SHIFTING SANDS OF UK TAX POLICY AND THE TAX BASE:
A CALL FOR EVIDENCE
Response by the Association of Taxation Technicians

1 Introduction

1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to respond to the call for evidence on the Shifting sands of UK tax policy and the tax base, in respect of the inquiry launched by the Treasury Committee on 27 January 2016.

1.2 The Treasury Committee has asked us to consider a number of points within five broad categories:-

(i) The making of tax policy.

(ii) The problem of the shrinking tax base.

(iii) Radical solutions to the problem of the shrinking tax base.

(iv) Other mitigations of the problem of the shrinking tax base (addressing tax avoidance and non-compliance).

(v) The administration of tax.

1.3 Whilst we have not considered every question the Treasury Committee posed in its Terms of Reference, under each of the above five categories, we are able to provide some general commentary, which we will set out in detail at section 2. However, in summary, we would highlight the following key points:-

- It often seems that policy has been created as a result of ‘knee-jerk’ reactions to gain political points rather in the interests of keeping the tax system simple and fair. (See section 2.1.2).
There are concerns about the rapid pace in which tax policy and tax legislation is sometimes brought into effect, giving taxpayers little time to become aware of the changes and how they will affect them in practice. (See section 2.1.5).

HMRC and the Government need to be mindful of taxpayers who are non-compliant at present due to difficulties with understanding the tax system or fear over contacting HMRC and that this effect could potentially worsen under a move to digital engagement unless this sector are carefully identified and helped to bring their tax affairs up-to-date. (See section 2.4.2 & 2.4.3).

The reorganisations of HMRC and the budget cuts have had a negative impact on customer service and the administration of the tax system, as well as a detrimental impact on the relationship between HMRC and agents. (See section 2.5)

‘Making Tax Digital’ is an overly ambitious project, given the suggested timescales, and there are very genuine concerns that forcing digital record keeping on small businesses and landlords in such a short timescale will have a potentially disastrous effect on the UK tax system. (See section 2.6)

There are a number of issues within the administration of the VAT system which are causing frustration to taxpayers and practitioners alike, including, rather importantly, the inability to obtain dependable advice from HMRC or the National Advice Service. (See section 2.7).

2 Our detailed comments

2.1 The making of tax policy

2.1.1 We agree with the statement by the Rt Hon Andrew Tyrie MP, Chairman of the Treasury Committee, when he said:

“The complexity of tax law is turning what should be a straightforward principle – that everybody should pay the correct amount of tax – into a piece of elastic.”[i]

2.1.2 It often seems that policy has been created as a result of ‘knee-jerk’ reactions to gain political points rather than in the interests of keeping the tax system simple and fair. The recent changes to the taxation of buy-to-let landlords might seem to be a reaction to social media comments on the unavailability of housing for first time buyers. It seems baffling that it should be ‘fair’ to tax income at 40% but only allow relief on mortgage expenses at 20%. In a situation where the income only covers the mortgage interest a landlord will be taxable when he or she has made no actual taxable profit to pay the tax from and will, in many cases, have to pay the tax on the rental income from other income which has already been taxed – i.e. salary or
2.1.3 When we consider whether tax policy is providing stability and certainty we would point to the policy making in respect of the Annual Investment Allowance (AIA) in recent years and its many fluctuations. This has created major uncertainty for business planning and added great complexity to the actual calculation of the amount of the AIA available, especially where accounting years straddle tax years.

2.1.4 When policy is written or re-written to close loopholes, not enough consideration is given to real life situations and the practicalities of implementing the complex legislation. This quite often results in the legislation catching those who should never be caught, such as charging the higher 3% rate of Stamp Duty Land Tax on those who find themselves in a bridging loan situation when they only ever intend to replace their main residence.

