ICAS TAX BOARD
POLICY POSITIONS
JULY 2019
The ICAS role

ICAS (The Institute of Chartered Accountants of Scotland) is the oldest professional body of accountants. We represent over 21,000 members who advise and lead businesses. Around half our members are based in Scotland, the other half work in the rest of the UK or in almost 100 countries around the world.

ICAS has a public interest remit – a duty to act not only for its members but for the wider public good. Our technical experts work in a positive and constructive manner to advise policy makers on legislation and to raise issues of importance to our members, individual taxpayers and business alike.

Taxation is one such area of importance and ICAS has contributed, and will continue to contribute, to tax policy in Scotland, the UK and beyond.

The Tax Board’s objectives in establishing its policy positions are to:

- act in the public interest
- provide constructive input to the authorities, and
- represent ICAS members and students’ interests.

We see flaws in the UK tax system which is overly complicated, citizens cannot easily see what they are contributing, and there is a sense of unfairness. Our polices are aimed at addressing these issues.

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Introduction

Our members continue to ask for stability, certainty and significantly less change to the UK tax system. However, two factors militate against this:

- Brexit means a wider backdrop of uncertainty, and
- the implementation of significant new tax powers that have been transferred to Scotland and devolved administrations elsewhere in the UK inevitably means change and potential differentiation.

At the same time, the Making Tax Digital agenda sets out to be transformational but implementation presents significant challenges.

The ICAS Tax Board has a number of agreed policy positions, and proactive work focuses on the following areas:

- tax administration, including Making Tax Digital;
- devolution of taxes; and
- simplification of tax law and policy.

Further policy positions inform our contributions to consultations and reactive work.

In adopting its policy positions, and actively pursuing these, the ICAS Tax Board seeks to ensure that:

- ICAS and its members are highly regarded in relation to tax by all stakeholders – members, fellow professionals, employers, government, revenue authorities, and the public
- members have a clear sight of the activities undertaken on their behalf by ICAS, and
- there is a wider public understanding of tax, evidenced by:
  - more informed comment regarding tax amongst the press and public
  - unrepresented taxpayers understanding the tax system well enough to be able to comply with their obligations or able to make an informed decision that they wish to employ an agent, and
  - a public perception of fairness in our tax system, to encourage compliance at all levels.

This document contains the policy positions agreed by the ICAS Tax Board in 2019 and which inform the work of ICAS Tax. However, the policies are not static and they will be reflected upon and revised as tax events, and the wider economic and political picture, unfold.

Members of ICAS are invited to raise their views and concerns, to join the tax committees, and to contribute to, and gain from, the ICAS Tax Community in relation to these policies and all other tax matters. To do so, contact tax@icas.com.
Tax administration, including Making Tax Digital (MTD)

Our work on tax administration aims to:

• result in a tax administration that will achieve a high level of ease of use at the point of contact between taxpayer and taxing authority; while allowing for both the digitally aware and the digitally challenged taxpayer to have effective and efficient access to the tax system

• provide ease of access for agents on behalf of their clients

• inform the general public about Making Tax Digital, and represent the public interest in the transformation of tax administration

• work with HMRC to assist in the effective implementation of Making Tax Digital. ICAS will use its expertise, and that of its members, to engage in constructive challenge to develop the opportunities of a digital tax service, whilst recognising the broader constraints within which HMRC operates

• support ICAS members both in practice and in business so that they can maximise the benefits of Making Tax Digital and minimise the effects of any negative aspects.

Our policy positions are:

• HMRC and Revenue Scotland, as appropriate, should respect the role of the appointed tax agent as representative of the taxpayer. See the ICAS Agent Strategy

• ICAS does not support mandatory ‘online everything’ in the tax system. ICAS believes:
  o digital facilities should be accessible to all on the terms that they want
  o digital services should be so good that everyone wants to use them
  o our members are well placed to encourage and support digital use where appropriate

• ICAS believes that well-resourced and efficient tax authoritative bodies are essential for the smooth running of tax administration, and that the need for that resource should not be completely replaced by the digitalisation of tax administration

• Tax administration requires openness and transparency by both businesses and HMRC; there should be cooperative compliance and a spirit of working together by large businesses and HMRC

• ICAS welcomes the Making Tax Digital initiative as one with longer term potential for streamlining the taxpayer/taxing authority interface; but urges caution in the pace and manner of its introduction

