TAXREP 17/15 (ICAEW REPRESENTATION 37/15)

SEVEN PLAIN ENGLISH SUGGESTIONS TO IMPROVE THE TAX SYSTEM

ICAEW responded to the invitation on the HMRC website to submit comments on Budget 2015: have your say It submitted its comments via the HMRC website on 13 February 2015. These comments are now incorporated into the current TAXREP 17/15.

The comments, submitted on 13 February 2015, were prepared on behalf of ICAEW by the Tax Faculty.

Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

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Ten Tenets for a Better Tax System — Appendix 1

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ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 142,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.

ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.

For more information, please contact ICAEW Tax Faculty: taxfac@icaew.com

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Introduction

We set out below the comments we submitted via the HMRC website to the invitation “Budget 2015: have your say” in advance of Budget 2015 which takes place on 18 March 2015.

Progress since our suggestions in advance of Autumn Statement 2014

We submitted suggestions in advance of Autumn Statement 2014 and have repeated those suggestions below to the extent that they have still not been acted upon.

We are very pleased to note that the government accepted one of those earlier suggestions which asked to **Remove distortions and disincentives when property is purchased.**

The Chancellor announced, in Autumn Statement 2014, that he would be replacing the SDLT slab system with a progressive tax.

We applaud that improvement to the UK tax system.

New problems since the Autumn Statement

We have added two further areas of concern to those highlighted in our pre Autumn Statement suggestions covering the new granny bonds and the removal of the renewals basis for unfurnished rental property.

Our seven suggestions as to how to improve the existing UK tax system are set out below.

1 Put tax simplification at the heart of Government thinking

The problem
We have one of the longest tax codes in the world and it continues to grow considerably with each year. There is little point in simplifying some areas of tax if at the same time huge complexities are being created elsewhere, for example the high income child benefit charge, transferrable personal allowances, the loss of the personal allowance where income breaches £100,000, lower rates of tax on savings income and so on. Such changes make it very difficult for most citizens to understand and budget for their tax, especially where actual income changes late in tax year.

The solution
Government needs to commit to a real tax simplification programme and follow this through with policy. It is just too easy to add more pages to the tax code and it needs to be brought under control.

There should be a commitment that the tax code should not be increased further. If new rules are considered necessary, then a one in one out (or even better a one in two out) principle should be adopted.

New policy ideas should be subject to a pre-implementation review to assess their practicability and the impact on the administrative complexity of the tax code.

2 Give greater certainty for larger businesses entering the quarterly payments regime

The problem
Basing quarterly payments of corporation tax on in-year results causes considerable uncertainty and can result in cash flow difficulties for companies entering the system. This does not support the government’s growth agenda. While the system is intended only for the largest companies, the low de minimis and the operation of the associated companies rules mean that many more companies than might be expected are subject to these rules.

The potential solutions
A number of solutions could be adopted, including:

- increasing the £10,000 de minimis;
- in the first year a company is subject to the new rules there should be a better transition; and
- allow an election for the charge to be calculated on a prior year basis.

3 Give new small businesses the right start in life

The problem
New small businesses may find themselves in cash flow difficulties in the opening years as their first tax payment is not due until 31 January after the tax year that the trade started, and a payment on account of half this amount will also be due in respect of the following tax year.

The solution
Taxpayers should be encouraged to budget for tax payments earlier. Taxpayers should be incentivised to pay tax earlier than when it is due and to budget for monthly tax payments from the very beginning. Budget payment plans are not well publicised and a financial incentive for early payment of tax could make these more popular.

4 Remove distortions and disincentives to work in the income tax system

The problem
The method by which personal allowances are removed for income over £100,000 should be reformed. Taken together with the additional 2% NIC, this results in an effective tax rate of 62% on income between £100,000 and £120,000. Furthermore, because the threshold has not been increased since it was introduced, an increasing number of taxpayers are being affected by this measure. Those affected for the first time are usually unaware of this rule and so are caught unexpectedly. The lack of transparency and administrative complexity place an unnecessary burden on the tax system. We note too that the policy encourages behavioural changes to reduce taxable income to below the threshold.

