

Claims and elections review: Simplifying administrative processes

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Foreword

In this report, the Office of Tax Simplification (OTS) reviews ways in which the operation of the many different types of claims and elections might be simplified, across Income Tax, Corporation Tax, Capital Gains Tax and VAT. The OTS has considered some types of claims or elections in previous reports, but this is the first time that the OTS has done so more widely, on a standalone basis.

The report explores general principles that could be applied to simplify claims and elections generally and examines specific types of claims or elections that are commonly made, in particular regarding employee expenses.

The report makes a range of recommendations, intended to support HMRC's vision for 'Building a trusted, modern tax administration system',¹ most of which are concerned with the administrative processes involved in making claims and elections.

The three most significant areas, which would benefit the most people, are for

- HMRC to improve the functionality of the personal tax account and the business tax account (including the forthcoming, merged, single digital account)
- the government to explore reducing the number of different categories and levels of employee flat rate expense claims
- HMRC to improve its online forms

The OTS would like to thank Bethan Kay, who led the review, supported by Sally Campbell, Zoe Judd, Nigel Mellor, Julia Neate and Hannah Smith, guided by OTS Head of Office David Halsey. We are also very grateful to our HM Treasury and HM Revenue & Customs colleagues, and to all those who have willingly given time, ideas, challenge and support.



Kathryn Cearns – OTS Chair



Bill Dodwell – OTS Tax Director

¹ <https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system#next-steps>

Executive summary

Introduction

The Office of Tax Simplification (OTS) is the independent adviser to government on simplifying the 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 improve the administrative processes, which is what people actually encounter in practice, as well as simplifying the rules. These are often of equal importance to taxpayers and HM Revenue & Customs (HMRC).

The OTS published a document setting out the scope of this review on 11 February 2020 (see Annex A). The OTS has since engaged with a variety of stakeholders, including HMRC and HM Treasury, both through meetings and a written call for evidence. A list of those consulted is in Annex B.

Background

There are a large number of claims and elections that can be made, both by individuals and businesses. In this review, the OTS has explored administrative difficulties that can arise when making claims and elections relating to Income Tax, Corporation Tax, Capital Gains Tax and VAT.

As well as asking for general views, the OTS asked about certain claims and elections specifically. These included employee expenses, capital allowances, elections to agree the value of fixtures, Corporation Tax losses and certain VAT claims and elections, as well as issues that may arise in relation to those using high volume agents. In addition, other specific claims and elections were repeatedly raised as being administratively difficult (see Chapters 3 and 4).

This review has taken a relatively broad (non-technical) view of the scope of claims and elections and has included any situation in which a taxpayer is likely to think of themselves as making a claim. Where this report refers to 'claims and elections' it is intended to refer to any situation in which a taxpayer must request, claim, apply for, elect or make a nomination of some kind.

This report makes a range of recommendations, most of which are concerned with the administrative process of making claims and elections. The two most significant areas, which would benefit the most people, concern the functionality of HMRC online tax accounts (recommendation 1) and reducing the number of categories of employee flat rate expense claims (recommendation 7).

The Online Tax Account and the government's 10-year plan

The government recently set out its vision for the future of tax administration in its report 'Building a trusted, modern tax administration system',¹ which the OTS was pleased to see said:

'Taxpayers should be able to view their tax position and tell HMRC anything it needs to know through a single online account.'

This report included the government's 10-year strategy for the future of UK tax administration, with commitments to increasing digitisation. The OTS hopes that the government considers the suggestions and recommendations included within this report in the context of their future work on building a modern tax administration, as well as ensuring that there remain appropriate routes to interact with the tax system for those who are digitally excluded.

The OTS received a considerable number of responses saying that better functionality in HMRCs online tax accounts would help to simplify the process of making a claim or election in several areas.

The most frequently suggested claims and elections that could helpfully be included in the personal tax account, to help those who do not have to make Self Assessment tax returns, were claims for relief for Gift Aid, pension contributions and nominations of main residences for Capital Gains Tax purposes. Additionally, the online claim form for certain employee expenses should be included in the personal tax account instead of being a standalone item.

There are likely to be a wide range of other claims and elections that could sit either within an online account, potentially removing the need to submit a full tax return. Additionally, respondents thought that the online account would be a convenient place to record claims or elections that had been made in the past, especially those that could affect their tax position in the future.

Recommendation 1

As part of government's work on the digitisation of the tax administration, HMRC should ensure that the personal tax account and the business tax account (including the forthcoming, merged, single digital account) are the hub for all taxpayer engagement with HMRC. This will require adding additional functionality to the accounts and ensuring that claims and other contact processes are all made through them. Specific points include:

- introducing the facility to make standalone claims or elections, including uploading supporting documentation where appropriate
- enabling a record to be kept of claims and elections that have been made in the past

¹ <https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system#next-steps>

General principles

Time limits

The OTS received feedback that in general it is simpler if time limits for making a claim or election refer to a tax year or accounting period end rather than a specific event, as this can lead to them being missed – both by taxpayers (and, where relevant, their agents) and by HMRC.

Recommendation 2

The government should, where possible, ensure that time limits in which to make a claim or election should refer to tax year or accounting period end.

Recommendation 3

The government and HMRC should ensure consistency in time limits for amending claims and elections, so that they are the same whether it is made within or outside a return.

Forms and signatures

One of the most frequent areas of feedback received was that HMRCs online forms are difficult, and not user friendly.

Two particular reasons for this are that users often can't see what information will be needed before starting to complete the form, and that the forms cannot be saved part-way through and then returned to.

In the case of more complicated forms, adding screenshots to a user guide would also be easy – and helpful.

The addition of a free text box on some digitised forms, and the ability to upload documentation in support of a claim, were also raised as beneficial changes which would be likely to reduce subsequent correspondence.

HMRC does not presently take a consistent approach to whether forms need a wet signature and the OTS has heard that the need for one can cause delays, especially if a taxpayer is overseas.

The OTS understands that in light of Covid-19, easements have been made here in some areas, and that HMRC is looking at whether these could be continued. Including forms as part of the personal tax account would be a way of the taxpayer authenticating a claim, without the need for a signature.

Recommendation 4

HMRC should work to improve the functionality of their online forms, including:

- setting out at the start the information required to complete the form
- adding a facility to save and return
- adding a free text box and the facility to upload a document where appropriate, to cut down the need for further communication and provide evidence to support a claim
- where possible, remove the need for wet signatures

- adding more forms to the personal and business tax accounts
- permitting overseas-resident taxpayers to file and make claims online, using the personal tax account, or HMRC's online Self Assessment portal

Guidance

The OTS has heard that it can be difficult, both for taxpayers and their agents, to find out how to make a valid claim or election, especially if it is the first time they have made a particular type of claim or election, or do so infrequently. This is especially the case where there is no template, specific form or box on a return to show how the claim or election should be made.

There are several specific areas of guidance that have been raised with the OTS as being unclear during the course of this review, set out in Chapters 3 and 4.

Recommendation 5

HMRC should:

- make the guidance on how to make claims and elections clearer
- consider making further use of test panels when developing guidance
- increase the number of claim templates available

Specific Claims and Elections

Claims and Elections made by Individuals

Employee expenses

One of the more common types of claims, certainly in terms of volume, is for tax relief on employee expenses that are not directly reimbursed by the employer, with over 5 million employees benefitting from 7.42 million claims in 2017-18.²

The OTS has heard that the current process of claiming for relief can be onerous, and unclear, with too many different ways of making a claim, dependent on what is being claimed for.

Respondents have also highlighted that the automatic rolling over of relief within employees PAYE codes, while seemingly beneficial in reducing administrative burdens by not having to claim year after year, can cause issues when the employee is no longer entitled to the relief, or the amount of the relief changes.

The OTS considers that there should be review points, especially when an employee changes employment, and periodic checks that the relief is still due, for example every 5 years.

To make the process simpler, the OTS considers there would be value in looking specifically at flat rate expenses, which are designed to cover small amounts of non-reimbursed costs associated with the repair and maintenance of work equipment and uniforms, as currently the number of options can be confusing for individuals to work out which rate applies to them.

² HMRC data

A single flat rate would give more simplicity, but if that were done on a revenue-neutral basis, at a level of £93, taxpayers in around half the current occupations listed (see Annex C) would lose out.

The OTS suggests however that the government explore moving to a system where there are a small number of rates (for example to just a standard and higher rate, of perhaps £80 and £120), and streamlining and updating the list of industries and professions to make it easier to navigate. The OTS recognises that further work would be required to cost this as an option and explore its implications further.

The OTS also suggests that it could be significantly simpler for taxpayers if employers were to notify HMRC directly of any employees who are entitled to claim flat rate expenses.

A previous HM Treasury consultation has shown that employers have in the past expressed concern about this, but the OTS considers that this should be revisited, alongside a greatly reduced number of rates and a simple notification option through RTI, such as a check box or code against employees who are entitled to the relief.

Recommendation 6

HMRC should:

- expand digital claims to more types of employee expense and include within the personal tax account
- improve the language and simplify forms, guidance and communications
- consider introducing a cut off or review point when relief for employee expenses is automatically rolled over into future years

Recommendation 7

The government should consider:

- streamlining the number of different levels of flat rate expense
- whether relief for flat rate expenses could be incorporated within an employer's payroll process

Gift Aid Carry Back Elections

A donor making a gift to a charity under Gift Aid can elect for that donation to be carried back and treated as made in the previous tax year. It is understood that the policy reason for introducing the carry-back was to allow those who received significant one-off income or gains in one year the opportunity to make charitable donations from that sum.

Respondents thought that the opportunity to carry back Gift Aid relief in this way caused unnecessary complexity, especially where relatively small amounts are involved. Limiting the ability to carry back Gift Aid donations to high value donations would remove the need for individuals dealing with relatively small amounts to have to consider and deal with this option and would meet the original policy intent. The strict deadline and inability to amend a claim caused further complexities for taxpayers, without obvious policy justification.

Recommendation 8

The government should consider making changes to Gift Aid carry back elections to:

- restrict the ability to carry back Gift Aid donations to high value donations and allow part of such a donation to be carried back
- allow tax returns to be amended within normal timescales to include Gift Aid carry back

Claims and Elections made by Businesses

Capital Allowances

Feedback received suggest that the mechanism for claiming capital allowances is generally well-established and seen as straightforward to use, with the exception being the Short Life Asset (SLA) regime, which requires users to track individual assets over a period of years.

This process for SLA claims is time consuming, to the extent that the OTS has heard that some taxpayers consider that such elections are simply not worth making. There was also some confusion about the level of detail needed to make a short life asset election successfully, with some suggesting that the information requirements are onerous.

The OTS suggests that HMRC consider whether the SLA regime would be simpler and more accessible if SLA assets acquired in a single year were treated as forming a 'single pool' for SLA purposes.

Recommendation 9

The government should consider the benefits and costs in introducing a pooling mechanism for short life assets acquired in a particular year.

Recommendation 10

The government should review the current requirements to provide information on all assets being treated as short life assets, to identify whether they could be simplified or reduced.

Elections to agree the value of fixtures

When a property changes hands, the ownership of the fixtures within it passes to the new owner. The parties to the sale can make a joint election to fix the amount of the sale price that is attributable to the fixtures, for capital allowances purposes. The election fixes the seller's disposal value and the purchaser's qualifying expenditure.

The OTS received many views on the effectiveness of the current process and explored a number of options for how this could be changed, including the introduction of a default £1 value, with an election only necessary if an alternative value is agreed. However, such changes to the system would sometimes have material effects on commercial property negotiations.

There were some concerns from respondents about the form of the election, and the information required on it, especially amongst those who do not file elections

on a regular basis. It was suggested that a template for such elections could be provided by HMRC to help with this.

Recommendation 11

HMRC should provide a template for businesses to use when making a capital allowances election to agree the value of fixtures.

Corporation Tax losses

From April 2017, a standalone company with a 12 month accounting period can offset brought forward losses against the first £5 million of its profit in full. (This is adjusted for shorter periods and groups). This £5 million limit is referred to as the company's 'Deduction Allowance' (DA), above this amount the company can offset brought forward losses against only 50% of its remaining profits.

The OTS consider that a de minimis measure below which a company does not need to state its deduction allowance could take the vast majority of companies out of the reporting requirement, reducing and simplifying the compliance burden for a significant number of small companies.

Such a de minimis could apply to a category of companies which is already defined, such as micro-entities, or could alternatively simply be set as a fraction of the £5 million limit. For example, companies with profits below £1million or £500,000 could be exempt, ensuring that the limit is sufficiently low enough that they won't fall within the rules.

Recommendation 12

The government should consider introducing a de minimis threshold below which companies would be exempt from reporting their deduction allowance on their return.

Reclaiming tax paid on loans to participators

When loans are made to participators there is a tax charge of 32.5% of the loan still outstanding 9 months after the company's year-end. When the loan is repaid by the participator, a separate claim has to be submitted to HMRC to reclaim the tax paid. This can be done either on a specified form, which can be submitted either online or printed and posted to HMRC, or by way of a letter.

The online form cannot be used by agents and does not allow for multiple reclaims (each must be on a separate form). In the 2018-19 financial year, there were 38,506 repayment claims, but only 6,523 of these related to a single claim by a single taxpayer: the rest were multiple claims.³

The earliest the tax repayment can be made is 9 months 1 day after the end of the accounting period in which the loan is repaid. The OTS has heard that this delay between the repayment and the refund can be problematic where the company is being wound up, as obtaining the refund can significantly delay the winding up process.

³ Data provided by HMRC for the 2018-19 tax year

Recommendation 13

HMRC should consider making changes to the form and online process used to reclaim tax paid on loans to participators and its guidance in order to:

- widen the scope so that it can be used for multiple reclaims
- extend the use of the online process to agents
- ensure the loans to participators form is referenced in the relevant HMRC guidance manuals

Recommendation 14

The government should look to make a specific provision for earlier repayment of tax paid on loans to participators in the case of liquidations and review the requirement for loans to have been repaid within an accounting period.

Employment related securities elections

These elections (under section 431 ITEPA 2003) are made jointly by employees and employers where an employee acquires restricted securities for example via a share scheme. The election's effect is that the employee is taxed upfront on the shares' Unrestricted Market Value, rather than their (lower) Actual Market Value.

If no election is made, there is an Income Tax charge on the employee, at the time the securities are sold or restrictions lifted, based on the difference between the two values at the time the securities are acquired.

The election must be made in a very short timescale, within 14 days of acquiring the securities. There is no requirement for the election to be lodged with HMRC, which can cause difficulties in verifying whether an election was made on a timely basis.

The OTS consider it would be simpler, and lead to many fewer elections needing to be made, if the position were reversed, with an election needing to be filed with HMRC only if the employer and employee jointly agree that the tax be paid on the Actual Market Value. At the same time, elections should be filed with HMRC and not simply retained by the taxpayer.

Recommendation 15

The government should reverse section 431 elections so that the unrestricted market value automatically applies where restricted securities are acquired, with the option for the employer and employee to file a joint election with HMRC to disapply that treatment.

Prioritisation and implementation

The OTS suggests that in terms of prioritisation, the government and HMRC should focus on the recommendations in the following areas:

- increased functionality of the online tax account (and in the interim the personal tax account) (recommendation 1)
- streamlining the number of different levels of flat rate expenses and improvements to the administration of employee expenses (recommendations 6 and 7)

- improvements to HMRC online forms (recommendation 4)

Implementing changes in these areas would positively impact the process of making claims and elections for millions of people. The OTS recognises that some of these changes may require extra funding, will take time and additional capacity to introduce and will have to be considered alongside other priorities.

There are other recommendations that would be easier or quicker to implement, for example changes to guidance and templates, and the OTS encourages HMRC to make these changes as well. However, changes to the systems and means of making claims and elections are likely to have a bigger impact on simplifying the claims and elections process across the tax system.

Summary of Recommendations

General principles

1. As part of government's work on the digitisation of the tax administration, HMRC should ensure that the personal tax account and the business tax account (including the forthcoming, merged, single digital account) are the hub for all taxpayer engagement with HMRC. This will require adding additional functionality to the accounts and ensuring that claims and other contact processes are all made through them. Specific points include:

- introducing the facility to make standalone claims or elections, including uploading supporting documentation where appropriate
- enabling a record to be kept of claims and elections that have been made in the past

2. The government should, where possible, ensure that time limits in which to make a claim or election should refer to tax year or accounting period end.

3. The government and HMRC should ensure consistency in time limits for amending claims and elections, so that they are the same whether it is made within or outside a return.

4. HMRC should work to improve the functionality of their online forms, including:

- setting out at the start the information required to complete the form
- adding a facility to save and return
- adding a free text box and the facility to upload a document where appropriate, to cut down the need for further communication and provide evidence to support a claim
- where possible, remove the need for wet signatures
- adding more forms to the personal and business tax accounts
- permitting overseas-resident taxpayers to file and make claims online, using the personal tax account, or HMRC's online Self Assessment portal

5. HMRC should:

- make the guidance on how to make claims and elections clearer
- consider making further use of test panels when developing guidance
- increase the number of claim templates available

Specific recommendations

Employee expenses

6. HMRC should:

- expand digital claims to more types of employee expense and include within the personal tax account

- improve the language and simplify forms, guidance and communications
- consider introducing a cut off or review point when relief for employee expenses is automatically rolled over into future years

7. The government should consider:

- streamlining the number of different levels of flat rate expense
- whether relief for flat rate expenses could be incorporated within an employer's payroll process

Gift Aid election to carry back relief

8. The government should consider making changes to Gift Aid carry back elections to:

- restrict the ability to carry back Gift Aid donations to high value donations and allow part of such a donation to be carried back
- allow tax returns to be amended within normal timescales to include Gift Aid carry back

Capital Allowances

9. The government should consider the benefits and costs in introducing a pooling mechanism for short life assets acquired in a particular year.

10. The government should review the current requirements to provide information on all assets being treated as short life assets, to identify whether they could be simplified or reduced.

Election to agree the value of fixtures

11. HMRC should provide a template for businesses to use when making a capital allowances election to agree the value of fixtures.

Corporation Tax loss restrictions

12. The government should consider Introducing a de minimis threshold below which companies would be exempt from reporting their deduction allowance on their return.

Reclaiming tax paid on loans to participators

13. HMRC should consider making changes to the form and online process used to reclaim tax paid on loans to participators and its guidance in order to:

- widen the scope so that it can be used for multiple reclaims
- extend the use of the online process to agents
- ensure the loans to participators form is referenced in the relevant HMRC guidance manuals

14. The government should look to make a specific provision for earlier repayment of tax paid on loans to participators in the case of liquidations and review the requirement for loans to have been repaid within an accounting period.

Employment related securities election

15. The government should reverse section 431 elections so that the unrestricted market value automatically applies where restricted securities are acquired, with the option for the employer and employee to file a joint election with HMRC to disapply that treatment.

Chapter 1

Background and digitisation

Background to Claims and Elections

- 1.1 Claims and elections are an integral feature of the UK tax system and are made by both individuals and businesses in relation to many different taxes.

Scope of claims and elections considered

- 1.2 This review has taken a relatively broad view of the scope of claims and elections and has included anything that a taxpayer would make a claim for in its ordinary everyday meaning.
- 1.3 Where this report refers to 'claims and elections' it is intended to refer to any situation in which a taxpayer must request, claim, apply for, elect or make a nomination of some kind.
- 1.4 This, therefore, goes wider than, for example, the statutory definition in the Taxes Management Act 1970 which provides that 'something is a 'claim' where the Taxes Acts say that a claim can be made for relief to be given or for any other thing to be done'.¹ Examples of claims outside of this definition but included within this review include employee expenses claims.
- 1.5 This review is mainly interested in the administrative processes involved, and focuses on claims and elections within Income Tax, Corporation Tax, Capital Gains Tax and VAT.

How are claims and elections made?

- 1.6 There are a variety of ways that claims and elections are made across different taxes. The most common approaches are:
- including the claim or election within a return, for example an Income Tax return for an individual, or a Corporation Tax return for a company. Sometimes this will be by ticking or completing a box on the return, or it may be by including a specific form with a return.
 - making a claim outside a return, which can be in a number of different ways such as:
 - completing a form which can be sent to HMRC via post or online
 - use of an online system

¹ <https://www.gov.uk/hmrc-internal-manuals/self-assessment-claims-manual/sacm2005>

- writing a letter to HMRC
 - over the phone with HMRC
 - Making an election outside a return, which is usually done in writing to HMRC
- 1.7 Chapter 2 discusses in more detail the various ways of making claims and elections and some of the complications that have been raised with the OTS about how they work.

The Digital Future

Introduction

- 1.8 The government introduced personal tax accounts in December 2015 and over 19 million² individuals have signed up for an account.
- 1.9 The OTS considers that there should be a single online tax account available for everyone, including those who are self-employed or a landlord, providing a single up to date picture of their tax affairs, as explained in the OTS's 'Tax reporting and payment arrangements review'³ published in October 2019.
- 1.10 The government recently set out its vision for the future of tax administration in its report 'Building a trusted, modern tax administration system',⁴ which the OTS was pleased to see stated:
- 'Taxpayers should be able to view their tax position and tell HMRC anything it needs to know through a single online account.'
- 1.11 This report included the government's 10-year strategy for the future of the UK tax administration, with commitments to increasing digitisation.
- 1.12 The personal tax account currently has the functionality to do a number of different things including:
- checking state pension entitlement
 - claiming a refund of tax
 - viewing your tax code and Income Tax estimate
 - checking or updating benefits received through employment such as a company car
 - telling HMRC about a change of address
- 1.13 In certain limited circumstances it can also be used as a secure way for HMRC to communicate with individuals, reducing the need to send paper correspondence.

² HMRC annual report 2018-2019 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/824652/HMRC_Annual_Report_and_Accounts_2018-19__web_.pdf

³ <https://www.gov.uk/government/publications/ots-tax-reporting-and-payment-arrangements-review>

⁴ <https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system#next-steps>

- 1.14 There is a separate online business tax account, where individuals in business can complete and submit their tax returns as well as access other online services including those relating to PAYE, VAT and the construction industry scheme. The business tax account is also used by individual landlords.
- 1.15 Access to these online accounts is gained through logging in via the GOV.UK website, and identity verification is needed. This is currently via using either a government gateway ID or using the GOV.UK Verify service. Taxpayers can switch easily between the personal and business tax accounts, once logged in. However, data is not transferred between the two accounts.
- 1.16 Additionally, HMRC have introduced several fully digital processes that can be used by individuals in order to make certain claims. These are often accessed directly through links on the GOV.UK site, rather than through one of the tax accounts.

Observations

- 1.17 During the consultation, respondents were very positive about the prospect of greater functionality within the personal and business tax accounts. A range of the issues raised about making claims for specific reliefs or making elections, could be improved by greater utilisation and increased functionality within online tax accounts.
- 1.18 Respondents considered that adding the ability to make more claims and elections within the personal tax account would be beneficial for those that don't currently need to complete a Self Assessment return. Some of the claims and elections that respondents most frequently suggested would sit better within the personal tax account are outlined below.

Gift aid

If a person that pays tax above the basic rate donates to charity with Gift Aid, they can claim back the difference between the basic rate on their donation and the rate that they pay. This can currently be done either through a Self Assessment return, or by contacting HMRC directly to amend the tax code (via phone or letter).

It would be simpler if claims for relief could be made via a dedicated area within the personal tax account. This would allow taxpayers to keep track of the Gift Aid payments they have made throughout the year and could allow for simpler way to reclaim the relief. It could also allow for HMRC to remind taxpayers to ensure that they have paid sufficient tax in a year to cover the donation if their income drops.

Capital Gains Tax Main Residence Nomination

There is no Capital Gains Tax to pay on the sale of a person's 'main home'. However, where an individual, a married couple or a civil partnership has more than one home, they can nominate which of their homes is to be treated as their 'main home'. In order to make a nomination, the individual or couple must send a letter to HMRC stating which home is to be treated as their 'main home'.

It would be quicker and simpler for most people if a facility was added to the personal tax account that would allow a nomination to be made and recorded for future reference. Consideration would need to be given as to how to treat joint elections by spouses or civil partners.

Claiming Additional Pension Tax Relief

For those who contribute into a pension and get 'relief at source', meaning that the pension provider will claim the basic rate of tax relief and add it to the pension pot, any tax relief due above the basic rate must be claimed from HMRC. This additional tax relief can be claimed through a Self Assessment tax return, or by calling or writing to HMRC.

For those that are eligible to claim additional tax relief, but do not ordinarily need to complete a self-assessment, adding the facility to do so via the personal tax account would be beneficial. This would allow people to keep track of their claims and make any adjustments easily if their contributions changed.

A longer-term reform could require that pension providers notify HMRC of contributions made and HMRC systems add that data to the online digital account – thereby automating the process of giving higher rate relief and monitoring whether an annual allowance or money purchase annual allowance charge arises.

- 1.19 Adding additional functionality to make such claims and elections in the personal tax account, rather than having to call or write to HMRC, or submit a Self Assessment return where one wouldn't otherwise be needed, would also reduce the amount of contact HMRC receives, and the amount of resource needed to deal with post. It could also deal with the issue of authenticating the taxpayer making the claim – instead of a wet signature.
- 1.20 There are some claims that require the person making it to do so on a Self Assessment tax return. Adding the functionality to claim these separately via the personal tax account, rather than having to submit a full Self Assessment return would help reduce the administrative burden for those making the claim. This would also benefit HMRC, reducing the numbers of those who must submit a full return and hopefully reducing the amount of processing required for such claims.

Examples

Employee expense claims

If an employee wishes to make a claim for expenses that are over £2,500 then the individual must make the claim on a Self Assessment return, rather than the usual P87 form or online process.

Remittance basis

The remittance basis automatically applies where a taxpayer has less than £2,000 of overseas income or gains. In some circumstances, it is more beneficial for the individual with under £2,000 of unremitted income to opt out of the remittance basis, for example in order to remit a foreign dividend and take advantage of the nil rate dividend allowance. Such a claim can only be made within a Self Assessment return.

- 1.21 Respondents raised with the OTS that it would be helpful to be able to track the progress of their claims, something that is already available in a limited way for some claims made through current digital processes. Introducing the facility more widely would likely benefit HMRC through reduction in contact via phone or letter as people chase the progress of claims or check to see that forms have been received by HMRC.
- 1.22 The OTS has heard that difficulties can arise where claims or elections are made by an individual or business in the past that may affect their tax position in the future. The OTS received feedback that establishing whether claims or elections had been made can be time consuming, and that often it can involve contacting HMRC to try to establish what had been done previously, taking up time and resource of HMRC. In general, respondents thought it would be helpful if the HMRC online tax accounts could provide a record of previous elections or claims that had been made.
- 1.23 While many people have easy access to a computer, others rely on their smartphone as their only means to access the internet. The OTS has heard that currently many HMRC online forms and systems are very difficult to use and access through a smartphone, as they are primarily designed to be used on the large screen of a computer. HMRC does have an app that can be used on a smartphone; however, this has limited capability. It would be helpful for popular claims to be adapted for mobile website use (which is simpler to do and need not involve the HMRC app).

Conclusions

- 1.24 The OTS hope that as part of the government's work on the future of the tax administration system that it will consider the points raised in this review. Increasing the functionality of the online tax account will help simplify the administration of claims and elections for individuals, businesses, agents and HMRC. This should help to simplify the process of making several different

claims and elections, as well as helping taxpayers keep track of the claims or elections they have made in the past and allow them to make adjustments as required. It would also be of benefit to HMRC, as it would reduce the number of phone calls and letters received about claims and elections, thereby reducing the work involved in processing them.

- 1.25 Additionally, the OTS hopes that as part of the government's work in this area that they ensure there remain appropriate routes for those who are digitally excluded to interact with the tax system.

Recommendation 1

As part of government's work on the digitisation of the tax administration, HMRC should ensure that the personal tax account and the business tax account (including the forthcoming, merged, single digital account) are the hub for all taxpayer engagement with HMRC. This will require adding additional functionality to the accounts and ensuring that claims and other contact processes are all made through them. Specific points include:

- introducing the facility to make standalone claims or elections, including uploading supporting documentation where appropriate
- enabling a record to be kept of claims and elections that have been made in the past

Chapter 2

General Principles

Introduction

- 2.1 The OTS received feedback from respondents on a wide range of claims and elections across the tax system. Some of the issues raised by respondents were more general in nature and are relevant to the process of making a variety of claims and elections.
- 2.2 This chapter explores and suggests simplifications to the administration of claims and elections generally, in the following areas:
- time limits
 - forms and signatures
 - the format of claims and elections
 - agent access and authorisations

Time limits

Background

- 2.3 There are various time limits for different claims and elections across different taxes. Time limits for making amendments to claims may also vary depending on whether a claim is made within a return or separately from a return.
- 2.4 Generally, where a claim or election is made within a return, the time limits for amending the claim are in line with the time limits for amending the return. For example, where included within a self-assessment or Corporation Tax return, the time limit for amending the claim is 1 year from the filing deadline (the same as the normal time limit for amending returns).
- 2.5 If a claim or election is submitted outside a return, the time limit for amending the claim is 1 year from the date the claim was made, unless a different time limit is specified in the legislation for that type of claim.
- 2.6 However, these general time limits apply only to statutory claims and elections. As outlined in Chapter 1, some of the things that are 'claimed' do not fall within the claims and elections legislation in the Taxes Management Acts 1970 and may have their own time limits in legislation.
- 2.7 Additionally, time limits for different claims or elections can operate by reference to different starting points. For example, some time limits may

refer to the date of a particular event, whereas others refer to the end of the tax year or accounting period within which an event happened.

Observations

- 2.8 The differences in time limits for amending a claim or election, depending on the way it was submitted can mean that there are benefits in submitting a claim outside a return rather than within a return. That is because they can then delay the period in which that claim can be amended, giving taxpayers more flexibility in their affairs.

Example - Enterprise Investment Scheme (EIS) Claims

EIS claims for Income Tax relief can be made either within a tax return, or where no tax return is required, a standalone claim can be made, and a standalone form is provided for this.

Respondents highlighted to the OTS that where a claim is made in a return, a taxpayer who subsequently wants to reduce the relief claimed on certain investments in past years will be unable to do so if the time limit for amending the return has passed, which is normally 12 months from the filing deadline.

However, a claim could instead be made on a standalone form, submitted later than the return deadline (as long as it is within the 5-year time limit). This delays the period in which the claim can be amended, giving more flexibility.

- 2.9 The OTS has heard that where time limits work by reference to the date of a specific event, they are easier to miss than where they are linked to the end of a tax year or accounting period. Below are some specific example of claims and elections where the OTS has heard that having a time limit linked to something other than the tax year (for individuals) or accounting period end (for businesses) has caused deadlines to be regularly missed.

Election to agree the value of fixtures

The normal time limit in which a section 198 election must be made is 2 years from **the date a property is acquired by the buyer**.

Capital Gains Tax Main Home Nomination

The time limit to nominate which home will be treated as an individual's main residence for Capital Gains Tax purposes is 2 years from the date the individual **first has more than one residence**, or from the date the individual's combination of residences changes.

Reclaiming tax paid on loans to participators

A claim for relief against any section 455 tax that has been paid must be claimed within 4 years from the end of the **financial year** in which the loan is repaid, released or written off.

Conclusions

- 2.10 The OTS considers that the time limits should not influence or distort the way in which a claim or election is made, rather the individual or company making a claim should be equally able to use the method that best suits them.
- 2.11 In general, it would be simpler if time limits for claims and elections referred to the end of a tax year (for individuals) or the accounting period (for businesses) to which it relates. The OTS considers that this would simplify the administration for many claims and elections across the tax system, by bringing the time limits in line with normal end of year procedures, meaning that they would be less likely to be missed by taxpayers, agents and HMRC. This would not be possible in all cases, for example where there is a short time limit for making a claim or election, such as 30 days. In such cases it would remain necessary to refer to the event.

Recommendation 2

The government should, where possible, ensure that time limits in which to make a claim or election should refer to tax year or accounting period end.

Recommendation 3

The government and HMRC should ensure consistency in time limits for amending claims or elections, so that they are the same whether it is made within or outside a return.

Forms and signatures

Background

- 2.12 Some claims and elections do not need to be submitted via a return, for example where the individual submitting it doesn't complete a return, or because it is specified that the specific claim or election must be submitted separately. In these cases, there may be specific HMRC forms to use.
- 2.13 There are a variety of different types of forms used by HMRC.
- 2.14 These include fully digital processes that can be accessed via GOV.UK as well as digital processes accessed through the appropriate online tax account. At the other end of the spectrum, for those that do not wish to or cannot use a computer, claims or elections can be made using paper forms that must be requested, completed by hand and sent to HMRC by post.
- 2.15 There are also forms that can be found online on GOV.UK, and completed on a computer, some of which can then be submitted online, whereas others need to be printed and posted to HMRC.

Examples of different HMRC forms

Marriage Allowance

A claim can be made for the marriage allowance online, through GOV.UK, and outside of the personal tax account. The process is fully digital.

Income Tax Refund

A claim for a tax refund can be made online through your personal tax account. The process is fully digital.

Employee Expenses

Claims made outside of a tax return can be made either by the online digital service, or by a P87 form that can be completed on the computer, printed and posted to HMRC.

