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Treasury Committee Inquiry into Budget 2021

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 Budget 2021 was largely a Budget of two halves. In the short term the priority is to support individuals and the economy and, like last year's Budget, significant support for businesses and employees was announced. However, unlike last year, Budget 2021 also announced a number of measures to increase taxes and plot a course towards recovery.

1.3 In the light of these exceptional circumstances, we recognise that for many of these measures the normal policy-making process had to be set aside, and decisions made and policies implemented at pace.

1.4 Notwithstanding this, we consider that the Budget was consistent with many of the Committee's principles of tax policy, even when viewed through the lens of the Committee's Tax after Coronavirus report.

1.5 The announcement of further support via the Job Retention Scheme and the Self-Employment Income Support Scheme through to September 2021 is welcome, and provides clarity and certainty for millions of individuals and businesses. However, we remain disappointed that the government has not gone further to fill some of the gaps in these schemes, which will leave some without support for nearly eighteen months.

1.6 The announcement that a number of allowances and thresholds will be frozen for a considerable period of time ahead provides certainty and stability, whilst generating increasing levels of revenue. However, a drawback of such an approach is that more people face the costs and complexity that crossing thresholds can bring (such as the VAT threshold). In the case of the High Income Child Benefit Charge, which has always affected some households with modest income, these anomalies become more significant as the level at which the charge 'bites' has remained frozen.

1.7 We are pleased that the trading loss carry-back rule will be temporarily extended. This is something the CIOT has been suggesting over the past year, and was a specific recommendation in the Committee's Tax after Coronavirus report.

1.8 We welcome that the proposed increase to the rate of corporation tax has been announced well ahead of its implementation. We think that giving notice of this is consistent with one of the themes of the Committee's Tax after Coronavirus report. Smaller companies will benefit from the small profits rate, but this reintroduces some complexity into the system, whilst also missing an opportunity to address the imbalance between the taxation of employment, self-employment and those operating through a company.

1.9 We are pleased that 'tax consultation day' lived up to its name by launching a number of early stage consultations, which will help ensure any changes adhere to the committee's principles. However, these were largely in relation to administrative matters, and missed the opportunity to consult on some of the structural problems within the tax system, such as the 'three person problem', the future of particular taxes such as VAT, or wider matters like the taxation of property. We remain concerned that substantial and detailed tax changes will continue to be announced for the first time at fiscal events, without adequate prior consultation.

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 The Treasury Committee has invited comments on the 2021 Spring Budget and 'tax consultation day', both in relation to how they meet the Committee's tax policy principles, as expressed in its 2011 report Principles of Tax Policy, and in the light of the findings and recommendations of its Inquiry 'Tax after Coronavirus'.

3.2 The Chartered Institute of Taxation (CIOT) is pleased to submit some comments, which includes observations from our Low Incomes Tax Reform Group (LITRG).

3.3 We have limited ourselves to those areas within the scope of our expertise which we consider to be the most important announcements; both in terms of their fiscal impact, and measures which particularly meet or contravene the Committee's tax policy making principles and / or the Tax after Coronavirus recommendations.

3.4 We do not normally comment upon what tax rates and allowances should be, but we do comment on their impacts and whether the policies underpinning the thresholds are meeting their objectives. This is particularly pertinent on this occasion in the light of the short-to-medium term freezing of a number of thresholds.

3.5 References in square brackets are to the paragraphs in the 'Red Book'. Otherwise we have sought to make clear the source of the announcement.

4 COVID measures

4.1 Before addressing the specific Budget measures we would like to make two initial comments.

4.2 First, HMT and HMRC should be commended for the speed with which they rolled out the key COVID support schemes, and have continued to prioritise their delivery.

4.3 Secondly, while welcoming the extension of the SEISS grant to include 2019-20 tax return information, we remain disappointed that the government has not done more to fill the gaps in support. Inevitably these schemes have some hard edges and design flaws, but it appears that the government has chosen not to commit the necessary resources either to fill significant gaps or to introduce more targeted support schemes which are safer from abuse. This has deepened inevitable tensions between fairness and practicality, resulting in some individuals receiving little or no support for up to eighteen months.

4.4 Coronavirus Job Retention Scheme (CJRS) [2.14]

4.5 We welcome that the government has announced the extension of the scheme until September. We also welcome that the level of government support has also been confirmed for the remainder of the scheme, which provides certainty to employers, helping them plan ahead and with some level of confidence.

4.6 While we are mindful of the significant cost of the scheme, and the risk of fraud, we remain concerned about the publication of employer information regarding claims. In addition to the scheme's eligibility criteria, employers must also ensure that they can withstand the public criticism that might subsequently arise. Deterring businesses from claiming CJRS could actually increase the risk of them making people redundant instead. We do not think that public opinion and fear of adverse publicity should be determining factors in whether a business should claim its legal entitlements. Publication of taxpayer data by HMRC is exceptional (and previously restricted to those taxpayers who have behaved improperly) and we think should only be undertaken following consultation and proper debate.

4.7 Self-Employment Income Support Scheme (SEISS) fourth grant [2.15] and SEISS fifth grant [2.16]

4.8 We welcome that the government announced an extension to the SEISS scheme, both to confirm the level of the fourth grant, and the existence and level of the fifth grant. We also welcome that these two grants will take into consideration 2019-20 tax return information when determining eligibility and the amount of grant payable. However, it will also mean that some individuals who were eligible for, and claimed, the earlier grants

will now be ineligible. This was not widely publicised on Budget day and it may come as a shock to those affected.

4.9 While we understand that the grant is not intended to replace specific months' profits, the messaging around this is confusing. For example, the fourth grant '…*will be worth 80% of three months' average trading profits…. The grant will cover the period February to April*…' [paragraph 2.15]. So, a three month grant covers a three month period. However, the fifth grant is '…*covering May to September…worth 80% of three months' average trading profits*…' [paragraph 2.16]. So a three month grant covers a five month period.

4.10 Similar confusion arose last year when the second grant 'covered' the five month period June to October 2020. Therefore, the first, third and fourth grants subsidise a loss of profits for a three month period, but the second and fifth grants subsidise the loss of profits for a five month period. We recognise that the level of support for the self-employed need not match that for employees (in particular, because the self-employed can continue to work whilst also claiming SEISS), but we think that the scheme might be better understood if the rate of support had been adjusted to match the extended period that the grant would cover (eg 3/5 x 80% = 48%).

4.11 The scheme has also been modified a number of times since its introduction. The third grant introduced a requirement for a significant reduction in trading profits, and this requirement has been carried over into the fourth grant. HMRC will not advise what constitutes a 'significant reduction'. In an attempt to better target support, the fifth grant takes this further, by introducing a turnover test which will dictate the amount of grant receivable. However, the turnover test will not apply to the period May to September 2021, but to an earlier period (to be determined, but probably prior to April 2021). This means that the level of grant will not reflect the individual's trading position over the period it is intended to cover, and the additional complexity may still not deliver the policy of supporting those who need the most support.

