

# Guidance for taxpayers: a vision for the future

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# Foreword

This review offers a strategic review of the general approach to providing guidance for taxpayers.

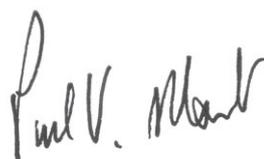
Although recommendations on guidance have always been a significant feature of reports from the Office of Tax Simplification (OTS) on particular areas of the tax system, this is the first time the OTS has devoted a whole report to the subject, exploring the purposes of guidance and the ways it can best be delivered in the future, taking advantage of changes in technology.

The report calls for HMRC to make transforming the user experience a sustained priority, supported by a renewed collaboration across the tax community, with a view to making it easier for people to find the guidance they need and to be clearer about the reliance they can place on it.

The OTS would like to thank Andrew Parrock, who led the review, supported by Peter Allen, Bill Dodwell, Nigel Mellor and Sylvia Otieno, guided by OTS Head of Office David Halsey. We are also very grateful to our HMT and HMRC colleagues and all those who have willingly given time, ideas, challenge and support.



Angela Knight CBE (Chair)



Paul Morton (Tax Director)

# Executive summary

The Office of Tax Simplification (OTS) is the independent adviser to government on simplifying the UK tax system. The work of the OTS is rooted in improving the experience of all who interact with the tax system. The OTS aims to reduce the administrative burden - which is what people encounter in practice - as well as simplifying the rules. These are often of equal importance to taxpayers and HMRC.

This OTS report provides a strategic vision for the future of guidance for taxpayers, taking into account the challenge HMRC faces of serving a large and varied audience with many different and conflicting needs. It complements a separate review currently being undertaken by HMRC on the structure and content of its 219 manuals (all the material that is available to the public as well as that which is only for internal use and not publicly available), consulting with numerous external stakeholders and seeking to improve the ease with which specific guidance can be found.

Given the acknowledged complexity of the UK tax system, good guidance plays a critical role in simplifying the tax system for millions of taxpayers.

This strategic OTS review focuses on what the purpose of taxpayer guidance is, and the ways it might best be delivered in the future, taking account of changes in technology. 'Taxpayer guidance' means, for this review, all the material produced by HMRC for taxpayers and their advisers. It does not include material only for HMRC staff. It considers:

- who uses it
- what they use it for and
- whether those who use it can rely upon it when making decisions

The OTS has, as usual, sought and obtained views from a wide range of taxpayers and their advisers, many of whom act for individuals and small businesses, as well as HMRC staff and members of the legal and academic community (see Annex B). There was a good deal of consensus on the areas of concern in relation to current guidance and broad agreement on the areas where the OTS is making recommendations.

The OTS has also considered the approach to guidance taken in other countries, taking this into account when making its recommendations (see Annex C).

## The Existing Situation

The word 'guidance' covers a broad spectrum of material (see Annex A). This ranges from general guidance for the general public which assumes no prior specialist knowledge, through to technical guidance which assumes prior knowledge and would generally be aimed at professional advisers or others with a tax background. Technical guidance includes some material expressing HMRC's opinion where taxpayers or advisers with a tax background might reasonably disagree.

This report refers frequently to 'taxpayers'; the OTS uses that term to cover every person and organisation that is liable to pay tax in the UK. This ranges from individuals, either as employees or running their own businesses, to partnerships and companies of any size. The report also addresses the needs of those who advise taxpayers about their tax affairs, who also use guidance to help them do that.

For the tax system to work effectively, taxpayers have to take responsibility for a wide range of actions, which include providing or confirming information, notifying HMRC of events, exercising choices and making or receiving payments. Sometimes a taxpayer will engage an adviser to do these things for them. Taxpayers and advisers will need to know what to do and when to do it. Ideally, the action required will be intuitively clear or embedded in some other process, so no specific guidance is required.

Where an action cannot be taken without guidance, the challenge is to provide it as efficiently and effectively as possible. This means it either has to be made available when the taxpayer needs it, or the taxpayer needs to know that they must look for it and know where to find it. Prompting will be a key element of effective guidance. The most appropriate channel of communication should be used for each particular taxpayer.

Problems with the current guidance include the following:

- users cannot easily find what they want
- navigation through the guidance quickly becomes difficult
- there is a small amount of conflicting information, which damages users' confidence in the material
- it is not easy to quickly tell what type of user a particular page is aimed at
- the extent to which it can be relied upon is not clear

Good guidance plays a vital role in explaining the tax system by enhancing compliance and reducing costs. The availability of good guidance which can be relied upon by taxpayers, especially those parts that are most frequently used, brings benefits to taxpayers, advisers and HMRC:

- for taxpayers and advisers, they can better fulfil their tax obligations in relation to what they have to report to HMRC and when, and undertake prospective transactions with a good understanding of the tax consequences. This will lead to greater certainty for taxpayers in their dealings with HMRC
- for HMRC, it reduces enquiries, which are costly to handle. It is likely to lead to more accurate tax reporting and help to close the tax gap, as

taxpayers should have a better understanding of HMRC's view of the law and its applicability to specific situations. It also helps HMRC officers handle compliance more efficiently, by reducing the need for those at the front line to refer questions to others and ensuring that similar fact patterns are treated consistently

HMRC (and its predecessor departments) has for many decades published material to help taxpayers comply with their obligations and, in some cases, understand HMRC's view of important tax issues.

A major change took place in the mid-1990s, when detailed manuals, intended as guidance (or, originally, instructions) for Inland Revenue staff, were published for the first time. Since then, the purpose of those technical manuals has changed as peoples' expectations of government, in terms of transparency and help, have changed.

This change has involved a move away from material being intended only for HMRC use towards a world where the guidance serves the needs both of taxpayers and HMRC.

The material made available by HMRC encompasses a spectrum ranging from information to guidance, but does not provide advice.

The distinction between these is not always easy to draw. The OTS recognises that HMRC guidance does not stray into giving advice and it is not suggesting that it should. However, the OTS received a number of comments that the guidance may be confusing, given that currently, taxpayers are told to call HMRC for advice and to speak to advisers.<sup>1</sup>

## A Strategic vision for guidance for taxpayers: a New Model for guidance

In the future, technology will be deployed to the maximum possible extent to create a service where most taxpayers will not need to use any obvious form of guidance to comply with their tax obligations.

They will instead have ready to hand a variety of simple, short and information-rich sources, from videos, voice-activated search on their phones, pop-up boxes that appear to tell them what to do, to automated processes that bring them to an appropriate answer to their specific question. This will not feel or look like formal government guidance. It will look and feel like any other source of information that people have become used to using in the early 21st century: they will be as simple and intuitive to operate as when using the most modern IT devices.

So, while there will still be a need for guidance, especially to help taxpayers considering future changes or options, where possible, it will be used in a way that is effectively invisible, embedded into the fabric of taxpayers' interactions with HMRC. This method of providing guidance starts from the taxpayers' and their advisers' point of view and is designed to deliver answers to their questions (where they exist). HMRC's current 'Decision-based Guidance' pilot has this approach at its heart, and is something that can be built upon.

For users needing more technical detail (both inside and outside HMRC) the user experience could also be enhanced. They should be able to use an effective and

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<sup>1</sup> <https://www.gov.uk/government/organisations/hm-revenue-customs/contact/self-assessment>

interactive search engine, eventually voice-activated, based on the current 'Ask Ruth' service. The search would identify and list all relevant and associated pieces of guidance, identifying the relevant legislation and case law, and later providing links to them. The guidance will be clearly organised with a comprehensive table of contents and index, for those who prefer to use these forms of search.

Addressing the needs of different audiences with differing levels of tax understanding means the New Model needs to clearly identify the level at which it is aimed. Three levels would appear to be called for:

- level 1: simple guidance, for the majority of individual taxpayers
- level 2: more advanced guidance, primarily aimed at more sophisticated taxpayers and others in business
- level 3: HMRC's technical manuals, primarily for tax advisers

There will be clear links from one level to the next to allow users to navigate the guidance in a natural way that will suit their needs. This will also allow them to deepen their understanding, if that is what they need to do. Changes will be made swiftly, or if that is not possible, the fact that a change was pending will be flagged quickly after the need for change was identified.

Achieving these aspirations will require clear ownership of all guidance within HMRC. A single senior person should have overall responsibility, providing HMRC's guidance with a coherent high-level identity.

It will also require a new way of writing and designing guidance, it being important to identify the audience for which different types of content is intended. There will need to be a greater degree of collaboration between the policy owners in HMRC, who originate new guidance and should ensure its accuracy, and the HMRC and Government Digital Services (GDS) teams who turn that into web-based material. A fundamental shift will be to involve future users of the new guidance as part of the guidance writing process, to provide the vital perspective of those who are seeking guidance.

The OTS recognises that such a collaboration will require action across government. And so, given the importance of high quality guidance to the public in the administration of the tax system, consideration could be given to establishing a minister-chaired committee of experts responsible for monitoring the strategic approach to guidance. Any such committee should include representatives from HM Treasury, HMRC and the GDS, as well as outside experts.

Whether a taxpayer can rely upon the guidance or not can be a difficult legal question, but users ought to be able to know when and to what extent they can rely upon it.

The question of binding rulings, whether paid for or not, has been raised many times in consultations. The arguments for and against a system of binding rulings are complex and further work will need to be undertaken in this area. In addition, there is the question as to whether rulings should be published.

Revenue Scotland and the Welsh Revenue Authority also produce guidance for taxpayers. The OTS has not considered the guidance produced by those bodies but some of the principles in this report could be relevant to them.

