

Review of the Office of Tax Simplification: Call for Evidence

Response by the Chartered Institute of Taxation

1 Executive Summary

1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.

1.2 We are pleased to summarise our main comments below, before moving on to address each of the review's questions in turn.

1.3 *The OTS' objectives and functions*

The remit and function of the Office of Tax Simplification (OTS) should be 'the simplification of the tax system' with a focus on technical and practical aspects of the tax system. This should include review of all taxes for which HMRC is responsible for, including devolved taxes they administer, and should extend to both simplification of tax legislation and simplification of tax administration. Its objective should be to identify aspect of the tax system that could be simplified and advise the government how that simplification could be achieved.

It should, however, not be directly involved in government policy-making decisions.

The OTS should sit separate from government so as to play a wider role in engaging with non-governmental stakeholders on the simplification agenda, but sufficiently integrated within government as to be able to influence the tax policy making process.

1.4 *The resourcing, funding and governance of the OTS*

The existing governance structure of the OTS and requirement to be accountable to government and Parliament for its work, whilst being independent from government, places the OTS in a unique position to assist the government in simplifying the tax system. The OTS board reflects the wide range of knowledge, experience and expertise needed to meet the challenges of providing independent advice to the government.

The diversity within the OTS' staff, with backgrounds from HMT, HMRC and the private sector, and the range of skills and knowledge they bring to the OTS' work is reflected in both the OTS' wide-ranging engagement with stakeholders and the OTS' comprehensive reports to the Chancellor.

1.5 *The OTS' relationships with HMRC and HMT*

In order to perform its functions the OTS requires a close working relationship with HM Treasury (HMT) and HM Revenue & Customs (HMRC). Collaboration with government departments is an essential part of the OTS' work and the OTS would not be able to adequately perform its functions without access to, for example, HMT's and HMRC's knowledge base. It is evident, from the OTS' reports which are well researched and produced, that the OTS has managed the fine line of needing to work closely with HMRC and HMT, while maintaining independence from them, extremely well. Many of the recommendations clearly arise from the OTS' collaborations outside of government, and from its wide-ranging approach to obtaining opinions from tax professionals, professional bodies and taxpayers alike, yet are necessarily tempered by an understanding of the interests of government and the requirement to consider wider governmental decisions and policies. The OTS' work has struck a balance between collaborating with HMRC and HMT, and remaining independent from them.

1.6 *The OTS' work to date*

Much of the OTS's early work focused on simplification of tax legislation and its success in that respect is reflected in the follow up consultations subsequently undertaken by government and, ultimately, into statute. While recent reports have also prompted some changes or wider consideration of government policy making, it is the OTS' work around tax administration, and the use of technology, that has perhaps been more subtle in its successes: leading to improvements in HMRC processes rather than headline policy changes. This said, it is fair to say that since the OTS was formed the complexity of the tax system has continued to get progressively and significantly worse and even had all the OTS' recommendations been implemented its effect would have been dwarfed by the torrent of new legislation.

1.7 *The impact of the OTS' work on both the government's approach to simplification and on wider public debate*

The work of the OTS has had some positive impact on tax simplification. The OTS' work has generated wider public debate on how the tax system should interact day-to-day with people (the various lifecycle reports, the employment status and gig economy reports are examples of the OTS' engagement in wider social changes). The reviews concerning tax reliefs, small businesses and employment did influence the government to introduce changes to the tax system. The tax administration reports have also seen some improvements to processes. We would again note that there is a long way to go with new measures adding burdens to businesses and individuals faster than small improvements are made to pre-existing processes. It is disappointing that the positive impact the OTS has had on the existing tax system has not manifested itself into an impact on new tax legislation. Unless the government makes simplification central to policy decision making, there is a danger that the OTS will be condemned to making minor mitigations to the complexity of the existing tax system while the flow of new legislation and obligations makes the tax system significantly worse.

1.8 *Further steps which could be taken to enhance the effectiveness of the OTS*

The introduction of a formal framework for tax simplification to which the OTS can score its recommendations and government can assess potential policy against would be welcome. Tax simplification involves both easy to follow legislation and simple processes that do not place unnecessary administrative burdens on taxpayers,

their agents or HMRC. Integrating tax simplification into the Tax Consultation Framework and decision-making process would underscore the importance of tax simplification in an ever-increasing complex system. Allowing the OTS to explore all areas of the tax system, including revisiting past reviews, and scoring recommendations and policies against a tax simplification framework would increase the likelihood of government taking forward the OTS' recommendations. Requiring government to formally respond to all OTS reviews and recommendations (not just those reviews requested by the Chancellor) within a prescribed period, indicating in detail which recommendations will be taken forward, would also signal that the OTS' is an independent body that can influence government. Of course, as noted above, unless simplification is placed at the heart of the tax policy making process, any enhanced effectiveness of the OTS will be dwarfed by the mountain of new complex tax legislation and processes.

Expanding the OTS's role so that it included a post-enactment review of new legislation – say two to three years after implementation – would also be a welcome addition.

2 About us

- 2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.
- 2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.
- 2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.
- 2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3 Introduction

- 3.1 We are pleased to set out our comments in relation to HM Treasury's Review of the Office of Tax Simplification: Call for Evidence. Our comments below supplement those made at the roundtable with HMT officials (along with other representatives) on 14 June 2021.
- 3.2 Our stated objectives for the tax system include:
 - A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
 - Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
 - Greater certainty, so businesses and individuals can plan ahead with confidence.

- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

4 Q1. What do you think the functions of the OTS should be? Why should they be a priority for government?

4.1 The function of the OTS should remain '*the simplification of the tax system*' (as set out in s185(1) Finance Act 1996). We also agree that the scope of that function should remain as set out in s185(2) Finance Act 1996, ie '*the law relating to, and the administration of, relevant taxes*' (emphasis added). The desire for simplification remains as important now as it was when the OTS was established. If anything, because the tax system has continued to get progressively more complex, the need for an independent voice advising the government on the importance of simplification and how simplifications might be achieved should be even more of a priority.

4.2 We consider the '*law relating to*' to mean the rights and requirements placed on taxpayers by tax legislation (whether primary, secondary or tertiary, including HMRC guidance where taxpayers are expected to 'follow the guidance' such as in regard to the Coronavirus Job Retention Scheme and the Self-employed Income Support Scheme).

4.3 We further consider '*the administration of*' the tax system to include all interactions between taxpayers (customers), their agents and HMRC, claiming / performing their legal rights / obligations. This includes, but is not limited to:

- accessing and understanding and following HMRC's published guidance,
- seeking HMRC's opinion or clearance,
- filing returns and claims and elections,
- paying taxes and interest and penalties and obtaining repayments,
- compliance activities including disputes and appeals,
- the methods of interacting with HMRC (eg telephone, online portals, electronic messages and paper)

In addition, we consider it also includes the obligations placed on others to interact with the tax system (for example, the provision of information by banks, building societies, etc, the 'tax conditionality' rules, and so on).

4.4 The 'law relating to'

The UK has incredibly complex tax legislation, one which is only getting more complicated. Whilst in some respects much of the complexity lies with more sophisticated taxpayers such as multi-national businesses or wealthy individuals, there is increasing complexity for 'normal / simple' businesses and individuals. It is therefore important that an independent body, whose reviews and reports are trusted by the government and wider stakeholders, can advise the government of potential undesirable impacts of legislation that affect the day-to-day experience of taxpayers. In pursuance of trust in the tax system, the importance for taxpayers of being able to easily understand what tax rules apply to them cannot be underestimated.

4.5 We are, for example, concerned that the opaqueness of the tax system could have significant consequences:

1. Erosion of the 'social contract' around the payment of tax and the provision of public services. Evidence suggests that knowledge of the tax system is generally low. For example, HMRC research

suggests that 54 per cent of people who have earned income from the sharing economy (which includes those working in the ‘gig economy’) do not realise it is taxable.¹ Tax knowledge amongst young people is particularly poor.² The UK rate of tax compliance is extremely high, and HMRC are keen to engender ‘trust’ in the tax system. But an increasingly complicated tax system confuses how much tax is being paid and why, risking a reduction in voluntary compliance and a lack of trust if the terms of the ‘contract’ are simply not understood.

2. Inability to check whether the calculations are correct. We believe it should be possible for a normally-intelligent person to be able calculate – or at least check – their own tax liability. Whilst software can help process transactions and perform calculations automatically, its purpose should be to provide efficiency savings, not hide the complexity of the tax system. If that were the case, how does the taxpayer (or HMRC) know the result is correct? In any event, it is far from clear that software can keep pace with the intricacies of the tax system. For example, each year Self-Assessment taxpayers are faced with situations where the software ‘can’t cope’ – resulting in the need to submit paper tax returns rather than electronically.³
3. Not being able to spot when something is wrong. We are increasingly concerned that taxpayers might be inadvertently caught up in avoidance or non-compliance because they are simply unaware that what they are doing / how they are paid is inappropriate. This is especially a risk at the moment with umbrella companies and disguised remuneration schemes (where ‘agency’ workers are effectively forced into working through these entities), but the risks are potentially far wider.

4.6 ‘The administration of’

Administering the UK tax system is challenging for taxpayers (and their agents) and HMRC. It is not simply because of complex tax legislation; taxpayers have a myriad of different systems and processes to follow, and differing guidance to follow depending on the tax stream or type of income. An easy to navigate tax administration process gives taxpayers confidence that they are correctly complying with their tax obligations and improves the overall efficiency of tax administration; allowing greater focus and resources to be applied to those that seek not to comply.

4.7 We are concerned that it is increasingly difficult to ‘interact’ with the tax system. For example:

- 1) HMRC service levels have deteriorated, with average waiting times increasing and under-resourcing of HMRC customer service teams. Experience has shown that when HMRC’s customer service levels fall, under and over payments of tax increase, inaccuracies in tax codes persist, wait times for responses to letters dramatically increase (if the letter is not ‘lost’) - we understand that HMRC is currently indicating that post is taking 5 months to reply and members have reported waiting times of over 18 months (ie pre-pandemic submissions) - and overall confidence that HMRC is ‘getting it right’ goes down. While this might be said to be a ‘blip’ caused by the pandemic the reality is that the under resourcing of HMRC’s customer service teams date back prior to this. The delays in answering

¹ HMRC report 453, 5 May 2017, ‘Research on the Sharing Economy’:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/658728/HMRC_Report_453_Sharing_Economy.pdf

² A 2019 Deloitte LLP report found that out of a possible score of 30, the average respondent scored only 10.6, but those between 18 and 24 scored just 6.9 <https://www2.deloitte.com/uk/en/pages/tax/articles/tax-education-gap.html>

³ See exclusion cases at <https://www.gov.uk/government/publications/self-assessment-technical-specifications-2021-for-individual-returns#history>

calls and in processing returns and claims etc increase burdens and costs for taxpayers, their agents and HMRC.