4.12 Income tax exemptions for COVID-19 tests and home office expenses [2.17]

4.13 Last year, the government announced a temporary income tax exemption and NIC disregard in respect of the benefits-in-kind that would otherwise arise where an employer provides, or reimburses the cost of, a coronavirus antigen test, and introduced temporary exemptions in respect of (i) employer-provided coronavirus antigen tests and (ii) employer reimbursement of employee's expenditure on home office equipment.

4.14 Given the ongoing situation as regards the pandemic, the extension of these temporary exemptions (and the easement for employer provided cycles under the cycle to work scheme) until 5 April 2022 are welcome. The measures are targeted, simple, clear and provide certainty and stability.

4.15 This said, we think that the government could go further.

- The exemption for coronavirus antigen tests does not extend to antibody tests, and we consider that any COVID test should be tax exempt, irrespective of whether an antigen or antibody test.
- The government should review its approach to employers paying for, or reimbursing the cost of, vaccines. For example, many employers provide flu vaccine shots or flu vaccine vouchers each autumn. Generally, these can be exempted under the trivial benefits rules. However, if an employee pays for the vaccine (which in many instances is the most practical approach), any reimbursement by the employer is taxable. How the vaccine is paid for shouldn't dictate the tax treatment, and

considering that ongoing coronavirus vaccinations might be required (the cost of which might exceed the trivial benefits exemption limit), the treatment should be aligned.

4.16 There is a different tax treatment between employee-purchased office equipment where the employer reimburses the cost and the employee ultimately retains the equipment at home (non-taxable), and where the employer has provided the equipment and ultimately allows the employee to retain the equipment at home (taxable on the employee).[1] We think that to be fair and to level the playing field the government should introduce a temporary exemption for the second case – perhaps with a financial limit to restrict the scope for abuse.

4.17 Combatting COVID-19 fraud [2.61]

4.18 The COVID support schemes administered by HMRC have provided a vital lifeline to many individuals and businesses. However, the schemes have also transformed over time. For example, GOV.UK guidance on the CJRS has changed well over fifty times. The eligibility conditions for the SEISS grants have also changed over time, and again there have been a significant number of guidance updates.

4.19 Most tax rules are implemented by primary, secondary and tertiary legislation, often a result of detailed consultation, and remains static for long periods. Published guidance supplements and explains that legislation. In contrast, the legislation for the CJRS and SEISS is predominantly included in a number of relatively short Treasury Directions, with frequently-changing published guidance setting out many of the 'rules' for the schemes; thus providing a much reduced legal framework and constantly changing rules.

4.20 The government is right to crack down on deliberate, fraudulent claims. We are concerned at the risk that HMRC officials will become overzealous and shift their attention to those who may have made innocent mistakes or not kept pace with changes to the rules. Indeed, government messaging around the grants has shifted from the 'give away' approach in the early weeks and months of the schemes, to the more nuanced 'only claim if you need to' theme now (a theme that, while understandable, goes beyond the restrictions actually in the legislation). HMRC must be mindful of the changing landscape when undertaking their investigations and clear guidance for taxpayers is necessary to provide them with clarity over their circumstances and obligations.

5 Welfare

5.1 Universal Credit [2.19, 2.21, 2.22]

5.2 There were several Universal Credit (UC) announcements in the Budget including the extension of the £20 temporary uplift for 6 months, the continued suspension of the minimum income floor (MIF) until the end of July 2021 and the extension of the temporary higher threshold of £2,500 for surplus earnings until at least April 2022.

[1] See Check which expenses are taxable if your employee works from home due to coronavirus (COVID-19) - GOV.UK (www.gov.uk)

5.3 Whilst we welcome the extension of the MIF suspension[2], we have long been concerned about the impact of the MIF on those wanting to start self-employment and those who are established self-employed but with uneven income. It cannot be right that a self-employed person, earning the same amount as an employed person over the course of a year, receives significantly less UC than an employed claimant simply because of the way their self-employed income and expenses fluctuate. This is the case even if, over 12 months, they earn above 35 hours x NMW x 52 weeks. While we understand that there is a need to get the balance right between supporting entrepreneurship and not subsidising long term, unprofitable self-employment, we are concerned that this balance has not been achieved. Before the policy is reintroduced, it should undergo further review to address these issues.

5.4 We also welcome the announcement that the surplus earnings threshold will remain at £2,500 until at least April 2022, which means fewer people will be impacted by the policy than if the level reduced to £300 (as initially announced). The surplus earnings rules are some of the most complex we have ever seen and we raised serious concerns about how they would be administered and explained to claimants when they were first introduced. Pre-pandemic, very few UC claimants were affected by the rules as it required a substantial increase in income in an assessment period to trigger them; however as SEISS grants count as income for UC purposes, in some cases they will have triggered the surplus earnings rules. The rules were introduced in order to stop people manipulating their income to increase their UC payments – however we suspect most of those impacted (especially when the activation threshold is reduced to £300) will be people who have a one-off increase of income or a rise in income due to a new job which then ends suddenly. Again, this time should be used to examine the impact of the policy and the evidence base on which it was introduced. We believe a general anti-abuse provision would be sufficient to protect taxpayers' money without negatively impacting genuine claimants who have changes in circumstances or income.

5.5 Working Tax Credit [2.20]

5.6 As noted in paragraph 5.2, the Government announced a 6-month extension of the temporary £20 a week uplift in universal credit. This £20 a week uplift was originally introduced in March 2020 to support those the government felt were facing the most financial disruption as a result of the pandemic. It was therefore added to UC and Working Tax Credit (WTC) (but not other legacy benefits) – aimed at those whose work was affected by the pandemic.

5.7 As UC is a monthly paid benefit, based on assessment periods, it is relatively easy to implement a 6-month extension of the £20 a week uplift into the new tax year (to 30 September 2021). However, WTC, along with Child Tax Credit (CTC), is calculated on an annual basis and it is not possible for the tax credit system to increase the basic element of WTC for only 6 months.

5.8 To deal with this, the £20 a week increase to the basic element of WTC will end on 5 April 2021 and previously announced rates will apply from 6 April 2021. Instead, the Chancellor announced a new, one-off payment of £500 for people who, broadly, were getting WTC or CTC (and in addition to CTC were eligible for WTC but were not receiving actual payments due to their income level) on 2 March 2021.