## Recommendations:

- 1 A New Model for guidance should be adopted, building upon the current innovative programme that uses new ways of delivery, moving the emphasis to the taxpayer's needs, away from the needs of HMRC officers. (Chapter 1)
- 2 HMRC should have a senior Strategic Head of Guidance, with remodelling guidance as a key departmental priority in HMRC's operating plan. (Chapter 1)
- 3 HMRC should form an 'advice and guidance panel' to advise and support HMRC in this endeavour. The panel could consist of senior HMRC officers, respected tax specialists and academics. (Chapter 1)
- 4 HMRC should set a strategy of clearly identifying three levels of guidance so that users can immediately see the level of complexity of the material they are about to read. (Chapter 2)
- 5 More work should be done on using technology to direct people to enter the guidance at a point appropriate to their needs and level of understanding of tax. (Chapter 2)
- 6 HMRC and the GDS should produce a clearer statement of their respective responsibilities. GDS-managed guidance should have more links to HMRC's more comprehensive guidance. (Chapter 2)
- 7 The GDS team should reassess its approach to publishing HMRC technical manuals. (Chapter 2)
- 8 Sections in manuals should be annotated swiftly to record that changes will be needed to reflect amended law, or the results of a tax case. (Chapter 3)
- 9 HMRC should introduce more feedback links into the technical manuals. These should be accompanied by dating each page (or paragraph number) and ensuring that HMRC contacts for each manual are kept up to date. Technology should be used to improve links between specific parts of manuals and HMRC's other guidance material. (Chapter 3)
- 10 HMRC should discuss and agree protocols with industry and representative bodies where these bodies are supportive of contributing to guidance, building on existing good practice. (Chapter 3)
- 11 HMRC should undertake a consultation on the circumstances in which a taxpayer can rely on published guidance and the extent to which a taxpayer will be subject to interest, penalties and the tax in dispute where guidance is found to be incorrect. (Chapter 4)
- 12 HMRC should be clearer when its guidance is knowingly giving a statement of HMRC's opinion rather than something it considers to be generally accepted. (Chapter 4)

## OTS Principles

In seeking to simplify the UK tax regime, the OTS follows three principles. As set out below, these link to the conclusions of this report on HMRC guidance.

OTS Principles	Report conclusions
Focusing on area where the OTS can positively impact the greatest number of taxpayers on the largest number of occasions.	 <p>Most taxpayers have to engage with HMRC at some time. In addition, guidance is a principal source of information for HMRC staff. Improved guidance has the potential to make compliance simpler.</p>
Achieving quick wins where the opportunity arises.	 <p>This is a long-term project which could have significant gains.</p>
Addressing difficult areas where the case for the change is compelling.	 <p>Enhancement of HMRC guidance will need a lot of work and resources, the improvements in efficiency, accuracy and cost-effectiveness will be profound.</p>

# Chapter 1

## A high-priority vision for guidance that serves taxpayers

### Introduction

- 1.1 The availability of good guidance, which can be relied upon by taxpayers, brings great benefits both to taxpayers and HMRC.
- 1.2 Taxpayers benefit as they can better fulfil their obligations in relation to what they have to report to HMRC and when, and undertake prospective transactions with a good understanding of the tax consequences. This will lead to greater certainty for taxpayers in their dealings with HMRC. It should also support taxpayers in receiving the reliefs available to them.
- 1.3 For HMRC, it reduces enquiries, which are costly to handle. It is likely to lead to more accurate tax reporting and help to close the tax gap, as taxpayers should have a better understanding of HMRC's view of the law and its applicability to specific situations. It also helps HMRC officers handle compliance more efficiently, by reducing the need for those at the front line to refer questions to others and ensuring that similar fact patterns are treated consistently.
- 1.4 In a world where the complexity of UK tax law is widely acknowledged, good guidance is one of the ways in which the effect of this complexity can be reduced. Very few taxpayers will ever wish to read tax legislation; guidance is the only way in which taxpayers can know and understand what the law means for them in practice.
- 1.5 HMRC (and its predecessor departments) have, for many decades, published material to help taxpayers comply with their obligations and, in some cases, understand the tax authority's view of important tax issues. A major change took place in 1994<sup>1</sup> when, for the first time, detailed manuals intended as guidance and instruction for Inland Revenue staff were published.
- 1.6 This published material covered and still covers an enormous spectrum of material, ranging from information to guidance. HMRC has taken pains not to publish advice. At times the distinction between information, guidance and advice is hard to define. However, a few examples will illustrate roughly where the boundaries lie:
  - **information**: Includes facts such as tax rates, thresholds and ceilings that are unambiguous, and matters such as deadlines and dates by which a document or return must be provided to HMRC. However, material about

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<sup>1</sup> Plucking the Goose: A century of taxation from the Great War to the Digital Age', Tolley publishing 2016- Chapter 3 page 50

how to complete a long and complex process might feel more like guidance

- **guidance:** Includes instructions on how to fill in a form, an explanation of what a piece of legislation means and how it works in practice, telling the user what actions they need to take, using information and in what order. Guidance could also draw attention to alternative acceptable options (but would not give an opinion, or advice, as to which choices a taxpayer might best make)
- **advice:** Includes pointing out options and then setting out which of these the taxpayer might choose and why. It may also be to identify an option that carries more risk because of some inherent uncertainty

1.7 For example, for someone setting out in business, there are a number of legal structures that could be used: sole trader, partnership, limited liability partnership or company. Explaining the existence of these and the differences between them would be a combination of information and guidance. Exploring the taxpayer's preferences and then recommending one would be advice, as would suggesting that one option might make an HMRC enquiry more likely, while leaving the decision to the person asking the question.

1.8 There is a fine and indistinct line here. Providing guidance is fully within HMRC's remit. Providing advice is not and the OTS is not suggesting that it should be. However, where HMRC engages directly with taxpayers (as is of course the intention behind the personal tax account), it is important that HMRC draws taxpayers' attention to options available to them.

1.9 HMRC guidance has grown and developed over many years, with the people involved reporting to a number of different senior leaders. This has not been directed by a single plan until recently, when HMRC started its overall review of its guidance manuals. The OTS considers that now is a good time for HMRC to make coordinating and directing its guidance a higher and consistent priority by adopting a long-term strategic vision along the lines that this report provides.

1.10 The OTS has identified four themes running through the consultations it has had outside and within HMRC, talking to businesses from small to large and their advisers, HMRC users and authors and the Government Digital Service (GDS) who run GOV.UK.

1.11 These themes can be summarised as a call for;

- transforming the guidance experience to be an embedded HMRC **priority**
- making it easier to **find** the right guidance
- a renewed **collaboration** across the tax community to improve guidance
- greater clarity about the **reliance** taxpayers can place on guidance

1.12 These have their roots in the way that HMRC's guidance has grown over the twenty-four years since the manuals were first published, during a time in

which the world has changed in ways their original writers would never have dreamed of.

- 1.13 The first theme emerges when the recommendations coming from the second, third and fourth themes are considered together. The effect of this interweaving is considered in this first chapter, which explains what the long term strategic view is and why it is needed. The other three themes are examined in more detail in Chapters 2 to 4.
- 1.14 The long-term strategic vision naturally grows out of HMRC's current ambitious ideas for its guidance material. This vision will eventually create a New Model of HMRC guidance to create a truly modern 21st century product, underpinned by modern information technology.

This vision will eventually create a New Model of HMRC guidance to create a truly modern 21st century product, underpinned by modern information technology

- 1.15 The New Model will not be created quickly because it is far-reaching, providing help to taxpayers in a way that is entirely new. It will require long-term planning with clear personal leadership within HMRC. It will deliver help to all people when they interact with the tax system. 'All people' covers a huge range of users with widely different needs and expectations, so the New Model must have the needs of the user embedded into its processes. For this to happen three things will be necessary:
- high level oversight and responsibility for guidance as a **high-priority** specific area of HMRC's work contributing to promoting compliance and reducing the tax gap
  - refining the existing GDS and HMRC strategy about presenting material to make it easier for users to **search and find** what they need, and to know where they are in that material as a whole. This would make the user's journey through the guidance an easy process and ensure the user always knows where and at what level (from basic to expert) the material they are using is set. This will include improving the links between the levels and linking them to other related content, such as booklets and audio-visual material, as well as improving the current voice-based search service (called 'Ask Ruth')
  - a change of approach in the guidance-writing community to writing guidance (alongside HMRC's current in-depth guidance review). This will include a closer **collaboration** between tax policy specialists, people skilled at turning complex technical material into plain English (the government-wide Digital, Data and Technology (DDaT) content designers ) and tax specialists outside HMRC. Each of these groups will contribute their own perspective - the collaboration will be aimed at producing accurate, clear and user-friendly guidance

## How we got where we are

- 1.16 For many years the Inland Revenue and HM Customs & Excise, the two departments that became HM Revenue & Customs in 2005, had their internal manuals which were for the use of Tax and VAT Inspectors and by Customs Officers. These were internal documents, and not intended for the public to use.
- 1.17 Times changed. The public started to demand greater transparency from government. Inland Revenue manuals, for example, were made available to subscribers to a private sector service from 1994. At that time, under an open government programme,<sup>2</sup> the Inland Revenue's manuals were made public for a fee either as paper manuals or on a CD through Tolley's.<sup>3</sup> Later, around 2002, they were published on the Revenue's website and were free for everyone. Much VAT material was already public in the form of VAT Notices.
- 1.18 Since then, the GDS has moved the HMRC website onto GOV.UK. The content did not change when it was first moved online, nor when it was moved to GOV.UK, although GDS has changed the way it is presented by breaking it down into small sections over a number of sequential web-pages. More recent guidance has been written with online presentation in mind.
- 1.19 In the twenty-four years since Inland Revenue's guidance was first published, the tax code has grown significantly, for reasons that are outside the scope of this review. With each new section of legislation, and the amendments to those sections, has come new guidance material.
- 1.20 Mainstream material is written by GDS, with tax or policy specialists checking it for factual accuracy. Specialist material is written within HMRC by specialist web-content authors, collaborating with tax and policy specialists. Manuals are written either by the operational specialists or the policy specialists responsible for the legislation, depending upon whether it is new legislation or amendments to existing legislation. This is because they are the people who know what those rules were designed to do and how they were intended to work. Frequently, these specialists are under pressure from competing work, and may not have especially deep experience in writing guidance for different audiences.
- 1.21 The result of all this activity is that HMRC's taxpayer guidance has grown to just under 90,000 pages,<sup>4</sup> without any central guiding purpose other than the specialists' obligation and desire to explain the effect of changes in legislation to the people who will be affected.
- 1.22 While the guidance was growing another change was slowly happening. The change from internal guidance intended only for HMRC officials to publicly available material led to a change of purpose for the material. This was not a conscious development, but was caused by a change in people's

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<sup>2</sup> <https://www.accountancyage.com/aa/news/1762630/revenue-internal-manuals-web>

<sup>3</sup> LexisNexis private communication, 6th August 2018

<sup>4</sup> HMRC internal communication- 14th August 2018

expectations of what they should be able to find and do, because of their increased use of digital devices and the internet.