- 2) The 30 day CGT reporting and payment service for UK residential property has been problematic since it was introduced in April 2020. It is evident that many taxpayers are unaware of the under-publicised requirement to report and pay CGT on UK residential property within 30 days of completion. For those that are aware, and either deal with the obligation themselves or have their tax adviser do so, the process is far from straightforward and is not integrated into other processes (eg the Self-Assessment return process or third party software).
- 3) The newly self-employed registration process does not always lead to Self-Assessment (SA) returns being issued. There appears to be no direct link between SA reporting and the National Insurance Contributions record, leading to self-employed taxpayers not to be recorded as self-employed for NIC purposes and Class 2 NIC liabilities being omitted from SA calculations despite many people previously paying their Class 2 by direct debit. These recording errors potentially have long term implications for those claiming state pensions in the future.
- 4) The expansion of Making Tax Digital from VAT (itself not without implementation issues with initial failed VAT return filings and difficulties in connecting commercial software to MTD filings) to ITSA and CT has the potential for requiring multiple reporting and payments which hardly meets the simplification agenda. For example, a VAT sole trader with rental income could, potentially, have 13 reporting dates when MTD for Income Tax is introduced. Even assuming MTD-ready accounting software will be available at reasonable cost to businesses, the burden of submitting 13 returns versus quarterly VAT returns and an annual Self-Assessment return, is unlikely to improve confidence in the tax system.

4.8 *Priority for government?*

The OTS's function of identifying complexities in both the law and the administration of the tax system, and proposing simplifications should therefore continue to be a priority for government. The benefits of a simplified tax system include a better understanding of tax obligations, increased compliance, and a reduction in tax administrative burdens for both the taxpayer and HMRC. This should be a key principle for government when designing new legislation and the processes to comply with them.

- 4.9 Hence, the priorities for the OTS should be to continue to identify and review areas of the tax system that are complex for both business and individuals in the broadest sense.

5 **Q2. How have you understood the OTS to interpret their remit (or in other words define 'tax simplification') and does this match your own interpretation of the OTS's remit and definition of 'tax simplification'? If not, how does this differ?**

- 5.1 We have understood the OTS' remit to be to identify and report on apparent complexities in the tax system, whether those complexities are directly identified or arise from a request from the Chancellor of the Exchequer to review a particular aspect of the tax system, and to make recommendations to reduce or eliminate those complexities, if they exist. This aligns with our own interpretation of the OTS's remit.

- 5.2 The OTS included a definition of tax simplification in their first two reviews⁴ and we support that definition. In this respect ‘tax simplification’ should be defined as meaning that taxes should be predictable, proportional, and consistent. They should be easy to comply with and easy for HMRC to administer, and be expressed clearly and coordinated with other tax rules and interactions.
- 5.3 Whilst there is a sense that more recent reviews (eg the VAT and CGT reviews) have ‘strayed’ into tax policy matters, this is neither new, nor inappropriate. For instance, the OTS’ remit for the review of tax reliefs in 2010/11 included ‘*identify those reliefs that should be repealed or simplified*’⁵. In principle, we do not disagree with the OTS being able to explore a wider remit of exploring or suggesting potential policy ideas, particularly considering how well it engages with interested / affected parties. However, as explored later, it is vital that those recommendations are subject to the full consultation process.
- 5.4 For example, it is important that the suggestion in the Capital Gains Tax review of simplification of CGT rates is seen as a recommendation to further review this aspect of CGT, rather than a review of a potential government policy.

6 Q3. Do you think the OTS has the right breadth of expertise on its board? If not, what sectors need additional representation and why?

- 6.1 The OTS’ board consists of a Chair, Tax Director, representatives of HMT and HMRC, four independent members and up to two independent observers. The board plays an important part in establishing good relationships with HMT, HMRC, stakeholders and the Chancellor. Having a wide breadth of expertise and covering a wide range of sectors will certainly help the board to function and will no doubt help encourage the working relationships the OTS need to function. In relation to the board’s interaction with OTS reviews (or potential reviews) we would say the most important character of any board member has to be the willingness to listen to the ideas of others and to critically examine them, whether by application of their own wide-ranging expertise or by having an ‘enquiring mind’.
- 6.2 An equally important part of the OTS is its staff and volunteers. The OTS has always sought to include a balance of people from across HMT, HMRC and the private sector in its staff. This facilitates a wide-range of skills, interests and expertise to be brought to the OTS’ work. The OTS also appoints volunteer committees to help inform its reviews and, again, these also appear to facilitate open discussion and exchange of ideas through appointment of relevant experts and specialists in their field. Again, an important characteristic for all those engaged by the OTS is not just that they bring their expertise, experience and perspectives but also a willingness to be open to the ideas of others!
- 6.3 Overall, we are not aware of any gaps in breadth of expertise or practical experience across the board (or amongst the OTS’ staff). Of course, membership of the board will change from time to time, so it will be important for the board to challenge itself and revisit this question periodically, and if appropriate to address any shortcomings in its membership. This also means considering whether the number of board members is appropriate, and while we think that the current number of board members is correct and that there is no

⁴ Tax reliefs review report, eg the December 2010 interim report

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/198571/ots_review_tax_reliefs_interim_report.pdf, paragraph 5) and the Small business tax review, eg the March 2011 interim report

⁵ Final Review of tax reliefs report

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/198570/ots_review_tax_reliefs_final_report.pdf), paragraph 1.4.

need to expand the board, the number of board members (and number of staff) should be considered as part of the review.