5.9 As with other coronavirus support payments developed by HMRC, this payment has been designed, and will need to be delivered, very quickly. It sits outside of the tax credit system, is not a payment of tax credits but

[2] The MIF policy means that where a self-employed person has self-employed earnings below their MIF threshold (usually 35 hours a week x NMW less notional tax and NI) their actual earnings will be ignored and their UC will be calculated using the MIF amount instead. There is a 12 month grace period before the MIF applies when a person starts in self-employment or moves to UC from legacy benefits.

tax credit data is used to establish qualification. As with the other payments, there is a balance between speed of delivery (which requires simplicity in the rules of entitlement) and fairness (how targeted the payment is). This means there are likely to be some people who expect to qualify who will not and some who are not expecting the payment who will get it. The payments will be made automatically by HMRC and so communication about the entitlement conditions will be crucial.

5.10 We are pleased that the Finance Bill includes a provision to exempt the payment from tax and that it will not be treated as income for other benefits. The Finance Bill also contains a provision to extend the charge to income tax for those not entitled to coronavirus support payments (ie putting in place a mechanism to recover the payments) to this payment as well. Whilst in principle we understand the need to have a recovery mechanism for those not entitled to the payment, as HMRC are making this payment automatically without any claim from an individual, we are concerned over its scope. In particular, it appears to apply not only where the tax credit award or the payment was obtained as a result of fraudulent activity, but also where HMRC make a payment in error in non-fraudulent cases. Given the complexity of the tax credit annual system and the subtle differences between entitlement, awards and payments, we think it would be unreasonable to expect people who receive a payment to independently verify that they are in fact entitled, and we have recommended an amendment to the clause to exclude these non-fraudulent cases.

6 Thresholds [2.73 – 2.80, 2.91]

6.1 The Budget announced that a number of thresholds would be frozen, rather than being increased in accordance with inflation or other uprating mechanisms. This includes the personal allowance and higher rate threshold, the inheritance tax nil-rate band and residence nil-rate band, NIC thresholds, CGT annual exempt amount, pensions lifetime allowance, starting rate for savings tax band and the VAT threshold (see later).

6.2 Announcing a freezing of thresholds for a considerable period of time ahead complies with many of the Committee's principles (certainty, stability etc). It will also raise substantial revenues whilst, prima facie, not damaging growth.

6.3 Having frozen these thresholds, the opportunity should be taken to consider what future policy should be in these areas. For example:

- Is increasing the income tax threshold the most targeted way of helping people on the lowest pay, or providing better work incentives, as compared to say, alignment of lower NIC thresholds and / or increasing the work allowance in Universal Credit, and / or reducing the rate at which Universal Credit is withdrawn as claimants are able to earn more money? This rate of withdrawal, sometimes combined with loss of 'passported' benefits, can act as a higher marginal effective rate of tax than the formal tax system.
- Should the income tax and NIC thresholds be aligned? The government has confirmed that the NIC Upper Earnings Limit and Upper Profits Limit will continue to be tied to the income tax higher rate threshold until 2026. However, the Primary Threshold and Lower Profits Limit for NICs will continue to be set at fiscal events during this period, so they may continue to increase. If this were the case, there would be an opportunity for the government to realign the point at which NICs are paid with the point at which income tax is payable. While this might create more of a cliff-edge, with liability

to both tax and NI arising simultaneously, it would be simpler for low-earning individuals to understand when they become liable to deductions.

- The current pensions tax relief system was introduced in Finance Act 2004, after many years of painstaking work and consultation, and this is the first year since then it hasn't undergone significant amendments. We think that there is a case for a review of the pensions tax relief system with the aim of removing the complexity introduced over the couple of decades and striking a better (and better understood) balance between affordability, fairness and strengthening the incentive to save.

6.4 Freezing thresholds brings more people into the scope of taxes, increasing the number who have to deal with the complexity of tax administration for the first time. We are particularly pleased, therefore, that delivering a secure and easily accessible single digital account / customer record is a key element of the 10-year tax administration strategy.[3] Giving taxpayers a single, complete picture of their tax affairs (or equivalent information for their authorised agent) will help them understand their obligations, liabilities and entitlements much more easily.

6.5 Similarly, long-term freezing of thresholds inevitably increases the likelihood of them being reached. For example, while the decision to freeze the pensions lifetime allowance until April 2026 provides certainty, individuals will need to ensure they do not unwittingly breach the threshold.

6.6 We were also pleased to see the announcement on tax consultation day that, from 1 January 2022, over 90% of non-taxpaying estates each year will no longer have to complete inheritance tax (IHT) forms for deaths when probate or confirmation is required. The change will mean that only around 15% of estates will need to complete some form of IHT return, and will be a welcome simplification for families and executors in the aftermath of bereavement.

6.7 The personal allowance and higher-rate threshold will increase for 2021-22 in line with the September 2020 CPI, as announced in the November 2020 Spending Review. As a result, the higher-rate threshold for 2021/22 is set to be £50,270. This means that basic rate taxpayers, for the first time, will be affected by the High Income Child Benefit Charge (HICBC). This is directly contrary to the original policy intent of the HICBC announced in the spending review ten years earlier, which stated that the charge should only affect families with a higher-rate taxpayer. It is therefore disappointing that the Government did not take the opportunity to increase the threshold at which the HICBC begins to at least £60,000 as suggested by LITRG in their pre-budget representation.[4] At the very least, in line with the Committee's principle of ensuring there is ongoing monitoring of tax measures, we think that the HICBC is due a public review of whether the policy is working effectively – the number of cases reaching the First-tier Tribunal concerned with backdated assessments to the charge suggests that it is not.

7 Personal Tax

7.1 Social Investment Tax Relief (SITR) extension [2.148]

[3] See https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972148/The_tax_administration_framework_Supporting_a_21st_century_tax_system_-_call_for_evidence.pdf

[4] See https://www.litrg.org.uk/sites/default/files/files/140121-LITRG-submission-Budget-Representation-High-Income-Child-Benefit-Charge.pdf

7.2 At Budget 2021 the government announced it would extend SITR in its current form beyond its sunset clause of April 2021, for two years. In the meantime, the government will continue to monitor the social investment market and assess the most appropriate form of support for the policy objectives that SITR was introduced to achieve.

7.3 The social enterprise market is a small but important one, bridging the gap between charities and businesses. Many smaller social enterprises rely heavily on grant-funding and donations. SITR encourages them to look at more 'commercial' forms of financing such as equity and debt.

7.4 However, because SITR is modelled on the Enterprise Investment Scheme (EIS), it is complex – much too complex for the smaller organisations it is designed to support. (We would make similar observations in relation to the Seed Enterprise Investment Scheme (SEIS), which is also complex and difficult for small companies to navigate).

7.5 So whilst we are pleased to see this short-term extension of SITR, it does nothing to ease the complex requirements for obtaining the relief, nor awareness of the relief itself; both of which represent barriers to its take up.

7.6 The government should be encouraged to consult more widely on how investment in social enterprises can be facilitated. This would go broader than tax matters, but one such element should be the extent (if any) that the tax system should incentivise such investments and, if so, the best model to use.