2.1.5 On a similar note, we are also finding that tax policy and legislation is often brought in at such a pace after first being announced that we have concerns about the level of awareness amongst the general taxpaying public of the changes that are being made and are due to come into effect imminently. Recent examples of this would be the Personal Savings Allowance, the Dividend Allowance and the higher rate of Stamp Duty Land Tax on purchases of additional residential properties. All of these examples represent significant changes to the UK tax system, due to come into force this April, and yet there has been minimal publicity done around this to make taxpayers aware of the impact.

2.2 The problem of the shrinking tax base

We have no comments to provide under this section, but please refer to our comments under section 2.3.

2.3 Radical solutions to the problem of the shrinking tax base

2.3.1 We believe that the whole system of corporation tax and profit extraction would benefit from a complete review but this needs to be done in a systematic way, looking at all possible scenarios, not again in a ‘knee-jerk’ way. We should be avoiding the situation where policy is introduced in haste without the full effects being thought through properly. For instance, in recent months we have seen the introduction of legislation to restrict Entrepreneurs’ Relief on the disposal of goodwill when a business incorporates, only for this tax policy and legislation to be reversed shortly afterwards This kind of action from the Government does nothing to aid the ability of taxpayers to understand their obligations under the UK tax system nor provides certainty for individuals and businesses, which can only be to the detriment of the UK’s economic welfare.
2.3.2 In relation to major corporations like Google, we worry that newspaper headlines are also having an influence on the making of tax policy. However, constantly adding new measures only adds more complexity when there may be a simple answer in just amending the existing Corporation Tax legislation. It does need to be remembered that major corporations do pay National Insurance contributions, VAT and employ many people in the UK who will be paying UK income tax. Any measures targeted against them should be balanced against the possibility of affecting the taxes they do pay and contribute in the UK.

2.4 Other mitigations of the problem of the shrinking tax base (addressing tax avoidance and non-compliance)

2.4.1 Our comments in this section will focus mainly on the question posed by the Treasury Committee in The Terms of Reference; ‘What, if anything, should be done to maintain or improve a culture of compliance or a sense of tax morality among the full range of taxpayers?’

2.4.2 We think that there is a significant number of taxpayers who are not trying to or wanting to avoid paying tax, but have just failed to get to grips with the tax rules – which is understandable if not represented by an agent. For example, with the increase in the personal allowance over recent years a lot of people feel they are not subject to tax when in fact they are. If such people then get into an underpayment position and become aware of their error they do not know how to admit or notify HMRC of the liability and, in many cases, are afraid of the consequences. They take the ‘bury their head in the sands’ approach. Encouraging these people to come forward is vital but many view HMRC as not being sympathetic to their situation.

2.4.3 The scale of HMRC’s digital plans, whilst having potential benefits elsewhere, will probably do little to encourage the taxpayers mentioned at 2.4.2 above into coming forward when they may not be digitally engaged or competent. It will be a key challenge for HMRC, we think, to design its assisted digital plans in a way that will capture the people that should be reporting but are afraid or too confused to come forward for help.

2.4.4 As regards the introduction of initiatives like GAAR and DOTAS, we believe that they have probably slowed the pace of new tax planning schemes but as long as UK tax legislation remains complex there will still remain opportunities for those who wish to take the risk.

2.5 The administration of tax – impact of reorganisations of HMRC

2.5.1 In our opinion, there has been far too much tampering with HMRC which has made it unproductive and inefficient. The department is under-resourced and has lost many skilled
staff in recent years. We believe that this has been a false economy, and may have affected the tax gap.

2.5.2 The training of the staff on the telephones can be of a poor quality and that is aside from the problems that can be experienced in actually getting through on the telephone. There can also be major delays in replying to letters. We know that HMRC are aware of problems with the service provided by telephone and post and have been working with the agent community to find solutions. However, we are concerned that the numerous budget cuts leave HMRC with no real solutions to resolve issues. With limited resources any improvement in one area may have to come at a reduction in another area as resources are simply moved around. Long-term investment in HMRC needs to be made a priority by the Government, rather than continuing with cuts year on year.