Observations

- 2.16 The OTS has received a number of comments about the accessibility and usability of HMRC forms. This is one of the key issues that was raised with the OTS about the administration of claims and elections, as those concerned do not consider that the process of completing the various types of HMRC forms is as simple as it could be.
- 2.17 In particular, the OTS has heard that HMRC forms can be difficult to navigate, especially as in most cases the introduction to the form does not make it clear what information may need to be provided before one begins to complete the form. Where HMRC has introduced digital processes, such as for the marriage allowance and Income Tax refunds, there has been a move to list the information required, which is welcome, but this is not always the case.
- 2.18 An additional difficulty is the lack of a facility to save and return to a partly completed online form later, meaning that it must be completed in one attempt, or else start again.
- 2.19 Often, online forms are spread over several pages, and the questions shown have to be completed to move on to the next page. The OTS has heard that this can be especially frustrating if the taxpayer was unaware of a piece of information required to complete the form, and so must return and complete the form again later, starting again from the beginning.
- 2.20 The OTS also heard that it would be helpful if HMRCs online forms contained a free text box so that the person completing it could add further relevant information. There would also sometimes be benefit in being able to upload supporting documentation when completing claims online. This would help to cut down on further correspondence requesting further information or clarification, benefitting both HMRC and the taxpayer or their agent.

Example

When a business first applies to register for VAT, it is required to complete a standard form known as a VAT 1. The same form is completed whatever size and type of business is applying to register. A number of stakeholders suggested that it would be really helpful if there was a free text box to provide additional information to support an application. This is likely to reduce the number of applications which are queried during processing

- 2.21 Some forms that need to be posted to HMRC must contain a 'wet' signature, rather than any kind of electronic signature, for the claim or election to be valid. Respondents stated that this can cause difficulties, especially where the time limit is fairly short, or an agent is acting for a client based overseas. The OTS is aware that HMRC has provided some temporary easements to allow electronic signatures in light of Covid-19 and are looking into whether these could be kept on a more permanent basis. However, there are some security concerns about the move to electronic signatures in some cases.

HMRC changes to notifying an option to tax land and buildings

In light of the social distancing measures introduced in response to coronavirus, HMRC announced some easements to the rules for notifying an option to tax land and buildings.

This included temporary changes to the need to provide a signed copy of the notification. Instead, the form can be submitted with an electronic signature, along with evidence that the signature is from someone authorised to make the option on behalf of the business. This can include an email from the authorised signatory giving the sender suitable authority.

The full details of the update can be found at:

<https://www.gov.uk/guidance/changes-to-notifying-an-option-to-tax-land-and-buildings-during-coronavirus-covid-19>

- 2.22 Similarly, the OTS has heard that non-UK resident individuals who need to submit a Self Assessment return cannot do this online, and a signed paper version must be sent, unless the individual pays for commercial software or uses a tax agent.¹ Many claims and elections are made on the Self Assessment return and it would be much simpler for HMRC and for those overseas if they could submit this online.

Conclusions

- 2.23 The OTS considers that HMRC should make their online forms easily accessible and user friendly.

¹ <https://www.gov.uk/tax-uk-income-live-abroad>

- 2.24 While the OTS considers that HMRC should utilise and improve the online tax account, the OTS understand that this will take time and may involve extra funding. Where possible in the meantime, the OTS suggests that HMRC improve the functionality of their online forms, including being able to complete them and submit them entirely online, removing the need to print and post forms.
- 2.25 In addition, HMRC should improve the guidance at the beginning of forms, so that those using them know what information they will need to complete the form. HMRC should also look at adding the facility to be able to save a part-completed form and return to it later, as well as to be able to add information into a free text box where appropriate.
- 2.26 The OTS considers that a move to the acceptance of electronic signatures more generally would be welcomed and would help to ease administrative burdens in cases where those that need to sign are in different locations, and would help to speed up the process of making claims or elections. Including forms as part of the personal tax account would be another way of the taxpayer authenticating a claim, without the need for a signature.

Recommendation 4

HMRC should work to improve the functionality of their online forms, including:

- setting out at the start the information required to complete the form
- adding a facility to save and return
- adding a free text box and the facility to upload a document where appropriate, to cut down the need for further communication and provide evidence to support a claim
- where possible, remove the need for wet signatures
- adding more forms to the personal and business tax accounts
- permitting overseas-resident taxpayers to file and make claims online, using the personal tax account, or HMRC's online Self Assessment portal

Guidance

Background

- 2.27 In some cases, in order to make a valid claim or election, specific information or wording must be included. However, not all claims and elections have a specific form, template or box on a return that guides a person to provide all the required information.
- 2.28 Some claims and elections can be made within a return, some must be made outside a return, and others can be made either within or outside a return. Additionally, some elections do not need to be submitted to HMRC at all.
- 2.29 HMRC guidance is a key tool for taxpayers when establishing how to make a claim or election. Guidance can take several different forms, including general guidance on GOV.UK, more specific and technical guidance found in HMRC manuals, and form-specific guidance found within help sheets.

Observations

- 2.30 The OTS has heard that it can be difficult for both taxpayers and their agents, to know and find out how to make a valid claim or election, especially if it is the first time they have made a particular type of claim or election or do so infrequently. This is especially the case where there is no template, specific form or box on a return to guide them in how the claim or election should be made or formatted.
- 2.31 The OTS has also heard that the method of submitting a claim or election is not always clear. Where there is a form to be completed, it can be unclear whether this should be submitted with a return, sent separately to HMRC or both. One example that has been raised is Capital Gains Tax rollover relief, discussed in more detail in Chapter 4.
- 2.32 During this review, several areas of guidance on the process of making a claim or election have been highlighted to the OTS as being unclear and causing confusion. Specific areas of guidance that have been highlighted as unclear and are set out in more detail in Chapter 4, include:
- the Corporation Tax carry back loss claim guidance and relevant parts of the return
 - the guidance about the accepted format of employment related securities claims under section 431 and whether they can be stored digitally (although see our separate recommendation to change this claim)
 - the guidance about how to submit a claim for rollover relief, and providing an appropriate claim form for companies
 - the guidance about holdover claims, and the administrative procedure for the transferee

Conclusions

- 2.33 The OTS considers that HMRC should make clear in its guidance the way a claim or election should be made, including the information or any specific wording that needs to be included to ensure that it is valid. HMRC should also consider widening the use of standard templates, so individuals who need to make a claim or election can be confident they have done so in the correct way. HMRC should also ensure that the guidance is clear on how a claim or election should be sent to HMRC.
- 2.34 The OTS suggests that guidance aimed at taxpayers should, wherever possible, be reviewed by people who are not experts in the area to help ensure that it is clear to those with less knowledge of the area. The OTS understands that HMRC do make use of external test panels to review guidance and suggest they make further use of such methods.

Recommendation 5

HMRC should:

- make the guidance on how to make claims and elections clearer
- consider making further use of test panels when developing guidance
- increase the number of claim templates available

Agent access and authorisation

Background

- 2.35 HMRC allow agents to engage with HMRC on their client's behalf. In order to engage directly with an agent, the taxpayer must confirm with HMRC that they authorise a specific agent to act on their behalf. Depending on the area of tax concerned this is done in a number of different ways.
- 2.36 For a business or individual to authorise an agent to represent them for Income Tax, Corporation Tax, CGT or PAYE purposes they must send a 64-8 form to HMRC through the post or authorise the agent through the online service.² Authorisations in respect of VAT can be done through the online VAT account.
- 2.37 Any changes to the range of things an agent can do on behalf of a taxpayer, or to cancel an agent's authorisation, must be done by contacting HMRC in writing.

Observations

- 2.38 Respondents noted that there can be difficulties where more than one agent acts for a business in relation to different aspects of their tax affairs. In areas of tax where only one agent can be authorised, for example Corporation Tax, this means that any other agent used by a business cannot directly engage with HMRC.

Example

A business may have one agent that oversees its Corporation Tax affairs, and so uses a 64-8 form to authorise this agent to handle their tax affairs with HMRC. However, the business may also have specialist agents to deal with specific Corporation Tax areas such as research and development relief or capital allowances. The business would not be able to authorise them to handle their tax affairs in these areas with HMRC, without removing authorisation from their main agent, as only one agent can be authorised for Corporation Tax purposes.

- 2.39 The OTS has heard that this can cause delays, as the agents cannot directly engage with HMRC to handle follow up queries on claims, and must rely on

² <https://www.gov.uk/guidance/client-authorisation-an-overview>

the agent that is authorised to pass on the correspondence or follow their advice, which can lead to delays in finalising their tax position.

- 2.40 However, the OTS has also heard that there is some concern about extending authorisations to more than one agent within a given tax, as there are some less reputable specialist agents who may seek to put through less well-founded claims for relief in areas such as research and development relief. Having a main agent with overall oversight of the Corporation Tax position can act as a useful cross-check. However, the OTS believe that introducing multi agent recognition would be a helpful improvement overall.
- 2.41 Additionally, respondents said that it is frustrating when new digital services or online forms are introduced but are only available to be used by individuals and businesses, but not their agents.

Conclusions

- 2.42 The OTS was pleased that the government provided a commitment to ensure that agent access to systems was a priority in its recent statement on the future of tax administration.

‘A single digital account for all taxpayers that is easily accessible and secure is a key component of the government’s vision. This will bring together data across different taxes and different data sources in order to provide personalised services for taxpayers, and at the same time improve parallel services for their agents or representatives working towards HMRC’s vision for agents to be able to see and do what their clients can, and designing in agent access from the outset.’³

- 2.43 The OTS welcomes this and considers that the government and HMRC should ensure that agents have access to systems and tools to ensure that they can best represent their clients. This should include setting out a timetable for the introduction and improvement of various agent services and introducing a facility for multiple agent recognition.

³ <https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system#next-steps>

Chapter 3

Individual claims and elections

Employee expenses

Background

- 3.1 One of the more common types of claims is for tax relief on employee expenses that are not directly reimbursed by the employer: with over 5 million employees benefitting from 7.42 million claims in 2017-18.¹
- 3.2 Claiming relief is not the same as obtaining reimbursement. The tax relief is given at the rate at which an employee pays tax, reducing the amount of tax they have to pay.
- 3.3 If the employer pays or fully reimburses the expenses, or the employee has paid no tax in the year in question, then no tax relief can be claimed.
- 3.4 There are a number of specific areas for which employees can claim tax relief including:
 - uniforms, work clothing and tools
 - vehicles used for work
 - travel and overnight expenses
 - professional fees and subscriptions
 - working from home
 - buying other equipment

Knowing whether you can make a claim

- 3.5 The OTS has heard that one of the problems of making claims for tax relief on employee expenses is that employees simply do not know that they are entitled to make claims for tax relief.
- 3.6 Employees are often reliant on information from colleagues or friends and family about what they can claim for, unless they already engage a tax professional to deal with their tax affairs.
- 3.7 This may suggest that those who have less complex tax affairs or who do not need to complete a Self Assessment tax return are missing out on tax relief that they are entitled to, and that those who may benefit the most from the

¹ HMRC data

tax relief do not know that the option to claim exists. This could go some way to explain the rise in the numbers of High Volume Agents (HVAs) in operation, as well as the targeted advertising they use to let people know what they are entitled to claim.

- 3.8 The OTS has heard that employers are often reluctant to tell their employees that they can make claims for tax relief for fear of providing incorrect tax advice. There may also be a reluctance to draw attention to the fact that they do not reimburse certain expenses, especially if their competitors do.
- 3.9 HMRC tend to target their advertising campaigns towards compliance messaging and acknowledge that unless people have regular engagement with the tax system, this can have a limited reach.
- 3.10 Other options available to individuals to find out what they can claim for include HMRC's guidance on the GOV.UK site, which is not always as accessible to people as it should be, especially where English is not a person's first language. Engaging professional advice can be expensive, and membership of a union or professional body is not possible in all employment sectors.

Ways to make a claim

- 3.11 There are a number of ways to make a claim for tax relief on employee expenses depending on the amount involved and the type of expense.
- 3.12 For amounts under £2,500
 - claims for certain flat rate amounts, working from home and professional subscriptions or fees can be made through the online tool accessible on HMRC's GOV.UK site
 - claims can be made by completing form P87 also available on HMRC's GOV.UK site which requires completion online and then for the form to be printed, signed and posted to HMRC
 - a paper copy of the form P87 can be requested through HMRC's helpline
 - via a third party for example an accountant or HVA
 - by phone or in writing if an individual has already made a claim in previous years and claim is under £1,000 or under £2,500 for professional fees and subscriptions
- 3.13 For amounts of £2,500 and over
 - claims must be made through the Self Assessment tax return

Observations

- 3.14 The wide variety of routes for making claims can itself be a complexity, because it can be confusing for the individual to choose the correct route for their circumstances, although HMRC's online checking tool can help. Most routes involve the GOV.UK site which is not always easy to navigate.
- 3.15 Finding the online tool and form P87 is also not particularly straight forward. The guidance related to claims for tax relief sits on HMRC's GOV.UK pages

under Income Tax rates, allowances and reliefs. These pages give guidance on what can be claimed for and offers the option for an individual to go through an online tool to check if they can make a claim.

- 3.16 The tool asks a number of questions before providing a link to the appropriate online tool or form if a claim can be made. At no point in the guidance does it say that clicking on the 'check if you can claim' button will link directly to the appropriate tool or form to make an actual claim, which would be a useful addition. This route also requires a relatively large number of clicks before reaching the point of being able to make a claim.
- 3.17 Anyone using the online tool to submit a claim needs to also be registered to use the Government Gateway to authenticate their application. A broader campaign from HMRC about the value of having a Government Gateway ID and the value of the personal tax account would be welcome.
- 3.18 The online P87 form has 12 sections but is only visible one section at a time. Users are unable to scroll through it or navigate back and forth. It is also not possible to save the form and come back to it later. Guidance about the information required to complete the form is also fairly limited which can be an issue for users as they are unable to save the form partly completed.
- 3.19 The requirement to print out a hard copy of the form to sign and then post to HMRC seems an outdated step in the process. This is not just an administrative burden for the individual, but also for HMRC who have to scan each form and manually process the data contained in it.
- 3.20 A P87 form only covers a single tax year and so if multiple years need to be claimed for then multiple forms need to be completed. It is not possible to copy and paste information from one form to another and so each form needs to be completed from the start each time. This can be a considerable admin burden for anyone claiming for more than one year. It is also necessary for an individual to complete a separate P87 form for each different employment, which also creates additional work, especially as individuals increasingly have more than one employment.
- 3.21 By contrast, HVAs tend to have much more user friendly and simpler forms that individuals can complete much more quickly.
- 3.22 It would be helpful if future work on HMRC's personal tax account (PTA) enabled direct links to the P87 form and online tool as a quicker route to being able to submit a claim and if the online tool could be extended to include more types of claim for tax relief outside of the ones for FREs and professional subscriptions that it currently covers. The OTS notes that relief for working from home was added to the online tool in September 2020.

Flat rate expenses

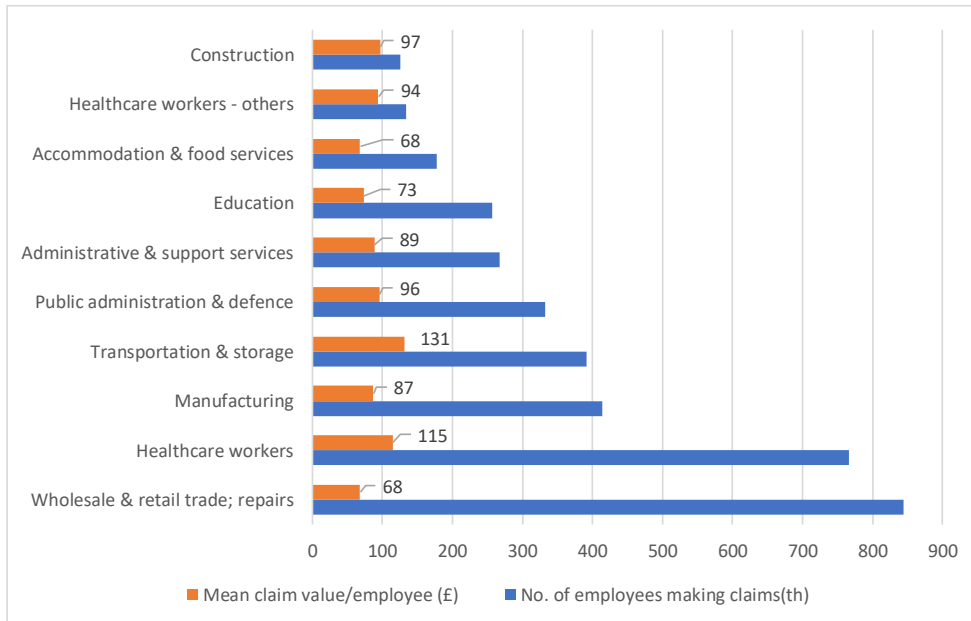
Background

- 3.23 Flat rate expense allowances (FREs) are designed to cover small amounts of non-reimbursed costs associated with the repair and maintenance of work equipment.²
- 3.24 They include laundry costs for work uniforms, replacing or repairing specialist or protective clothing, for example hard hats, and the associated costs for repairing or replacing small tools required to carry out a job. Flat rate expenses are not available for the initial costs of purchasing such items or for purchasing other items such as laptops.
- 3.25 In the 2017-18 tax year around 73 per cent of all employees who made claims in the year, made claims for flat rate expenses at a total cost to the Exchequer of £85 million.³ The rates will usually have been agreed between trade unions or in some cases specific employers and HMRC, and are intended to represent average annual expenses incurred by employees in specific occupations. Most industry rates have been at their current levels for over 10 years, apart from the airline industry, the NHS and armed forces rates, which have been updated more recently.
- 3.26 Employees who claim relief through flat rate expenses are not required to keep receipts, so there is no administrative work of that kind. However, it appears to be less well known that employees can claim more than the flat rate expense amount if their expenditure has exceeded this and they have kept receipts. Claims for exact amounts of expenditure currently need to be made through the P87 print and post route rather than through the online tool that is used for flat rate expense claims.
- 3.27 Chart A shows an average value of flat rate expense claims being made by employees in the top ten industries and occupations with the greatest number of claims. This shows that some of the largest volume of claims are made by those in what are generally lower paid industries.