7.7 Pensions tax

7.8 We note that the government is undertaking a number of pensions tax technical updates, but we are disappointed that no mention is made of net pay pension schemes, notwithstanding the fact that seeking to address this issue was a commitment in the 2019 Conservative Election manifesto.[5] We urge the government to look at this area, and remove this unfairness, without further delay.

8 Business Taxes

8.1 Extended loss carry back for businesses [2.51]

8.2 The CIOT welcomes the Budget decision that the trading loss carry-back rule will be temporarily extended from one year to three years. This is something the CIOT has been suggesting over the past year, including in a Budget representation in January.[6] Allowing businesses to benefit from a three-year carry back of trading losses arising during the pandemic will give businesses with a track record of making profits and paying tax – a good proxy for long-term viability – but which have suffered during the pandemic, a much-needed cash injection.

8.3 In our view the measures will also be cost-effective. In many cases (where the business would ultimately have recovered in any event), it will be a cash flow (rather than absolute) cost to the government which will

[5] The manifesto says: 'A number of workers, disproportionately women, who earn between £10,000 and £12,500 have been missing out on pension benefits because of a loophole affecting people with net pay pension schemes. We will conduct a comprehensive review to look at how to fix this issue.'

[6] See https://www.tax.org.uk/sites/default/files/210113%20Chartered%20Institute%20Of%20Taxation%20Budget%20representation%20on%20changes%20to%20the%20tax%20rules%20affecting%20companies.pdf

reverse as the business, having used up its losses by carrying them back, makes profits and pays tax sooner in the future.

8.4 We note the cap of £2m on the amount of losses that can be carried back to the additional two years and recognise that this does permit a maximum cost to the Exchequer to be calculated. However, we would be surprised if the measure would have cost significantly more over the economic cycle if it had been unlimited. This is because it is likely to be the largest companies which have losses in excess of £2m per accounting period, and these companies will be subject to the higher rate of corporation tax that will apply from April 2023. So, carrying back losses to be relieved at the 19% rate of corporation tax could cost the Exchequer less than if those losses were carried forward and relieved at the 25% rate.

8.5 Indeed this combination may give some businesses a dilemma – use current losses for relief on past corporation tax bills at 19%, getting the money now, or banking on profits returning in future and keeping the losses to get relief at 25% in a few years' time. But most businesses will probably think it better to have that choice than not.

8.6 The extended carry back of losses is limited to trading losses, replicating the existing rules permitting a twelve month carry back (by excluding property income losses and non-trading loan relationship deficits). We recognise that these measures have been costed and the decision about where to target relief has been made in terms of supporting businesses that have incurred losses as a result of the COVID-19 pandemic. However, many landlords are incurring losses, for instance because their trading tenants are making losses. Property businesses will be an important part of the economic recovery – they will need to re-purpose the high street. Property businesses that have incurred losses would benefit in the same way as trading businesses from an ability to carry back losses to achieve a cash flow injection, noting that the cash flow cost to the government will reverse as the property business returns to profit in the future.

8.7 <u>Corporation tax [2.81]</u>

8.8 The increase in the corporation tax rate for larger businesses from April 2023 is a big change in direction of government policy, following an acceleration of rate cuts in the last decade and the abolition of the previous small profits rate after 2014. The reintroduction of a small profits rate will obviously be welcomed by those who will benefit from it, but it will add to the complexity of the tax system and misses an opportunity to alleviate the 'three person problem' (see para 8.10 below).

8.9 The early announcement of the future increase provides some clarity, at least for the next three years, but some longer term indications of rates would be useful, especially considering the increase reverses the previous policy approach. The announcement is broadly consistent with the Committee's acknowledgement that tax rises should not happen now, but will be necessary in the future; although whether over 30% is a moderate increase is subject to debate.

8.10 Reintroducing a 'small profits rate' of corporation tax, rather than allow the increased rate to apply to all companies, does miss an opportunity to reduce the imbalance between the tax burdens on employment, self-employment and those operating through a company (referred to as the 'three person problem'). Few small companies that reinvest profits pay corporation tax because of the availability of the Annual Investment Allowance, but the rate is likely to be very relevant to those who are distributing profits which might otherwise have been more highly taxed as earnings, or rolling profits up in cash in the hope of even more tax-efficient access to it later.

8.11 Tax rates remain one of the factors motivating businesses to incorporate. A number of changes in recent years have mitigated the tax benefits of incorporation, such as the introduction of the dividend rate in April 2016, the reduction in the dividend allowance to £2,000 in April 2018, and cancellation of the proposed reduction in the corporation tax rate to 17%. But there remains, for some, a clear tax benefit in operating what is broadly the same underlying business, but within a corporate 'wrapper'.

8.12 Although the upper limit of £50,000 annual profits to the new small profits rate is lower than it was in the past, it will still benefit very many of those service providers who might have otherwise remained unincorporated (or might even have operated as employees) but for the fiscal benefits of incorporation.

8.13 We remain of the view that there needs to be a wide, open and very public debate on the tax treatment of different kinds of work structures. A key point is whether the tax and benefits systems should aim for a completely level playing field between employment and self-employment – and if 'self-employed' whether within or without a corporate 'wrapper' - or whether differentials should be accepted and the focus put on trying to reform and clarify existing distinctions. It is disappointing that this whole area seems to have been neglected in the Budget and on 'tax consultation day'.

8.14 Preventing abuse of the Research and Development (R&D) relief for small and medium-sized enterprises (SMEs) [2.103] – also R&D tax reliefs [2.149]

8.15 The government is right to be working to counter fraudulent attempts to claim the SME R&D scheme payable tax credit. The proposed cap on the amount of SME payable R&D tax credit that a business can receive in any one year by reference to the company's total PAYE and NICs liability will assist in deterring abuse. We welcome the aspects of the proposals that have been incorporated as a result of two consultations conducted during 2019 and 2020 to minimise the impact and deterrent effect on genuine businesses undertaking genuine R&D.

8.16 We also welcome the continued recognition by the government of the importance of R&D to increasing productivity and the commitment to ensure that the UK remains a competitive location for cutting-edge research. Reviews of reliefs are an oft-forgotten stage of the tax policy-making process, and we were pleased to see at the Budget the government's review of whether the reliefs remain up-to-date, competitive and well-targeted.