• ICAS sees two main sources of difficulty with the introduction of MTD, namely (i) how to achieve a simple interface which accurately reflects what is at present complex legislation, and (ii) how to cater for performance issues, both of the software and of the digitally challenged taxpayer, without loss of public faith

• When MTD for both income tax and corporation tax are implemented this should be within a realistic time frame, i.e. there should be a proper consultation period, a full pilot period, and then sufficient time for implementation

• ICAS believes that the introduction of MTD is a situation where the communication channels with taxpayers are critical

• MTD – There is a need to ensure appropriate information is available to support proper, informed decision making by taxpayers with their software

• The system should be designed to ensure that taxpayers are aware of all reliefs and claims appropriate to their circumstances, and that business opportunities are not hindered though lack of access to the tax support legislated for and envisaged by Parliament

• In relation to Making Tax Digital, ICAS has issued its strategy.
Devolution of tax powers

Our work on the devolution of tax powers aims to:

- bring the expertise of our members in Scotland to the fore - with approximately half our members based in Scotland, we take an in-depth, proactive approach to devolved tax policy

- contribute our experience and technical expertise across a range of different taxes – devolved taxes, partly devolved income tax rates and bands, and assigned VAT

- analyse the wider impact at the macro level in terms of raising money, the fiscal framework and Barnett Formula, and the need for transparency to enable understanding of public finances

- examine the devolved tax powers at the micro level in Scotland, by considering issues such as the new tax powers and policies, tax collection, new tax measures, the impact on taxpayers, political choice, impact assessment, and commercial certainty

- liaise with the new authorities and personnel in Scotland, including Revenue Scotland, the finance team in the Scottish Government, HMRC on Scottish income tax, and the Scottish Fiscal Commission, to provide engagement, scrutiny and challenge

- actively participate in work around the wider meaning of devolution, such as how decisions are made to devolve; the contrast between Wales, N. Ireland, Scotland and the English cities; and in Scotland, from Holyrood to the local authorities.

Our policy positions are:

- There should be a five-year roadmap to set out the objectives of Scottish tax policy

- There needs to be greater public awareness, and accessible public information about the new taxes to enable and encourage informed decision making

- There needs to be a process that allows for regular maintenance of the devolved taxes, and this should be considered as part of the budget process, including formalising a regular timetable and process for stakeholders to give input on any operational and policy concerns with the tax legislation

- There should be sound financial processes that provide useful and meaningful financial information to allow a better understanding of tax policy and tax collection and how these have been used to support public finances

- The Scottish Government should work closely with the UK authorities to ensure that tax administration is kept as streamlined as possible whilst implementing the devolved tax powers

- Simplification of tax needs to be borne in mind when deciding parameters with tax impact during Scottish devolution negotiations and the design of devolved or new taxes. While these are primarily political negotiations, ICAS would urge the Scottish and UK Governments to recognise their potential for adding complexity to UK and devolved tax law.
**Simplification of tax law and policy**

**Our work on the simplification of tax law and policy aims to:**
- achieve a high level of ease of use of the tax system at the point of contact between taxpayer and revenue authorities, allowing for both the digitally aware and the digitally challenged taxpayer
- embed procedures in tax policy-making to ensure that unnecessary complexity can be avoided
- make tax law more certain, and
- ensure that obsolete tax legislation is removed or updated, in light of the increasing pace of change in environmental circumstances and the business models that develop.

**The benefits from simplification of UK tax law and policy are considered to be:**
- simpler tax law should encourage compliance and make avoidance more difficult
- the taxpayer’s compliance costs should be reduced
- HMRC’s collection costs for the majority of the tax take could be reduced
- the effect of UK tax law should carry a greater degree of certainty, reducing the level of disputes and so avoiding negative use of resources
- UK public perception of tax law and the legislative process would be improved, and
- the UK’s attractiveness as a place to do business would be enhanced.

ICAS believes tax simplification is essential to have an efficient and effective tax system and that it should be driven by three principles: relevance, certainty and ease of use.

**Our policy positions are: relevance**
- There needs to be clarity in tax policy; and policy needs to be converted effectively into legislation. The legislation should clearly state its purpose
- ICAS considers that an immediate decrease in complexity of UK tax law could be achieved by repealing outmoded tax reliefs where the continuation of the relief cannot be justified on a cost/benefit analysis
- ICAS would urge the Government to maintain a high profile for simplification of tax when deciding parameters with tax impact during both Brexit and Scottish devolution negotiations.