² Section 367 Income Tax (Earnings and Pensions) Act (ITEPA) 2003

³ HMRC data

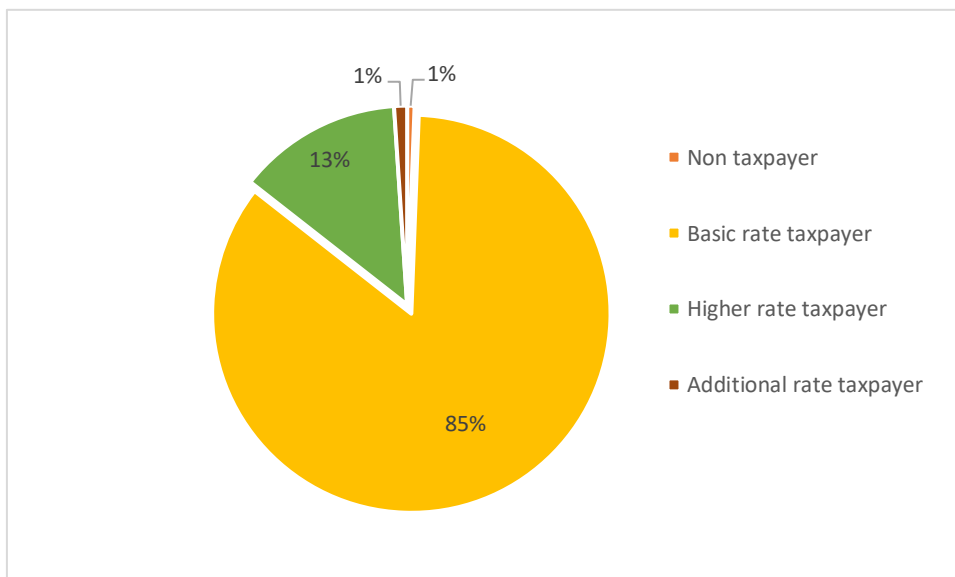
Chart A: The average value of FRE claims per employee in the top 10 industries (by number of claims) in 2017-18



Source: HMRC data

3.28 Chart B shows that the majority of individuals who benefit from making claims for non-reimbursed employee expenses are basic rate taxpayers, receiving 20 percent relief on the value of their claim. Any changes to the rules around claims for non-reimbursed expenses would therefore have greatest impact on this group of taxpayers.

Chart B: Breakdown of successful claims for employee expenses by taxpayer rate in 2017-18



Source: HMRC data

Observations

3.29 The OTS has heard that the language used in the flat rate expense guidance can be confusing especially in the published list of industries and

occupations (see Annex C) and that employees are often not sure if they are eligible to claim if their specific occupation is not listed. This is despite there being a flat rate expense allowance of £60 for those in other, non-listed, occupations where HMRC's criteria are met (for example, around replacing tools).

- 3.30 In the published list, most of the 35 industries and occupations covered have between two and four further sub-categories. This has resulted in a list of 85 entries for the taxpayer to look through to see if their industry is listed and whether they fit within one of the specific named occupations.
- 3.31 In relation to flat rate expenses the OTS has heard that:
- there are too many occupations listed, and the list is outdated, making it difficult for some to identify which one they fall under
 - the mix of industries and occupations causes confusion
 - that they are out of date in terms of the amount of relief they offer
 - that amounts vary too much between the occupations listed
 - that for some the amounts are so small that the burden of claiming can be seen to outweigh the benefit of the tax relief
- 3.32 Within a listed industry the amounts of flat rate expense can vary with the majority spanning from between £60 and £120. Across the whole table there are 12 different flat rates ranging from £6 to £1,022. With the majority of the flat rates covering all expenses for the industry and occupation, some relate to specific expenses, such as £6 per year for tights or stockings for certain occupations in the healthcare industry.
- 3.33 It is easy to see how confusing this might be to taxpayers in trying to work out whether their industry and profession is included, and what amount they are entitled to claim. Whilst some industries have a category for 'all other workers', others do not have this.

The levels of relief

- 3.34 The tax relief available on £60 flat rate expenses allowance at a 20% tax rate amounts to relief of £12 a year or £1 a month, whereas £1,022 at 20% tax rate equates to relief of £204.40 per year or £17 a month. This represents a significant difference in the amount of relief available.
- 3.35 One way to simplify the flat rate expense position would be to have a single flat rate amount available to anyone who qualifies for such a relief, removing the need for all the different rates.
- 3.36 If a single rate of flat rate expense were introduced, the rate at which this would incur the same overall cost to the Exchequer is £93 (based on figures for the 2017-18 tax year).⁴ This would be significant drop in the amount of relief available for those used to receiving the higher levels of flat rate

⁴ HMRC data from 2017-18 tax year – this doesn't take into account behavioural effects of such a change

expenses, but would benefit the many currently claiming the lowest rate of £60.

- 3.37 While a single flat rate may be simpler for an individual taxpayer to understand, it would clearly disadvantage those who currently claim the higher amounts.
- 3.38 A single rate could also affect the number of claims being made in subsequent tax years, due to the process being simpler, and in turn could affect the cost to the Exchequer over time.
- 3.39 The OTS considers that a better option would be to reduce the number of flat rates that can be claimed, to just two for example, a standard rate for the majority and a higher one for specific industries where expenses are generally higher than average. Specific consideration would need to be given to the aviation industry whose flat rates of £720 and £1,022 are significantly higher than all other industries.
- 3.40 Standard and higher rates could be set at £80 and £120 for example, but further work would need to be carried out to consider the best approach and the associated cost to the Exchequer⁵. A large number of the industries and occupations that are currently listed already fall within this range.
- 3.41 Any option that is considered to streamline flat rate expenses should also revisit the published list of industries and occupations to update and simplify this where possible.
- 3.42 One example would be to group similar industries and occupations together, for example currently under Armed Forces the Royal Navy is listed separately from the Army, Royal Air Force and Marines, where it would be simpler to just have a single Armed Forces heading with a single rate. If there were fewer rates, this would be that much easier to do.
- 3.43 Given the low level of many flat rate expenses, it could potentially be argued that it would be simpler just to remove them. However, this would require also removing the ability to make claims for specific expenditure incurred on these types of costs – as otherwise relatively simple flat rates would be replaced by more complicated individual claims. This does not seem a realistic or fair option given the long-standing rule allowing employees to claim tax deductions for necessary expenses of their employment.

The role of employers

- 3.44 Another option suggested to the OTS that would make things simpler for employees is for employers to handle flat rate expenses on behalf of their employees.
- 3.45 Often it is the employer who has to validate a claim on behalf of their employee with HMRC, so if the information came straight from the employer

⁵ Such a change would require legislative changes, as currently rates are negotiated with trade unions and others to reflect average expenses incurred - <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim32705>

then this could remove a level of administration both for the employer and HMRC.

- 3.46 Relevant information could be provided directly to HMRC through RTI payroll submissions, potentially with a simple check box to be ticked if the relief is to be applied to the employee's tax code. Consideration would need to be given to whether this approach should be mandatory or optional, and clearly there would be a systems cost involved in changing software and processes.
- 3.47 HMT previously consulted⁶ on such a proposal and the feedback from employers was mainly negative. However, the OTS considers that if the number of different flat rate expenses and industries were reduced, and the process was simple for employers, that there would be benefit in making this change and this should be revisited.
- 3.48 Centralised reporting of flat rate expenses by specific large employers, such as the NHS, would also address the issue of employees not being aware that they are entitled to claim for tax relief and would ensure that those entitled to receive it do so automatically.
- 3.49 It is recognised that such a change would be likely to increase the cost of the relief to the Exchequer, given the increased number of claims. However, there seems no good reason why all taxpayers entitled to a relief should not receive it. Further, it should reduce processing costs within HMRC. It would also mean that some individuals would no longer pay part of the value of the relief in payments to high volume agents, who can charge fees of up to 50% of the relief given.

Uncertainty of outcome of a claim for relief

- 3.50 The OTS has heard that employees are not always aware if their claim for tax relief has been successful or not. It has been suggested that part of the reason is that claims for previous years often result in payments being made by cheque, but that current and future year amendments are more likely to be reflected in a change in the individual's tax code.
- 3.51 The OTS has heard that the wording of the letters received from HMRC telling people about their claims has contributed to the confusion, especially when explaining the adjustments made to tax codes. There has also been feedback on the need for greater clarity on what a successful claim means in terms of the value of the tax relief with a specific emphasis that it is not a reimbursement of the expense, but tax relief of 20 or 40% depending on the individual's tax rate.

Risk of incorrect reliefs being rolled forward

- 3.52 The OTS has often heard that where tax reliefs are reflected in an individual's tax code there is a significant risk that these changes to the tax code can roll forward unchecked in future years, despite the fact that the claim may no longer be valid.

⁶ <https://www.gov.uk/government/publications/net-pay-arrangements-flat-rate-expenses-and-mileage-allowance-relief>

- 3.53 HMRC adopts this approach to reduce the administrative work for taxpayers in making claims year on year and to reduce the associated costs of processing these claims. However, it can result in the potential for the need to recover excess relief if an error is identified.
- 3.54 It is likely that such a need to recover relief would be unexpected for the taxpayer, who may have made a claim in good faith several years previously and then perhaps moved job or retired. There does not appear to be any feedback system built into the current process to prompt an individual to notify HMRC when the claim is no longer relevant.
- 3.55 There is also a risk that when changes to the tax code roll forward automatically, they become out of date and do not reflect changes in the amount of the expense. This may be particularly relevant for professional fees which often increase yearly.
- 3.56 One possible approach would be for the relief to be automatically terminated after a set period, 5 years for example, or to be automatically terminated when an individual has a change in employer or employment status. The OTS suggests that a combination of both options would help most employees.
- 3.57 It would particularly help if better use were made of the personal tax account tax code page, so that it included a breakdown of any reliefs currently reflected in a tax code so that employees can check that they are still relevant. The personal tax account could also show previous reliefs claimed as part of an individual's tax history and produce prompts annually to ask if the relief is still correct and relevant to a person's current occupation.

Conclusions

- 3.58 Simplifying the area of tax relief for employee expenses would involve changes to both systems and guidance but given the number of people who make these types of claims each year any simplification to the process will benefit a large part of the tax paying population.
- 3.59 As so many taxpayers make claims and often may make several claims, being able to do so in a single place through the online tool, incorporated within the personal tax account, would be a positive development for both the taxpayer and HMRC, who currently manually process many claims.
- 3.60 The OTS considers that future work on the personal tax account should incorporate the online tool and the P87 form. The GOV.UK website section on employee expenses should link directly to the personal tax account.
- 3.61 It would also be useful to detail previous claims and show how they are reflected in the tax code. The personal tax account could also be used to prompt the taxpayer to consider if claims being rolled forward are still relevant, especially on a change of employment, and to notify HMRC if they are no longer valid.
- 3.62 The OTS recognises that changes to technology can take time and that in the short term there may be other options available to HMRC to add review points to the process to stop relief being rolled over unnecessarily.

- 3.63 The OTS considers that there is value in looking specifically at flat rate expenses, as currently the number of options and rates can be confusing to the taxpayer and may in part contribute to the use of HVAs to make such claims.
- 3.64 The OTS considers it would be well worth considering reducing the number of rates, potentially with a standard and higher rate, and streamlining the list of industries and occupations to make it easier to navigate. The OTS recognises that further work would be required to explore this, and that it is for the government to decide on the future policy in this area.
- 3.65 Finally, it would significantly reduce the administration involved and increase simplicity for taxpayers, if employers were to notify HMRC directly of any employees who are entitled to claim flat rate expenses.
- 3.66 The OTS recognises that this has previously been an unpopular idea with employers, but considers that alongside a greatly reduced number of rates and a simple notification option through RTI, such as a check box or code against employees who are entitled to the relief, that this should be revisited.

Recommendation 6

HMRC should:

- expand digital claims to more types of employee expense and include within the personal tax account
- improve the language and simplify forms, guidance and communications
- consider introducing a cut off or review point when relief for employee expenses is automatically rolled over into future years

Recommendation 7

The government should consider:

- streamlining the number of different levels of flat rate expense
- whether relief for flat rate expenses could be incorporated within an employer's payroll process

High volume agents

Background

- 3.67 High volume agents (HVAs) are businesses that prepare and submit claims for, for example, tax refunds on behalf of taxpayers.
- 3.68 HVAs generally adapt to fit gaps in the market which compromise the taxpayer's ability to submit their own claim. These are explored below by reference to a number of common features.

Demographics

- 3.69 There is no available public data on the number of claims submitted by HVAs, however it has been suggested to the OTS that up to 80% of claims submitted to HMRC by HVAs relate to employee expense claims. These are generally low value claims that broadly apply to taxpayers employed in lower

earning sectors, such as nursing and care, the emergency services and manual labour.

- 3.70 Some taxpayers are unaware of their entitlement until they encounter an HVA, possibly via a flyer handed out in an onboarding pack for a new employment or through a recommendation from an employer, union or colleague. This is reinforced by HMRC being unable to match HVA's use of digital platforms such as Facebook and Twitter and targeted advertisement with their own communications through official channels.
- 3.71 Additionally, those claiming certain allowances, such as mileage allowance, may find the administrative requirements intimidating, as they may not use digital media in their daily work. Application forms for HVAs can be presented digitally or in hard copy, in a friendly and approachable style, often brightly coloured and are generally considered more accessible and easier to navigate than the GOV.UK website.
- 3.72 In addition, some HVAs produce literature in foreign languages in order to appeal to significant minorities working within particular sectors. Combined with a cultural mistrust of governments among nationals of some countries, this makes the offering particularly appealing to some for whom English is not their first language.
- 3.73 However, the OTS has also seen evidence of teachers using HVAs to claim a deduction for their union memberships fees and it is understood that there is an historic relationship between some unions and HVAs. It seems likely that teachers would claim their union membership fees themselves were it sufficiently straightforward.

Accessibility

- 3.74 HVAs are prevalent in a variety of sectors and, given their popularity with those in lower socio-economic groups and those who have come to the UK from other countries, there is a question about the accessibility of HVAs processes as compared with those available direct from HMRC.
- 3.75 Online claim forms provided by HMRC are cumbersome: feedback suggests the format, which dictates each page must be completed before the next is accessible, is unpopular. One reason for this is that taxpayers would prefer to be able to understand all of the information that is going to be needed from the outset, so they can gather it; another is that taxpayers would prefer to be able to complete the form partially with information to hand and then return to it later. Conversely, HVAs have easily navigable websites and issue both digital and physical information requests that explain what is required on the face of the form.
- 3.76 Another barrier to using the GOV.UK website is that it is difficult to navigate using a tablet or smartphone, which is the most common means of internet access in the UK and often the only one for those who do not have computers for work. According to the Office of National Statistics (ONS), the

most popular way for people to access the internet is by smartphone or tablet.⁷ The ONS report on this subject states that:

‘In 2018, among all adults, 78% used mobile phones or smartphones to access the internet. These were the most popular devices across most age groups, apart from those aged 65 years and over, who reported a tablet computer as the most popular device used to access the internet, at 42% [...]. However, when accessing the internet "on the go", 28% of adults aged 65 years and over reported using a mobile phone or smartphone, compared with 20% who used a tablet in the same age group [...].’

