Response from ICAS to the HMRC Consultation ‘How to improve HMRC’s collection of debt: coding out’

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About ICAS

The Institute of Chartered Accountants of Scotland (“ICAS”) is the oldest professional body of accountants. We represent around 19,000 members who advise and lead businesses. Around half our members are based in Scotland, the other half work in the rest of the UK and in almost 100 countries around the world. Nearly two thirds of our members work in business, whilst a third work in accountancy practices. ICAS members play leading roles in around 80% of FTSE 100 companies. ICAS is also a public interest body.

General introductory points

ICAS welcomes the opportunity to comment on the consultation ‘How to improve HMRC’s collection of debt: coding out’ issued on 11 July 2013.

A taxpayer has a responsibility to contribute the right amount of tax to the public purse but, equally, the state has a responsibility to ensure that the tax is assessed and collected in a manner that is clearly understood. Extending the use of coding out is one means of tax debt collection and where the debt is agreed, or it is not disputed, it can provide a sensible way of spreading collection across the year. The current proposals do however require elaboration regarding taxpayer safeguards in order to ensure that:

- The debt to be coded out is correctly calculated, and is not disputed or under appeal by the taxpayer
- The taxpayer is given clear and timely information on the possibility, and impact, of the coding out, and
- A pragmatic approach is taken given the potential range of economic circumstances.

These are commented on further below.

It is essential that any debt is confirmed before it is coded out, in other words, has been subject to the normal procedures for assessment, (appeal where necessary), notification and usual payment requests. HMRC has not indicated whether there will be full agreement with the taxpayer before coding out a debt and, if not, what the taxpayer's rights and safeguards will be.

It is noted in paragraph 3.12 of the consultation paper that approximately 15% of tax deductions in PAYE codes are incorrect, which is a significant number. Further coding out introduces the potential for further difficulties and inaccuracies, so particular process safeguards, training, IT and systems changes and care will be needed if another expectation is to be put on an already stretched PAYE system. Many taxpayers do not understand what their tax code means or how it is constructed so further explanation may be required if debt collection is extended in codes. Administrative costs may arise therefore for both HMRC and employers in dealing with queries. At present a significant proportion of HMRC call centre queries relate to PAYE codes and these would be likely to increase.

The underlying premise that the more a person earns, the more capacity there is to pay a debt may sound fair, but in pragmatic terms is questionable, at least in the short term. Many individuals find themselves living beyond their means, for example where reduced income circumstances fail to meet a sizeable mortgage commitment that cannot quickly be eliminated. A process would need to be adopted for those hardship cases and circumstances. Otherwise, significantly extending the limits of the amount that can be coded out, beyond say £5,000, should only be made if there is explicit taxpayer agreement.

The consultation paper is silent regarding penalties and interest and whether these may be coded out. The rationale behind a penalty is to bring to the taxpayer’s attention that certain behaviour is at fault whilst the purpose of the PAYE collection system is to make the payment of tax unobtrusive. Consequently, the PAYE system would not be recommended for the collection of penalties.
It is not clear in the consultation document how the proposal to collect tax debts via PAYE will interact with Universal Credit. If a debt is coded out will this reduce income, therefore increase Universal Credit? It hardly seems that this will be the intended effect, but the integration of the systems should be clarified.

Questions in the consultation paper

Q1. Are the graduated coding out limits for debts and tax underpayments recommended for those on incomes of £30,000 or above set at the right level? (paragraph 3.35)

As noted above, ICAS disagrees with the proposal that there should be coding out limits of debts of up to £17,000, which are based on an amount of employment income only, without further safeguards. Otherwise, unless there is explicit agreement from the taxpayer, there should be a lower maximum amount that can be coded out, based on a figure that, generally, will not lead to a negative code, in other words the maximum amount of a tax code that should be coded out should not exceed £5,000.

Q2: Does the proposal not to change the coding out limits for those with incomes of less than £30,000 adequately safeguard those on lower incomes? (paragraph 3.35)

This appears reasonable.

Q3: Should the statutory safeguard to prevent PAYE deductions exceeding 50 per cent of an individual's relevant pay be extended? (paragraph 3.35)

Extending this would provide a useful safeguard and one which would in part address the concerns in Q1 above.

Q4: In circumstances where a debt cannot be collected via the tax code in one year, do you agree that HMRC should use existing powers to code out part of that debt? (paragraph 3.38)

In principle, yes. However many taxpayers have a very limited understanding, if any, of PAYE codes and this is particularly so in relation to the way in which tax debts are coded out. If part of a debt is collected via a PAYE code and the remaining part either collected through another year's code, through time to pay arrangements and/or self-assessment there will be a lack of clarity and scope for confusion.

Q5: Do you have any comments or suggestions on the indicative impacts identified in the table of impacts? (paragraph 3.39)

The impact analysis does not appear to distinguish between timing effects of tax payments, increased recoverability of tax debts, and HMRC administrative or efficiency savings. The amounts appear relatively small, at £40 to £45 million per annum, in relation to the current outstanding debt of over £15 billion, albeit that total is presumably for all taxes. It is not possible to comment further, without analysis of the underlying sources and causes of this debt, on what other collection mechanisms could be deployed. It is also not clear whether this is suggesting a wider ranging consultation is being invited.