8.17 We also encourage HMRC to continue, along with the professional bodies, its efforts to improve standards in part of the R&D advice sector, to ensure that only legitimate claims are made by advisers who adhere to strict professional standards such as Professional Conduct in Relation to Taxation (PCRT).[7]

8.18 Super-deduction [2.111]

8.19 The super-deduction, allowing companies to reduce their corporation tax bill by 130% of the value of their investment for two years, being introduced as a new first-year allowance over that period, alongside a new 50% first-year allowance for qualifying special rate assets, will be a real incentive to make or accelerate investment. It will make most difference to larger businesses, as smaller ones benefit proportionally more from the existing Annual Investment Allowance (AIA); indeed, as noted, the smallest businesses that invest often pay no tax as a result. The Chancellor may have feared that without this new stimulus, larger companies

[7] See https://www.tax.org.uk/professional-standards/professional-rules/professional-conduct-relation-taxation

would have had a fiscal incentive to defer investment until 2023 when the higher rate of corporation tax will apply, in order to attract the corresponding higher rate of relief.

8.20 That said, there has been too much tinkering with rules and rates of capital allowances, and frequent changes more often than not bring complexity and uncertainty, and undermine investor understanding of, and confidence in, what is on offer at any one time. This further temporary measure leaves unresolved the question of what is the ongoing permanent level of support through the tax system for corporate investment. There is a need for ongoing indications of a stable environment post 2023.

8.21 There are some exclusions from the ability to benefit from the super-deduction, in particular the exclusion for leasing and for electric cars. The exclusion for leasing is a general one that applies in respect of all first-year allowances and applies equally to equipment leasing, and plant or machinery that is leased as part of a property. Thus excluding leasing from the benefit of the new super-deduction and 50% first-year allowance for special rate assets is consistent with this existing policy. We also note that there are some circumstances where a lessee can claim capital allowances (for example under long funding leases and hire purchase contracts) and in these circumstances, the super-deduction should be available to the lessee. We understand that the prohibition from first-year allowances for leased assets is part of the government's wider concerns around opportunities for abuse in these sectors. This policy rationale is more easily understood in relation to equipment leasing, which is considered to be broadly akin to financing the underlying plant or machinery. Further the plant or machinery is generally moveable, which also gives rise to concerns as to where the equipment is being utilised, as the policy aim is to improve productivity in the UK.

8.22 However, we suggest that the position of landlords of UK property, particularly in the current climate, is not analogous with equipment lessors. Property landlords are increasingly having to offer capital contributions and incur significant fit-out costs to support tenants. In addition, in many sectors (for example the hospitality sector and the care sector) businesses commonly operate as 'opco/propco' structures and these businesses will be unable to benefit from the new generous first-year allowances on capital costs incurred by the propco (landlord), despite the investment being made in respect of the underlying trading business (and, therefore, contributing to the productivity of the business). There are examples in other areas of the tax code where organisational structures within a group are ignored (for example in the rules relating to substantial shareholding exemption) and the same could have been considered here.

8.23 We note that the built sector is the source of a substantial amount of emissions. Thus, while accepting that this particular policy initiative is aimed at encouraging productivity through tax relief for investment in plant or machinery, an opportunity could also have been taken to reflect the government's overall green agenda by using the capital allowances system to encourage landlords to retro-fit properties to reduce emissions.

8.24 We understand that the policy decision to exclude cars (but not commercial vehicles more generally) is consistent with the policy that has always excluded cars from the AIA. This is on the basis that cars have their own capital allowance regime intended to incentivise investment in electric cars, by providing a specific 100% first-year allowance for them (which has also recently been extended to 2025). Whilst accepting this policy distinction for cars, we note that the announced increase in the main rate of corporation tax could delay investment decisions around a company's fleet of cars, as compared with other plant or machinery which will qualify for the new super-deduction.

9 Property Tax

9.1 Temporary Stamp Duty Land Tax (SDLT) cut [2.26]

9.2 The purpose of the temporary increase, announced on 8 July 2020, to the SDLT nil rate band for residential property sales, from £125,000 to £500,000 was to revive the housing market and stimulate household consumption against the background of falling property transactions in the COVID-19 lockdown. The new measure extends the temporary increase to 30 June 2021 followed by a further temporary relief period from 1 July 2021 to 30 September 2021 when the nil rate band is £250,000.

9.3 The tapered transition back to pre-pandemic rates should take some of the bottlenecks out of the system for house buyers wishing to complete transactions before the increased nil rate band expires altogether, although with some added complexity because different rate bands apply at different times.[8]

9.4 Although the economy still needs support, it is important the government publishes the economic analysis to show the further extension is cost effective and not simply absorbed in increased house prices. A 2011 evaluation of a previous temporary stimulus for first-time buyers on transactions between March 2010 and 2012 concluded the majority of the tax relief was capitalised in higher prices.[9]

9.5 The increased nil rate band applies to both the main rate of SDLT, and the surcharge rate of 3% for purchases of additional properties such as second homes or buy to lets. The aim of that surcharge is to impose an additional SDLT cost on buyers of second homes or for investment, thus increasing supply for first time buyers or those moving home. Applying the nil rate band to purchases subject to the 3% surcharge (as well as first time buyers / home movers) seems contrary to the policy behind the surcharge, particularly if as a result prices increase for those whom the surcharge was intended to help.

9.6 As the above helps illustrate, SDLT continues to become an increasingly complex tax,[10] handled predominantly by conveyancers (most of whom are not tax specialists). It was disappointing, therefore, that 'tax consultation day' did not produce any early-stage consultations on how SDLT, or property taxation more generally, might be reformed.

9.7 Business rates reliefs [2.47]

9.8 The extension of business rates relief will continue to support retail and hospitality venues through the pandemic and, in this sense, is to be welcomed. The extension attempts to both target and cap the relief, going some way to addressing the criticisms of the previous 'blanket' relief. It is understood that nearly 1/5 of last year's rates relief has been or will be repaid by major supermarkets and essential retailers, so we are pleased to see some focus on the extension of the relief, rather than leaving it entirely to conscience and public opinion to mitigate its cost.

9.9 In the longer term, we need to bear in mind that because of the economic relationship between rent and rates, much of the cost of business rates may be borne by landlords, and this issue needs to be factored in to consideration of the future of rates. We look forward to the outcome of the fundamental review of business rates which will conclude in the autumn.

[8] First-time buyer relief continues to be disapplied during the initial temporary relief period. However, it will cease to be disapplied during the further temporary relief period.

[9] See https://www.gov.uk/government/publications/evaluating-the-impact-of-stamp-duty-land-tax-first-time-buyers-relief

[10] See also the increased rates for non-resident transactions being introduced from 1 April 2021 by clause 88 and schedule 16 to the Finance Bill.

9.10 Business rates repayments [2.49]

9.11 We welcome the measure, which will bring certainty of treatment to those who have repaid their business rates relief. We welcome particularly that it aligns the deduction for the repayment with the period in which the original liability would have been due and paid.

9.12 However no such certainty seems to exist with the voluntary repayment of some other forms of COVID support; such as repayment of CJRS and SEISS grant monies. We have sought clarity from HMRC in relation to this, but to date the issue remains outstanding. We note that the legislation in the current Finance Bill allows this measure to be extended to other repaid liabilities by regulation.