- 3.77 Combined with library closures,⁸ this leaves many of the population reliant on tablets and smartphones for internet access and functionally unable to use the HMRC website. This makes a case for the existence and popularity of HVAs.

Cost effectiveness

- 3.78 A further type of claim processed by HVAs are reclaims for VAT suffered by non-EU businesses. The OTS understands that such businesses must submit a paper form by post to HMRC in the UK in order to make their reclaim. A company based, for example, in the USA or Singapore, that is accustomed to conduct all its business online, might find it is not cost effective to hire someone (who would need to be capable of navigating the UK tax system) to prepare and submit cumbersome reclaim forms through the post when an HVA can do this more efficiently.
- 3.79 There is evidence of market development of online solutions to reclaims, including by individuals. HMRC may have the opportunity to partner with such new solutions, to ensure that they meet legal requirements, in return for confirmation on the app or website of HMRC approval.

How do HVAs operate?

Fees and services

- 3.80 For submission of rebate claims, HVAs typically charge on a no-win-no-fee basis. A typical fee arrangement is 25% of the rebate plus VAT, which for the taxpayer amounts to a 30% reduction in the rebate received; fees can be as high as 40% plus VAT which absorbs almost half of the rebate. These are not necessarily high fees in absolute amounts, though, reflecting that many claims are for modest amounts.
- 3.81 Fees may be subject to a fixed minimum amount and there are also instances of ‘hidden’ fees, for example for forwarding cheques, and of agents continuing to receive and deduct fees from future, automated payments. Overall, there is a broad range of providers from those advertising

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<https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/bulletins/internetaccesshouseholdsandindividuals/2018#mobile-phones-or-smartphones-still-most-popular-devices-used-to-access-the-internet>

⁸ CIPFA survey referenced at <https://www.independent.co.uk/news/uk/home-news/library-closure-austerity-funding-cuts-conservative-government-a9235561.html>

transparent fee structures and qualified staff, with local telephone numbers and evidence that customers had met staff, to those which are more opaque, and less obviously legitimate. Some offer other support services, such as accountancy and tax return preparation for fixed and bespoke fees.

Regulation and standards

- 3.82 Apart from the broader-encompassing Money Laundering Regulations and General Data Protection Regulations (GDPR), HVAs do not operate within a specific regulatory framework. Some HVAs employ professionally qualified accountants and tax practitioners, who operate within their own professional bodies' codes of conduct and professional standards; however, there is no requirement that an HVA should employ anyone with such qualifications. The provision of tax advice is unregulated, and this is currently the subject of a government consultation into 'raising standards'.⁹
- 3.83 Meanwhile, a team within HMRC is charged with monitoring the activities of HVAs. It carries out research on new companies submitting a high volume of claims, to check that they comply with the Money Laundering Regulations, reviews their website and business model and carries out some compliance checks.
- 3.84 HMRC also monitors for a prevalence of ineligible claims, which it has been suggested to the OTS may make up over half of all claims by HVAs, where there may not be a claim or where a claim may have already been paid. HMRC challenge HVAs submitting such claims by reference to HMRC's own agent standards.
- 3.85 A further problematic behaviour identified by HMRC was that of multiple HVAs submitting claims for the same taxpayer, sometimes for the same thing.
- 3.86 One issue with this, and more widely, is that an agent will generally insist on the taxpayer signing a Deed of Assignment, which may be poorly understood or not explained properly. The deed gives the agent enduring power to receive all claims in respect of a given tax year for four years and is irrevocable, unless both agent and customer agree to any changes. The first Deed of Assignment received is processed and cannot be reversed for that tax year, meaning that claims submitted by another third party or by the taxpayer will result in payments to the initial provider, leading to significant taxpayer dissatisfaction.
- 3.87 HMRC note in their call for evidence on raising standards in the tax advice market: 'The current approach to maintaining standards in the tax advice market is based on a system of professional bodies, although membership of a professional body is not obligatory. This approach has been in its current form for many years without significant intervention, but the government believes there is evidence that this is no longer sustainable.'
- 3.88 Respondents have commented to the OTS that they have witnessed HVAs having submitted unsubstantiated claims for research and development

⁹ <https://www.gov.uk/government/consultations/call-for-evidence-raising-standards-in-the-tax-advice-market>

relief, based on little evidence and a hope that HMRC will process the claim without checking thoroughly. Their view was that HMRC should profile and target high risk providers in the market and make more use of the deterrents in their powers, such as prosecution and, where applicable, the Disclosure of Tax Avoidance Scheme (DOTAS) penalties and the General Anti-Abuse Rule to overturn claims involving artificial transactions.

- 3.89 Regulation and the introduction of a Code of Conduct specific to HVAs may help to tackle problematic behaviour but there is a risk that this will mean implementing more rules and paperwork for responsible HVAs without significantly reducing the wider problems, unless HMRC are in a position to engage in more compliance activity.

Gift aid election to carry back relief

Background

- 3.90 Payments made by individuals to charities can, in most circumstances, be made using 'Gift Aid'. A Gift Aided payment enables the charity to claim back basic rate tax effectively paid by the donor (giver) on that donation.
- 3.91 For example, if a donor gives a charity cash of £800 under Gift Aid, the charity can reclaim basic rate tax of £200 from HMRC.
- 3.92 The donor is treated as having made a gross donation of £1,000 for tax purposes and, if they are a higher-rate or additional-rate taxpayer they can claim further tax relief on their donation.

Case study 1

Anna is a higher-rate taxpayer. She donates £800 to her favourite charity: the charity can claim Gift Aid of £200. The total donation is therefore £1,000 and Anna can claim higher-rate tax relief of £200 (£400 - £200).

- 3.93 Providing various conditions are met, the donor can also, if they wish, elect for that donation to be treated as if it were made in the previous tax year.
- 3.94 For the 2018-19 tax year, the average level of a Gift Aid contribution carried back (in this case, to 2017-18), was of the order of £27,123 per taxpayer. Levels have been rising consistently year on year, from an average of £18,621 in 2013-14.¹⁰
- 3.95 Although Gift Aid is of course immensely helpful to charities, some respondents have indicated that the carry back provisions were overly complicated, particularly where relatively small amounts are involved.

¹⁰ HMRC Operational figures for tax year 2018-19

Observations

- 3.96 Gift Aid, when claimed in the year in which it is paid, is a relatively straightforward claim particularly where the taxpayer makes the claim in their Self Assessment tax return.
- 3.97 However, respondents commented that one issue that causes difficulty with Gift Aid is the ability to make an election to carry back to earlier years.
- 3.98 The ability to treat donations as if they were made in the previous year can be very helpful in some situations, for example if a taxpayer is a higher-rate taxpayer in one year and a basic rate taxpayer in the following year. This can arise, for example, where a business owner has sold their business and wants to make a Gift Aid donation. If the donation had to be made in the year of the business sale, it may not be known by the end of the tax year what level of donation could be made.
- 3.99 A similar situation would be a City trader paid a large bonus, perhaps towards the end of the tax year.
- 3.100 The election was introduced in 2003 as part of a wider reform of Gift Aid measures designed to encourage charitable giving.
- 3.101 When debating the measures through Parliament, one of the comments at that time was that the measure 'will act as a prompt and an incentive to higher rate taxpayers by making Gift Aid relief immediately available'. It was also noted that 'the link to the filing of the Self Assessment return for the previous year is a key part of the government's planned measure in offering the incentive of claiming relief early rather than waiting until completion of the return for the year in which the gift was made'.¹¹
- 3.102 The carry back election is of course available to be used by all taxpayers, not just higher rate taxpayers, and in relation to gifts of any size.
- 3.103 This can be helpful in many situations, for example a taxpayer who pays tax at basic rate in the year the gift is made, but was previously a higher rate taxpayer, can obtain higher rate relief by using the carry back election. Or a taxpayer who was a basic rate taxpayer but who has had a temporary change of circumstances may find the use of the carry back election helpful.

Case study 2

Hari is a successful entrepreneur and usually an additional rate taxpayer. He sells his business for £5 million in March 2020 and decides to live on the proceeds for a year or two.

He would like to make a donation of £500,000 to charity but knows his income will be relatively low in 2020-21, so he would not pay enough tax to cover the Gift Aid element of the donation.

¹¹ Hansard Debate 4 July 2002

He makes the donation in June 2020 and, when preparing his return for the 2019-20 tax year, decides to carry back the contribution to that year. He can claim additional rate tax relief on a gross contribution of £625,000.

- 3.104 The election is subject to a number of constraints which can create compliance issues.
- 3.105 For example, the election (normally made on the individual's Self Assessment tax return) must be made on or before the date the individual files that tax return with HMRC and cannot be changed after that has been done.
- 3.106 Although this does give some certainty to HMRC, there is a difference between this and the general ability to be able to amend a tax return within one year of the normal filing deadline.
- 3.107 This seems odd, particularly as other entries in the tax return may need to be amended within normal timescales, perhaps through no fault of the taxpayer, which could affect the Gift Aid position (for example by creating a Gift Aid tax charge, if the taxpayer's net income were reduced).
- 3.108 Another issue is that the election must relate to the whole of a specific Gift Aided donation, as there is no scope to carry back only part of the Gift Aided amount. This has the merit of simplicity, but can lead to unnecessary complication, perhaps because, when the donation is made, it is not always certain at that time how much can be carried back. Respondents said this could encourage taxpayers to delay filing their returns until very near the filing deadline.
- 3.109 Or it may be that a taxpayer has filed their return early but has had a subsequent change of circumstances:

Case study 3

Andy is a restaurant manager and makes Gift Aid contributions of £1,200 in late April each year to his favourite charity. He is a higher rate taxpayer and filed his 2019-20 tax return in May 2020, including the Gift Aid payment made in late April 2019.

In June 2020 he was made redundant. Rather than looking for another job he decides to take on parental responsibilities so his wife can work full-time. His 2020-21 income is likely to be less than his personal allowance, and he is unlikely to have a tax liability in 2020-21.

As he cannot carry back the £1,200 Gift Aid contribution made in late April 2020 to 2019-20 (because his 2019-20 tax return has already been filed) it is likely he will need to pay HMRC tax of £300 – which is basic rate tax on the net Gift Aid payment of £1,200 - when filing his 2020-21 tax return.

- 3.110 The current measures apply to all levels of Gift Aid donations, so the legislation does cause some complexity particularly when smaller donations

are in point. One concern is that advisors may feel they need to consider the carry back election for their clients, often where small amounts are involved, perhaps incurring additional costs for little overall benefit.

- 3.111 The OTS has heard that order to avoid inadvertently missing opportunities, every taxpayer must review their position for both the current and the next year before deciding whether to opt for the carry back. Advisers must also watch this, and the related fees might well exceed the amount of tax involved.

Conclusions

- 3.112 The OTS suggests that the government should consider making changes to the gift aid carry back election to both simplify the process for those making higher levels of donations and remove the need to consider the election for those making lower levels of donation.
- 3.113 The OTS suggest that government consider restricting the ability to carry back gift aid donations to high value donations, perhaps those above £10,000, although this would need to be considered in more detail. This will remove the need for the majority to consider the best way to claim relief for their donations, a process that can lead to additional time spent and costs incurred, for little or no benefit.
- 3.114 For those that do make high value donations, the government should consider making changes to the process to make it easier for those who wish to make an election, by allowing part of a donation to be treated as carried back and allowing amendments within the normal timescales.

Recommendation 8

The government should consider making changes to Gift Aid carry back elections to:

- restrict the ability to carry back Gift Aid donations to high value donations and allow part of such a donation to be carried back
- allow tax returns to be amended within normal timescales to include Gift Aid carry back

DIY Housebuilders Scheme

- 3.115 The OTS received comment from respondents that the DIY Housebuilders Scheme is an area which appears to create far more problems for claimants than might be expected from a scheme which has been in existence for many years.
- 3.116 The issue is the large number of claims which are rejected primarily because there is insufficient or inadequate evidence to support the claim. These claimants are generally people who have limited knowledge of VAT and this is generally the first time they have had any dealings with HMRC so it is unfortunate if their first experience is not as smooth as it could be.

Background

- 3.117 The scheme is intended to alleviate the burden of VAT on individuals building a new house for themselves or family members and on charities

building a building used for charitable purposes. In addition, the scheme also includes the VAT incurred on the conversion of buildings.

- 3.118 A claimant is required to submit relevant claim forms, together with certain supporting documents (such as planning consent, completion status, invoices) to HMRC within 3 months of the completion of the building works). This claim is currently paper based. Once the form has been submitted, HMRC then has 30 days in which to make the repayment to the claimant.

Observations

- 3.119 This scheme was identified in the OTS's VAT Review (Value Added Tax: routes to simplification)¹² as an area where the administration could be significantly improved at relatively little cost to HMRC. The recommendation was that longer time limits, clearer more accessible guidance and recovery of VAT on professional fees should be considered.
- 3.120 There has been a significant increase in the number of appeals to the Tax Tribunal recently for these types of claims which would appear to support the observation that what should be a relatively simple claim has become increasingly complex.

Conclusions

- 3.121 This scheme is one which would be ideal for digitisation, to reduce the number of claims which are rejected while improving the experience of the claimant and reducing costs for HMRC.
- 3.122 The OTS understands that HMRC recognises these process and guidance issues and have been actively working on changes to the scheme which are likely to include some element of digitisation. Revised guidance is also envisaged which should help claimants by clarifying exactly when a building is completed which has been and the evidence required to support a claim.

¹² <https://www.gov.uk/government/publications/ots-report-on-routes-to-simplification-for-vat-is-published>

Chapter 4

Business claims and elections

Capital allowances

- 4.1 When a business purchases equipment, such as plant or machinery, a deduction known as capital allowances can be claimed for some or all of their value in calculating the businesses profits for tax purposes. Latest HMRC statistics show that in the 2018-19 tax year almost £99 billion of capital allowances were claimed.¹
- 4.2 The process for making capital allowance claims is well established and generally well understood, with much of the process automated in tax return software, particularly in relation to claiming the Annual Investment Allowance. The fact that a capital allowance claim must be submitted within a Corporation Tax return or Income Tax Self Assessment return makes the process of submitting a claim relatively straightforward.
- 4.3 The time limit for making, amending or withdrawing a capital allowances claim is up to 12 months after the filing date for the company tax return for the accounting period (or 12 months from 31 January following the end of the tax year for Income Tax Self Assessment).
- 4.4 Respondents confirmed that this time limit is clear and generally sufficient for claimants to prepare and submit the relevant capital allowances claims.

Short Life Asset elections (SLAs)

- 4.5 However, respondents had mixed opinions over Short Life Assets (SLAs).
- 4.6 Many described the process of making an SLA election “administratively challenging”, and noted that for large entities in particular, completing the necessary asset-by-asset SLA elections, specifying the assets/batches and cost and date of expenditure is a time-consuming process if, for example, a business has a lot of computer equipment. Some believed that it is clear from a Corporation Tax computation when an asset has been treated as an SLA and felt that additional separate documentation should not therefore be required.
- 4.7 The tracking of individual short life assets is also seen as difficult and time-consuming by many, and the OTS frequently heard the point that SLA claims are often simply not made at all because the tax benefit is outweighed by the administrative burden (especially when there is a high volume of low

¹ <https://www.gov.uk/government/statistics/corporation-tax-statistics-2020>

value assets). It is likely that SLA elections are significantly underused as a result.

- 4.8 However, although respondents were unanimous in agreeing that the SLA election process is very time-consuming, not all respondents found the process so challenging in itself. Some described the process as “generally straightforward”, and pointed out that HMRC had published Statement of Practice 1 (1986)² to address various practical issues, including setting out the circumstances in which the batching of assets/aggregation of costs can be used, helping to mitigate the burden for businesses to some degree.
- 4.9 Others noted that, despite the administrative challenges, the relief was still regarded as valuable and so used by many businesses, in particular in certain sectors such as retail and restaurants. HMRC figures show that relief for short life assets is expected to cost around £115 million a year for the next five years, showing they are not insignificant.³
- 4.10 Some respondents suggested, however, that a pooling arrangement could be helpful, particularly for smaller companies or companies with lots of low value short life assets. This could work, for example, by grouping all short life assets acquired in the same year into a single pool for the purposes of claiming the relief.
- 4.11 The OTS considers that introducing a single year pooling arrangement to the SLA regime could have significant benefit for many companies and could encourage many more businesses to claim the relief. HMRC data provided to the OTS suggests that such a change would be revenue neutral, however this does not take behavioural effects into account which would be likely to have an effect on the costs of such a change, meaning it would have a cost to the exchequer.⁴ Further work would need to be done to estimate the cost.

Recommendation 9

The government should consider the benefits and costs in introducing a pooling mechanism for short life assets acquired in a particular year.

