint owners can agree a different division of profits and losses and so occasionally the share of the profits or losses will be different from the share in the property. The share for tax purposes must be the same as the share actually agreed.”

- 3.4 The inconsistent treatment between married joint owners and unmarried joint owners complicates the tax treatment and is, we believe, poorly understood.
- 3.5 Our recommendation is to remove the provisions giving rise to a deemed 50:50 split of income for married couples. Subject to an alternative agreement (paragraph 3.3), this would result in spouses being liable to income tax based on their beneficial interest in the underlying asset, as is the case for unmarried joint owners.

⁷ <https://www.legislation.gov.uk/ukpga/2007/3/section/836>

⁸ <https://www.gov.uk/hmrc-internal-manuals/property-income-manual/pim1030>

- 3.6 This will be of particular relevance from 6 April 2025 if abolition of the Furnished Holiday Lettings (FHL) regime⁹ goes ahead as proposed, since FHLs will then be brought within the same deemed ownership provision as other properties.

In the absence of reforms to the joint-ownership rules, from 6 April 2025 married owners of (former) FHLs where the beneficial ownership is unequal will need to make a declaration via Form 17 in order for their liability to tax on the income to continue to reflect their beneficial ownership.

- 3.7 Form 17 cannot be backdated and must be submitted to HMRC within 60 days. We suspect many FHL owners are unlikely to be aware of the implications of ITA 2007 s836 and the need to promptly file a Form 17 to continue declaring the same split of income as before 6 April 2025.
- 3.8 This recommendation was also submitted as an ATT representation in advance of Autumn Statement 2023¹⁰, but the planned abolition of FHLs adds additional urgency.
- 3.9 These changes could also reduce work for HMRC, who will otherwise be likely to receive an increased number of Form 17 submissions after 6 April 2025.

4 Recommendation 3: Relax the rules on carrying back Gift Aid donations

- 4.1 ITA 2007 s426 permits taxpayers to make an election for a Gift Aid donation to be treated as having been made in the previous year.

- 4.2 This facility was introduced by FA 2002 s98 and is subject to two main conditions:

- i. The taxpayer must have sufficient taxable income and chargeable gains in the earlier year to cover the additional tax relief available as a result of carrying back the Gift Aid payment; and
- ii. According to ITA 2007 s426(6), the election must be made:
 - “(a) on or before the date on which the individual delivers a return for year P under section 8 of TMA 1970 (personal return), and
 - (b) not later than the normal self-assessment filing date for year P.”¹¹

(where “year P” is the earlier year)

- 4.3 In respect of the conditions in ITA 2007 s426(6), it was confirmed in the FTT case *Cameron v HMRC*¹² that the “date on which the individual delivers a return for year P” refers to the date on which they file their *original* return. The *Cameron* case therefore established that claims to carry back Gift Aid donations cannot be made via an amendment to the earlier year’s return.
- 4.4 Whilst Judge Charles Hellier in *Cameron* appears to have been broadly satisfied with this position, he did note that the option to make Gift Aid carry back claims only via the original tax return, was “an odd stipulation and one for which no clear policy may be evident”¹³.

⁹ <https://www.gov.uk/government/publications/furnished-holiday-lettings-tax-regime-abolition>

¹⁰ <https://www.att.org.uk/technical/submissions/autumn-statement-2023-representation-jointly-owned-property>

¹¹ <https://www.legislation.gov.uk/ukpga/2007/3/section/426>

¹² <https://www.bailii.org/uk/cases/UKFTT/TC/2010/TC00415.html>

¹³ <https://www.bailii.org/uk/cases/UKFTT/TC/2010/TC00415.html#:~:text=the%20circumstances%20an,-odd%20stipulation,-and%20one%20for>

- 4.5 Our members report that the ability to carry back Gift Aid payments is useful when advising their clients, but that the inability to claim it via an amended return for the earlier year can be restrictive.

Examples include when a Gift Aid donation was not anticipated at the time the earlier year's return was filed, but made later and, if carried back, could reinstate an individual's personal allowance or save them from liability to the High Income Child Benefit Charge. A well-advised individual may be able to plan for these situations. Someone who is not, and who files their return before spotting the opportunity, cannot then change their position or preserve benefits by making a charitable donation.

- 4.6 As a result of Basis Period Reform¹⁴, self-employed individuals with accounting periods which differ to the tax year are likely to need to file amended returns each year to correct previous estimates which were filed based on provisional accounts.

The option to carry back Gift Aid payments as part of submitting those amendments will be particularly valuable, as their final tax position will not be known at the time the original (estimated) return is submitted.