**Our policy positions are: certainty**
- ICAS considers that part of the pre-enactment debate on new primary legislation, and changes to existing primary legislation, should be directed specifically at whether it meets agreed simplification criteria
- ICAS believes that the Government should issue a comprehensive statement setting out its policy on simplification and tax law, the reasoning behind its policy, the level of perceived importance of simplification, the methods/resources it would use to apply its policy, including the role it sees Office of Tax Simplification (OTS) playing in that, and a cost/benefit forecast
- Simpler tax law improves compliance; but ‘digital’ does not fix issues of simplification (e.g. self-assessment exclusions)
- HMRC ‘nudges’ need to be fair and balanced in both what the taxpayer needs to pay, and what the taxpayer may claim.
Our policy positions are: ease of use

- ICAS believes that the failure of present tax law to address materiality in any way causes unnecessary problems to the taxpayer which cannot be justified on a cost/benefit basis. ICAS strongly recommends that a debate on this issue be started at the earliest opportunity.

- ICAS welcomes the work of the Office of Tax Simplification (OTS) and the fact that the Government placed its function on a permanent footing through the Finance Act 2016. ICAS believes the independence of the OTS to be its major strength, enabling it to provide an extremely valuable communication bridge between taxpayers and the Government’s tax agencies.

- ICAS considers that tax simplification should not only seek to reduce the number of complexities in the system, but how, with new technology and suitable guidance, these complexities can best be managed to improve the experience taxpayers have when engaging with and navigating the system.

- Simpler administration may improve compliance, but there should not be an over reliance on technology.

- ICAS believes that benefits would flow from a simplicity matrix being agreed and adopted by all taxing authorities and the tax profession; and that simplification would be increased over time if no legislation were enacted unless it attained an acceptable rating against the accepted simplification criteria.

**Tax and entrepreneurship**

**Our policy positions are:**

- Tax rules should be simple to understand and apply. They should facilitate compliance.

- Frequent and unpredictable changes to the tax regime should be avoided.

- The key drivers for entrepreneurs should be business based, rather than tax driven.

- Tax rules should not:
  - favour institutional or speculative investors over business owners and their associates, including family and friends,
  - be a barrier to business start-ups,
  - favour one business vehicle over another, for example by favouring incorporated over unincorporated businesses.

- Costs of compliance and administration should be proportionate to the size of the business.

**Tax and the gig economy**

**Our policy positions are:**

- Government policy should be consistent across employment law and taxation.

- Taxation of employed and self-employed workers should be more closely aligned.

- Responsibility for tax compliance should be aligned with those most able, and resourced, to do so.

- Boundaries between employment and self-employment should be accurately defined.

- Workers supplying their services in the same way should be taxed in the same way, while permitting flexibly of business vehicle.
Tax avoidance

Our policy positions are:

- As the legislature, the responsibility for the quality of the tax system lies with Parliament. Clearer and better quality legislation is needed, based on longer term principles rather than short term tinkering for political ends

- ICAS supports an international approach to developing the tax policy solutions required to deal with the efficient taxation of modern, internet based businesses and multi-national businesses

- Underlying distortions in the tax system which drive complexity and frequent change need to be tackled, for example, those driving the gig economy

- The current tax regime can incentivise tax avoidance

- Six key components in an action plan to encourage sound tax behaviour are:
  - the law must work properly
  - high standards of behaviour are required all round
  - better information is needed
  - tax policy needs clarity
  - both businesses and HMRC need to be transparent and open
  - criminal tax evasion needs greater focus.

- ICAS supports the principle of disclosure, subject to it being reasonable, proportionate and easy to comply with.

Professional conduct/role of the profession

Our policy positions are:

- ICAS members are bound by a Code of Ethics, which confirms the primary legal duty of care is to the client; the code can also help clients to understand ethical situations

- ICAS members are expected to comply with the Professional Conduct in Relation to Tax, the latest update of which was published in November 2016 and took effect from 1 March 2017. The Guidance was restructured from 1 March 2019 to include a mandatory core with five supporting help sheets

- ICAS supports a level playing field between lawyers and ICAS members advising on the same area of tax law; professional privilege law should be changed

- ICAS members are subject to qualification and quality control measures which give important standard safeguards for HMRC and taxpayers. Accordingly, further regulation of ICAS members by HMRC is not necessary; the unregulated sector should be required to operate to regulated sector standards

- ICAS members support tax compliance and compliant taxpayer behaviour, make complex tax systems workable for businesses and individuals, and reduce the risk of unexpected tax costs for all taxpayers.
**Brexit**

**Our policy positions are:**

- ICAS urges the Government to maintain a high profile for simplification of tax when deciding parameters with tax impact during Brexit negotiations. While these are primarily political negotiations, ICAS urges the Government to recognise its potential for adding complexity to UK tax law and to involve the tax profession/OTS in shaping changes and in assessing their potential impact.