- 1.23 This created a tension between the fact that the HMRC manuals are still primarily for HMRC tax specialists, and the desire of taxpayers and advisers to find definitive answers to the questions the manuals address.
- 1.24 HMRC's manuals set out its view of what the law means. Those manuals are not comprehensive, because real life cannot be reduced to a neat description in a few pages of writing. Indeed, the landing page of HMRC's manuals says:

*"You shouldn't assume that the guidance is comprehensive or that it will provide a definitive answer in every case. HMRC will use their own reasoning, based on their training and experience, when applying the guidance to the facts of particular cases" And later "Subject to ... qualifications you can assume the guidance normally applies, but where HMRC considers that there is, or may have been, avoidance of tax the guidance won't necessarily apply."*<sup>5</sup>

- 1.25 The problem is that, when searching the manuals online either through GOV.UK or using popular search engines, this landing page does not appear in a search for any given specific bit of guidance.
- 1.26 It does if the search is broad (for example 'HMRC Guidance'). But the statements on that landing page are not repeated further into most manuals, so in almost every case where a layperson searches the manuals to solve a problem for themselves, this crucial message is never encountered.
- 1.27 As a result, the user may well lose sight of the point that HMRC manuals are intended for people trained in tax, providing detailed and complex commentary on what tax legislation means and how it should be applied in HMRC's view.
- 1.28 There is no obvious visible distinction made between the manuals and 'process' guidance. Much of the guidance around processes, such as registering for Income Tax or VAT, claiming a tax relief or appealing against a penalty, sets out precisely what to do and must be followed to achieve the required outcome.
- 1.29 So there is currently a situation in which, through nobody's fault, HMRC has a mass of 'guidance' material, intended for different audiences, which is only loosely organised, making it difficult to find material and to distinguish who it is written for. As a result there are gaps, duplications and apparent inconsistencies, which cause confusion and frustration for users.
- 1.30 This is a complex problem, without a simple solution. But recognising the roots of the situation helps to shed light on it and allows a number of principles to be identified that will point the way towards the skeleton of the solution.

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<sup>5</sup> <https://www.gov.uk/government/collections/hmrc-manuals>

- 1.31 One of the first things to recognise is that guidance has a significant role to play in HMRC's task to bring in the tax that the country relies upon to fund public services. And so it needs to consistently be one of HMRC's top priorities.

## The four themes

- HMRC to make transforming the guidance experience an embedded HMRC **priority**
- making it easier to **find** the right guidance
- a renewed **collaboration** across the tax community to improve guidance
- greater clarity about the **reliance** taxpayers can place on guidance

- 1.32 The following sections outline the four themes and the issue in response to which the OTS is making recommendations. The first theme is the subject of the present Chapter. The others are explored in Chapters 2, 3 and 4.

### Making transforming the guidance experience an embedded HMRC priority

- 1.33 Given that few people will ever want to read tax legislation, guidance provides the only way to explain to people what they have to do to comply with the law. It is therefore a vital conduit between HMRC and taxpayers that must be managed just as carefully as HMRC manages its other resources and programmes. It requires strong personal leadership to steer it towards a clear, bold and exciting future, a future in which clear, easily findable and user-orientated guidance can be seen to deliver cost-effective benefits for both the taxpayer and for HMRC.

**A way needs to be found to raise the profile of guidance as a vitally important subject in its own right, so that it becomes one of HMRC's top-level priorities as one of the tools to improve voluntary compliance and cut the tax gap.**

### Making it easier to find the right guidance

- 1.34 The first thing an adviser does when presented with a client's issue is to establish the relevant law, then find what HMRC's view is by looking in the guidance. The problem is that it is usually quite difficult to find all the relevant material among the mass of material on the HMRC GOV.UK pages. Once within a specific manual, there is usually a good table of contents to help orientate the reader, but often several manuals will be needed. The process takes time and can be incredibly frustrating. HMRC users make exactly the same points, which is wasteful of scarce government resources.

**A way needs to be found to allow a user to find what they want and what they need quickly and effectively, and at the right level for each particular user.**

## A renewed collaboration across the tax community to improve Guidance

- 1.35 With just under 90,000 pages of taxpayer-facing guidance (and a similarly large volume of purely internal process guidance) it would be surprising if there were not a number of errors, duplications and omissions.
- 1.36 The number of these would appear to be relatively small. However, their effect is out of proportion to their number, causing doubt and confusion about the accuracy of the guidance generally in the minds of tax advisers.
- 1.37 This damages the relationships and the level of trust between advisers and HMRC. This is very disappointing as tax specialists on both sides are striving for the same outcome - for taxpayers to pay the right amount of tax at the right time. Additionally, GDS has a vital role to play in creating guidance that addresses the needs of users to fulfil its remit to deliver seamless guidance to the public on all government services and requirements.
- 1.38 The HMRC team who interface with GDS, and are responsible for its external guidance (other than the manuals), contains specialist content designers, who are members of a government-wide DDaT function, which includes a variety of user-centred design roles.
- 1.39 These specialist content designers help HMRC to deliver guidance to taxpayers and advisers in a way which translates complex language and processes into material which is much easier to understand, whilst maintaining the factual accuracy that is obviously essential, delivered in a web-friendly format. This requires close collaboration with HMRC policy specialists and operational teams as well as GDS and external partners.

**A way needs to be found to enable all these partners (HMRC Policy Specialists, HMRC DDaT specialists, GDS and tax advisers) to collaborate on equal terms when guidance is being written and updated to make it as user-friendly and correct as possible.**

## Greater clarity about the reliance taxpayers can place on guidance

- 1.40 This theme is a fundamental question in relation to HMRC material that aims to help the taxpayer, without assisting those who might seek to abuse the system, whether by using contrived avoidance schemes or in other ways.
- 1.41 To be reliable, the material must state to what extent it can be relied upon. Some individual manuals provide a statement or a link to a statement<sup>6</sup> about when guidance can be relied upon. There is also a clear statement at the landing page to HMRC's manuals in GOV.UK<sup>7</sup> about how comprehensive a manual is and how definitive an answer it will provide.
- 1.42 However, GOV.UK's own search function does not work well. GDS have told OTS that they expect people to use commercial search engines. The practical effect of this is to provide an enormous number of search results that usually direct people straight to a particular guidance page without going through the landing page. In practice the user is effectively 'parachuted' into the middle of the guidance, so it is difficult for them to see at what level of

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<sup>6</sup> <https://www.gov.uk/guidance/when-you-can-rely-on-information-or-advice-provided-by-hm-revenue-and-customs>

<sup>7</sup> <https://www.gov.uk/government/collections/hmrc-manuals>

complexity that page is, without reading it, as there is no obvious indicator. Because the material is split into many web-pages, each with a small amount of content, it is very difficult for even an experienced user to understand the context of a particular page, leading to mistakes in understanding.

- 1.43 To make a time-efficient search generally requires the user to already be an expert, so the usefulness of the material is limited to a large proportion of experienced tax advisers. OTS notes that this causes widespread frustration among tax advisers

**A way needs to be found to bring out what is HMRC's view and to distinguish that material from the more 'process' type of material over which there is usually less disagreement.**

**A way needs to be found to help the user navigate the guidance to assist them in understanding the material, that progresses naturally from basic material to more complex then, if needed, to the expert level.**

- 1.44 These four ideas overlap: what HMRC's future material should provide is a way for all users to find what they want quickly and efficiently. That material must be clear and correct and with its status and significance clearly labelled.

- 1.45 What the OTS means by status and significance is, for example, whether it is something that must be done, about which there is no dispute and failure to do so would provoke some kind of sanction, or something to which a person is entitled to and so the means of getting that entitlement is clear and easy; or an area that is open to interpretation, potentially or actually with an active court case under way. The user must know that what they have is comprehensive, correct and either can be relied upon or, if they wish to disagree, be able to make an informed decision to disagree with a good idea of the consequences.

## The Strategic Vision

- 1.46 Drawing these features together gives a clear strategic view of what HMRC's guidance could look like in the future. HMRC's current work has started to lay the foundations to deliver something that looks a lot like this. OTS has met officials with a clear view of the future and the imagination to deliver this.

- 1.47 The New Model would have the following features built into the way it works:

- **material is tailored to the precise needs of the user**

Which would range from an individual requiring a specific answer to a specific question, those seeking more general advice who need a broader set of answers, to the most sophisticated user needing the full range of options for a complex transaction

- **material that can be used in a variety of ways**

For the individual the process would be seamless, much like modern smart phones and computer games, where complex processes are introduced to the user without any form of written manual, by intuitive mechanisms. It

could start with them asking a question online (through a good search-engine or an online guide such as 'Ask Ruth', via keyboard or voice recognition). They would then be guided by a clear series of questions that lead to the correct answer for that person in their circumstance. The answer might be straightforward, 'you are eligible for this relief', with further guidance to complete a form which would be submitted online. Perhaps a statement that they are not eligible, or a statement that their situation is complex and that they should seek specialist professional help. For more complex questions it could lead into HMRC manuals following a similar process of Q&A resulting in some options they could choose between, that conformed to HMRC's view of the law. For the most complex situations it would provide the appropriate technical area with the legislation, legal precedent and HMRC's view.

- **labelling of guidance within hierarchy of three levels**

This would start with the simplest, aimed at individuals with basic questions, then on to more complex questions that still do not need recourse to the full detail of tax law and precedent, for people and businesses who have issues that are relatively frequent but not simple. Then finally on to the most complex, aimed at HMRC officers, tax advisers and people who have a deeper understanding of taxation seeking a complete answer to a complex question, where a complete exposition of past and current legislation and legal precedent is required.