7 Q4. Given its role as the Chancellor's independent adviser on tax simplification, do you think the OTS is sufficiently independent from government?

- 7.1 The OTS conducts its business independently of HMT and HMRC under statute. Naturally, there is a relationship between HMT, HMRC and the OTS, and the OTS relies heavily on both HMT and HMRC to provide information, analysis and resources. This reliance is understandable and to be expected. The OTS should, of course, have no authority to change the tax system. Its overarching role should be to advise the government on how to simplify the tax system.
- 7.2 Generally, the OTS will commence a review based on published terms of reference agreed in advance with HMT. The OTS will then research the area thoroughly, have regard to wider government policy, and take account of the likely implications for government policy of possible recommendations, before deciding on any recommendations. The OTS will also ask HMT and HMRC for comment on draft OTS reports prior to publication, to further reflect on the interactions of recommendations and government policy and, if necessary, reconsider recommendations. This process is again understandable and correct.
- 7.3 The result of the above process is that the OTS has to carefully manage its relationship with government in order to both obtain the assistance it requires to adequately perform its function, whilst remaining independent of government influence. In our opinion, the OTS has successfully navigated that path.
- 7.4 For the future, we think it is important that the OTS continues to collaborate with government and have access to HMT and HMRC policy teams, and to their knowledge bank, especially HMRC's Knowledge, Analysis and Intelligence Directorate (KAI) teams. The KAI data is very important when the OTS considers potential options for change to recommend.
- 7.5 Similarly, it will be equally important, such as for the OTS's collaboration with outside stakeholders, that the OTS remains separate and independent from HMT and HMRC. This could prove difficult if a new government policy proposal arises out of an OTS recommendation. In such circumstances it is important that the proposal takes its normal course through the policy making process, respecting the tax consultation framework, but building on the evidence base provided by the OTS.

8 Q5. Can you give examples of OTS work which you felt was particularly successful, or alternatively, where you would have liked the OTS to have taken a different approach?

- 8.1 We think that the OTS' tax reliefs review⁶, its small business tax review⁷, and its share schemes and employment benefits and expenses reviews⁸, were successful in terms of the number of simplification recommendations taken forward. In these cases they led to new legislation passed into Finance Acts. In other

⁶ [Tax reliefs review - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁷ [Small business tax review - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

⁸ [Employee share schemes review - GOV.UK \(www.gov.uk\)](https://www.gov.uk), [Employee share schemes review - GOV.UK \(www.gov.uk\)](https://www.gov.uk), [Review of employee benefits and expenses: interim report - GOV.UK \(www.gov.uk\)](https://www.gov.uk), [Review of employee benefits and expenses: second report - GOV.UK \(www.gov.uk\)](https://www.gov.uk), and [Review of employee benefits and expenses: final report - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

cases, such as the Small Company taxation⁹, Employment Status¹⁰ and Competitiveness of UK tax administration¹¹ reviews, the recommendations were carried forward into subsequent reviews.

- 8.2 The Small Business HMRC Administration report¹² and the Partnerships review final report¹³ both resulted in a number of useful administrative improvements. Similarly, the Guidance Review¹⁴ has seen improvements in HMRC engagement on guidance and in updating guidance.
- 8.3 The 2018 report into Savings income¹⁵ included very sensible simplification recommendations to address complexity arising from interactions between reliefs and allowances, and improve taxpayer confidence in the tax system through improved guidance and communication. While the report itself can be viewed as a success, it is disappointing that the recommendations in that report, which appear to be well thought out, have not as yet been taken forward. It is unclear whether a different approach by the OTS would have led to a more successful outcome, and it illustrates one aspect of the OTS' work where further thought is needed: how should the government respond to a review? Should there be an onus on the government to explain why a recommendation is not being taken forward?
- 8.4 This leads on to a potential area for concern: government implementation of OTS recommendations. We would very much welcome a framework setting out how government will consider the OTS' recommendations, both in relation to Chancellor commissioned reviews and those which the OTS undertakes on its own initiative (see later). This should clearly set out in detail which recommendations will be taken forward and in what timescale, and which will not be progressed further at this time and why (for example, is simplification just not a current priority of the government or are there genuine issues with a recommendation from which the OTS could learn).
- 8.5 Another potential concern arises from the OTS' Review of employee benefits and expenses¹⁶ where the OTS made very sensible recommendations on termination payments, including HMRC reviewing its position on 'payments in lieu of notice' (PILONs). While levelling the playing field between contractual and non-contractual PILONs is a simplification, the legislation that has resulted is very complicated and moves away from a common sense application of how much of a settlement represents the PILON (which was not a significant issue in practice) to a formulaic calculation which can require employers to undertake two sets of calculations (one to ascertain the PILON per the employment contract and another to ascertain the taxable 'post-employment notice pay'). A further example of this point comes from the OTS's Small Business review, which recommended the introduction of a disincorporation relief. This would have helped small businesses incorrectly incorporated (eg as a result of the previous nil rate band of corporation tax) move back to sole traders but, in our opinion, the inclusion of an asset level restriction of £100,000 in the legislation (something that was not recommended by the OTS) severely restricted use of the relief. We think, when taking recommendations forward, the tax simplification objective should be paramount.