10 Indirect Tax

10.1 VAT Deferral New Payment Scheme [2.45]

10.2 We welcome the further extension (announced in September 2020) for businesses to pay their deferred VAT over up to eleven instalments to January 2022.

10.3 The deferred VAT remains legally due by 31 March 2021, but businesses can secure additional time to pay that liability:

- By joining the VAT Deferral New Payment Scheme online by 21 June
- By contacting HMRC and agreeing further time to pay by 30 June.

10.4 A business who has failed to pay the outstanding VAT, or entered into payment arrangements with HMRC, on or before 30 June 2021 will be subject to a penalty. This begs the question of what happens if a business pays their outstanding VAT after the legally due date of 31 March 2021, but before the penalty trigger date of 30 June 2021. We understand that HMRC will not seek to penalise these businesses, but the position is confusing and does not help bring any certainty; particularly considering the amounts involved could be significant.

10.5 VAT reduction for the UK's tourism and hospitality sector [2.46]

10.6 The extension of the reduced rate for tourism and hospitality should provide a useful boost to the economy; either through increased profitability for those businesses that have had to remain closed during the pandemic, reduced prices for consumers on non-essential expenditure, or both.

10.7 We are pleased that the rate changes have been announced well in advance, giving affected businesses the opportunity to prepare. The administrative impact of changes to VAT rates should not be underestimated. In this regard, we are concerned that an 'intermediate' rate of 12.5% may give rise to additional complexity and costs, particularly for businesses who are using basic or unfamiliar software to comply with Making Tax Digital for VAT and that such issues and costs will have to be borne for a limited period of for six months, which may mitigate the benefit of the tax cut for some affected taxpayers.

10.8 VAT threshold [2.91]

10.9 The announcement that the VAT threshold has been frozen until April 2024 helps provide certainty, particularly for businesses approaching or operating around that level. However, freezing the VAT threshold

again continues to 'duck' the key issues of deciding its appropriate level and how its 'cliff-edge' features can be mitigated.

10.10 'Tax consultation day' also failed to live up to hopes expressed in some quarters that the VAT system, or major aspects of it, might be subject to consultation with a view to simplification now that the UK has left the EU. HMRC's appraisal of many of the recommendations of the Office of Tax Simplification's November 2017 review of VAT has now been ongoing for a number of years and its status is increasingly unclear in consequence.[11] Notwithstanding this, the government proposes to further increase the complexity of the VAT system, without evidencing the need to do so.[12]

11 Avoidance, evasion & non-compliance

11.1 Interest harmonisation and reform of penalties for late submission and late payment of tax [2.95]

11.2 The proposal aims to bring some consistency across the main tax regimes (income tax, VAT, corporation tax) as they fall within the scope of Making Tax Digital. They also remove some quite harsh consequences (particularly with VAT) of occasional or minor misdemeanours, improving fairness by applying an approach which focuses on the taxpayer's pattern of behaviour. They are included in clauses 112 and 113 (and related schedules) of the Finance Bill.

11.3 Unfortunately, in seeking this desire for fairness, the system is incredibly complex, particularly the new points-based system for late submission of returns, and is hard to reconcile with the Committee's principles concerned with legal certainty and simplicity. For example, the fact that annual obligations for an individual within Making Tax Digital for Income Tax (Self Assessment) are treated as quarterly ones for the purpose of accrual of penalty points is confusing, as are the rules on limits for the number of penalty points which may be accrued for a given type of obligation in a given month (or quarter). We are hopeful that HMRC's systems will shield taxpayers from some of this complexity and so remain practicable, but clear guidance is vital so that taxpayers can understand the regime, including when points and financial penalties will be levied, and rights of appeal. A taxpayer's points history will need to be easily accessible by both the taxpayer and their agent, and HMRC's systems should generate prompts to encourage compliance.

11.4 We are concerned that the new late submission penalty regime will come into effect precisely when many taxpayers will be dealing with the requirements of Making Tax Digital for the first time.[13] Whilst the penalty regime has an inherent 'light touch' (by only charging a financial penalty when a certain level of points have been incurred), we consider that HMRC should consider exercising their discretionary powers not to apply a penalty point in a variety of circumstances to that affected population in the next stages of the roll out of MTD. This will ensure that those taxpayers are protected from penalties whilst getting to grips with a new

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[11] See https://www.gov.uk/government/publications/ots-report-on-routes-to-simplification-for-vat-is-published, Chancellor's response at https://www.gov.uk/government/publications/letter-from-the-chancellor-to-the-office-of-tax-simplification-ots and the evaluation update at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835709/OTS_Paper_-_VAT_Evaluation_update.pdf

[12] See https://www.gov.uk/government/consultations/vat-and-value-shifting?utm_source=5bc832da-0514-4a77-845f-c19edfa38e9e&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

[13] The new penalty regime will apply to VAT from April 2022, when businesses who are voluntarily registered for VAT must start to comply with MTD for VAT. It will then apply to ITSA from April 2023, when most unincorporated businesses must start to comply with MTD for ITSA.

regime, and the new penalty system would then apply when the regime becomes 'business as usual'. We note that there was a commitment by HMRC (at a time when income tax would be mandated first) that customers would be given a period of at least 12 months before they will be charged late submission penalties under MTD.[14]

11.5 Whilst harmonisation of interest payable and repayable ensures a fairer and more coherent regime, we are concerned at the exceptions which will apply to VAT repayment interest. For example, interest will not be paid for periods during which HMRC are undertaking 'reasonable' inquiries into the VAT return. Whilst we recognise that HMRC may need to undertake inquiries into the validity of VAT returns (particularly those which claim a repayment), in the intervening period the business is left with an absence of funds which often form part of a business's working capital. Rates of interest on tax repayments will typically be far lower than a business's own cost of finance, and we would not expect businesses themselves to delay the provision of information to HMRC. HMRC will be the initial arbiter of what is considered reasonable, and the measure seems to remove any incentive for HMRC to undertake inquiries quickly and efficiently and make timeous VAT repayments. We do not consider it either fair or coherent that HMRC can in essence 'stop the interest clock' and deny commercial restitution at the expense of the taxpayer.

11.6 These concerns are further reinforced by two additional factors.

- VAT Repayment Supplement[15], which currently acts as a useful 'stick' to ensure HMRC make timely repayments of VAT, and is a fair restitution for the taxpayer in the current absence of any interest, is to be withdrawn. We are concerned that this is happening somewhat 'below the radar' as there is no specific reference to its removal in the Finance Bill, its Explanatory Notes, or the Budget day policy paper.[16]
- HMRC's processing times are currently so poor in some service lines that taxpayers are waiting many months for their refunds. We are concerned that, in the absence of any substantive incentive to process them timeously, these delays will extend to VAT refunds.