- **material which is easy to search and fully cross-referenced**

This should link similar areas in different tax streams so that potential consequences of any transaction could be identified with relative ease.

- **a published programme setting out timelines for updating guidance for existing legislation**

This should take account of changes in commercial practice, or changes in existing law, as well as a programme for writing guidance in conjunction with new legislation. These timelines would reflect the needs of the users. For example, withholding type taxes (for example PAYE and VAT) would have longer lead in times to allow guidance to be produced in advance of the first day any changes come into effect and to allow any software to be updated and tested. For self-assessed and assessed taxes, guidance would come out before the first day of any reporting period affected by a change, to allow record-keeping processes to be changed.

- **writing new guidance and updating existing guidance would be a collaborative process**

The primary responsibility will still lie with HMRC, but the authors will consult and listen to advice from external bodies and experts and work collaboratively with them, with DDaT specialists and with GDS to ensure the published material is in an appropriate format or formats to suit the needs of the relevant audience. Clearly a balance must be struck between the competing needs for clarity and speed of publication. Building a network of willing experienced critical friends outside HMRC could be of great benefit for all users of guidance, inside and outside HMRC.

- HMRC will have one senior person with overall responsibility to deliver these changes

Their role will be vital to ensure guidance consistently gets the resources it needs to fulfil its essential role in delivering greater levels of compliance.

## Road map to the future

1.48 Clearly, producing such a service will require time and determination to reach the desired outcome. It would not happen overnight so would need a clear 'road-map' that sets out important 'milestones' on the way.

1.49 As a start this Strategic Vision would be built upon HMRC's current solid work. The road map would include all the specific detailed recommendations and observations from this review and might look like this:

**Table 1.A: Strategic Vision road map**

Infrastructure	
<ul style="list-style-type: none"> <li>• Appoint a new Head of Guidance</li> <li>• Set out an operating framework with GDS</li> <li>• Consult industry and professional bodies about how they and HMRC could best collaborate to produce better guidance</li> </ul>	
Material	Taxpayer Journey
Create comprehensive index and context.	Expand existing taxpayer journey material to cover other frequently asked questions.
Clear labelling of the intended audience and degree of difficulty of existing material in that framework.	Develop more 'pop-up' guidance that appears when a form is being filled in.
Start to develop the interactive routes for more complex situations.	Apply AI to this process to identify areas where most mistakes are made, cross-referencing those to call-centre data on types of questions being asked and numbers of callers on particular subjects.

**Recommendation 1: A New Model for guidance should be adopted, building upon the current innovative programme that uses new ways of delivery, by moving the emphasis to the taxpayer's needs and away from the needs of HMRC officers.**

**Recommendation 2: HMRC should have a senior Strategic Head of Guidance, with remodelling guidance as a key departmental priority in HMRC's operating plan.**

1.50 The OTS recognises that this will require resources to be dedicated to it. This might be considered as part of the forthcoming Spending Review, building upon the work HMRC is currently doing.

**Recommendation 3: HMRC should form an 'advice and guidance panel' to advise and support HMRC in this endeavour. The panel should consist of senior HMRC officers, respected tax specialists and academics.**

- 1.51 The panel would require very senior sponsorship and involvement, given the major change of culture this has at its heart.
- 1.52 One role for the panel would be to support the 'change of mindset' required to make the transformation from HMRC-directed guidance into taxpayer-focused guidance. This could, for example, involve the Administrative Burdens Advisory Board (ABAB) and Low Incomes Tax Reform Group members (LITRG).
- 1.53 A second role would be to give advice about interpretative matters and technical accuracy; it could advise HMRC on a range of related issues associated with the preparation of public advice and guidance, including whether issuing public advice or guidance is the best way to clarify the law or whether an alternative (such as legislative amendment) should be used. This panel should fall within HMRC's guidance project.

# Chapter 2

## Making it easier to find the right guidance

### Introduction

- 2.1 It is generally accepted that all guidance or information produced by HMRC should be easy to locate whatever method is used to find it. This means that the answer should be the same, whether it is found by using a traditional index or from results produced by a search engine. However, the OTS's work has shown that users of guidance are becoming increasingly frustrated because of the difficulty of finding the right answer to a question.
- 2.2 Comments were made to the OTS on several occasions that guidance is written by people who already know the answer rather than by users who need to know the answer. It was generally acknowledged that the task of turning technical expert knowledge and understanding into words that can be understood by people who are not experts is difficult.
- 2.3 It is useful to give a few examples to illustrate these frustrations:
- use of internal guidance by HMRC compliance officers. HMRC frontline staff said that when they are researching an issue, it is far quicker to search public material with commercial search engines, rather than using the HMRC intranet search facility. However, as some elements of the internal materials are not made available for public publication, no commercial search engine will locate such material. This is clearly inefficient and counterproductive
  - use of HMRC guidance by taxpayers. Many tax experts told us that if they have a specific issue which they need to research, they can generally find it, but this is primarily because they are experienced and reasonably sophisticated. However, if they are coming to an area of tax which is new to them, they can struggle, as often the guidance is hard to locate and is either too simplistic or assumes too much tax knowledge
  - HMRC officials have said that their staff say that when they are using operational guidance, in relation to say a VAT assessment, there should be more links to other related areas – such as, in that case, where there might also be other tax underpayments, for example, of income or corporation tax
  - similarly, external users said that current guidance is very siloed, so if a user is researching one tax issue at present, there are no links to other taxes (or sometimes other relevant parts of the same tax) which may be applicable

## How the current situation can be improved by developing a tiered approach to guidance

- 2.4 There is significant support from stakeholders for a new approach to guidance, based more on user needs. It is envisaged this would take advantage of new technology and current academic tax behavioural research.<sup>1</sup> Broadly speaking, the OTS considers there are three distinct areas of context and need, which will help move the focus more clearly onto the needs of users of the tax system.
- 2.5 The new strategic approach can be illustrated by considering the context and needs of users which appear to fall into three broad areas, namely:
- **context where no guidance is needed because it is built into the process which is being undertaken**

An example of this is where a user is completing a claim online,<sup>2</sup> such as claiming for car-running expenses if you are employed. In this situation, similar to a flow chart, the maximum use of pop-ups to aid the user should be built into the process, based on the decision being made or the answer provided by the user
  - **entry level guidance**

This should be aimed at users coming to an area of tax for the first time, which will provide them with an easy to understand guide and be able to answer most users' questions in a straight forward manner addressing the most common issues. A second, higher level would address more complicated questions, but still in a manner aimed at users who have little, if any, knowledge of taxation
  - **detailed guidance**

For users who need to fully understand the legislation, case law, HMRC policy and any current developments. This is effectively the current HMRC technical manuals
- 2.6 Commercial publishers, such as LexisNexis and Croner-i, appear to be effective at setting a hierarchy, where users can start with a basic guide, with links to more advanced materials, possibly covering additional circumstances not mentioned in basic guides. Adopting a two or three level classification of guidance could help make it easier for users to start with an outline of the basics in a particular area and then seek help at more advanced levels where relevant (see Chart 2.A).

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<sup>1</sup> Chapter 5, Digital Revolutions in Public Finance, Editors Sanjeev Gupta, Michael Keen, Alpa Shah, and Geneviève Verdier, International Monetary Fund, 2017, Washington DC. ISBN 978148431522

<sup>2</sup> There is a good argument that claims should not be needed in a simpler system

Chart 2.A: Example of tree structure

The screenshot shows the Tolley Library interface. At the top, there is a navigation bar with 'Tolley Library' and 'Tax Areas' dropdown. A search bar contains 'Search TolleyLibrary and Tolle'. Below the navigation bar, there are links for 'Tax News', 'Alerts', 'History', and 'My'. A toolbar contains icons for 'Add to', 'Print', 'Download', and 'Email'. The main content area is split into two panels. The left panel, titled 'Table of Contents' and 'Research History', shows a tree structure under 'Simon's Taxes'. The tree includes:
 

- E1.910 Personal allowance**
- E1.910A Personal allowance—example**
- E1.910B Transferable tax allowance (also known as the 'marriage allowance')**
- E1.911 Age-related personal allowances (2015/16 and prior tax years)**
- E1.914 Age-related personal allowances (2015/16 and prior tax years)—examples**
- E1.916 Destinations for rewritten material**
- Blind person's allowance**
- Married couple's allowance**
- Tax-free annuities**
- Division E1.10 Loss Relief**
- Division E1.11 Transfer of assets abroad**
- Division E1.12 Sale of income from personal occupation**
- Division E1.13 Life assurance premium**

 The right panel, titled 'Previous', shows the content for 'E1.910 Personal allowance'. It includes:
 

- Division E1.9 Personal reliefs**
- Personal allowance**
- E1.910 Personal allowance**
- For the latest New Development, see ND.833.*
- Introduction**
- Following the introduction of independent taxation in the residence conditions and income conditions disc allowance is deducted at Step 3 of the income tax cc income, see E1.113).
- The personal allowance is £11,850 in 2018/19. Allow is reduced if the individual's adjusted net income exc over £100,000' below)<sup>1</sup>.
- Note that as far as tax devolution in Scotland and W of the allowance is set by the UK Government.
- From 6 April 2015 onwards, in certain circumstances to the other person<sup>2</sup>. This is discussed in E1.910B.
- For 2015/16 and prior years, enhanced personal allo
- The personal allowance is discussed below. For dete severely sight-impaired, see E1.917.
- Entitlement to the personal allowance**
- Residence condition**
- In order to claim the personal allowance, the individu in the tax year the individual must be either<sup>3</sup>:
  - UK resident (see the F6.101)