⁹ [Small company taxation review - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/544222/small-company-taxation-review-2018.pdf)

¹⁰ [Employment status review - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/544222/employment-status-review-2018.pdf)

¹¹ [Competitiveness of UK tax administration review - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/544222/competitiveness-of-uk-tax-administration-review-2018.pdf)

¹² [Small business tax review: Final report HMRC administration \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/544222/small-business-tax-review-final-report-hmrc-administration-2018.pdf)

¹³ [ots_partnerships_report_final.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/544222/ots-partnerships-report-final.pdf)

¹⁴ [Guidance for taxpayers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/544222/guidance-for-taxpayers-2018.pdf) and [OTS Guidance Review update paper - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/544222/ots-guidance-review-update-paper-2018.pdf)

¹⁵ [Simplifying the taxation of savings income - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/544222/simplifying-the-taxation-of-savings-income-2018.pdf)

¹⁶ [Review of employee benefits and expenses: final report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/544222/review-of-employee-benefits-and-expenses-final-report-2018.pdf)

9 Q6. Does the OTS engage with, and consider the views of, an appropriate number and variety of stakeholders when conducting a review?

- 9.1 Yes, it does. The OTS is very good at reaching out to stakeholders and collaborating with those outside of government, whether they be professional bodies, trade groups, professional firms, experts in their field, or taxpayers more generally. The OTS' strategy and general approach to its work has made it easy for ordinary individuals to comment, eg simple surveys. This is an important aspect of the OTS' function, as it allows those whose voice may not otherwise be heard, or who may be reluctant to engage directly with HMT or HMRC, to input and feel valued. Hence, we think the OTS goes out of its way to obtain feedback. We also note that our meetings with the OTS have been very productive, and time is provided to submit written comment too.
- 9.2 Overall, the OTS' approach to consultation and general approach to its work is to be applauded.

10 Q7. Who do you think OTS reports focus on recommending simplifications for? Who should the OTS focus on offering simplifications for?

- 10.1 The OTS' focus on simplification has largely been small businesses (incorporated or unincorporated), employers and employees, and individuals; although recommendations for larger business were included in Competitiveness of UK tax administration and Simplification of the corporation tax computation reviews.
- 10.2 Given the successfulness of the OTS' work to date, and the continuing scope for simplification for the above groups in an ever increasingly complex tax system, we think that the OTS should continue to focus on small and medium sized businesses, and individuals (eg following up on the IHT and CGT reviews, taxation of life events, etc). This might be a combination of significant issues that affect large groups in order to seek wholesale benefits, as well as smaller groups where simplification is long overdue and could have a positive impact for both taxpayers and government.¹⁷
- 10.3 The OTS' work should include how to make the tax system simpler not just for the above groups but also their representatives. Many businesses and individuals rely on paid advisers, family and friends, or the tax charities to help with their tax affairs. It is vital that the processes for those representatives enable near seamless interactions with HMRC.

11 Q8. To what extent should the OTS take account of wider policy objectives outside of simplification and the impacts of suggested changes on households and businesses, when making recommendations to government?

- 11.1 The OTS framework document sets out that the OTS will include the potential impacts that their recommendations for simplification will have on government policy, and that the OTS will make an initial assessment of the nature and scale of these. It is undoubtedly correct that the OTS should take these wider government policy objectives into account when making recommendations. That does not mean that a simplification recommendation should not be made if a recommendation conflicts with government policy (arguably, the simplification agenda should be the driving force for a recommendation), but it does mean that the OTS should address such conflicts with policy and why it is asking the government to consider this aspect of the tax system.

¹⁷ For example, internationally mobile individuals, and non-UK-domiciled individuals.

- 11.2 The final decision on whether a simplification recommendation should be taken forward would then lie with government, taking all factors into account. We note that in the past the OTS' work has often been referred to in the Budget and has led to either further consultation within the governments Tax Consultation Framework or directly to legislation. Our hope is that the government will continue to pay heed to the OTS' recommendations and consider how tax simplification might best be reflected in wider policy objectives.
- 11.3 If the government decides that the OTS should have a more policy making brief in relation to its work, then clearly the OTS must have regard to wider policy objectives outside of the tax simplification agenda. Of course, this would mean the OTS would need either an increase in resources or the total focus of their efforts would be on mitigating the complexity of new legislation (crowding out any attempt to deal with complexity in the existing tax system).
- 11.4 For the OTS' traditional reviews of the existing tax system its recommendations for legislative and administrative changes should be driven by a tax simplification agenda (while having some regard to wider policy).

12 Q9. Can you provide examples of where you think the work of the OTS has led to genuine improvements regarding simplification for taxpayers, and if so, for which groups of taxpayers?

