

February 2020

## Claims and Elections Review – call for evidence

### Introduction

Claims and elections are an integral part of how the tax system operates.

Claims are often required for the wide variety of reliefs which are available in relation to many taxes. This includes, for example, the 5 million or so employees who claim relief for a work-related expense such as cleaning a uniform or for using their car for work-related travel.<sup>1</sup>

There are also range of elections taxpayers can make, for example making a s198 election to apportion sale proceeds between buildings and fixtures for capital allowances purposes.

The OTS has considered a variety of claims and elections in different areas of the tax system in its previous reviews, but this review will look at claims and elections more widely across different taxes in relation to individuals, businesses and partnerships.

As set out in the published scoping document<sup>2</sup>, this review will:

- pay particular attention to those made by employees, self-employed people and businesses in relation to income tax, corporation tax, capital gains tax and VAT, as these areas will affect the largest number of taxpayers
- be primarily concerned with how the administration of certain claims and elections may be simplified

### How to respond

In your response to this call for evidence it would be helpful if you could outline the nature of your experience of the claims and elections you are responding about, and your role or roles in relation to them, for example:

- If you are writing in an individual capacity, under what circumstances have you made a claim or election (for example in relation to your employment)
- If you are a business owner what is your business activity, what is its size, and what form does your business take (unincorporated, corporate, partnership etc)?
- If you are a professional advisor, what type of clients do you usually represent (for example, large businesses, small businesses, individuals)
- If you are responding on behalf of a representative body, please describe the group and its members

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<sup>2</sup> <https://www.gov.uk/government/publications/ots-to-review-claims-and-elections>

A list of the professional advisors or representative bodies responding to this call for evidence will be included as an annex in the final report. Individuals who respond will not be named. No comments will be attributed to respondents unless the OTS has received permission to do so.

Please submit your response to this call for evidence by 8<sup>th</sup> May. Our email address is [ots@ots.gov.uk](mailto:ots@ots.gov.uk).

The OTS is interested in meeting with a wide range of stakeholders to discuss this review, please contact the OTS by 10<sup>th</sup> April if you would like to arrange to meet with us.

## Consultation Questions

The OTS welcomes responses to all or any of the questions set out below, as well as any general or specific comments on the areas covered by this review. There is no requirement to respond to all the questions; responses focusing on a particular area are equally welcome.

### General

The review will seek to establish the broad numbers and types of claims and elections across the main taxes in the UK and then focus on a range of the more significant or frequently used claims and elections and how the administration of these may be simplified.

To support this the OTS would be grateful to receive any lists you may have of claims and elections that you consider when dealing with certain areas of tax, if you would be willing to share these.

The OTS is then interested in identifying specific common claims and elections where there are unnecessary or disproportionate burdens in making them or in securing the relief or other benefit.

1. What are the types of claim or election that you deal with most frequently?
2. Which claims and elections do you find the most time consuming to deal with?
3. Please provide examples of any types of claim or election that you consider are particularly difficult or complex to administer. Please explain why you think this is.
4. Please provide examples of any types of claim or election that you consider are particularly easy or simple to administer. Please explain why you think this is.
5. Have you been discouraged from claiming a relief because the process involved was, or appeared to be, too difficult or time consuming? Please provide details.
6. Are there any claims or elections for which you feel the information or the work required in making them is excessive or disproportionate?
7. In your experience, what are the claims for relief that are most often administered by high volume repayment agents<sup>3</sup>? What do you think motivates people to use such agents rather than dealing with the claim themselves? Do particular benefits or problems arise?
8. Do you think there are any reliefs that currently need to be claimed or elections that can be made, where it would be feasible and simpler for them to operate automatically or by default (subject to the ability to opt out)? Please provide examples.
9. Are there any key differences to the way claims or elections are administered across different taxes that you think could helpfully be aligned?