11.7 Tackling promoters of tax avoidance [2.99]

11.8 The government is right to be taking a robust approach to uncooperative and unscrupulous promoters who continue to devise, promote or sell tax avoidance schemes - most of which do not work. There should be no place for such people and their schemes in the tax market. HMRC openly acknowledge that only around 20 to 30 promoters are currently in operation.

11.9 We note that a further consultation 'clamping down on promoters of tax avoidance' was launched on 'tax consultation day', as well as changes to existing penalties and HMRC powers being included in the Finance Bill.

11.10 We are pleased that HMRC recognise that today's promoters are rarely members of professional bodies, and in the light of this we have limited comments. We do wonder how successful legislative measures are in tackling the 'hard core' promoters who clearly do not play by the rules. Indeed this seemingly endless chasing

[14] Paragraph 3.4 of https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/587432/Making_Tax_Digital_-_Tax_administration_-_Summary_of_responses.pdf

[15] Repayment Supplement of the greater of £50 or 5% of the VAT repayment is paid by HMRC, broadly, if HMRC do not authorise the VAT repayment within 30 days (excluding reasonable time taken to inquire into the return).

[16] See https://www.gov.uk/government/publications/interest-harmonisation-and-penalties-for-late-submission-and-late-payment-of-tax/interest-harmonisation-and-penalties-for-late-payment-and-late-submission

down of a small number of promoters is adding significant complexity to the tax system. Even though reputable advisers are not in the scope of these changes, they still need to ensure that they are not inadvertently impacted by the new rules.

11.11 Our LITRG has done a great deal of work helping low income workers understand issues relating to the loan charge and in understanding disguised remuneration schemes for low income workers. None of these measures around tackling promoters of tax avoidance are particularly controversial from that point of view, but they are bolted onto a regime that was designed to tackle traditional tax avoidance.

11.12 The 'disguised remuneration' arrangements that LITRG see today are no longer always, or mainly, an issue of traditional tax avoidance but often more about exploitation of the economics of supply chains and the nature and scale of the temporary worker labour market. As such, these clauses alone are unlikely to be effective – what is before us is a different, more complex problem. HMRC are making headway through other activities[17] but we would encourage other measures such as dealing with the issue of generic Tax Counsels' opinions supporting packaged tax avoidance schemes, and better communications around the risks of avoidance and the types of scheme being promoted, using non-tax-technical language.

11.13 Follower Notice penalties [2.100]

11.14 The penalties that may be charged to a person receiving a Follower Notice (FN) as a result of using a tax avoidance scheme are being reduced from 50% to 30% of the tax under dispute. A further penalty of 20% will be charged if the Tax Tribunal decides that the recipient's continued litigation against HMRC is unreasonable.

11.15 In general we agree with the proposals. The high level of the current FN penalty (50%) can act as a disincentive for a taxpayer to continue with their appeal even if they consider that their case has a strong chance of success. To this extent the measure increases the fairness (or rather, reduces the unfairness) of the existing regime. However, we would anticipate that this disincentive will remain even at a penalty level of 30%. In other words, it does not overcome the fundamental problem with the FN penalty regime - which is that it puts pressure on a taxpayer not to exercise their legal rights.

11.16 Tax Conditionality: Licensing in Scotland and Northern Ireland [2.101]

11.17 We welcome steps being taken by the government to reduce the illegal behaviour element of the tax gap. These have historically been the most 'stubborn' elements to tackle, and the hidden economy tax gap has remained broadly constant for a number of years, so innovative measures are necessary if that is to be reduced.

11.18 The extension of tax conditionality to Scotland and Northern Ireland from April 2023 builds on the existing proposal to implement similar obligations in England and Wales from April 2022.[18]

11.19 Whilst we are generally supportive of the measure, it is important that the system is fully tested and operational before it goes live – it could be devastating for individuals if they are prevented from trading because of a glitch in HMRC or the licensing authority's systems. In this regard we recommend that the April 2022 and 2023 dates are kept under review, and extended if necessary, if there is a danger that the systems will not be ready. The legislation should also include time limits on HMRC for them to complete their stages

[17] See HMRC's strategy 'Tackling promoters of mass-marketed tax avoidance schemes' at https://www.gov.uk/government/publications/tackling-promoters-of-mass-marketed-tax-avoidance-schemes
[18] See clause 121 and schedule 32 of the Final Bill.

in the process – that is, to complete the tax check required of the business once it has received the information from the taxpayer, and to confirm to the licensing authority that a tax check has been completed.

11.20 In addition, whilst this is expected to be 'a simple online service' there will need to be adequate provision for the digitally excluded / challenged. At present, the Finance Bill includes no obligation on HMRC to cater for this group.

11.21 We are also concerned that this could prompt a behavioural response of driving businesses even further into the hidden economy by operating on an unlicensed basis. This measure should be accompanied by education of the public about the importance of using licensed businesses in the first place, as well as ensuring that licensing bodies step up their enforcement activities.

12 Freeports [2.113 to 2.115]

12.1 We have limited our comments to some of the practicalities of the tax incentives to be offered within the allocated freeports; although like the impact of the SDLT holiday we are concerned about the impact on prices in the areas concerned, as well as diverting activity away from other fully taxpaying areas. We encourage the government to publish its evidence that freeports will deliver the intended benefits.

12.2 SDLT

12.3 Clause 111 of the Finance Bill provides for a new relief from SDLT for acquisitions of land and buildings in freeport tax sites.

12.4 There are a number of areas of uncertainty, which will require clarification, such as:

- How will the area of freeports be designated? It will be necessary to ensure that particular buildings or plots can be identified as either in or out of the boundary of the tax site.
- The treatment of joint ventures which might typically involve one partner developing commercial areas (qualifying) and one developing residential areas (non-qualifying).
- Withdrawal of relief for subsequent non-qualifying activity.
- Whether relief is available where the land and buildings are acquired using Shari'a-compliant financing arrangements.

12.5 We are concerned that some of these uncertainties might hinder investment in these areas, and clarification needs to be provided in the near future.

12.6 Employer NICs

12.7 We note the proposal to introduce a temporary employer NICs relief for eligible employees in all freeport sites from April 2022.

12.8 We would welcome consultation on the detail of the relief. While, in its most basic form, the relief can be applied easily through payroll via a simple indicator, in reality the relief will not be that simple to administer as the 'hard' part is likely to be identifying which employees can qualify (new and / or existing, nature of role etc), how long for, whether in respect of all or some of their work (eg if time is spent at a freeport site and elsewhere) etc. Also, it would be necessary to determine how the relief sits beside, and interacts with,

existing reliefs for employees under 21, apprentices under 25, and the newly introduced relief for armed forces veterans.