- 4.7 Whilst our members should be familiar with the restriction on carry back, we suspect it is less well known by unrepresented taxpayers, who may try to make ineligible claims (as in the *Cameron* case), thereby causing unnecessary work for HMRC in challenging and overturning those claims.

5 Recommendation 4: Remove income covered by the savings allowance and dividend allowance from the calculation of Adjusted Net Income

- 5.1 Adjusted Net Income (ANI) is an important concept for income tax, determining (at least to some extent) an individual's eligibility for (amongst other things) married couples allowance and tax-free childcare. It also dictates whether they might be liable to the High Income Child Benefit Charge (HICBC) or subject to tapering of their personal allowance.

- 5.2 The calculation of ANI is defined by ITA 2007 s58 as beginning with *Net income*, as calculated in Step 2 of ITA 2007 s23, which in turn is based on *total income* – i.e. “the amounts of income on which the taxpayer is charged to income tax for the tax year”.

Total income therefore includes all savings and dividend income, other than any from exempt sources such as ISAs.

- 5.3 By contrast, up to £1,000 of property income can be excluded from the charge to income tax under ITTOIA 2005 Part 6A, Chapter 1 and a similar exemption applies to trading and other income by virtue of ITTOIA 2005 Part 6A, Chapter 2. The reliefs under these chapters are commonly called the property allowance and trading allowance respectively.

Where the property or trading allowance applies, up to £1,000 of the relevant income type is relieved from tax. It therefore does not form part of *total income* at all, and so does not impact the items referred to in paragraph 5.1 (amongst others) which are tested against ANI.

Where their property/trading income exceeds the relevant allowance, a taxpayer can elect either to exclude £1,000 of it from the charge to income tax under ITTOIA 2005 Part 6A, or to not claim the property/trading allowance and deduct expenses in the normal way. If they choose the former, only the excess over the

¹⁴ <https://www.gov.uk/government/publications/basis-period-reform/basis-period-reform> and <https://www.gov.uk/guidance/get-help-with-basis-period-reform>

£1,000 allowance forms part of *total income*. If they choose the latter, their net property/trading income after allowable expenses is counted in *total income*.

- 5.4 This differentiation between small amounts of savings/dividend and property/trading/other income creates unnecessary complication in the tax system.
- 5.5 For a higher rate taxpayer with, say, £60,000 of PAYE income, £400 of gross trading income and £400 of savings interest, neither the trading income nor the interest income results in a tax liability in its own right as they are covered by the trading allowance and savings allowance respectively.

However, that taxpayer will need to remember that the trading income does not count towards their ANI, whereas the savings interest *does*. This could impact whether they need to register for SA, for instance to declare liability to HICBC.

- 5.6 If that taxpayer's PAYE income were £100,000 rather than £60,000, again neither the trading income nor the interest income results in a tax liability in its own right. However, the £400 of savings interest would result in a restriction to their personal allowance, whilst the £400 of trading income would not.
- 5.7 To simplify matters, we suggest the personal savings allowance and dividend allowance should be treated in the same way as the property allowance and trading/other income allowance – ie income falling within the allowance is exempt from tax, does not count towards ANI and does not need to be declared to HMRC.

Equally, where savings/dividends exceed the relevant allowance, only the excess (ie the amount which is taxable) should be counted in ANI.

- 5.8 This would not only simplify the position for taxpayers, but would also reduce the number of PAYE coding adjustments and Simple Assessments HMRC would have to administer.

For instance, in the example above of a taxpayer with £100,000 of PAYE income, £400 of savings interest and £400 of gross trading income, no SA return should be required and no tax is payable on the non-PAYE income. However, HMRC would still need to adjust the taxpayer's PAYE code to restrict their personal allowance by £200 due to the £400 of interest income being included in ANI.

If savings interest within the personal savings allowance were discounted for ANI purposes, no such PAYE coding adjustment would be needed.

- 5.9 This suggestion would also reduce the number of taxpayers identified under Recommendation 1 who currently choose to file SA returns despite not meeting HMRC's SA criteria.

The taxpayer in paragraph 5.8 might currently choose to file an SA return each year to ensure their personal allowance adjustment was dealt with correctly. But if their savings interest no longer counted towards their ANI, no such adjustment would be needed, so there would be no reason to file an SA return. This would further benefit HMRC by reducing the number of SA returns they have to deal with.

6 Contact details

- 6.1 We would be pleased to join in any discussion relating to this representation. Should you wish to discuss any aspect of this representation, please contact the ATT Technical Team on atttechnical@att.org.uk.

The Association of Taxation Technicians

05 September 2024

7 Note

7.1 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 10,000 members and Fellows together with over 7,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.