Source: LexisNexis

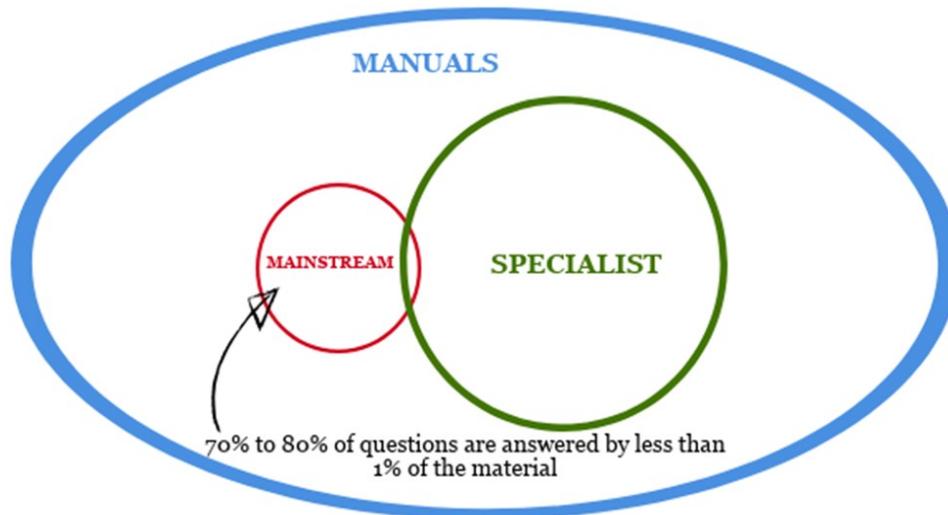
2.7 On the other hand, GOV.UK has a structure that acknowledges the needs of users with differing levels of knowledge about tax. This structure is not obvious, and this is a deliberately designed feature aimed at providing seamless guidance to users in accordance with the Government Digital Services' (GDS) guiding principle, that every bit of content should have a defined user, and that users should not need to know which government department that produced the guidance because it should simply give them an answer to their specific question.

2.8 GOV.UK uses three kinds of guidance across all of the government guidance on its pages:

- **mainstream**: around 500 pages of 'day-to-day' tax guidance, around 1% of the total content answering between 70% and 80% of questions
- **specialist**: around 7,000 pages of more detailed and complex tax material
- **tax manuals**: around 80,000 pages of detailed material setting out HMRC's most comprehensive guidance, that originated in its internal manuals

- 2.9 Their relationship is over-lapping and they are viewed by GDS (who run GOV.UK) as three separate products, not as separate levels; manuals cover all of the content that is in mainstream and specialist. Mainstream is material that covers roughly 80% of enquiries, Specialist covers more complex questions that nevertheless still do not need a full technical answer (see Chart 2.B).

Chart 2.B: Structure of HMRC guidance on GOV.UK



The relative size of the shapes gives a rough indication of the relative number of pages of each kind of guidance on GOV.UK.

## GOV.UK- structure

Source: *The Office of Tax Simplification*

**Recommendation 4:** HMRC should set a strategy of clearly identifying three levels of guidance so that users can immediately see the level of complexity of the material they are about to read.

- 2.10 This recommendation addresses the issue that the existing three GOV.UK products need further definition and integrating together, such changes being driven by a clearly communicated strategy around how content is delivered.

### Finding up-to-date and comprehensive guidance

- 2.11 The sheer scale of HMRC's guidance is such that it can be daunting and difficult to find the appropriate guidance. Guidance comes in many different forms and has been produced on an evolutionary basis to address different specific needs. Some are general while most types of guidance are specific to targeted user groups. Overall though there seems to be no overall structure to the totality of HMRC guidance and there are a variety of overlaps. For example, one interviewee said, "*VAT Information Sheet, Brief, Notice - what is the difference?*"
- 2.12 Many interviewees commented on the lack of either a comprehensive contents page or index to all of the HMRC manuals. Numerous contributors

remarked on the difficulty of finding the exact tax manual reference page information needed.<sup>3</sup> Most acknowledged that they used third party search engines rather than GOV.UK's own search engine (or for HMRC staff, the internal search engine). If found, guidance in the HMRC manuals was mostly good and considered to be understandable, easy to use and to read. Links to associated topics were of variable quality. The OTS was told of instances of drilling down through links only to arrive at the original reference page via a circular route – or other links that went to a whole manual rather than a specific section.

- 2.13 The issue of guidance about different features of a commercial transaction being spread over a number of manuals is inevitable, given the structure of HMRC manuals, which focus on tax topics rather than business transactions. It is unlikely that it would be cost-effective to create transaction-specific guidance (although this should be considered for common types of transaction).
- 2.14 In a paper era, there might have been an index covering all the HMRC manuals. In today's web-enabled era, the focus should be on ensuring that topic-specific links are created, and that it is easy for users to see the structure of each individual manual so that relevant commentary can be identified. The index at the front of each manual is usually excellent but is lost sight of once a user goes into a paragraph in the middle of a manual. It is understood that commercial publishers such as Tolley LexisNexis and Croner-i (the publishers of commercial versions of consolidated tax legislation) do produce a 'tree' view of manuals; a visual representation of where someone is in a website (see Chart 2.A).
- 2.15 Maintaining up-to-date guidance is challenging and several examples were highlighted to the OTS where draft guidance had been issued but had not been finalised many months later, or where guidance was clearly out of date.
- 2.16 Another frustration was the existence of links that led the user back to the place they started. For every user these circular links waste time and reduces their confidence in the material.
- 2.17 One example of the innovative use of technology to overcome a severe problem with an organisation's internal guidance came from an NHS Trust and its Clinical Guidance. This had previously been provided by a series of uncoordinated PDFs, with consequent difficulties in finding relevant material, updating it and accessing it rapidly in a clinical situation.
- 2.18 The situation was transformed by reorganising the information and making it accessible through an app available on clinicians' smartphones. Different users with different needs could be directed towards material more appropriate to their immediate needs without restricting access to all of the material should it ever be needed. The development and introduction of this approach took strong leadership from the top of the organisation but it is

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<sup>3</sup> One HMRC adviser commented that other HMRC officers often used him as a research resource, as identifying relevant guidance through search was too difficult to be reliable

now used widely and appreciated as a significant improvement over the old system.

- 2.19 HMRC and GDS are working on improving the way in which guidance is navigated, by building on the step-by-step process that has been used in other areas, for example 'Learn to drive a car'<sup>4</sup> and by developing 'natural language searching'. More work is needed to bridge the gap between different sections of guidance more consistently, to remove circular links and explore automated methods of improving the effectiveness of links.

**Recommendation 5: More work should be done on using technology to direct people to enter the guidance at a point appropriate to their needs and level of understanding of tax.**

## Simple guidance managed by the Government Digital Service

- 2.20 The GDS specifies that guidance must be written for those with a reading age of nine.<sup>5</sup> But they also say that material for specialist audiences has to be written so that everyone can understand what the content is about.<sup>6</sup> So their standards are flexible, but this would not appear to be widely understood by advisers and HMRC staff. In practice the reading age of nine standard covers the 500 pages of mainstream guidance (see paragraph 2.8) on GOV.UK. This is just a fraction of the total guidance produced by HMRC. HMRC's technical manuals, which are aimed at tax experts, whether in HMRC, the tax advisory community or working for large companies, are written by HMRC policy specialists mostly without reference to GDS writing standards.
- 2.21 Representative bodies and taxpayers have expressed concern that the publication (and updating) of the important technical manuals appears to be delayed, or material rewritten to leave out less common user cases, to fit into the GDS standards. They have also suggested that some of the simplifications adopted by the GDS can mean that guidance could be misleading, by not covering or alluding to all possible circumstances. There is often a tension between producing very simple guidance relevant to, say, 80% of the taxpayer population, and helping all taxpayers understand their tax position and pay the right amount of tax.

## Technical manuals on GOV.UK

- 2.22 Moving the HMRC technical manuals from HMRC hosting to GOV.UK has not gone smoothly. Changing the internet addresses (urls) and reformatting manuals has created significant disruption for commercial users. GDS worked with HMRC on this, but given the size of the task and its comparatively short time-scale it is not surprising that issues like these occurred. With hindsight, collaboration with users might have provided a different perspective for everyone.
- 2.23 The GOV.UK team prefers using web-pages, which is understandable for an online platform, but many more experienced or professional users find the

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<sup>4</sup> <https://www.gov.uk/learn-to-drive-a-car>

<sup>5</sup> <https://www.gov.uk/guidance/content-design/writing-for-gov-uk> - see under 'How people read' and 'Reading skills'.

<sup>6</sup> <https://www.gov.uk/guidance/content-design/writing-for-gov-uk> - see under 'Know your audience'.

use of PDF documents for an entire manual much more useful. There is no reason why both formats should not be offered. For example, the Parliament website provides the Finance Bill both in PDF and web-page formats.

- 2.24 Adopting web page formatting can result in a great many individual pages, each with an apparently unnecessarily small amount of content. Users find it hard to understand the context of specific paragraphs and there is a lot of unnecessary forward and back clicking. Tax advisers and representative bodies have commented that the GOV.UK team seems wedded to its own standards, without consulting the actual users of the content. Many users feel that the current approach serves its main users poorly.
- 2.25 The GOV.UK pages often have a 'Home' button, which takes the user to the GOV.UK home page. This is unhelpful; any user of the HMRC technical manuals would not expect to go to something wholly unrelated to taxation. Instead the home page for HMRC manuals in general (or the specific manual) would be a more natural choice.
- 2.26 An example of the application of this GDS editorial policy is the Inheritance Tax Manual.<sup>7</sup> There are web-pages with only 30 to 40 words on them.

**Recommendation 6: HMRC and the GDS should produce a clearer statement of their respective responsibilities. GDS-managed guidance should have more links to HMRC's more comprehensive guidance.**

**Recommendation 7: The GDS team should reassess its approach to publishing HMRC technical manuals.**

- 2.27 Comprehensive indices play an important role in helping users find appropriate material. Free text search also has a role to play, but both methods are important. Work should be done on introducing indexes and web-page identifiers, known as 'breadcrumbs', that should pay more attention to the structure of the technical material.