Recommendation 10

The government should review the current requirements to provide information on all assets being treated as short life assets, to identify whether they could be simplified or reduced.

Structures and Buildings Allowances

Background

- 4.12 The Structures and Buildings Allowance (SBA) regime took effect from October 2018, so is still becoming established. However, several respondents

² <https://www.gov.uk/government/publications/statement-of-practice-1-1986>

³ HMRC data provided to the OTS, for 2019-20 tax year onwards, this does not take into account any impact of Covid-19

⁴ HMRC data provided to the OTS

made comments about practical difficulties they have experienced, particularly in respect of the evidence required to claim SBAs.

To make an SBA claim, the claimant must hold an 'Allowance Statement', including information to identify the building or structure, the earliest contract date, the amount of SBA expenditure and the date of first non-residential use. So, it is typically necessary to review a number of documents to confirm the availability of SBA.

Case study 4

A fence is installed adjacent to an industrial warehouse at a cost of £5,000. This will qualify for SBA, but to claim it will be necessary to confirm when the contract was agreed and when the work was complete and in use. For a company, the year 1 tax relief on this fence is only £29 (£5,000 x 3% SBA x 19% CT rate). If the company had several such claims for different buildings or structures at a number of sites, the process could soon become very time consuming.

Observations

- 4.13 Respondents contrasted the experience of claiming SBA with claiming Plant and Machinery Allowances (PMAs) for an established company, where apart from determining the amount of expenditure, none of the other information required in an Allowance Statement is necessary to make a claim. Respondents suggested that once the SBA regime is established, the 'earliest contract date' requirement will become redundant and could be removed from the Allowance Statement.
- 4.14 Other respondents questioned whether the legislation could be changed to permit the claiming of SBAs in full in the period in which the expenditure is incurred or the asset is brought into qualifying use, in line with the Annual Investment Allowance approach for Plant and Machinery.
- 4.15 However, the OTS recognises that there are policy challenges with such a proposal, as currently Plant and Machinery Allowances are computed using the reducing balance basis whereas the SBA is given on a straight line basis. Additionally, the SBA must currently be claimed for the year the structure of building is brought into use, whilst Plant and Machinery Allowance claims can be deferred.
- 4.16 Such a measure would also be costly and economically distortive, as businesses would be highly incentivised to use the Annual Investment Allowance to relieve assets in a particular order. This means that the Annual Investment Allowance could effectively change from a simplification measure to a rather distortive cashflow relief. Preventing that could well make things more complicated.

Conclusions

- 4.17 As the SBA is still a relatively new regime, and given the policy challenges outlined above, the OTS considers it premature to make recommendations in this area.

Disclaiming capital allowances

- 4.18 Those who responded to the question of whether it is still necessary or desirable to be able to 'disclaim' capital allowances (in effect to defer them until a later year or accounting period) were all keen to stress how important this facility is.
- 4.19 Respondents saw the provision as a "key strength of the UK regime" and felt that the flexibility that the provision brings will be particularly valuable given the impact the coronavirus is likely to have on the taxable profits and increased tax losses of many businesses.

Benefits to companies and sole traders

- 4.20 The provision is seen as helping to ensure businesses are able to utilise all the tax reliefs to which they are entitled.
- 4.21 For companies, in some cases, allowances would only serve to create or increase a trading loss which cannot be fully relieved in the current year, with the excess loss only being carried forward to set against future trading profits. Meanwhile tax could still be payable on other sources of income. If, however the excess allowances are disclaimed once the current year tax liability is reduced to nil, the capital allowances can then be used in the next year to create another 'current year loss' which would then be relievable against general income.
- 4.22 Following the reform of Corporation Tax loss relief, specifically the restriction on the use of post-1 April 2017 brought forward losses so that they can only be offset against 50% of profits in excess of the £5 million group deductions allowance, the ability to disclaim enables corporate groups to use their disclaimed capital allowances later, rather than crystallising trading losses which could be restricted. It can also affect whether the £5 million loss cap will apply to the company or group, providing flexibility where profits for the current period or in future forecasts are close to the £5 million cap.
- 4.23 For individual Income Tax payers (especially sole traders and investors), disclaiming capital allowances can help to preserve and utilise the personal allowance and losses, while saving the allowance for future periods.

Property businesses

- 4.24 There are potential benefits in respect of property also. Respondents commented that it is easier to produce a detailed and well supported claim for capital allowances while the documentation is contemporaneous. Even if the owner of a property does not want to claim any capital allowances, he or she can pool them and disclaim them, so they remain readily available to pass on to future buyers of the property, for ease of compliance with the capital allowances pooling requirements.

- 4.25 In addition, if an asset will soon be sold, disclaiming capital allowances can increase the tax written down value of the asset at the time of sale, reducing balancing charges or increasing a balancing allowance.

Conclusion

- 4.26 Given the benefits set out above, the OTS recognises that the ability to disclaim capital allowances is seen by the business community as necessary and desirable.

Election to agree the value of fixtures

Background

- 4.27 'Fixtures' are plant and machinery on which capital allowances can be claimed. Fixtures qualify for different capital allowances depending on their particular nature, and the owner of a property may therefore make capital allowance claims for all or some of the following allowances:
- **Annual Investment Allowance** (100% relief is given for expenditure on plant and machinery up to an annual limit, which is £1 million up to 31 December 2020, then £200,000 thereafter)
 - **Plant and Machinery Allowances** (these fixtures are put into the '**General Pool**' and are eligible for relief at 18% on a reducing balance basis)
 - **Long Life Assets** (where a fixture has an expected life of 25 years or more, it is put into a '**Special Rates Pool**' and is eligible for relief at 6% on a reducing balance basis)
 - **Integral Features** (these fixtures qualify for certain special replacement rules. They are also put into the '**Special Rates Pool**' and are eligible for relief at 6% on a reducing balance basis)
- 4.28 Ownership of the fixtures passes to the new owner when the property changes hands. The parties to the sale can make a joint election under section 198 of the Capital Allowance Act 2001 to fix the amount attributable to the fixtures. The election fixes the seller's disposal value and the purchaser's qualifying expenditure.
- 4.29 From April 2014, the new owner is only able to claim allowances if the previous owner has already allocated the fixtures to one of the above pools. The parties must also fix the disposal value. This is usually done by making a section 198 election.

Observations

- 4.30 Most respondents to this review believed that as section 198 elections have existed for nearly 25 years, they are by now widely understood and are generally straightforward.
- 4.31 However, issues can arise, for instance, where a seller's records are poor or where a seller is reluctant to disclose their position in the hope that the buyer will instead agree a nominal sum such as £1 or £2. In these situations,

it can be difficult and uncertain to establish information sufficient to identify the fixtures and the amount of qualifying expenditure pooled.⁵

- 4.32 Many respondents felt strongly that vendors and previous owners seldom provide sufficient details of their prior claims. There was some disagreement and confusion amongst those the OTS spoke to about the level of details needed when completing a section 198 election to identify the fixtures.
- 4.33 A common suggestion, which the OTS considers has merit, was for HMRC to provide a template for the purposes of making section 198 elections, which could provide clearer detail of the information required in an election.
- 4.34 Others went further, calling for HMRC to put an obligation on vendors selling second-hand property to disclose full details of prior claims to the buyer, together with all supporting information. While having some sympathy with the aim, the OTS cannot see how such an obligation could be realistically enforced.
- 4.35 Another area highlighted by respondents was a perceived imbalance within in the 'pooling' requirement, in that the seller has the information required, yet suffers no adversity if they choose not to comply, but it is the buyer who benefits from compliance with pooling.
- 4.36 Respondents suggested that the system might be improved by introducing a mechanism for shifting the burden of compliance to the buyer, who will ultimately benefit. The OTS recognises that such an idea would be of benefit to the buyers of property, but again would question whether this would be realistically enforceable by HMRC.
- 4.37 Some respondents also noted however that those involved in many smaller transactions simply ignore the pooling requirements, which means that the capital allowances are lost for those parties and all future owners of that property.
- 4.38 Respondents felt that this was frequently due to lack of awareness. In particular, it was common for a transaction to have been agreed by the property lawyers before any consideration had been given to the fixtures position, by which time it was too late for the capital allowances position to be able to form part of the negotiations. Respondents wondered whether it might be possible to insert a line into the standard questionnaires of conveyancers both to raise awareness and ensure that the issue was considered at the appropriate time.

Recommendation 11

HMRC should provide a template for businesses to use when making a capital allowances election to agree the value of fixtures.

⁵ The OTS previously made a recommendation that HMRC should review the process for making section 198 elections in its report on simplifying the corporation tax computation <https://www.gov.uk/government/publications/ots-review-on-simplifying-the-ct-computation>

Apportioning a nominal amount to fixtures as standard

- 4.39 Although many respondents said that they were attracted to the idea of removing the election on the grounds of simplification and all agreed that fixtures were often valued at a nominal sum such as £1 or £2, respondents also said that such a nominal sum was not always used, and that, for example, elections are also often set at tax written down value.
- 4.40 Some respondents also pointed to the fact that the ability to fix the value of a fixture at the maximum possible amount can have significant commercial advantages for companies. Where the vendor does not have a suitable profile to utilise capital allowances (for example, due to the existence of significant tax losses) they can still realise commercial value by reflecting the value of capital allowances in the transaction price.
- 4.41 Additionally, should the vendor be a tax-exempt entity, a nominal or nil amount apportioned to fixtures as standard would extinguish any other party's entitlement to claim capital allowances. Some respondents said that this could also be a barrier to intra-group re-organisations by trapping capital allowances in group companies less able to utilise them. Respondents argued that having a nominal amount apportioned to fixtures as standard would be distortive and obstruct commercial transactions.
- 4.42 Some pointed out that the elections provide a valuable negotiating point (particularly for larger property transactions). Others commented that nominal amounts apportioned to fixtures on the sale would always disproportionately have an adverse effect on the buyer, who would lose out on the tax relief, whilst strengthening the position of the vendor.

Case study 5

In late 2019, a business acquired an office for £10 million. The vendor had undertaken refurbishment works of £1.7 million, mainly on air-conditioning and refurbishments such as new lighting and carpets. Due to the fund structure of the vendor, they could not benefit from the tax relief.

The agent acting for the purchaser identified over £1.4 million of qualifying expenditure, the vendor pooled the expenditure and then a section 198 election was completed using this value.

The agent said that as well as ensuring that the tax followed the economic reality of the situation, if the allowances had not been available then they would have advised the purchaser to lower their offer by the tax value of the lost allowances (around £260,000). As a separate point, this would have also resulted in the purchaser paying HMRC about £13,000 less in SDLT.

Conclusion

- 4.43 The OTS has concluded that although the introduction of a standardised nominal amount (of perhaps £1 or £2) for fixtures in the elections would potentially make the process 'simpler' for many businesses, the arguments

against such a measure, as set out above, suggest it would not be desirable to pursue this idea further.

Losses

Corporation Tax loss relief restriction

Background

- 4.44 From April 2017, a stand-alone company with a 12 month accounting period can offset brought forward losses against the first £5 million of its profit in full. (This is adjusted for shorter accounting periods and for corporate groups). This £5 million limit is referred to as the company's 'Deduction Allowance' (DA).

Case study 6

A stand-alone company with a 12 month accounting period has profits of £9 million and brought forward losses of £10 million. It can offset a total of (£5 million + £2 million) = £7 million of losses as follows:

Profits:	9 million
Less Deduction Allowance	<u>(5 million)</u>
Remaining profits:	4 million
4m x 50% - additional loss relief	<u>(2 million)</u>
Taxable profits:	<u>2 million</u>

- 4.45 After this, the company can offset brought forward losses against only 50% of its remaining profits.
- 4.46 The size of the deduction allowance means that only the largest companies and groups suffer a restriction; however, companies of all sizes are required to specify the amount of the DA in their returns. If a company fails to specify the amount of its DA then only 50% of their profits can be offset by brought forward losses, even if these fall well below the level of the DA.
- 4.47 The CT600 return has not been amended to reflect the new compliance requirements, and does not have a dedicated box in which to state the DA.

Observations

- 4.48 Several respondents questioned why it is necessary for the smallest companies (to whom the legislation will never apply) to state the amount of their deduction allowance. Such a requirement is a burden to small companies, particularly those who are not represented by an agent. The OTS considers that those for whom this is clearly irrelevant should not have to consider it.
- 4.49 The OTS considers that introducing a de minimis threshold below which a company does not need to state its deduction allowance could take a huge

number of companies out of the reporting requirement, reducing and simplifying the compliance burden for a significant number of small companies. Such a de minimis could apply to a group of companies which is already defined, such as micro-entities or could alternatively simply be set as a fraction of the £5 million limit – for example companies with profits below £1million or £500,000 could be exempt, ensuring that the limit is sufficiently low enough that they will not fall within the rules. The OTS understands that HMRC is willing to engage further with relevant parties to explore this further.

- 4.50 HMRC have confirmed that as a ‘company return’ includes the tax computation, companies may simply state their deduction allowance within the computation, rather than needing a specific box on the CT600 form for this purpose.⁶
- 4.51 However, respondents to the OTS call for evidence called for the introduction of a specific box on the CT600 return, suggesting that in practice the lack of a specific box does add complication to the compliance burden for many small companies. This was especially raised in relation to smaller unrepresented companies, who may miss the requirement to state the figure in their computations, or worry unnecessarily about where it must be stated, and the consequences of getting it wrong.

Conclusions

- 4.52 The OTS considers that the government should consider introducing a de minimis threshold, below which companies would be exempt from reporting their deduction allowance, to help relieve the compliance burden for small businesses.
- 4.53 If there were a de minimis threshold to exempt the smallest companies, then the problem in relation to the lack of a specific box in which to state the deduction allowance would be greatly reduced.

Recommendation 12

The government should consider **Introducing a de minimis threshold below which companies would be exempt from reporting their deduction allowance on their return.**

Carry back of losses in a Self Assessment return

- 4.54 Respondents to the OTS call for evidence said that it was not always clear in which year a claim to carry back certain losses should be made (that is, in the return for the year in which the loss arises or the year to which the loss is carried back) and where in the return to make the claim.
- 4.55 Respondents cited the cases of Cotter and de Silva,⁷ which illustrate this point. HMRC accept that although the rules have been clarified to a large degree by the courts, they can still seem confusing to non-specialists.

⁶ <https://www.gov.uk/hmrc-internal-manuals/company-taxation-manual/ctm04835>

⁷ <https://www.supremecourt.uk/cases/docs/uksc-2016-0053-judgment.pdf>

Ways of making a loss carry-back claim

- 4.56 The confusion arises because both the claimant and HMRC have choices to make over how to make or enquire into the claim respectively.
- 4.57 For the claimant, the claim can be made on the 'year 1' return (the year to which the loss is being carried back) but, importantly, it does not form part of the self-assessment for that year. Such a claim is therefore a claim made outside of a return, just as if it were made in a separate letter to HMRC.
- 4.58 Such a claim outside of a return is then required to be included in the 'year 2' Self Assessment return (the year in which the loss arose) as it is information for the purpose of establishing the amounts in which a person is chargeable to Income Tax and Capital Gains Tax for that year of assessment and the amount payable by way of Income Tax for that year (section 8(1) Taxes Management Act 1970).
- 4.59 HMRC may choose to enquire into the claim made on the 'year 1' return, but if they do so they cannot then enquire into it when it is included in the 'year 2' return.
- 4.60 Alternatively, if HMRC do not enquire into the claim made on the 'year 1' return, they can enquire into the return in which it is required to be included in 'year 2'.

De Silva decision

In the De Silva case, certain partners within a partnership made a claim to carry back losses. The claim was made in the 'white space' of the return to which the loss was carried back ('year 1'). The whitespace box does not form part of the self-assessment for 'year 1'.

HMRC opened a deemed section 9A enquiry under section 12AC(6) Taxes Management Act 1970 into the return for the year in which the loss was made ('year 2'), following opening a partnership enquiry.

The partners maintained that because they had made a claim outside of the return (on the year 1 return), HMRC's only means of enquiry was via an enquiry into that claim under Schedule 1A Taxes Management Act 1970, and that HMRC's amendments following the closure of the partnership enquiry were ineffective to displace those prior claims.

The courts found that HMRC do have the power to amend such a claim when included or required to be included in the year 2 return.

- 4.61 As a result of the Cotter and De Silva decisions, the relevant section of the HMRC Self Assessment Claims Manual (SACM) was completely re-written, and the OTS recognises that the guidance is much clearer than it had previously been. However, the OTS considers that there are additional steps that HMRC could take to clarify the issue still further, as set out below.