- 12.1 The OTS proposals in respect of the cash basis reporting on the Self-Assessment return has made tax reporting for many small and micro unincorporated businesses much simpler. This proposal arose out of one of the OTS' first projects (the Small Business Review) and our understanding is that over 1.1 million small businesses have benefitted from this easement.
- 12.2 Another example of a genuine improvement and simplification would be the abolition of employee expenses dispensations and the introduction of a new exemption for paid or reimbursed expenses that are tax deductible, which arose from the OTS' Review of employee benefits and expenses.
- 12.3 The IHT review¹⁸ and the proposal for simplifying IHT reporting by January 2022 will also lead to genuine simplification for those dealing with the estates of deceased persons. By splitting the IHT review into two and the first report focusing more on the tax administration and process aspects of IHT, HMRC has been able to get on with implementing simplifications that do not need legislation. This approach to reviews could be a template for the future (although we still await an indication from the government as to what they propose to do with the second IHT review). Similarly, the current consultation on VAT and simplifying the VAT land exemption arises from the OTS' VAT review and has the potential to lead to genuine simplification.

13 Q10. How influential do you think the OTS is, including regarding: a) political decision-making, b) policy development, c) public debate in the media, d) academic or tax specialist debate.

- 13.1 a) We think that the OTS has been quite influential into government decision-making. For example
- The Tax reliefs review resulted in legislation in Finance Act 2012 (s227),
 - The Small business tax review resulted in legislation in Finance Act 2013 (s17, 218 and s58),
 - The Tax-advantaged employee share schemes review resulted in legislation in Finance Act 2014 (s51),

¹⁸ [Office of Tax Simplification: Inheritance Tax Review - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/office-of-tax-simplification-inheritance-tax-review)

- the Employee benefits and expenses review resulted in legislation in Finance Act 2015 (s12, s13, s17) (see also above response to Question 9).
- 13.2 b) We think that the OTS' review of specific taxes has informed debate on government policy development. For example, the OTS has explored employment status, the gig economy, closer alignment of income tax and NICs, VAT, IHT and CGT, as well as reporting on event lifecycles affecting individuals and small businesses.
- 13.3 c) We think the question should be whether the OTS should influence public debate in the media rather than whether the OTS is influential. The OTS' role is to provide advice to government on the simplification of the tax system and there is a balance to be struck between sparking debate on potential government policy, government decision making or previous governments' policies, and informing the public of complexities in the tax system and how they might be navigated and resolved. While it is important for there to be awareness of the OTS and its role and function, and for the OTS to inform the public both of its work and how the public might better interact with the tax system, this should not be by reason of influencing public opinion per se.
- 13.4 d) We think that the OTS has been influential in developing academic and tax specialist debate. The OTS should influence ministerial, HMT and HMRC thinking and also spark debate in other tax specialists. This can be achieved by direct engagement with ministers, HMT, HMRC and external stakeholders (eg roundtable events, meetings, etc) and through reports, and specialist press articles, etc. By developing interactions with stakeholders the OTS has encouraged open debate around simplification of the tax system, both in respect of legislative simplifications and reductions in administrative burdens. It is these discussions that help to identify focus areas for the OTS' recommendations.
- 13.5 We also note that in July 2020 the OTS published a note evaluating its work on corporation tax and the taxation of self-employed people¹⁹. This highlights how successful the OTS has been in influencing decision-making and policy development in these two areas. It also highlights the further work that government could do on simpler tax for smaller companies, employment status, personal service companies and tax administration generally. Prior to that, in October 2019, there was an evaluation of the OTS' work on VAT²⁰ which notes substantial progress on guidance and communication etc. And back in June 2017 the OTS carried out a piece of work evaluating the progress on implementing recommendations made in some of its initial projects, which was been used to draw out some lessons to be incorporated into future OTS work. It is evident from this work that the OTS has been influential in developing tax policy.

14 Q11. Are there any particular issues or areas of the tax system which the OTS have not considered, which should be examined by the OTS?

14.1 We think that, resources permitting, the OTS' work could divide into three areas:

- 1) There should be periodic revisiting of proposals from its earlier reviews, to identify recommendations that were not taken forward and to consider (a) recommending to government that they revisit this recommendation, (b) revising their recommendation and making a new recommendation to government, or (c) agreeing that a recommendation should not be further considered.

¹⁹ [OTS evaluation and stock take note - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/90444/OTS_evaluation_and_stock_take_note.pdf)

²⁰ [OTS publishes an evaluation update on its VAT report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/90444/OTS_evaluation_and_stock_take_note.pdf)