## HMRC technical manuals

- 2.28 There are 219 external HMRC Technical Manuals,<sup>8</sup> which represent a tremendous resource to HMRC, taxpayers and tax advisers. Evidence from third-parties makes it clear that HMRC material is the second most-used reference material (after tax law) when a tax practitioner is researching a tax issue.
- 2.29 There are many instances where it is not clear when the guidance was issued. Where guidance is changed, accessing the older version (which may be relevant to earlier tax years) may be possible through the National Archives, but is difficult and time-consuming. Guidance often has a contact name attached to it, but these are often out of date. The OTS was informed of one instance where two names were attached but one individual had died and another had left the relevant HMRC team a year earlier. HMRC policy

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<sup>7</sup> <https://www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual> and <https://www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/htm21026>

<sup>8</sup> In addition, there are some 140 internal manuals, used by HMRC staff, which are not made public. These manuals are outside the scope of this review, save in relation to searching across all information sources

leads are expected to sign-off annually that guidance for which they are responsible is up-to-date and accurate – but the level of review is unclear. A more robust process should be put in place.

- 2.30 Interviews with HMRC officers revealed that internal search engines do not work well. Many HMRC staff use external search engines to find material, before using paragraph numbers to switch to internal material. Finding material via search engines additionally means that material on the landing page of a manual (for example, about the extent to which it can be relied on) will not be seen by users (see paragraph 1.42).
- 2.31 The UK does not have a public database of consolidated tax legislation,<sup>9</sup> so it is not possible to link specific pieces of guidance to the underlying consolidated legislation. As it stands, if there have been any changes to a piece of legislation, considerable amounts of time will have to be spent on bringing the changes together to provide a complete view of the current set of rules. Commercial providers, such as Tolley LexisNexis and Croner-i, offer this facility to their users. It is understood that commercial publishers also maintain an archive database of technical manuals. It would be in the public interest if either HMRC were to arrange for taxpayers to have free access to the consolidated legislation provided by commercial publishers or if the government legislation website were to include it. However, cost constraints may mean this is not achievable.
- 2.32 The size of this audience will be very small, limited to experienced tax advisers and more interested laypeople, especially if there were effective accessible guidance. This is more a matter of government openness and transparency. It would seem appropriate that government should publish this or takes steps to make it available, maybe by either providing free access to that produced commercially or via the government legislation website.
- 2.33 The lack of links to other relevant material has also been highlighted. In some cases, there are no such links, in others, the link is to a whole manual rather than to a specific section. Technology today can generate links in a mainly-automated manner by linking keywords and references, with little – if any – human intervention.

**The OTS observes that consolidated tax legislation should be available for those that either want to or need to read it.**

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<sup>9</sup> The site <http://www.legislation.gov.uk> does not have consolidated tax law. Since most Finance Acts make changes to existing law, the only accurate version of UK tax legislation comes from consolidated legislation where subsequent changes are added into earlier Acts. Only commercial information providers produce this

## Chapter 3

# A renewed collaboration across the tax community to improve guidance

3.1 The overarching aim for the great majority of taxpayers and tax agents is “to get it right” and to do so in a timely fashion. HMRC’s guidance, at multiple levels as outlined earlier, has a critical role to play in helping taxpayers, tax agents and HMRC officers to achieve this objective. So correct and effective guidance is essential. This is not only about technical accuracy and completeness but also the way the guidance is communicated.

### Potential issues

3.2 The OTS’s work identified a limited number of outright factual or legal errors. Instead, most inaccuracies entered the system structurally in several ways:

- simple guidance, aimed at individuals with basic questions, may well not offer a complete picture – often as a deliberate choice by the Government Digital Services (GDS) to provide a simple answer. This may not help those with circumstances not specifically covered. Given that about 31 million individuals are liable to income tax,<sup>1</sup> even where guidance offers a high coverage rate, tens of thousands of individuals could be misled, or not helped
- certain areas of guidance have not been updated for a long time and are out of date, either in relation to legal developments or because new ways of doing business have been adopted, which are not covered. This guidance is still presented as current
- where guidance is updated, it is presented and treated as correct in relation to dates or events before the change. This covers not only changes in law but also the issue of ‘legitimate expectation’ discussed in Chapter 4
- guidance is specific to particular tax subjects, while a given set of circumstances may involve a variety of tax issues. As one interviewee stated, a problem may have a wide ‘problem footprint’ over several manuals. Unless there are good links to specific sections in other manuals, the tax specialist’s research may be incomplete
- guidance being presented as definitive, even though sometimes there will be multiple reasonable views of the law on a particular issue

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<sup>1</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/710887/Table\\_2.1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710887/Table_2.1.pdf)

## Clarity of guidance

- 3.3 There were frequent comments about the clarity of the guidance. Once the subject matter was found within the HMRC manuals they were generally considered easy to use. Many of the comments received were constructive, putting forward improvements that could be made to guidance.
- 3.4 Much has been made of the basic approach on GOV.UK of a 'language reading age' restriction of nine years. For general information about the tax system and standard compliance procedures this may well be pitched at an appropriate level.
- 3.5 Some interviewees thought that the simpler guidance was offered without any context. Such guidance largely concerned how to do something with little information about why it should be done and how it fits into the wider tax picture.
- 3.6 One observation<sup>2</sup> made to the OTS noted that where this approach was applied to more complex issues this may result in oversimplification, to the point of incorrectness. Examples quoted of incorrect guidance include the guidance about the marriage allowance and the criteria for self-assessment.
- 3.7 However, when speaking to GDS, OTS got a different point of view. GDS aims for a consistent, not a uniform, approach, illustrated by their advice about '*Writing well for specialists*' and '*Know your audience*'.<sup>3</sup> GOV.UK is designed around three 'products' (Mainstream, Specialist and Tax Manuals) that are aimed at different audiences in terms of the level of tax knowledge that is appropriate to the content (see paragraph 2.8). The appearance of these on a webpage is identical so it is difficult for a user to identify the level of the guidance without reading it in detail.
- 3.8 Another issue that can arise from the reading age restriction is guidance using different names for the same thing and the same name to mean different things. It may also reflect the fact that the writing of guidance is undertaken by many different people within HMRC and guidance not being centrally coordinated.
- 3.9 Questions raised with the OTS included whether the perceived lack of central coordination made it more likely that different pieces of guidance would conflict and whether broader HMRC policies around tax administration were considered. The OTS has been told that there is a lot of process to go through before guidance changes are made so it would appear that changes may not be reviewed more fully in the round.
- 3.10 HMRC guidance tends to be written from a practical 'how to get the job done' approach. An exception to this would be the magazine style guidance like the 'trusts and estates newsletter'. To add more clarity, some thought that guidance clarity would be improved if the precise purpose of the law

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<sup>2</sup> ICAEW, Tax Faculty

<sup>3</sup> <https://www.gov.uk/guidance/content-design/writing-for-gov-uk>

were stated.<sup>4</sup> Equally, that policy behind any court interpretation should also be stated and in a timely fashion.

- 3.11 The PAYE tax coding notice is the employed taxpayer's main or even only direct annual communication with HMRC and is crucial for timely accuracy of the collection of their tax liability. It is such an important document that the OTS considers special consideration should be given to ways of making the explanations provided with it more user friendly. The employee is asked to check their tax code, but the majority just accept the contents. Therefore, the task may be educational as much as informative. HMRC have worked hard on this area, but the OTS considers it would benefit from further work to explore this more deeply.
- 3.12 Overall, this issue of clarity is a balancing act between making guidance useful and informative and having it be completely technically accurate.
- 3.13 Guidance that answers the majority of taxpayers' and advisers' questions will never cover all of the possible scenarios. More complex guidance answering less frequently encountered questions and situations may still not be completely technically accurate. Only the tax manuals have the requirement to be comprehensive – and even then HMRC itself writes that a manual cannot be completely comprehensive to cover every situation. In one sense, this is why tax specialists in HMRC and tax advisers are needed - to apply judgment based on knowledge and experience.
- 3.14 In supporting the idea of simpler and more accessible guidance, the OTS is aware that this approach has both benefits and risks. The OTS considers that the benefits outweigh the risks because, should HMRC accept all the recommendations, it will have a guidance package that can flexibly meet the needs of all its users, inside and outside of HMRC and improve the operation of the tax system for everyone.

## Timely updating

- 3.15 If guidance is not kept updated on a timely basis it costs everyone time and money.
- 3.16 In practice, manuals are often not updated immediately following a change in legislation or a court decision. An extreme example stated to us was of a VAT agreement that had not been updated since 1985. Another example was of an agent having to defend a client against arguments derived from an HMRC manual when in fact this view had been reversed by a court case.
- 3.17 This situation can lead to HMRC compliance staff reviewing returns based on out of date guidance. The impact effect of this is greater on those areas of tax such as PAYE, VAT and the Construction Industry Scheme which operate in real time, rather than after the event. This problem becomes larger if tax changes are legislated retroactively.
- 3.18 Representatives from the PAYE software industry said they need ideally 18 months to implement changes in the rules. Guidance writers, as well as

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<sup>4</sup> More recent guidance does indeed reflect the policy intent, not least because this is relevant to considering the possible application of the UK's General Anti-Abuse Rule (GAAR).