Conclusions

- 4.62 Although HMRC have taken steps to address the court decision, this area was nevertheless raised with the OTS as one that remains unclear. The OTS suggests HMRC look again at the recommendations made by the Supreme Court, to identify additional ways to clarify the issue, and the accessibility of its guidance to non-specialists, including taking into considerations the areas highlighted in this review.
- 4.63 In addition, it would be helpful to improve the clarity of the process if the rubric above the boxes on the return was reviewed at the same time to ensure these are clear to those that aren't experts in this area. The OTS understands that there is no need to change the boxes on the return themselves, but it could be made clearer what they refer to.
- 4.64 As the tax administration system becomes increasingly digitised, the OTS suggests that the HMRC loss-specialist team liaise with their Making Tax Digital (MTD) design colleagues, to ensure that adequate consideration is given to how loss carry-back claims will operate in the future under MTD.

Reclaiming tax paid on loans to participators

Background

- 4.65 Where a close company (broadly, a company under the control of 5 or fewer participators) makes a loan to a participator (again broadly, shareholders and loan creditors of that company) or the associate of a participator, the company is required to make a tax payment at 32.5% (equivalent to the dividend higher Income Tax rate) of the amount of the loan which is still outstanding nine months after the end of its accounting period. This is known as 'section 455 tax'.
- 4.66 A very common situation in which this tax is due is where the director of a small company has an overdrawn director's loan account – such as where the director has borrowed money from their own company.
- 4.67 This measure, designed to discourage small companies making tax-free loans to directors, was first introduced in 1965. As it was put in debates at the time this anti-avoidance legislation:
- ...sought to stop a device by which a close company might avoid payment of tax by lending money to participators or associates on an indefinite basis or, perhaps, waiving repayment. It was designed to nip that way of distributing funds in the bud.⁸
- 4.68 The current legislation is broadly similar to the original concept. The amount of section 455 charges now made annually is significant: for the 2018-19 financial year, the total amount was £582,677,000. The amount of section 455 tax reclaimed in that year was £181,086,000.
- 4.69 All loans made and not repaid within the same accounting period are notified to HMRC on the company's Corporation Tax return. If the loan is

⁸ Hansard Debate 13 July 1966 Close Companies Assessment to Income Tax in respect of Certain Loans

repaid within 9 months of the end of the company's accounting period, no section 455 tax is due.

- 4.70 Often, an overdrawn director's loan account is cleared (paid back) within 9 months of the company's year-end, either by way of dividend or bonus, so this tax is never relevant.

Case study 7

Sarah borrows £5,000 from her company in December 2019, just before its year-end. She repays the loan in May 2020, by voting herself a dividend of £5,000.

As the loan is cleared within 9 months of the company's year-end there is no section 455 charge.

- 4.71 If the loan is not repaid within 9 months of the end of the accounting period, the company pays the section 455 tax to HMRC within the same timescale as mainstream Corporation Tax, within 9 months 1 day after the end of the accounting period.
- 4.72 If the loan is repaid more than 9 months after the end of the company's accounting period, the section 455 tax paid can then be refunded to the company provided a claim is made. This is commonly known as a 'section 455 refund'.
- 4.73 The earliest the refund can be made is 9 months 1 day after the end of the accounting period in which the loan was repaid.

Case study 8

Tom borrows £5,000 from his company in December 2019, just before its year-end. He repays the loan by voting a dividend in November 2020.

The company must pay section 455 tax of £1,625 by 1 October 2020.

As the loan has been repaid the tax can be refunded: the earliest the refund can be made is 1 October 2021 (9 months and 1 day after the end of the accounts year to 31 December 2020).

Observations

- 4.74 The refund claim can be made either by way of a letter to HMRC or by adding a note to the tax return.
- 4.75 More recently (from December 2014) a specific claim form, L2P ('Loans 2 Participators'), was made available, to make the claim process easier for both the taxpayer and HMRC.
- 4.76 It is still possible however, to make the claim via letter or a note to tax return.

- 4.77 The current process is not very satisfactory for either taxpayer or HMRC: as the system is not automated, there is an admin burden on both the taxpayer and HMRC.
- 4.78 HMRC's guidance on claiming a refund is not consistent: in one Manual ([COM53120](#)) (CoTax Manual - mainly concerned with company admin and processes) it refers to the L2P form but HMRC's Company Tax Manual ([CTM98215](#)) refers to all other methods (for example a letter, attachment to the return) but does not refer to the L2P form at all.
- 4.79 Form L2P can either be completed online, using the company's own Government Gateway, or it can be completed as an interactive pdf on screen and then printed off and posted to HMRC.
- 4.80 Agents are not able to use the online service as it can only be accessed via the company's business tax account.
- 4.81 The repayment itself is still made at the earliest of 9 months 1 day after the end of the accounting period in which the loan is repaid.
- 4.82 There are practical issues with the reclaim process:
- if the L2P form is completed in paper format and then sent as a postal claim it will be processed manually, needing resources from HMRC
 - if the form is completed online it can only be completed by the company, not an agent on the company's behalf
 - the form can only be used for one loan repayment at a time, and a separate form has to be used for each individual repayment and loan. In the 2018-19 financial year, there were 38,506 repayment claims, but only 6,523 of these related to a single claim by a single taxpayer: the rest were multiple claims by a single taxpayer⁹
 - there is no mechanism for re-claiming the tax via the Corporation Tax return
- 4.83 Respondents have additionally highlighted an issue where a company is in liquidation, as the delay in repayment of section 455 tax can in turn delay the winding up process.

Case study 9

A director's loan account was cleared on 8 September 2019, just before the company went into liquidation on 18 September 2019. The earliest the section 455 repayment can be made is 19 June 2020.

- 4.84 If the loan had been repaid a few months earlier, but perhaps after the end of the company's normal accounting period, there would be scope to shorten the next accounting period to speed up the repayment process. For example, if the company's year-end was January and the loan repaid in February, the accounting period could be shortened to 28 February and the

⁹ Data provided by HMRC for the 2018-19 tax year

section 455 tax could then be refunded by 1 November, perhaps only a few months into the winding-up process.

- 4.85 Although this seems rather artificial, it is in fact suggested by HMRC in their Company Taxation Manual.¹⁰
- 4.86 The same Manual also highlights another issue for the section 455 repayment, which is that the loan repayment, release or waiver must be made **within an accounting period** for there to be a valid repayment claim. An example of where there is no accounting period could be if the company ceased trading (therefore bringing an accounting period to an end) and the loan was repaid between that time and the start of the winding up (which would trigger the start of a new accounting period).
- 4.87 Finally, the time limit for claiming repayment of the section 455 tax is 4 years after the end of the financial year (year to 31 March) in which the loan is repaid, rather than 4 years after the end of the accounting period. Respondents found this confusing, as highlighted in Chapter 2.

Conclusions

- 4.88 The OTS considers that HMRC should widen the scope of the L2P form so it can be used for multiple reclaims, rather than reclaims for each individual loan repayment having to be made on separate forms. It would also be helpful if the online process could be improved so that agents are able to use this to make claims on taxpayers behalf, removing the need to submit a paper form to HMRC, and reducing the administration needed by both the agent and HMRC. HMRC should ensure that they review the relevant guidance and ensure the L2P form is referenced in all appropriate Manuals.
- 4.89 The OTS suggests that in order to improve the process for companies in liquidation, that the government makes a specific provision for an earlier repayment in the case of liquidations, which would help to reduce delays to the winding up process. The legislation should also be reviewed in order to remove the requirement that the loan must be repaid within an accounting period, as the OTS considers this is an unintended anomaly.

Recommendation 13

HMRC should consider making changes to the form and online process used to reclaim tax paid on loans to participators and its guidance in order to:

- widen the scope so that it can be used for multiple reclaims
- extend the use of the online process to agents
- ensure the loans to participators form is referenced in the relevant HMRC guidance manuals

¹⁰ HMRC Company Taxation Manual CTM61610

Recommendation 14

The government should look to make a specific provision for earlier repayment of tax paid on loans to participators in the case of liquidations and review the requirement for loans to have been repaid within an accounting period.

Employment related securities election

Background

- 4.90 A section 431 election is part of the complex area of Employment Related Securities legislation and needs to be considered every time shares or other securities are issued or awarded to employees. This can be, for example, under a formal Share Scheme but can also apply to a single transfer of shares, perhaps under succession planning.
- 4.91 It is a joint election made by both the employer and the employee, where an employee acquires 'restricted securities' from their employer. The election must be made within 14 days of the acquisition of the securities in question. The election is generally beneficial for both employer and employee, as it prevents future unquantifiable Income Tax and National Insurance contributions.
- 4.92 The restricted securities regime was introduced in 2003 and applies to shares or other securities acquired by employees on or after 16 April 2003. Essentially, the employee suffers an Income Tax charge based on the market value of the shares at the time they are acquired.
- 4.93 There are two alternative scenarios when calculating the 'market value'.
- 4.94 If the shares are 'Readily Convertible Assets' (that is, readily convertible into cash, such as just before a company is sold to a third party) the employer also has a PAYE obligation, so, as well as Income Tax, there are also employee and employer National Insurance contributions charges.
- 4.95 Where securities are issued to an employee, it is likely that they are subject to some sort of restriction, which impacts their market value. Examples of restrictions are:
- good and bad leaver clauses that determine the price an employee receives on termination of employment
 - forfeiture of shares if performance conditions are not met
 - requiring the consent of an investor to any transfer
- 4.96 The market value of the securities reflecting these restrictions is the 'Actual Market Value'.
- 4.97 The market value ignoring the restrictions is the 'Unrestricted Market Value'. This would normally be a higher value than the Actual Market Value, as restrictions would normally be expected to decrease the value of a holding of shares.
- 4.98 Unless a section 431 election is in place, the Income Tax and National Insurance contributions charges will be on the Actual Market Value of the

shares. Where there is an election these charges are instead based on the Unrestricted Market Value of the shares.

- 4.99 The point of the election is that, if it is not made, a further charge to Income Tax could arise on any untaxed proportion of the value of the security at the time that:
- the restrictions lift or are varied, or
 - the shares are subject to disposal
- 4.100 The most common situation where this can apply is on disposal. If a section 431 election has not been made, there is an Income Tax charge (and normally also National Insurance contributions) based on the proportionate difference between Actual Market Value and Unrestricted Market Value.
- 4.101 So, if shares are acquired when the difference between Actual Market Value and Unrestricted Market Value is for example 25% (a typical differential), then on sale 25% of the proceeds will be taxable as income rather than as a capital gain.

Case study 10

Sunset Sales Ltd wishes to issue shares to Christine, a new company director, as part of her total remuneration. These shares can only be sold if the company is sold to a third-party investor in the future, at a date as yet unknown. At the time these shares are awarded to Christine, their Actual Market Value is £1.50, and their Unrestricted Market Value is £2.00.

Christine pays £1.50 per share, however, the Unrestricted Market Value of the shares is documented as £2.00, so when the shares are finally sold for £2 million as part of a third-party purchase, Christine will pay Capital Gains Tax on 75% of the gain, and Income Tax on 25% of the gain.

As the shares are Readily Convertible Assets, Sunset Sales Ltd must tax the income element under PAYE: the company will have an employer National Insurance Contributions liability and Christine both an Income Tax charge and employee National Insurance contributions liability on the income element.

- 4.102 However, if both the company and Christine had signed a section 431 election, all the proceeds would be subject to Capital Gains Tax when the shares are sold.

Case study 11

If Christine pays £2.00 per share, and a section 431 election made to confirm that she has paid Unrestricted Market Value for the shares, none of the future growth will be chargeable to Income Tax. All of the £2 million proceeds are therefore subject to Capital Gains Tax.

Observations

- 4.103 A number of respondents to the Call for Evidence cited the difficulties with the short time scale for the election. They commented that the election under section 431(1) ITEPA 2003 to ignore restrictions in taxing initial awards of stock is particularly challenging for employers to deal with, largely because there is a 14 day time limit within which both employers and employees must sign the election. They felt that this can be very difficult to achieve in the time available.
- 4.104 One striking feature of the election is that it does not need to be lodged with HMRC. As respondents pointed out, simplification would reduce the incentive for certain taxpayers to fraudulently backdate elections where original deadlines are missed (a situation which respondents felt the current system seems to invite).
- 4.105 Because of the risk for a purchaser of the employers' National Insurance contributions charge, section 431 elections are often focussed on by the due diligence team acting for the purchaser. If no election is in place this can have a significant impact on the negotiations as the purchaser is exposed to unanticipated National Insurance contributions charges when the employees sell their shares as part of the exit package.
- 4.106 Although there is no requirement for the election to be filed with HMRC, it must be in HMRC approved format. Helpfully, HMRC give suggested templates in their Employment Related Securities Manual.
- 4.107 However, as respondents noted there is confusion about the process as it is not clear whether HMRC can insist on a "wet" signature and there is no guidance about what the format would be if made digitally.
- 4.108 Whether or not the election is in place is noted on the employers' annual Employment Related Securities return which is filed by 6 July following the end of the tax year. The election itself must be made within 14 days of the share award: although not specifically stated anywhere, this time limit is likely to be in place so that, if PAYE needs to be operated, the payroll provider has some certainty over which value is being used.

Conclusions

- 4.109 As explained above the benefit of the election is that the employee is taxed on the Unrestricted Market Value of the securities at the time they are acquired – this value is often relatively low – rather than a proportion of proceeds on sale (for example) being subject to Income Tax and National Insurance contributions.
- 4.110 The main risks for the employee are:
- that they may not keep the shares (for example if they are forfeited on leaving) so they will have paid tax on something which is of no benefit
 - the value of the shares may decrease, so the employee will have paid more tax on the initial share award than they would otherwise have done
- 4.111 However, this risk only applies to the difference between Actual Market Value and Unrestricted Market Value (which is usually relatively small) at a

time when typically, the value of the shares is quite low as the company is in its early stage.

- 4.112 As the election is almost always made and in view of the low risks involved, the OTS considers that there is merit in making the default position for the employee to be taxed on the Unrestricted Market Value of the shares, with the option of jointly electing for the Actual Market Value if preferred.
- 4.113 There are likely to be very few situations where a section 431 election will not be beneficial to both employee and employer. The obvious simplification is therefore to change the legislation so that Unrestricted Market Value applies wherever restricted securities are acquired, but with the option of electing to disapply that treatment (effectively flipping the terms of the election).
- 4.114 There should also be a requirement that the election to disapply Unrestricted Market Value – while still made within the 14 day time limit - is filed with HMRC, perhaps as part of the annual Employment Related Securities return. Currently, the OTS understands that the functionality of the Employment Related Securities returns would not support this type of additional paperwork but if the return is improved this is a feature which should be added.
- 4.115 There should in addition be improved guidance on the format of the claim and whether this can be stored digitally.

Recommendation 15

The government should reverse section 431 elections so that the unrestricted market value automatically applies where restricted securities are acquired, with the option for the employer and employee to file a joint election with HMRC to disapply that treatment.

CGT rollover claims

Background

- 4.116 Rollover relief is a deferral relief for CGT or Corporation Tax charges which can arise on the replacement of business assets: it is one of the original framework of CGT reliefs which has been available ever since CGT was first introduced in 1965.
- 4.117 Chancellor James Callaghan introduced this deferral so the CGT otherwise payable on the disposal of large-scale business assets, where proceeds were reinvested in similar assets would... ‘not impede desirable industrial and commercial development’.¹¹
- 4.118 The principle of the relief is that, where the proceeds of the disposal of qualifying business assets are reinvested in other qualifying assets used in the same trade the gain on the original asset can be deferred against the cost of the replacement asset. The gain is then postponed until the replacement asset is sold, unless of course further rollover is available at that time.

¹¹ Hansard 6 April 1965 Budget Statement

- 4.119 Qualifying assets tend to be high-value and include land and buildings, fixed plant and machinery, ships, aircraft, hovercraft, satellites and space stations.
- 4.120 They also include goodwill and various farming-related quotas - although for companies these may all be dealt with under the intangibles regime in which case rollover is not applicable.
- 4.121 Rollover applies to most trading entities for example sole traders and companies. It also applies to assets used by individuals in their profession, vocation or employment and by not-for-profit entities such as trade unions and sports clubs.

Observations

Format

- 4.122 There is a specified format for a rollover claim: although not mandatory, HMRC provide a suitable claim form as part of help sheet HS290 which is primarily aimed at individual taxpayers (rather than companies or other entities). The form is a pdf but cannot be completed on screen.