- 2) There should be consideration of reviews into areas that the OTS has not yet considered (or for which changes in policy mean that a previously visited area is ripe for a new review). Examples include, (i) a review of the pensions tax simplifications introduced by Finance Act 2004, to see whether the aims of that simplification can still be met within the confines of government policy developments since then, (ii) the change to working from home and how the tax system treats benefits and expenses, including travel, relating to employees (and other workers) that work from home either full or part-time (and why it matters whether the employer or employee incurs an expense), and (iii) flexible working (individuals that move in and out of employment and self-employment or have multiple engagements, and how the tax system keeps up with their frequent change of circumstances). Of course, this does not mean that the OTS should instigate reviews into areas of little interest to government or taxpayers but aspects of the tax system that affect a significant number (especially the administration of the tax system, or the interaction of legislation that depend on a particular tax status) should not be shied away from.
 - 3) The OTS could also look towards future legislation and review new measures being introduced or developed by government and consider whether those measures, and the implementation of them, introduce unnecessary complexities into the tax system that contradict with the simplification agenda. For example, it is important that new measures do not impose disproportionate expectations on technology simply because future technology is anticipated to provide 'the answer' or to hide the likely complexity. As noted above, if this became a focus of the OTS' work it would need a significant increase in resources, otherwise it is unlikely it would be able to undertake the other areas identified above.
- 14.2 Of particular relevance at the moment is the work HMRC is undertaking on implementing Making Tax Digital (MTD), with MTD for VAT already introduced and being extended, and the introduction of MTD for ITSA and CT in its pilot stages. MTD has the potential to either reduce administrative burdens on businesses and individuals (if kept simple and reporting under the differing taxes is aligned) or significantly increase those burdens (especially if businesses and individuals end up having to adopt unfamiliar and digitally link incompatible software, submit a lot of mini-returns (see above), etc).
- 14.3 The OTS has already undertaken work on the use of technology and how it can affect tax administration. Taking that work further and expanding it to include MTD, 30-day CGT reporting and other standalone reporting systems etc has the potential to produce administrative simplifications for all. The OTS' vision of a single digital account is another area that could be taken forward and expanded so that from that account taxpayers can access and perform all interactions within HMRC.
- 14.4 A further technological area the OTS could review is aspects of current online systems that require paper-based resolutions (for example, employers submitting P11Ds and their P11D(b) can file these online, but any amendments have to be filed by paper).
- 14.5 Of course, there are potentially many further areas of the tax system which are ripe for review and we have merely mentioned a few obvious areas here. We would be pleased to provide a fuller list if so desired.
- 15 Q12. What other further steps, if any, could be taken to enhance the effectiveness of the OTS in performing its functions as the Chancellor's independent adviser on tax simplification?**
- 15.1 We think that the OTS should be clear whether a review arises from the Chancellor commissioning the report or as a result of the OTS' own initiative. It is important for the effectiveness of the OTS as an independent body

for them to be seen as providing advice to government both in respect of areas the government has requested and areas that the OTS considers, of its own accord, to be important and needing of simplification.

- 15.2 The 'effectiveness' of the OTS is naturally dependent upon whether, or the extent to which, the government adopts its recommendations. However, whilst there is an obligation on the government to respond to Chancellor-initiated reviews, there is no such obligation in relation to reviews the OTS undertakes of its own volition. In any event, there appears to be no set timescale in which the government to respond. Nor does the legislation currently prescribe the level of detail of response required – allowing the Chancellor merely to give a cursory ('we're thinking about it') response. The effectiveness of the OTS would be enhanced if the government were required to respond to all OTS reviews within a particular timeframe, say six months and to ensure that the response indicates in detail what areas the government proposes to take forward, what need further work, and why.²¹
- 15.3 We would also suggest that the government develop a formal simplification framework or similar mechanism to which it can be held to account. This would allow the OTS to score its recommendations against that framework and allow scrutiny of future governmental tax policy against that framework.
- 15.4 The Tax Professionals Forum's report in December 2015 called for OTS consultation and reports to be formally embedded in the five stage tax policy development process. Hence, a tax simplification framework could be linked into the existing Tax Consultation Framework as part of both a 'pre-step' (eg an OTS review and government consideration of their recommendation takes place before the government consults in line with the steps outlined in that framework) and as part of the consultation framework itself (eg so that tax simplification is integral to consultation on policy, or potential policy, decision making). Clearly, if the OTS were to be embedded into the tax consultation framework it would need to be resourced to undertake such work.
- 15.5 It may also be beneficial to expand the OTS's role to incorporate a post-enactment review of new legislation – perhaps two to three years after implementation. This could not only determine the real-life impact of the measure as compared to that envisaged during its development, but also identify valuable 'lessons to learn' for the development of future policies.
- 15.6 We also believe that it is important for the OTS to have direct access to ministers, in order to put their case as regards recommendations (or potential recommendations) in their reports and discuss potential conflicts with government policy or other possible impacts on policy. A continuing open dialogue between the OTS and ministers would undoubtedly facilitate more successful outcomes for the OTS' work.

16 Acknowledgement of submission

- 16.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

13 July 2021

²¹ See

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/988283/Index_of_OTS_reports_May_2021.pdf

Extract from Finance Act 2016**PART 12**

Office of Tax Simplification

184 Office of Tax Simplification

- (1) There continues to be an Office of Tax Simplification (referred to in this Act as the 'OTS').
- (2) Schedule 25 contains provision about the OTS.

185 Functions of the OTS: general

- (1) The OTS must provide advice to the Chancellor of the Exchequer, on request or as the OTS considers appropriate, on the simplification of the tax system.
- (2) For the purposes of this section and section 186—
 - (a) 'the tax system' means the law relating to, and the administration of, relevant taxes,
 - (b) 'relevant taxes' means taxes that the Commissioners for Her Majesty's Revenue and Customs are responsible for collecting and managing, and
 - (c) a reference to 'taxes' includes a reference to duties and national insurance contributions.
- (3) References in this section and section 186 (however expressed) to the simplification of the tax system include references to improving the efficiency of the administration of relevant taxes.