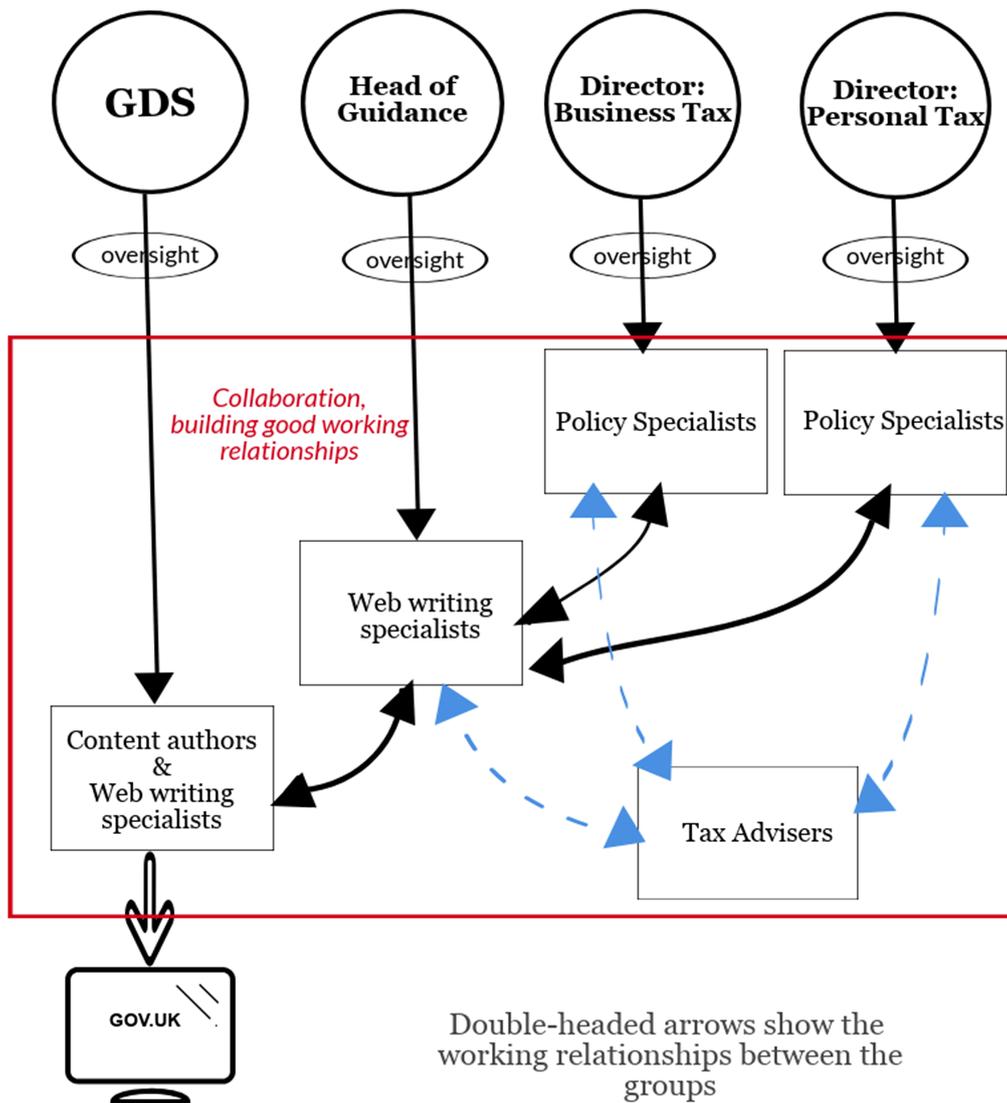
policy makers generally, must be mindful that in an increasingly digital tax environment, some sorts of changes take longer to fully implement.

- 3.19 Conversely if an old issue is considered, when previous rules applied, it will be important to identify the guidance applying at the time. If this is hard to find, this also creates unnecessary work and costs for all those involved.

## Involving other contributors

- 3.20 Many taxpayers and representative bodies told us they would be happy to help improve HMRC guidance. Early indications from a pilot project for advisers to report errors and omissions in VAT guidance are that this is very effective in improving the existing guidance. There would appear to be no reason why this should not be extended more widely in the near term. Evidence from HMRC's internal call centre staff suggests that they are pleased to offer suggestions for improving guidance.
- 3.21 The likelihood is that this desire to improve material is shared widely by taxpayers, advisers and representative bodies. Naturally HMRC would need to check additions and changes put forward – but using 'free' help to improve guidance is an opportunity that should not be missed.
- 3.22 Making it easy for those inside and outside HMRC to offer improvements would require the adoption of feedback forms and links to HMRC teams. Commercial providers of HMRC material should be encouraged to reproduce such links in their own material.
- 3.23 Many industry and representative bodies told the OTS that they would be willing to write guidance, contribute examples and assist with reviewing drafts. This would be helpful and should be considered further, acknowledging the need for HMRC to review such work before adopting it as HMRC guidance. A number of policy teams in HMRC already involve representatives from particular industries in reviewing new guidance, where effective working relationships already exist.

Chart 3.A: Collaboration on writing good guidance



Source: *The Office of Tax Simplification*

**Recommendation 8:** Sections in manuals should be annotated swiftly to record that changes will be needed to reflect amended law, or the results of a tax case.

**Recommendation 9:** HMRC should introduce more feedback links into the technical manuals. These should be accompanied by dating each page (or paragraph number) and ensuring that HMRC contacts for each manual are kept up to date. Technology should be used to improve links between specific parts of manuals and HMRC’s other guidance material.

**Recommendation 10:** HMRC should discuss and agree protocols with industry and representative bodies where these bodies are supportive of contributing to guidance, building on existing good practice.

## Advisory bodies

3.24 Consideration should be given to establishing two new advisory bodies or panels to help align guidance with the needs of the user:

- **user focus:** One body should have responsibility for promoting the change of current guidance to a more user focused approach. This could, for example, involve ABAB as well as professional bodies willing to make a commitment of resource to improve HMRC guidance. It would require senior sponsorship and involvement within HMRC as it will require a change to the current model around the issuance of guidance
- **technical focus:** A second body should consist of senior HMRC officers, respected tax specialists from industry, the professions and academics. As well as providing advice about interpretive matters and technical accuracy, it should be able to advise HMRC on a range of related issues associated with the provision of published advice and guidance. This would include addressing issues such as the best way for clarifying HMRC policy, legislative intent and recommending any legislative amendments which it considers may be required. This panel should fall within the ambit of HMRC's current guidance project

## Chapter 4

# Greater clarity about the reliance taxpayers can place on guidance

- 4.1 Clarity about the reliance that can be placed on guidance is fundamental in relation to HMRC material that aims to help the taxpayer without assisting those who might seek to abuse the system, whether by using contrived avoidance schemes or in other ways.
- 4.2 To be reliable the material must state to what extent it can be relied upon. At the moment it does this in a limited way that is only useful to those who already know, because of the way search engines ‘parachute’ users into the middle of guidance without a clear sense of context and location, which makes it easier to misinterpret the guidance (see paragraph 1.42).
- 4.3 The OTS notes that the current level of reliability causes widespread frustration among tax advisers. Taxpayers, as well as HMRC, benefit from good guidance since they can undertake prospective transactions with a good understanding of the tax consequences and they too benefit from more accurate tax reporting.
- 4.4 An example is noted in the OTS’ recent report on Platforms:<sup>1</sup>
- “It must remain a key objective of HMRC to publicise and improve guidance for this section of the economy. The risk here is that people are either put off from taking up platform work because they do not want to be self-employed given the resulting responsibility for managing their own tax affairs, or do not realise their tax obligations, including those who do not think working a couple of extra hours a week incurs any tax liability, and therefore there is no need to declare it.”*
- 4.5 The complexity of UK tax law is often acknowledged, not least in work by the OTS. The OTS’ complexity index<sup>2</sup> acknowledges the role played by guidance in adding to or reducing complexity.

### The legal position

- 4.6 The Supreme Court and Court of Appeal in the Gaines-Cooper<sup>3</sup> case noted the importance to the UK tax system of guidance – and that it is within the powers of HMRC under its governing Act to issue guidance. The Supreme Court quoted with approval Lord Justice Moses:

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<sup>1</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/729322/OTS\\_platform\\_paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729322/OTS_platform_paper.pdf)

<sup>2</sup> <https://www.gov.uk/government/publications/office-of-tax-simplification-complexity-index>

<sup>3</sup> <https://www.supremecourt.uk/cases/docs/uksc-2010-0057-judgment.pdf>

*“The importance of the extent to which thousands of taxpayers may rely upon guidance, of great significance as to how they will manage their lives, cannot be doubted. It goes to the heart of the relationship between the Revenue and taxpayer. It is trite to recall that it is for the Revenue to determine the best way of facilitating collection of the tax it is under a statutory obligation to collect. But it should not be forgotten that the Revenue itself has long acknowledged that the best way is by encouraging co-operation between the Revenue and the public...”*

- 4.7 HMRC publishes a wide range of guidance. Some is clearly directed at taxpayers, while other parts of the guidance material – especially the HMRC manuals - will be used both by taxpayers and by HMRC officers.
- 4.8 In the UK, the question whether HMRC is bound by its guidance relies on the twin public law doctrines of ‘conspicuous unfairness’ and ‘legitimate expectation’. These have been developed by the Courts and do not apply to taxation alone. The doctrines govern part of the relationship between a public authority and an individual.
- 4.9 In one case<sup>4</sup> Bingham LJ was clear that guidance is capable of giving rise to legitimate expectation on the part of taxpayers. He said “No doubt a statement formally published by [HMRC] to the world might safely be regarded as binding, subject to its terms, in any case falling within them”.
- 4.10 There have been several cases where taxpayers have claimed that they can rely upon HMRC’s guidance in this way. The general principle is that taxpayers may rely on guidance even where it ultimately turns out to be an incorrect statement of the law if a taxpayer can show they have reasonably relied upon the information, acted upon it to his or her detriment and where applicable made full disclosure to HMRC of all relevant facts.<sup>5</sup>
- 4.11 The disputes often revolve around whether the guidance was sufficiently relevant to the taxpayer’s individual circumstances; whether in fact the taxpayer relied upon it and reasonably relied upon it; whether the taxpayer was open in their interactions with HMRC; and whether the taxpayer was engaged in tax avoidance. The court will also assess whether a departure from incorrect guidance would be conspicuously unfair. This creates uncertainty for taxpayers, although this is typically relevant only to more sophisticated taxpayers and their advisers. The impact of this should not be minimised, though, as work by the Organisation for Economic Co-operation and Development (OECD) and International Monetary Fund (IMF)<sup>6</sup> sponsored by the G20 acknowledges the adverse impact on investment caused by tax uncertainty.
- 4.12 Interviews with taxpayers and representative bodies highlighted that on occasion HMRC has sought to express the policy intent of new legislation in its guidance, while acknowledging privately that the legislation itself is not as clear as would be desirable. It is widely recognised that there are difficulties

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<sup>4</sup> Bingham LJ in MFK Underwriting Agencies Ltd [1989] STC 873

<sup>5</sup> HMRC produced in March 2009 their own statement on when they may be bound by incorrect information or advice  
<https://www.gov.uk/guidance/when-you-can-rely-on-information-or-advice-provided-by-hm-revenue-and-customs>

<sup>6</sup> <https://www.oecd.org/tax/tax-policy/tax-certainty-report-oecd-imf-report-g20-finance-ministers-march-2017.pdf>

with the UK's parliamentary process for legislating new tax law, due to the pressure on parliamentary time and on those bodies (such as the Office of the Parliamentary Counsel) which have an integral role in writing new law.