2.5.3 The reorganisation within HMRC has had a negative impact on the relationship that advisors had with HMRC. When there were local offices and local inspectors there was a much greater degree of cooperation. It now feels that, rather than working together, there is a risk of unwanted and unnecessary tension between both parties. Many agents express the view that HMRC and the Government are giving the impression that advisors are trying to reduce the tax take when in reality the vast majority are trying to ensure our clients pay the correct amount. The Working Together initiative has also been affected by the reorganisations within HMRC as many local groups have now been disbanded and the replacement digital groups do not yet have the same rapport.

2.6 The administration of tax – Making Tax Digital

2.6.1 In terms of the ‘Making Tax Digital, whilst we support a move to digital tax returns as the way forward, we do have serious reservations about certain aspects of the project. For instance, we believe that the timescales as set out in the roadmap published on 14 December 2015 are far too ambitious. We also believe that quarterly filing of tax figures which will be collected by imposing digital record keeping on small businesses and landlords is out of touch with the real world and that the Government and HMRC have totally misunderstood the level of digital engagement currently going on amongst small businesses and landlords, who will be the first to be brought within the ‘Making Tax Digital’ project. We simply do not believe that the possibility of thousands of taxpayers wanting to use either software or smartphones to record or collect information is realistic and the implementation has the potential to create chaos in the tax system, especially if done within the short timescales currently suggested.
2.7 The administration of tax – the VAT system

2.7.1 We would like to make some particular comments about the administration of VAT as this has changed significantly over the last decade with most changes making it more difficult for SMEs and micro businesses.

2.7.2 SMEs face several difficulties when trying to get meaningful help from HMRC. The most common problems are as follows:

- Getting through to HMRC
- Obtaining meaningful help
- Getting an appealable decision
- Fewer VAT inspections.

It is not necessary to dwell further on how difficult it can be to contact HMRC. These problems have been documented earlier in this report at section 2.5.2.

2.7.3 Small businesses who contact the National Advice Service (NAS) for VAT advice properly expect clear and sure advice from HMRC but this is not what they receive. According to the Office of Tax Simplification, persons calling the NAS are usually ‘referred to guidance material – which has often has already been consulted…’ All this leads to the frustrating cycle of small business men and women reading HMRC guidance material, calling NAS for help with understanding it only to be referred back to it. Consequently, any advice received from NAS cannot be depended upon.

2.7.4 If a small business wants dependable advice, which is also appealable to the Tax Tribunals, it is necessary to apply in writing to the NAS Clearance Service. Each year only a tiny number of small businesses use the Clearance Service. The number of VAT registered small business which use it is less than 0.05%. Further only about half of these (0.025%) receive dependable and appealable advice from HMRC. Why they do not receive a dependable advice is because ‘there is a definite policy not to provide a clearance where the request is in essence simply seeking confirmation of the business’s view of the correct VAT treatment’. [ii]

Thus in a normal year NAS only issue an extremely small number of rulings which may be depended upon and appealed.

2.7.5 Whilst it may seem odd to suggest that fewer VAT inspections are unhelpful to small businesses, there is a negative effect on the thousands and thousands of genuine and honest taxpayers. Fewer visits mean that those who ‘play fast and loose’ with their VAT affairs are more unlikely to be found out. In turn this encourages those who are willing to take chances with their VAT affairs.
3  Contact details

3.1 We trust that you have found the comments in this report useful to your inquiry. We would be pleased to assist further if required.

3.2 Should you wish to discuss any aspect of these comments, please contact our relevant Technical Officer, Alison Ward, on 020 7340 2793 or at award@att.org.uk.

Yours sincerely

Michael Steed
Co-Chair of ATT Technical Steering Group

4  Note

4.1 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 over 7,900 members and Fellows together with over 5,800 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.

FOOTNOTES