12.9 A previous government introduced a time limited regional NICs holiday for new businesses which was unsuccessful in encouraging new hires.[19] A relief for freeport sites needs to be targeted to ensure it encourages hiring new employees, rather than simply relocating existing employees (who would in any event continue to be employed) in order to reduce NI contributions. For example, if a company relocated its head office onto a Freeport site, would all the employees at the head office then qualify for the NIC relief?

12.10 Assuming that the detail is fully consulted on then this relief should be practicable and targeted. Whether the relief proves to be simple to operate will, however, lie in the detail but, hopefully, with appropriate consultation the legislation can provide the necessary clarity.

13 Tax administration

13.1 A large proportion of the consultations launched on 'Tax Day' were in relation to administrative rather than policy matters. However, we welcome that these are starting an early stage in the consultation process, or are a continuation of previous consultation.

13.2 <u>Call for evidence: the tax administration framework: supporting a 21st century tax system</u>

13.3 This call for evidence is the most substantive consultation following last July's announcement of HMRC and HMT's tax administration strategy.[20]

13.4 We are pleased that the consultation seems to put 'everything on the table', and will consider a wide range of aspects such as registration and deregistration for taxes, how taxes are calculated and assessed, sources and uses of data, and modernising compliance approaches. We look forward to continuing our previous engagement with HMRC throughout this review.

13.5 Making Tax Digital (MTD) is a key part of the government's tax administration strategy, and they have already announced the extension of MTD for VAT from April 2022, and the introduction of MTD for Income Tax Self Assessment (ITSA) from April 2023. As far back as 2016 we encouraged the government to consider real simplification of the tax system before implementing MTD for ITSA.[21] Other than some minor changes, no such simplification has taken place, and we remain concerned that some software will fail to deal with the complexities of the tax system, increasing the risk of errors and non-compliance, rather than improving it. Further, it is not clear what will take priority if responses to the tax administration framework suggests a different direction or set of obligations than those for MTD.

13.6 A fundamental part of the 10-year strategy will be to set out milestones for deliverables, balancing short-term 'wins' with longer term structural changes. As a long-term government project we would not wish the strategy to be de-prioritised because of a lack of apparent progress, especially considering the consultative approach being adopted.

[19] See https://www.gov.uk/guidance/regional-employer-nics-holiday-making-a-retrospective-claim

[20] See https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system

[21] See our response to HMRC's consultation Making Tax Digital: Bringing business tax into the digital age at https://www.tax.org.uk/policy-technical/submissions/making-tax-digital-ciot-comments

13.7 Timely payment

13.8 Also part of the government's tax administration strategy is this review of when tax should be calculated and paid. The government consulted on encouraging voluntary / timely tax payments back in 2016, although little progress seems to have been made subsequently.[22]

13.9 Again we welcome the early stage consultation, and the commitment to introduce any changes gradually and not within this parliament. Whilst some self-employed individuals might welcome paying their taxes closer to 'real-time' the difficulties should not be underestimated, and include:

- Transitioning from the existing (largely in arrears) regime, to a real-time one – will taxpayers have to pay two lots of tax in one year, or will the exchequer miss out on a year's tax (or something in between)?
- How to deal with short-term fluctuations in income and profits, which are largely ironed out by the current regime.
- The availability of other information which can affect a tax liability, such as income from investments.

13.10 The government will invest a further £180 million in 2021-22 in additional resources and new technology for HMRC [2.104]

13.11 We are pleased to see additional investment in HMRC. Whilst it is not specified how this funding is to be spent, we welcome that part of it appears to be for development of the single digital account, which will enable taxpayers to more easily understand their tax obligations. This is important as recent measures such as the Trust Registration Service and the 30-day CGT reporting service have operated independently of mainstream systems such as the personal tax account, thus creating confusion and practical difficulties for taxpayers, their agents, and HMRC.

13.12 Notification of uncertain tax treatment by large businesses

13.13 We are pleased that the government has acted upon many of the concerns expressed by respondents to the initial consultation in March 2020.[23] In particular, the definition of uncertain tax treatment has been substantially revised and is now based on 'triggers' (discussed in Chapter 3 of the consultation), which are intended to be objective. There is also now a general exception proposed for matters that have already been discussed with HMRC (although it is not clear how this will work in practice or be legislated for). However, there is much that remains unclear and further input is sought in questions posed by the second consultation.

13.14 It is regrettable that, without explanation, the original consultation bypassed stage 1 of the consultation process and moved straight to stage 2 instead. As a result, the policy objectives of the proposal were not clearly articulated or explained, making it difficult to discern from the consultation exactly what the measure is intended to achieve or, more particularly, a coherent and practical proposal for achieving it. This is precisely why, in the absence of avoidance or abuse, the proper consultation process should be respected.

[22] See our response to HMRC's consultation Making Tax Digital: Voluntary pay as you go at https://www.tax.org.uk/policy-technical/submissions/making-tax-digital-ciot-comments

[23] See our response to the original consultation at https://www.tax.org.uk/policy-technical/submissions/notification-uncertain-tax-treatment-large-businesses

14 Acknowledgement of submission

14.1 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
14 April 2021

Appendix One

Principles of tax policy

Principles of tax policy – 2011 report

The Committee's 2011 report recommended that tax policy should be measured by reference to the following principles. Tax policy should:

1. ***be fair**. We accept that not all commentators will agree on the detail of what constitutes a fair tax, but a tax system which is considered to be fundamentally unfair will ultimately fail to command consent.*
2. ***support growth and encourage competition**.*
3. ***provide certainty**. In virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs. **Certainty about tax requires***
    i. ***legal clarity:** Tax legislation should be based on statute and subject to proper democratic scrutiny by Parliament.*
    ii. ***Simplicity:** The tax rules should aim to be simple, understandable and clear in their objectives.*
    iii. ***Targeting:** It should be clear to taxpayers whether or not they are liable for particular types of charges to tax. When anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system.*
4. ***provide stability**. Changes to the underlying rules should be kept to a minimum and policy shocks should both be avoided. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.*
5. *The Committee also considers that it is important that a person's tax liability should be easy to calculate and straightforward and cheap to collect. To this end, tax policy should be **practicable**.*
6. *The tax system as a whole must be **coherent**. New provisions should complement the existing tax system, not conflict with it.*

Tax after coronavirus report

The Committee's 2021 report 'Tax after coronavirus' builds on some of the above principles both in general and specific ways, which can be summarised as:

1. The need for reform, but through a consultative approach.
2. Removing distortions which can add complexity or promote particular behaviours.
3. The benefits of setting out principles, objectives and strategies.
4. The need to raise revenues, but without damaging growth.
5. Supporting businesses.
6. The need for certainty / long-term decisions.
7. Ongoing monitoring of measures.
8. Adherence to the tax policy-making process.

CIOT objectives for the tax system

Our stated objectives for the tax system have much in common with the Committee's tax policy principles, and include:

- A legislative process which 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.