- ICAS supports the Government’s proposals to convert all existing VAT measures, including existing ECJ decisions, at the time of leaving the EU into UK jurisprudence.

- There should be recognition that businesses are the unpaid collectors of taxes including VAT and Customs Duties and therefore as these taxes are repatriated to the UK the impact of doing so on businesses is given adequate consideration.

- Careful thought will be needed to weigh up whether repatriation of certain taxes, such as VAT, should be further devolved or whether the features of a single market should be retained.

- ICAS believes that the UK government should bear in mind the need, post Brexit, to ensure that the UK remains attractive to multinationals.

**Taxation of multinational enterprises**

**Our policy positions are:**

- ICAS believes that a predictable and sustainable tax regime is necessary to support long term economic performance. Whilst the tax system needs to be flexible to deal with change, companies should be able to plan for the future with confidence. Brexit means a period of uncertainty for multinationals; it is important that this uncertainty is not intensified by constant, unpredictable changes to the tax system.

- We call for a clear roadmap to be set out to show the government’s long term policy intentions for the taxation of multinationals and to provide clarity on future plans.

- ICAS believes that an international approach to tackling the taxation challenges arising from multinational companies is essential. Lack of international consistency in implementing BEPS is a concern.

- The UK has already introduced unilateral measures, such as the Diverted Profits Tax. A Digital Services Tax (DST) is now proposed, even though it is expected that an international approach to taxing the digital economy will be agreed through the OECD within a reasonable timeframe.

- ICAS believes that ideally the UK government should wait for international consensus, rather than introducing further unilateral measures. If a unilateral DST is introduced it should only be a temporary measure until international agreement is reached and every effort should be made to minimise possible double taxation and the administrative burdens which will arise.

- ICAS encourages all stakeholders to recognise the vital role multinational enterprises play as major contributors to the UK economy, job creators and collectors of tax revenues (VAT, income tax and NIC).

- ICAS recommends that in relation to Making Tax Digital the UK should learn from other countries, which are also adopting a digital tax approach. The UK also needs to bear in mind the interaction with digital tax systems in other jurisdictions because multinationals operate in many countries. If interaction is not considered the cost of compliance is increased.

- In determining its tax policy for multinationals, the UK government should bear in mind the need, post Brexit, to ensure that the UK remains an attractive place for multinationals to do business.
The ICAS Tax Board

Within the ICAS governance structure, the Tax Board reports to the Policy Leadership Board, which reports directly to the Oversight Board and to the ICAS Council.

The Policy Leadership Board (PLB) has delegated authority from the ICAS Council in relation to the ‘policy leadership’ activities of ICAS. The Policy Leadership Board is specifically empowered to manage and direct the affairs of all boards, committees and panels within its remit.

The Tax Board has delegated authority from the PLB in relation to taxation - to set ICAS policy positions, to act on behalf of ICAS in relation to all tax matters, and has primary responsibility for managing the relationship with the UK revenue authorities.

Proposals relating to the business affairs of ICAS which are significant to the strategy, contentious or could have a significant financial outcome are reserved to Council.

The Tax Board has oversight of five Committees, each of which has responsibility for a certain area of tax and these are:
- Indirect taxes
- International and large business taxes
- Private clients (capital taxes)
- Scottish taxes
- Owner managed business taxes

Members of the Tax Board and the Committees act in a personal capacity and do not represent the views of their firms.

Contact us

Charlotte Barbour, Director of Taxation
Email: tax@icas.com

Bryan Flint, Convenor of ICAS Tax Board
Email: tax@icas.com

Michelle Mullen, Executive Director, Professional Standards
Email: tax@icas.com

CA House 21 Haymarket Yards Edinburgh EH12 5BH
tax@icas.com (0)131 347 0292 icas.com