186 Functions of the OTS: reviews and reports

- (1) At the request of the Chancellor of the Exchequer, the OTS must conduct a review of an aspect of the tax system for the purpose of identifying whether, and if so how, that aspect of the tax system could be simplified.
- (2) The OTS must prepare a report—
 - (a) setting out the results of the review, and
 - (b) making such recommendations (if any) as the OTS consider appropriate.
- (3) The OTS must send a copy of the report to the Chancellor of the Exchequer.
- (4) The Chancellor of the Exchequer must—
 - (a) publish the report, and
 - (b) lay a copy of the report before Parliament.
- (5) The Chancellor of the Exchequer must prepare and publish a response to the report.

187 Annual report

- (1) The OTS must prepare a report of the performance of its functions in each financial year.

(2) The report relating to a financial year must be prepared as soon as reasonably practicable after the end of the financial year.

(3) The OTS must—

- (a) send a copy of the report to the Chancellor of the Exchequer, and
- (b) publish the report.

(4) The Chancellor of the Exchequer must lay a copy of the report before Parliament.

(5) For the purposes of this paragraph, each of the following is a ‘financial year’—

- (a) the period beginning with the day on which this section comes into force and ending with the following 31 March, and
- (b) each successive period of 12 months.

188 Review of the OTS

(1) The Treasury must, before the end of each review period, conduct a review of the effectiveness of the OTS in performing its functions.

(2) The ‘review period’ means—

- (a) in relation to the first review, the period of 5 years beginning with the day on which this section comes into force, and
- (b) in relation to subsequent reviews, the period of 5 years beginning with the day on which the previous review was completed.

(3) The Treasury must prepare and publish a report of each review.

189 Commencement

Sections 184 to 188 and Schedule 25 come into force on such day as the Treasury may by regulations made by statutory instrument appoint.

SCHEDULE 25

Office of Tax Simplification

Membership

1

(1) The OTS is to consist of not more than eight members.

(2) The members of the OTS must include—

- (a) a chair,
- (b) a tax director (see sub-paragraph [\(5\)](#)),

(c) a representative of Her Majesty's Revenue and Customs, and

(d) a representative of the Treasury.

(3) The additional members, if any, are to be nominated by the chair.

(4) The members of the OTS are to be appointed by the Chancellor of the Exchequer.

(5) A person may be appointed as a tax director of the OTS only if the Chancellor of the Exchequer is satisfied that the person has the necessary qualifications and experience to direct the manner in which the OTS discharges its functions.

(6) The Chancellor of the Exchequer must consult the chair of the OTS before appointing a person as a tax director (subject to paragraph [3\(3\)](#)).

Term of office

2

(1) A person holds and vacates office as a member of the OTS in accordance with the terms of the appointment, subject to the following provisions.

(2) A period of appointment may not exceed 5 years.

(3) A person who ceases to be a member of the OTS is eligible for re-appointment.

Appointment of initial members

3

(1) Sub-paragraphs (2) and (3) apply where a person ('P') appointed under paragraph [1\(2\)\(a\)](#) or [\(b\)](#) was, immediately before the appointment, the chair or tax director (as the case may be) of the non-statutory Office of Tax Simplification.

(2) P's period of appointment is to be taken to have begun with the appointment of P as the chair or tax director (as the case may be) of the non-statutory Office of Tax Simplification.

(3) The requirement in paragraph [1\(6\)](#) does not apply where P was, immediately before P's appointment under paragraph [1\(2\)\(b\)](#), the tax director of the non-statutory Office of Tax Simplification.

Termination of appointments

4

A member of the OTS may at any time resign by giving written notice to the Chancellor of the Exchequer.

5

(1) The Chancellor of the Exchequer may terminate the appointment of a member of the OTS by giving the member written notice.

(2) In the case of a member appointed for the purposes of paragraph [1\(2\)\(a\)](#) or [\(b\)](#) or [\(3\)](#), the Chancellor of the Exchequer may only terminate the appointment if—

(a) the member has been absent from meetings of the OTS without the OTS's permission for a period of more than 3 months,

(b) the member becomes bankrupt (see sub-paragraph (3)),

(c) the member has failed to comply with the terms of the appointment, or

(d) the member is, in the opinion of the Chancellor of the Exchequer, unable, unfit or unwilling to carry out the member's functions.

(3) A member becomes bankrupt if—

(a) in England and Wales or Northern Ireland, a bankruptcy order is made in relation to the member;

(b) in Scotland, the member's estate is sequestrated.

Remuneration

6

The Treasury may pay a member of the OTS such remuneration and allowances as the Treasury may determine.

Provision of staff and facilities etc.

7

The Treasury may provide the OTS with such staff, accommodation, services and other facilities as appear to the Treasury to be necessary or expedient for the proper performance by the OTS of its functions.

Validity of proceedings

8

The OTS may regulate its own procedure.

9

The validity of anything done by the OTS is not affected by—

(a) any vacancy in the membership of the OTS, or

(b) any defect in the appointment of a member of the OTS.

Supplementary powers

10 The OTS may do anything that appears to it to be necessary or appropriate for the purpose of, or in connection with, the performance of its functions.

Finance

11

(1) The Treasury may make to the OTS such payments out of money provided by Parliament as the Treasury considers appropriate for the purpose of enabling the Office to meet its expenses.

(2) Payments are to be made at such times, and subject to such conditions, as the Treasury may determine.