- 4.13 This practice, of seeking to clarify the meaning of the law in guidance, while apparently helpful, can bring additional uncertainty. Guidance can only represent the views of HMRC in relation to enacted law. The House of Lords' decision in *Wilkinson*<sup>7</sup> sets limits on the ability of HMRC under its care and management powers to grant concessions to taxpayers. Lord Hoffman said:

*"This discretion enables the commissioners to formulate policy in the interstices of the tax legislation, dealing pragmatically with minor or transitory anomalies, cases of hardship at the margins or cases in which a statutory rule is difficult to formulate or its enactment would take up a disproportionate amount of Parliamentary time. The commissioners publish extra-statutory concessions for the guidance of the public...It does not justify construing the power so widely as to enable the commissioners to concede, by extra-statutory concession, an allowance which Parliament could have granted but did not grant, and on grounds not of pragmatism in the collection of tax but of general equity..."*

**"...the best way of facilitating collection of the tax ...is by encouraging co-operation between the Revenue and the public..."**

-Lord Justice Moses

## Experience overseas

- 4.14 A number of stakeholders raised with us their view that The Australian Tax Office's statement on its guidance is clearer and more direct:

*"We are committed to providing accurate, consistent and clear advice and guidance to help you understand your rights and obligations.*

*If you follow any of our advice or guidance and it turns out to be incorrect, or you make a mistake because it was misleading, we will take this into account when determining what, if any, action we should take."*

- 4.15 The Australian Tax Office has set out its views on precedential material in a public statement.<sup>8</sup> The statement notes at the start:

*"This practice statement is an internal ATO document, and is an instruction to ATO staff.*

*If taxpayers rely on this practice statement, they will be protected from interest and penalties in the following way. If a statement turns out to be incorrect and taxpayers underpay their tax as a result, they will not*

<sup>7</sup> <https://publications.parliament.uk/pa/ld200405/ldjudgmt/d050505/wilkin-1.htm>

<sup>8</sup> <http://law.ato.gov.au/atolaw/view.htm?DocID=PSR/PS20033/NAT/ATO/00001&PiT=99991231235958>

*have to pay a penalty. Nor will they have to pay interest on the underpayment provided they reasonably relied on this practice statement in good faith. However, even if they don't have to pay a penalty or interest, taxpayers will have to pay the correct amount of tax provided the time limits under the law allow it."*

- 4.16 The ATO publishes two types of guidance: precedential guidance and other material. Precedential guidance is where the authority accepts it will be bound by the guidance, even if incorrect. The taxpayer may choose to apply the law if more favourable. The ATO does not accept it should be bound by other material, but it does accept that the taxpayer should not be liable for interest and penalties where they comply with the ATO views expressed.

## The way forward

- 4.17 The reliance on guidance issued by HMRC is essentially a Public Law issue. It would be helpful if HMRC were to conduct a review in this area to determine whether an approach more akin to that taken by the ATO might be a better way of providing clarity to taxpayers. Alternatively, if the broader existing UK position is preferred, a clear statement as to the circumstances in which guidance can be relied on should be published.

**Recommendation 11: HMRC should undertake a consultation on the circumstances in which a taxpayer can rely on published guidance and the extent to which a taxpayer will be subject to interest, penalties and the tax in dispute where guidance is found to be incorrect.**

**Recommendation 12: HMRC should be clearer when its guidance it is knowingly giving a statement of HMRC's opinion rather than something it considers to be generally accepted.**

# Annex A

## Types of available guidance

Table A.1: Types of guidance

Guidance	Comments
HMRC manuals	HMRC Manuals are the most detailed explanation of taxation produced by HMRC. Their target audience is HMRC officers and others with tax knowledge.
GOV.UK	The gateway website to all government information. The site now hosts HMRC's technical manuals and other guidance material.
VAT Notices	VAT Notices are detailed guidance mainly intended for those with tax knowledge. In some cases, VAT Notices are legally binding.
Revenue & Customs briefs	Bulletins announcing changes in policy or setting out the legal background to an issue. They generally have a short lifespan, as announced changes are incorporated into permanent guidance and the brief is then removed.
Spotlights	'Spotlights' are periodic notices HMRC issues when considered necessary to warn taxpayers about certain tax avoidance schemes which HMRC wishes them to be aware of. They are aimed at the public as much as advisers and worded accordingly. They are warning notices rather than guidance.
Employer Bulletin	HMRC publishes the employer bulletin every two months. It is a magazine style booklet which gives employers and agents the latest information on topics and issues that may affect them. There is an emphasis on tax but also covers other employer-related issues in a concise style giving more specific detail.
Pensions Schemes newsletter	A same style of guidance but for all aspects of the pensions industry and pensioners' agents.

	The publication is issued more frequently being almost monthly.
Trusts and Estates newsletter	Magazine style quarterly publication describing topical issues and changes within trust and estate tax and administration.
HMRC booklets	Much larger publications which address broad subject areas with the intention of assisting taxpayers with commonly experienced compliance matters and decisions.
Guidance notices attached to returns and forms	All tax returns and many claims and elections forms have guidance notes to aid users in completing the return or form.
HMRC Leaflets	The once extensive library of HMRC Leaflets have now largely been replaced by digital media. Those that do remain are for niche taxes, such as aggregates levy, which few taxpayers would encounter.
HMRC Factsheet	A series of documents that inform the taxpayer of their legal situation, reasoning, procedures to be expected and possible penalties in respect of a forthcoming compliance check by HMRC into their affairs.
YouTube videos	Video explaining taxpayer duties and how to undertake them.
HMRC online meetings	Webinars each on a commonly experienced aspect of the tax system aimed at agents. or businesses. They consist of a talk from HMRC followed by an interactive online discussion with HMRC subject specialists.
HMRC online customer forum	Business taxpayers can ask questions, see what others are asking and get the answers and tips on a range of topics.
Email alerts	A service providing regular emails containing business and education help.

Source: *The Office of Tax Simplification*

# Annex B

## People who met with the OTS

Adjudicators Office

Bristol VAT Practitioners Group

British Property Federation

Cambridge VAT Practitioners Group

Chartered Institute of Taxation

Clare Cooper-Hammond, MD of Imagineear

Dr Stephen Daly of King's College London

East Midlands VAT Practitioners Group

Government Digital Service

HM Revenue & Customs

HM Treasury

Institute of Chartered Accountants in England and Wales

Institute of Chartered Accountants in Scotland

Investment Association

LexisNexis

Low Income Tax Reform Group

London College of Communications

Lothbury VAT Practitioners Group

Macintyre Hudson Associates

National Farmers Union

Reward and Employment Engagement Forum

Southern VAT Practitioners Group

University of Sheffield

TARC/University of Exeter

West End VAT Practitioners Group

# Annex C

## International comparisons

### Observations on Internet Guidance of other common law countries

- C.1 These observations are based on consideration of the tax authority websites of Australia, Canada, South Africa, Ireland and New Zealand. The OTS has not been able to speak to users of these websites (with the exception of the South African site) to hear users' views. The connection between these countries and the UK is the common law legal system and the English language.
- C.2 Australia, Ireland and New Zealand took a similar approach. There were tax department sites that had direct links to other government department services where there was a service or task overlap. This was extended to state level services in the case of Australia.
- C.3 All three were easy to use and to read. It was especially noticeable that the writing style was very open and approachable. This is important as most taxpayers want to get their taxes right and are wary of tax authorities. The Australian site in particular had a comforting 'we're here to help' style that informed the taxpayer what needed to be done and how to do it.
- C.4 Guidance was given concisely and in a way that the lay taxpayer could understand, backed up by links to further fuller tax information if this was required. Australia and New Zealand had in addition embedded short informational videos to enhance the user experience accessible directly from the website. The Australian site also had a virtual assistant system called 'Ask Alex' which is likely to appeal to many users. The Irish site specifically catered for tax professionals with an access point from its home page for more detailed information and tax authority manuals.
- C.5 All these countries have websites that reach out across all government departments. Their view appears to be that if a taxpayer wants tax guidance then they will contact the tax authority and that site then becomes the gateway to the rest of government.
- C.6 Their approach is in contrast to the approach of GOV.UK, which is a task-oriented site, leading you to any government web-page you need, and some third-party sites, according to the task in question researched. Government Digital Services have said to the OTS that many taxpayers access GOV.UK via Google with an HMRC based question which for many seemed the logical method.
- C.7 The Canadian site takes a slightly different route. It is a government site with easy and obvious drop-down options to access the government department

required. Therefore, So access to the Canada Revenue Agency site is straightforward. It also then accesses other government and provincial services from the tax site. The style is more formal than the other nations and feels relatively less approachable, but the information needed is all there.

- C.8 The South African Revenue Service (SARS) site is reported as being easy to use with guidance being provided through taxpayer-oriented buttons (Individuals, Businesses and Employers, Tax Practitioners). Clicking those took the user to lists of the more frequently asked questions which provides a practical 'how do I do this?' material. Formal guidance was available separately through a 'Find a Publication' button. This guidance was divided into Guides, Manuals, Policies, Forms, Brochures and Legal Publications. Under 'Legal Publications' there is a further series of 'Guides' with this the disclaimer that ;" "The guides are neither "official publications" as defined in the Tax Administration Act, nor are they binding on SARS. They are merely intended to assist taxpayers in the practical interpretation and application of the requirements set by law". The guides (under both headings) are generally long searchable pdf documents
- C.9 To test the search engines, a particular information request was attempted on all four websites. The Australian and Irish sites produced the desired answer at the top of the first page of the search results. The Canadian site had it further down the first page and New Zealand at the top of the second. All of these were good searches. When the same request was placed in GOV.UK it produced a further breakdown of actions the taxpayer may be researching, which reflects the different process used.