The suggested solution
The phased withdrawal of the personal allowance should be removed in favour of a transparent tax system based on progressive tax rates.

5 Remove unnecessary restrictions on the Annual Investment Allowance

The problem
Partnerships which have a limited company or a trust as a partner are prohibited from claiming the Annual Investment Allowance (AIA). Modern partnerships are now much more likely to have mixed partners and we do not know why this prohibition remains in place.

The solution
We suggest that AIAs for partnerships are extended to include limited companies and if there are concerns about tax avoidance this should be dealt with by way of specific anti avoidance provisions.

6 Granny bonds - Tax deducted at source from the interest

The problem
The Chancellor announced the new granny bonds for those aged 65 and over in his 2014 Budget speech and they were first made available by NS&I in January 2015. They provide a 2.8% rate of interest for the one year bond and 4% for the three year bond. It has recently been announced that they will be available until May 2015.

The interest is paid net of 20% tax and for basic rate taxpayers no further action is necessary.

However non-taxpayers will have to reclaim the tax deducted at source using the HMRC Form R40 as NS&I are not part of the Form R85 scheme, which enables non taxpayers to be paid their bank interest gross. This is likely to affect many of the individuals applying for these bonds particularly as the new 0% savings income band of £5,000 comes into force from 6 April 2015. With a personal allowance of £10,600 and a 0% savings income band of £5,000 pensioners with total income below £15,600 will need to reclaim the tax deducted at source on their granny bond interest.

The concern is that many of the investors will not be aware that a tax reclaim can be made and those that are aware, may not be able to complete the claim form themselves. Professional fees may well exceed the tax reclaimable. In the past these pensioners could perhaps have called into their local tax enquiry centre to ask for help, but these were all closed in June 2014.

The solution
The problems we have highlighted need to be given appropriate publicity by the government and also by NS&I in all its publicity material. NS&I needs to liaise with HMRC so that HMRC can provide guidance, and assistance, to those non taxpayers who find themselves having to reclaim the tax deducted from the interest they receive.

The better solution will be for NS&I to be brought into the R85 scheme.

7 Removal of renewals basis for unfurnished rental property

The problem
Tax concession ESC B47 which allowed landlords of unfurnished properties to claim for the replacement of white goods, carpets and curtains in unfurnished property was withdrawn by HMRC with effect from April 2013. The self assessment returns that had to be made by 31 January 2015 were the first when the effect of this change in the law had to be recorded.

We were unhappy after the withdrawal of the concession as, despite the assurance at the time, the existing law does not provide the same tax relief. Our correspondence with HMRC is published as TAXGUIDE 04/14

HMRC told us that it would review the impact of the change.

In the light of our concerns, we undertook a survey in January 2015, jointly with CIOT and the Residential Landlords Association, to find out if landlords generally were aware of the change in the tax rules, if the change would impact on the frequency with which they change white goods, carpets etc, and whether or not they would change their business from being unfurnished lets to being fully furnished or totally unfurnished

There were more than 600 responses to the survey. Of these, 75% were unaware of the change in the law, more than 50% were now going to change the frequency with which they changed the items for which there is no longer any tax relief, and more than 60% will either stop providing the relevant furnishings or will in future offer fully furnished lettings. Those landlords who change to being fully furnished will then be eligible for the wear and tear allowance calculated as 10% of rents received. This is likely to cost the exchequer more than allowing renewal costs for unfurnished lets.

The solution
HMRC needs to review the new situation and discuss with ourselves, and other interested bodies, how it can provided an appropriate tax regime for the unfurnished rental accommodation sector.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.

2. Certain: 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.

3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.

4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.

5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.

6. Constant: Changes to the underlying rules should be kept to a minimum. 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.

7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.

8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.

9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.

10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see via http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax).