



Call for Evidence Response

The tax administration framework: Supporting a 21st century tax system

Date: 9 July 2021

Introduction

1. The CLA is the membership organisation for owners of land, property and businesses in rural England and Wales. We help safeguard the interests of landowners, and those with an economic, social and environmental interest in rural land. Our members own or manage around half the rural land in England and Wales and more than 250 different types of businesses.
2. The Taxes Management Act 1970 (TMA 1970) is more than half a century old now and the tax administration framework has been updated on a piecemeal basis through subsequent Finance Acts. The CLA commends the government's effort in modernising the tax administration framework, but is concerned whether HMRC has sufficient resources to implement such a radical change.
3. In particular, when this call for evidence on the tax administration framework review (the Review) is read together with the other announcements made on 23 March 2021, it is clear that this proposal goes much further than updating TMA 1970. It seeks to make use of technological advancements and third-party data to build a flexible, more responsive tax administration framework.
4. While there are good reasons to rely on third-party information and data in the tax administration framework, there is a need to balance such use with the overarching aim of building a "trusted, modern tax administration system" and "to provide certainty and appropriate safeguards for taxpayers". The Review should not lose sight of these two fundamental objectives.
5. A high proportion of the rural businesses owned and managed by CLA members are unincorporated, being carried on by individual sole traders, family partnerships or family trusts. They generally run a wide range of diversified activities, including farming, retail, hospitality, wedding venue, furnished holiday lets, residential let, amongst other things. The challenges for our members are therefore unique and complex. We are particularly interested in how the use of data could transform their experience and the issues such as data security, data quality, and accuracy of data matching are considered.
6. In this response to the call for evidence, we will therefore focus on Chapter 5: Using data and information to make tax compliance effortless for the majority and Chapter 7: Building in effective methods of verification, sanctions and safeguards to promote compliance.

Using data and information to make tax compliance effortless for the majority

7. Generally, we are supportive of HMRC replaying data to taxpayers (for example, via the individual's personal tax account or by pre-populating tax returns or claim forms). Nonetheless, there must be an opportunity (as it has currently) for the taxpayer to check and verify pre-populated data against their own records because if the information is incorrect or incomplete, the individual remains culpable.
8. Whilst we welcome the greater use of real-time information, we are also alarmed by the suggestion of simplifying how the HMRC could request data from third parties, and how this could have an adverse impact on building a trusted tax administration system.
9. HMRC already has wide statutory powers under Schedule 36 to the Finance Act 2008 to obtain information from a third party in an investigation by giving them a written notice (third party notice). Use of a third party notice enables HMRC to check the tax position of a known person. In this context, the tax position includes:
 - past, present and future liabilities to pay tax;
 - penalties and other amounts payable in connection with any tax;
 - claims, elections, applications and notices in connection with the person's liability to pay any tax;
 - deductions or repayments of tax a person is required to make under PAYE, CIS or any other provision of the Taxes Acts.
10. Section 127 of the Finance Act 2021 further broadens the purposes for which information notices may be issued to include collecting a tax debt.
11. Within the existing framework, there are sufficient safeguards to protect the taxpayer's privacy as the issue of a third party notice must be approved in advance by the tax tribunal, unless the taxpayer consents to the issue of the notice. Such an approach is needed to satisfy a third party's rights under the Human Rights Act 1998.
12. Many our members operate their businesses through a family partnership. We would be concerned if any taxpayer were placed under an obligation to provide data or information about their fellow partners. This could inadvertently have a psychological and behavioural impact on the taxpayer and may lead to mistrust in the tax system.
13. HMRC should only make onward transmission of the taxpayer's data in very limited circumstances, and only disclose personal data to law enforcement agencies, the courts and foreign tax authorities.
14. To this end, HMRC should continue to work with and support the taxpayer on a voluntarily basis without relying on an information notice or mandating the disclosure of third party information as a matter of course. HMRC already holds a wealth of information in its system, and this data should be used first. We believe HMRC should continue to follow its own Personal Information Charter as well as their approach stated in the Compliance Handbook at paragraph CH21150.

Building in effective methods of verification, sanctions and safeguards to promote compliance

15. One of the key challenges here is the over-reliance on third party data by HMRC or the taxpayer. There must be a clear mechanism for taxpayers to challenge inaccurate information held by HMRC, which is provided by employers, pension providers or other financial institutes. Unfortunately, there is no such mechanism at the moment.
16. We agree with the comments and examples made in response from the Low Income Tax Reform Group (LITRG) to the OTS's Third Party Data Reporting Review. No doubt, they will be repeating these comments in their response to this Review.

Improving taxpayers' engagement with the tax system

17. Currently, there are different registration and deregistration processes for different taxes and duties, as well as different filing obligations. This can make it difficult for taxpayers because they need to be aware of different rules and obligations for different taxes that they are liable to report and pay. These different registration and filing obligations also make it more difficult for HMRC to identify and target effective support at those taxpayers and business sectors that may need it most.
18. This is a particular issue for our members who have a wide range of business activities on their land which they run through an unincorporated structure. The tax administration system unfortunately can be complex for them, as it involves different registration and deregistration for different taxes. For example, they may have a VAT registered farming partnership with additional income from other business activities such as let office space, holiday cottages or a farm shop and café. The farming income is assessed and reported on a different basis, compared with the property income.
19. Furthermore, income and expenses for agricultural businesses are often seasonal and fluctuate significantly. Capital investment could also affect how the business and cashflow are being managed. It maybe helpful to read this consultation response in conjunction with our response on timely payment¹ in order to have a full understanding of the challenges faced by our membership.
20. Under the proposed making tax digital (MTD) system, a requirement to file a quarterly report of income and expenditure could impose unnecessary burdens for SME businesses, particularly if these filing dates do not align with existing VAT quarterly reporting dates and they have different income streams subject to different reporting rules.
21. MTD also creates new issues around reporting periods and if the quarterly information is not adjusted for debtors, creditors, or work in progress, then it raises concerns how accurate the tax estimates will be and may also influence the how the issue of timely payment is dealt with.
22. The current MTD for VAT is already overwhelming for diversified business, and the MTD for income tax could cause even more administration as they will have to submit a different quarterly return for each income stream.

¹ A copy of the CLA's response on Timely Payment can be found at <https://www.cla.org.uk/policy/timely-payment/> and should be read together with this response.

23. In addition, the experience of the 30 days CGT reporting period is a good example where in the year reporting and payment could lead to unnecessary administration as further adjustments are often required when the financial position for the taxpayer is only known at the end of the year.
24. Any changes to the tax administration framework should seek to reduce not impose additional compliance burdens on taxpayers engaged in unincorporated business activities. The challenges faced by diversified SME businesses in their interaction with tax system which will only be aggravated by the proposals for MTD for income tax. Accordingly, we recommend that these diversified rural businesses should be able to elect to be treated as single rural business unit². This will allow the business to amalgamate the profits and losses into one strand and have it taxed as such. This would simplify the calculation of the tax due from a diversified rural business and reduce the administration and compliance burdens for both the taxpayer and HMRC.

Conclusion

25. Given the diverse nature of the rural businesses, it would be difficult to have a one size fits all approach. In order to build a flexible, more responsive tax administration framework, we believe our proposal on rural business unit would help landowners and farmers to have greater trust in the tax administration system as it will help address the above and other diversification issues.

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² <https://www.cla.org.uk/library/rural-business-unit/>