The Institute of Chartered Accountants of Scotland ("ICAS") 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 regulates over 1,000 practices providing tax, accountancy and businesses services across the UK and beyond. ICAS members need to demonstrate practical and technical excellence before being admitted to membership and have a duty to maintain the value of their qualification through continuing professional development and training.

ICAS is committed to maintaining high standards in professional practices and requires adherence to the ICAS Code of Ethics and the Professional Conduct in Relation to Taxation.

ICAS has a public interest remit – a duty to act not only for its members but for the wider public good.

Taxation is an area of importance as regards ICAS members, ICAS regulated firms, government and the wider public. ICAS has contributed, and will continue to contribute, to tax policy in Scotland, the UK and beyond. The Agent Strategy document is part of that continuing commitment to inform the debate.

ICAS policy positions are issued under the auspices of the ICAS Tax Board.

The Tax Board’s objectives are to:
- Act in the public interest
- Provide constructive input to the authorities, and
- Represent ICAS members’ and students’ interests.
The ICAS Agent Strategy – key requirements

The role of tax agents is vital to the effective operation of the UK tax system. ICAS firms play a crucial role in enabling individuals and businesses to operate successfully within the UK economy and tax system. The UK tax system would not function effectively without agents.

The tax system needs to be designed with agents in view

The majority of business taxpayers have agents and the relationship between HMRC and tax agents is of fundamental importance to the UK tax system. Digital transformation should lead with agent services.

Agents need access to HMRC staff

The impact of tax on personal and business decisions can be wide-ranging and complex. Commercial decisions are often time-sensitive and uncertainty over tax consequences is damaging. Appropriately qualified HMRC staff must be available to agents for resolution of tax issues in real-time.

HMRC investment decisions should take account of the wider economy

HMRC needs to be encouraged to invest in agent services. Investment decisions should be based on the economic impact on the UK economy, not evaluated on the impact within HMRC alone.

Agents assist taxpayers in getting their tax affairs right

The vast majority of taxpayers aim to pay the right amount of tax on time. Having an agent helps taxpayers who wish to be compliant. HMRC and agents need a good working relationship to promote taxpayer compliance.

Chartered Accountants are business advisers. Tax advice is not given in isolation

Chartered Accountants are trusted business advisers. Their advice balances the economic, regulatory, social, personal, business and taxation demands on the business and its owners. Tax should not be divorced from the economic realities of business life, nor should compliance for the few drive up the regulatory burden for the many.

Digitalisation is key

Digitalisation is key, and digital tax is a significant part of the whole. Yet, digital tax alone should not drive change. Mandated digital interaction on a short timescale is not best for business. Total digital is not a one size fits all. Different businesses need different levels of digitalisation for maximum efficiency.

Digital taxation needs to include the viewpoint of the business and the tax agent, as well as HMRC. It needs to be part of an overall streamlining of processes. Suitable, effective use of digital frees up business time for the business owner and enables the agent to give more real time proactive advice, including managing tax compliance, as well as yielding efficiencies for HMRC.
HMRC Agent Strategy

HMRC’s Agent Strategy aims to transform the relationship between HMRC and agents by:

- gaining a better understanding agents and their clients to help HMRC target the right services and communications
- Aligning HMRC and agent processes where possible, and enabling agents to carry out more transactions with minimal HMRC involvement
- eliminating duplication and reworking to make it easier for agents to do business with HMRC and reduce agent costs
- supporting agents in improving services for your clients, including tackling the small minority of agents with poor performance more effectively
- working closely with representative bodies on the development of Agent and Client Statistics

While broadly in agreement with the overall direction of HMRC policy, ICAS sees the need for clarification and balance. An agent strategy needs to deliver an efficient and effective interface for practices to act on behalf of their clients.

This must be congruent with the professional principles of Integrity, Objectivity, Professional Competence, and Confidentiality. It must also take account of the commercial environment in which tax services are provided within the UK.

The Agent’s Role

HMRC is developing an agent strategy. An agent strategy cannot rest solely on meeting HMRC objectives. Tax agents are engaged by and owe a primary duty of care to the taxpayer.

ICAS considers the Agent’s Role to be:

- To represent the taxpayer, the agent’s client
- To 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 taxpayers. This includes:
  - Proper utilisation of available tax reliefs, and
  - Tax planning where it is conducted in the commercial context relevant to the client.
- To work within the relevant professional principles and standards in Professional Conduct in Relation to Taxation (PCRT), which is a cross-profession requirement.

The ICAS Agent Strategy is established in relation to three parties:

- The taxpaying public
- ICAS members, and
- HMRC
The Taxpaying Public

ICAS will inform the public on matters relating to tax agents and represent the public interest as regards the rights of taxpayers to representation in their tax affairs.

Tax is complex

Tax is complex and many taxpayers choose to have an agent, so they have assurance that their tax affairs are efficiently handled. Tax agents assist with routine tax compliance and help ensure that taxpayers are not exposed to penalties or unexpected tax bills.

Business is challenging

Businesses operate in a challenging environment where changing conditions can necessitate rapid decisions; decisions which have tax consequences. Agents, with a knowledge of the tax rules, the taxpayer’s circumstances, and the industry and economy as a whole, are well placed to support taxpayers in complying with their responsibilities and managing tax liabilities.

Day to day decisions, both business and personal, can have unanticipated tax consequences. Tax agents are there to minimise unexpected tax consequences and ensure that business, personal and tax decisions are congruent.

Rapid change

Devolution, digitalisation and increasing regulation are contributing factors to an ongoing rapid pace of change. It is difficult for taxpayers to be sure that they are up to date, and plan for the future. Chartered Accountants bring the breadth of business, accounting, regulatory and tax knowledge to assist business in a competitive market. Their remit is wider than tax and they contribute to overall economic development through providing expert business support.

Getting tax right

Agents help to reduce the tax gap through correction of errors, reconciling and reviewing accounts and advising on accounting systems. ICAS supports the role of agents in practice and engages with Government to simplify the tax system, particularly for smaller businesses. Simplification leads to improved compliance as rules become easier to understand and apply.
ICAS Members

ICAS will support its members, both in practice and in business, so that the benefits of having a tax agent are maximised. ICAS will represent its members’ view to HMRC and support those in practice to achieve the highest standards.

Agents add value

Tax agents should be valued as an integral part of the tax system: rather than as an optional add-on. This is particularly so as HMRC digitalises its services. The digital environment offers many opportunities for tax practitioners and HMRC with the potential to enable a more efficient and streamlined service. This goal should not be undermined by over hasty implementation.

Working collaboratively

Working collaboratively with professional firms, while respecting the constraints of a commercial professional relationship, will enhance confidence of practitioners in HMRC’s digital rollout.

ICAS would like to see a commitment from HMRC not to withdraw non-digital services to agents until a fully-functioning digital alternative is widely available.

Being professional

Chartered Accountants are covered by wide ranging professional standards which require continuing professional development and ongoing assessment of professional competency in each client-facing role. CAs are bound by published standards, such as Professional Conduct in Relation to Taxation (PCRT) and the ICAS code of ethics.

Competence in tax is not the acquisition of a specific practising title, or a one-off qualification, rather it is an ongoing professional judgement call, learned and tested through experience, training, and professional accountability. It is being part of a framework within a professional firm; being part of a professional body; being part of a process of continuing improvement and adaptation to an ever-changing field of work.

Unregulated advice

There has long been a concern that unregulated individuals and firms, without affiliation to any professional body, can currently offer tax services to the public without the safeguards of professional training, supervision and support.

Upholding standards

Upholding standards in tax must cut both ways. Digitalisation and the reorganisation of tax offices brings with it the risk of a ‘brain drain’ from HMRC, making it difficult to access appropriately qualified HMRC staff when trying to resolve tax issues.
HMRC

ICAS will work with HMRC towards achieving an efficient tax system. It will use its expertise in constructive challenge with the aim of reducing system inefficiencies for all.

Taxpayer choice

Many taxpayers prefer to have an agent looking after their tax affairs rather than dealing directly with HMRC themselves. HMRC needs to build this taxpayer preference into all their delivery models.

Commercially aware delivery

HMRC needs to respect the constraints of the commercial environment in which professional firms operate and the boundaries of the professional relationship. Professional firms operate in a commercial environment where objectivity and confidentiality are vital.

Agent access

ICAS is in agreement with HMRC’s proposition that it will ‘design services to enable agents to do and see everything their clients can do and see’. There is a considerable challenge in making this a reality. HMRC’s resources are stretched and small errors in HMRC systems can have very significant impact in terms of disruption and expense for taxpayers and their advisers.

Adding economic value

ICAS favours a holistic costing model which takes account of the wider economic impact of poor HMRC systems and decisions. HMRC costing and investment should not be evaluated solely, or mainly on the basis of in-house cost savings. It is unacceptable for taxpayers and their agents to suffer significantly increased costs simply to reduce HMRC’s operating costs.

Resolving disputes effectively

The need for face to face contact for effective resolution of complex tax issues should be included in system design. Digitalisation and centralisation can be cost-effective for ‘bulk processing’; but tax includes many grey areas where the proper operation of the system requires the tax authority to make a judgement call about specific transactions. The lack of certainty from the tax authorities in giving rulings on commercial transactions inhibits business and potentially brings distortions in the market.

Working with the profession in compliance

HMRC needs to operate in line with its customer charter which confirms that most taxpayers’ aim is compliance. Work to reduce the tax gap should be transparent, targeted and proportionate. It is best achieved through cooperation with the tax profession. Chartered Accountants are well placed to evaluate HMRC strategy in this area. HMRC’s approach needs to factor in an understanding of accounting and business and not simply focus on tax rules in isolation.
Protecting the public

HMRC owes the public a duty of care not to be seen to promote the services of unqualified tax agents. The situation in the UK is somewhat anomalous given that no formal training or regulation is needed before Individuals or firms hold themselves out to provide tax services. While HMRC undertakes very basic checks on new agents, before allowing them to register as agents with HMRC, there is no evaluation of competency, and it is doubtful if HMRC is willing or well placed to take on such a regulatory role.

Conflicting interests

Care is needed that HMRC does not take on roles where there is inherent conflict of interest. For example, being a regulator for Anti-money laundering, does not sit easily with being a default supervisor.

An Effective Tax System

ICAS seeks a tax system where:

- The role of agents in making the tax system work is recognised and appreciated

- Agent services are available at the same time or ahead of services for individuals or businesses so that agents can properly support their clients

- HMRC and tax professionals in practice can work together to enhance the tax system across the UK, bringing efficiencies, more effective administration and better net tax yields

- The tax gap is minimised through appropriate, properly targeted action which discourages evasion without burdening the compliant.

- Costs of administering the tax system are shared fairly and HMRC is held accountable for errors and poor administration.
Professional Conduct in Relation to Taxation

ICAS is committed to maintaining high standards in professional practices – its members adhere to the ICAS Code of Ethics and the Professional Conduct in Relation to Taxation. A member must comply with the following Fundamental Principles:

- **Integrity**: To be straightforward and honest in all professional and business relationships.
- **Objectivity**: To not allow bias, conflict of interest or undue influence of others to override professional or business judgements.
- **Professional competence and due care**: To maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques; and act diligently and in accordance with applicable technical and professional standards.
- **Confidentiality**: To respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose; nor use the information for the personal advantage of the member or third parties.
- **Professional behaviour**: To comply with relevant laws and regulations and avoid any action that discredits the profession.

A member must comply with the following Standards for Tax Planning

- **Client Specific**: Tax planning must be specific to the particular client's facts and circumstances. Clients must be alerted to the wider risks and the implications of any courses of action.
- **Lawful**: At all times members must act lawfully and with integrity and expect the same from their clients.
- Tax planning should be based on a realistic assessment of the facts and on a credible view of the law. Members should draw their clients' attention to areas where the law is materially uncertain, for example because HMRC is known to take a different view of the law. Members should consider taking further advice appropriate to the risks and circumstances of the particular case, for example where litigation is likely.
- **Disclosure and transparency**: Tax advice must not rely for its effectiveness on HMRC having less than the relevant facts. Any disclosure must fairly represent all relevant facts.
- **Advising on tax planning arrangements**: Members must not create, encourage or promote tax planning arrangements or structures that: i) set out to achieve results that are contrary to the clear intention of Parliament in enacting relevant legislation; and/or ii) are highly artificial or highly contrived and seek to exploit shortcomings within the relevant legislation.
- **Professional judgement and appropriate documentation**: Applying these requirements to particular client advisory situations requires members to exercise professional judgement on a number of matters. Members should keep notes on a timely basis of the rationale for the judgments exercised in seeking to adhere to these requirements.
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