HMRC procedure

- 4.123 For individuals, the disposal of the old asset is reported in the self-assessment CG Pages. A claim for rollover relief is made against that gain in the return.
- 4.124 For companies, the claim is made in the Corporation Tax return, but this does not differentiate between full claims and provisional claims.
- 4.125 What is not clear in some of the HMRC guidance (such as the Capital Gains Manual) is whether the formal written claim should also be submitted to HMRC separately to attaching the claim to the return - although it does specify this in help sheet HS290.
- 4.126 The position for companies is not clear as the help sheet and claim form mainly reference individuals.
- 4.127 Arguably this gives rise to a duplication of effort for the taxpayer as they may feel they need to make the claim both in their tax return and by submitting a paper form. In addition, Tax Journal¹² has contained advice for taxpayers when sending a written claim - to request an acknowledgement from HMRC - which again requires extra resources from HMRC.
- 4.128 Respondents generally found the claims process confusing and noted that claims for rollover relief and holdover relief are required to be submitted via letter to HMRC containing supporting information which has already been provided in the Self Assessment return and/or tax computation submitted electronically. It is difficult to see why HMRC require the same information to be provided again in a different format, and as HMRC gain access to further digital information, we would hope that they will stop requiring taxpayers to provide information that they already hold to support claims.

¹² Issue 1048 11 October 2010 Practice Guide: Corporate CGT rollover relief claims

Conclusions

- 4.129 As set out in Chapter 2, the OTS considers that HMRC should ensure that all guidance in relation to the process for making a claim or election is clear. This section highlights a specific area where the clarity could be improved in order to improve the process of making a claim for the taxpayer and bring clarity over the steps needed to make a valid claim. Improvements could also be made to the claim form improved so that it can be completed onscreen. It should also be made more appropriate for companies – or a separate form made available.
- 4.130 This is also an area that would benefit from further functionality within the personal and business tax accounts to make standalone claims, as outlined in Chapter 1.

CGT Holdover Claims

Background

- 4.131 Holdover relief is a relief available to individuals for the gift of specified types of assets such as business assets or gifts into Trust. It was first introduced in a limited form (for agricultural land only) in 1975, expanded in 1978 to include other business assets and again in 1980 to cover all gifts.
- 4.132 It was then restricted in 1989 to cover only:
- business assets
 - shares in certain trading companies
 - property qualifying for Agricultural Property Relief
 - gifts immediately chargeable to IHT (such as gifts into Trust)
- 4.133 The relief allows for the deferral of the gain which would otherwise arise in relation to that disposal. Typically, it is used for the gift of business assets or shares, which is useful for succession planning or the gift of (any) assets into a Trust. These gifts would normally be disposals at market value for CGT purposes under the 'connected persons' provision.
- 4.134 If there was no specific relief the giver would suffer a tax charge without having realised any cash from which to pay the tax due.

Case study 12

Donna runs a successful trading company making fashion accessories including facemasks. Wanting to start a new venture she gives all the company shares to her son, Bertie, when they are worth £500,000. The shares originally cost Donna £100 when she first set up the company. Donna and Bertie both sign a holdover claim.

Donna pays no CGT on the disposal to Bertie: Bertie's base cost of the shares is £100.

- 4.135 The relief must be formally claimed and although there is no statutory format for the claim HMRC provide a useful template form at help sheet HS295.
- 4.136 The claim can be made either within the Self Assessment return or outside the return. The claim must be signed by both transferor and transferee (unless the claim relates to a gift into a Trust in which case only the transferor signs).
- 4.137 If a claim is made within the return, HMRC guidance is clear that a pdf of the completed claim form should be attached to the Self Assessment return. There is no guidance on any requirements for the transferee.

Observations and Conclusions

- 4.138 As noted in Chapter 2, for claims made outside the tax return, the OTS suggests that it would be useful if the functionality of the personal tax account could be improved to accept this type of claim. This would be simpler for the taxpayer and save HMRC resources (for example, in having to respond to a letter).
- 4.139 The OTS suggests that the guidance on the procedure for the transferee could be made clearer. Again, the personal tax account would be useful as this would give a place in which the signed form could be lodged.

VAT

- 4.140 In addition to the comments in Chapter 3 on the DIY Housebuilders scheme, feedback received from numerous stakeholders identified two additional areas of VAT where claims and elections processes could be improved.
- 4.141 Of these, the option to tax was the area which received the most comment. This area was discussed in detail in the OTS's VAT review (Value added tax: routes to simplification) published in November 2017¹³. One of the report's core recommendations was that HMRC review the record keeping and audit trail requirements for options to tax, and the extent to which they could be done online.

Option to tax

Background

- 4.142 Supplies of commercial land and buildings (other than buildings less than three years old) are by default exempt from VAT. The option to tax is a relatively simple election which can be made by a business to change what would otherwise be an exempt supply of commercial land or buildings to a taxable supply, thereby enabling input tax recovery on costs associated with that supply.
- 4.143 The making of an option to tax election is a relatively simple process but it can take time for HMRC to acknowledge that the option to tax has been made. It is not uncommon for businesses to consider that an option is in place if the owner or previous owner has opted, not realising that each

¹³ <https://www.gov.uk/government/publications/ots-report-on-routes-to-simplification-for-vat-is-published>

person has to make their own decision to opt their interest in the land or buildings.

- 4.144 As there is no universal record of who has opted in relation to what property interests, uncertainty about whether a piece of land or building has been opted can and does cause difficulties when the land or building is being sold.

Observations

- 4.145 As set out in the evaluation update on its 'Value added tax: routes to simplification' report which the OTS published in November 2019,¹⁴ the OTS understands that there is potential to facilitate the movement online for the option to tax through the Making Tax Digital and Enterprise Tax management Platform. It is not yet known whether or when this will be possible given the range of HMRC's other commitments but in the light of the recently published vision¹⁵ the OTS would look to see this issue included as it continues to be an area of concern for many businesses.

Conclusions

- 4.146 The OTS notes that as a result of the coronavirus pandemic HMRC has announced changes to the relevant time limits for making an option to tax and also permitted such elections to be submitted by email, as set out in Chapter 2. The OTS understands that these changes have been welcomed by users and pending any permanent changes to the process, would encourage HMRC to extend the current temporary changes.

Recovery of UK VAT by overseas businesses (13th Directive claims)

- 4.147 Businesses which are established outside the United Kingdom, but which incur VAT in the UK are able to submit a claim to recover this VAT. Typical expenditure is hotel, car hire and similar expenses but it can also include high value items of expenditure. The recovery of such VAT is generally available if the country the claimant is based has an indirect tax system of some sort.
- 4.148 Currently, the claim is made on a paper form and the supporting invoices must be submitted with the claim together with a certificate from the taxpayer's home tax authority to evidence that it is in business in its home country.
- 4.149 In practice, HMRC accepts scanned copies of invoices but not of the tax certificate. This is considered by claimants to act as a barrier to overseas businesses making claims, particularly when there are large numbers of companies in a corporate group. A good example is the difficulties in obtaining a tax certificate from the Internal Revenue Service in the United States of America.
- 4.150 This current paper-based system is considered by users to be outdated. In addition, whilst the mechanism for any EU based businesses to recover UK

¹⁴ <https://www.gov.uk/government/publications/ots-publishes-an-evaluation-update-on-its-vat-report>

¹⁵ <https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system#next-steps>

VAT has not yet been announced, it would be a retrograde step if post Brexit, the existing digital system for EU based businesses were to change to a paper-based system.

Conclusions

- 4.151 In the OTS VAT review published in November 2016, the OTS recommended that HMRC should consider digitising the process for the recovery of overseas businesses not registered for UK VAT.
- 4.152 The OTS considers that this recommendation is still valid and understands that HMRC are considering digitisation of the process for non-EU claimants.

Annex A

Scoping document

This scoping document was published on 11th February 2020.

Claims and Elections Review: Scoping Document

Claims and elections are a long-standing feature of many UK taxes. In some cases, it is unclear why there is a need to make a specific or separate claim or election in order to benefit from a relief or exemption, and this can lead to some of those who are entitled to benefit missing out.

One particular concern that is sometimes raised is the prevalence of high-volume repayment agents who will claim certain reliefs and exemptions on behalf of those that are eligible, for a fee. Individuals may use these agents for a number of different reasons, but it may suggest that what are intended to be simple reliefs that apply to lots of people could, in practice or in perception, be more complicated to deal with than people are able or willing to handle.

The OTS has considered certain claims or elections in the context of previous reports, however this will be the first time that the OTS looks at claims and elections issues more widely, on a standalone basis.

This review will identify opportunities for simplification both in relation to the claims or elections presently needed for certain reliefs or exemptions, and the processes involved.

The OTS will publish a call for evidence shortly and intends to publish a report outlining its findings in Autumn 2020.

Scope of Review

The review will seek to establish the broad numbers and types of claims and elections across the main taxes in the UK. It will then focus on a range of the more significant or frequently used claims and elections across a number of taxes in relation to individuals, partnerships and companies and how they may be simplified.

The work will be led by, and primarily concerned with, how the administration of these claims and elections may be simplified, including IT systems considerations. However, where relevant it will also consider related policy issues, including issues around the awareness and uptake of these reliefs, the possibility of removing or replacing minor reliefs or simpler and cost-effective ways of achieving the desired policy outcomes.

Claims and elections that may be considered are likely to include:

- claims for relief for certain expenses incurred by employees and not reimbursed, in particular flat rate allowances such as for cleaning uniforms or for tools
- capital allowances, including issues arising when these are subject to specific claims rather than handled within tax returns
- section 198 elections (for allocating property sale proceeds between buildings and fixtures), taking forward a recommendation in the OTS's 2017 report on simplifying the Corporation Tax computation

During the review and in consultation, the OTS will seek to identify further claims and elections where there are potentially unnecessary burdens in making claims.

The work will include:

- exploring the scope and impact of relevant reliefs and the population of taxpayers and agents involved (including the prevalence of high volume repayment agents in some areas and why individuals use them)
- considering reliefs where there is a need to make a claim and others where the relief or exemption is given automatically already (and the impacts of these different approaches)
- considering whether it could be simpler for additional reliefs or exemptions to be given automatically, subject to an ability to disclaim and scope for HMRC to review the position
- the processes involved, including:
 - whether a claim needs to be made on a return or outside a return, and the reasoning for this distinction
 - whether there are easier ways of making a claim, perhaps through the personal tax account or wider changes to tax administration processes, reflecting increasing digitisation of the tax administration system
 - in relation to any reliefs or exemptions being applied automatically, the potential for employers or others involved in tax administration to be involved in the process, including supplying information to HMRC
 - any key process differences across taxes and whether there could be alignment
 - consideration of the time limits in which a taxpayer must make a claim or an amendment to a claim (including whether a claim time limit should be based on an event or by reference to a tax year)

Further guidance for the review

In carrying out its review, the OTS will

- consider the likely implications of recommendations on the Exchequer, the tax gap and compliance
- engage widely with stakeholders
- be mindful of the role and contribution of taxation agents
- take account of relevant international experience
- take account of previous research in this area
- take account of the impact of any recent IT changes made to support the claims and elections process
- liaise with the Administrative Burdens Advisory Board

Annex B

Organisations consulted

- Aecom
- Association of Accounting Technicians
- Association of Tax Technicians
- Aviva plc
- Chartered Institute of Taxation
- Chartered Institute of Payroll Professionals
- Deloitte LLP
- Department for Business, Energy & Industrial Strategy
- Ernst & Young LLP
- Furasta Consulting
- Gateley Capitus
- HM Revenue & Customs
- HM Treasury
- Institute of Chartered Accountants in England and Wales
- Institute of Chartered Accountants of Scotland
- IMH Advisory LLP
- Jon Preshaw Tax
- Low Income Tax Reform Group
- Mazars LLP
- PricewaterhouseCoopers LLP
- Saffrey Champness LLP
- Savills
- UK 200 Group

Annex C

HMRC's published list of industries and occupations for flat rate

Industry	Occupation	Deduction £
Agriculture	All workers	100
Airlines	pilots, co-pilots, helicopter pilots and uniformed flight crew	1,022
	cabin crew – stewards and stewardesses	720
Aluminium	continual casting operators, process operators, de-dimplers, driers, drill punchers, dross unloaders, firemen (engaged to light and maintain furnaces), furnace operators and their helpers, leaders, mould-men, pourers, remelt department labourers and roll flatteners	140
	cable hands, case makers, labourers, mates, truck drivers and measurers and storekeepers	80
	apprentices	60
	all other workers	120
Armed Forces	All ranks in the:	100
	- Army	
	- Royal Air Force	
	- Royal Marines	
	- Royal Navy	80
Banks and building societies	uniformed doormen and messengers	60
Brass and copper	braziers, coppersmiths, finishers, fitters, moulders, turners and all other workers	120
Building	joiners and carpenters	140
	cement works, roofing felt and asphalt labourers	80
	labourers and navvies	60
	all other workers	120
Building materials	stone masons	120
	tilemakers and labourers	60

	all other workers	80
Clothing	lacemakers, hosiery bleachers, dyers, scourers and knitters, knitwear bleachers and dyers	60
	all other workers	60
Constructional engineering (includes buildings, shipyards, bridges and roads)	blacksmiths and their strikers, burners, caulkers, chippers, drillers, erectors, fitters, holders up, markers off, platers, riggers, riveters, rivet heaters, scaffolders, sheeters, template workers, turners and welders	140
	banksmen, labourers, shop-helpers, slewers and straighteners	80
	apprentices and storekeepers	60
	all other workers	100
Electrical and electricity supply	workers incurring laundry costs only	60
	all other workers	120
Trades ancillary to engineering	pattern makers	140
	labourers, supervisory and unskilled workers	80
	apprentices and storekeepers	60
	motor mechanics in garage repair shop	120
	all other workers	120
Fire service	uniformed fire fighters and fire officers	80
Food	all workers	60
Forestry	all workers	100
Glass	all workers	80
Healthcare staff in the NHS, private hospitals and nursing homes	ambulance staff on active service	180
	nurses, midwives, chiropodists, dental nurses, occupational, speech, physiotherapists and other therapists, healthcare assistants, phlebotomists and radiographers	125
	shoes and stockings or tights allowance (where everyone is required to wear the same colour or style)	12 shoes 6 tights or stockings
	plaster room orderlies, hospital porters, ward clerks, sterile supply workers, hospital domestics and hospital catering staff	125
	laboratory staff, pharmacists and pharmacy assistants	80
	uniformed ancillary staff - maintenance workers, grounds staff, drivers, parking attendants and	80

	security guards, receptionists and other uniformed staff	
Heating	pipe fitters and plumbers	120
	coverers, ladders, domestic glaziers, heating engineers and all their mates	120
	all gas workers and all other workers	100
Iron mining	fillers, miners and underground workers	120
	all other workers	120
Iron and steel	day labourers, general labourers, stockmen, timekeepers, warehouse staff and weighmen	80
	apprentices	60
	all other workers	140
Leather	curriers (wet workers), fellmongering workers and tanning operatives (wet)	80
	all other workers	60
Particular engineering (work on commercial basis in a factory or workshop producing components such as wire, springs, nails and locks)	pattern makers	140
	chainmakers, cleaners, galvanisers, tanners and wire drawers in the wire drawing industry and toolmakers in the lock making industry	120
	apprentices and storekeepers	60
	all other workers	80
Police force	ranks of police officers up to and including chief inspector	140
	community support officers including Metropolitan Police	140
	other police employees (but not special constables)	60
Precious metals	all workers	100
Printing	letterpress section-electrical engineers (rotary presses), electrotypers, ink and roller makers, machine minders (rotary), maintenance engineers (rotary presses) and stereotypers	140
	bench hands (periodical and bookbinding section), 60 compositors (letterpress section), readers (letterpress section) telecommunications and electronic section wire room operators, warehousemen (paper box making section)	60
	all other workers	100
Prisons	uniformed prison officers	80

Public service – docks and inland waterways	dockers, dredger drivers and hopper steerers	80
	all other workers	60
Public service – public transport	garage hands including cleaners	80
	conductors and drivers	60
Quarrying	all workers	100
Railways	See the appropriate category for craftsmen (for example engineers, vehicles) all other workers	100
Seamen	carpenters on passenger liners	165
	Carpenters on cargo vessels, tankers, coasters and ferries	140
Shipyards	blacksmiths and their strikers, boilermakers, burners, carpenters, caulkers, drillers, furnacemen (platers) holders up, fitters, platers, plumbers, riveters, sheet iron workers, shipwrights, tubers and welders	140
	labourers	80
	apprentices and storekeepers	60
	all other workers	100
Textiles and textile printing	carders, carding engineers, overlookers and technicians in spinning mills	120
	all other workers	80
Vehicles	builders, railway vehicle repairers and railway wagon lifters	140
	railway vehicle painters, letterers, and builders' and 80 repairers' assistants	80
	all other workers	60
Wood and furniture	carpenters, cabinetmakers, joiners, wood carvers and woodcutting machinists	140
	artificial limb makers (other than in wood), organ builders and packaging case makers	120
	coopers not providing their own tools, labourers, polishers and upholsterers	60
	all other workers	100

Source: HMRC <https://www.gov.uk/guidance/job-expenses-for-uniforms-work-clothing-and-tools>