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<sup>3</sup> Agents who specialise in making claims for specific usually low value reliefs on behalf of a large number of individuals

10. Do any issues or difficulties arise in cases where a claim or election can either be made or amended within a tax return or, either sometimes or only, separately from a return?
11. Do any issues or difficulties arise in relation to the time limits within which a claim or election must be made or amended?
12. Are there any features that contribute to making time limits in which you must make a claim or election easier to miss? For example, is this the case in relation to time limits that operate by reference to an event rather than the end of a tax year or accounting period?
13. To what extent do you think that HMRC's personal tax account or business tax account could or should be used to make claims or elections that are not made in returns?
14. Are there any issues that arise in relation to claims or elections made outside of a person's employment or self-employment (such as gift aid claims)?
15. Are there situations where there is a choice between claims that can be made or where multiple claims interact, that are particularly complex or that distort behaviour?

### **Specific Claims and Elections**

The OTS has already identified, not least through some of its previous reviews, a number of specific claims and elections where it appears there can be difficulties for those administering them or where there are potential opportunities for simplification. The questions below refer to these.

#### ***Claims for relief for employee expenses***

Employees can claim tax relief for some expenses they incur during their employment, but which aren't reimbursed by their employer, such as for uniforms, tools, professional subscriptions and use of their own vehicles. Some employees can claim for flat rate expenses to cover cleaning their uniform and repairing and replacing tools, if they work in certain industries. In the 2015 – 16 tax year almost 5 million employees claimed tax relief of this type.<sup>4</sup>

16. To what extent do you think those that are entitled to such relief are aware of this? Does this vary by employment sector?
17. Have you ever encountered any difficulties in making a claim for relief for employee expenses? Please provide details.
18. Do you think that the processes for making such a claim are clear and proportionate?
19. Please provide any suggestions you may have for improving the processes for making a claim for employee expenses of any particular type.
20. Do you think that it would be beneficial for some reliefs (such as flat rate expenses) to be given automatically, for example through an employer? Please provide any suggestions you may have for how this could work effectively in practice.
21. Are there any issues that arise in relation to the activities of high volume repayment agents in this area?

#### ***Capital allowance claims***

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Capital allowances can be claimed on certain assets that are purchased to use within a business, such as plant and machinery, structures and buildings, and other qualifying expenditure. These allowances are then deducted in arriving at the businesses' taxable profits.

22. Are there any aspects of the process of making a claim for capital allowances (other than identifying which expenditure is eligible for the allowances) that you think are complex or confusing?
23. Are there any administrative aspects of capital allowance claims that you find overly time consuming, for example short life asset elections?
24. Are the time limits in which you can make and amend a claim clear, and fit naturally with the processes for making and amending tax returns?
25. Are there any issues that arise with respect to 'disclaiming' (delaying the use of) available capital allowances? Is it still necessary or desirable for this to be possible?

### ***S198 elections***

When property is sold, the parties involved in the sale must sign an election to apportion the sale proceeds, for capital allowances purposes, between the buildings and any fixtures.

26. Have you ever encountered any difficulties or complexities in making a s198 election?
27. The OTS has heard that very often a nominal amount is apportioned to fixtures when making the election. Would it potentially be simpler for S198 elections to be removed, for example, by having a nominal or nil amount apportioned to fixtures as standard? Please provide any other suggestions you may have.

### ***Claims for Losses***

If an individual or business suffers a loss, there are a number of rules that stipulate how these losses can be used and set off against income and gains.

28. Are there any difficulties or complexities that arise in the processes for claiming relief for losses? Are there any aspects of the process that are particularly time consuming?

### ***VAT***

The OTS VAT review 'Value Added Tax: routes to simplification' was published in November 2017 and an evaluation update was published in October 2019. This work identified concerns regarding the process for submitting claims for the repayment of UK VAT incurred by overseas businesses, DIY House builders, and the option to tax.

29. Do these or other areas of VAT which involve claims or elections cause particular difficulties for your business? If so, do you have any suggestions as to how these could be addressed?