



HM Revenue
& Customs

Withdrawal of extra statutory concessions

Technical note and call for evidence
10 January 2017

Who should read this document? Anyone who may be affected by the withdrawals of certain non-statutory tax reliefs set out at chapter 2. This includes large and small businesses, employers, individuals and the bodies that represent all of the above.

Making your views heard We are keen to gather evidence from those who have relevant data about the potential impact of withdrawal of the tax reliefs detailed in this note. Data on the number and types of users of the tax reliefs, including from any bodies who may have undertaken research in the area or represent significant numbers of those affected, is particularly welcome.

Data is requested by **7 March 2017** to ensure it receives full consideration. However it may be possible to take into account data received after that time.

Phone enquiries Joanna Were on 03000 590559

Email tap@hmrc.gsi.gov.uk

In writing Joanna Were, HM Revenue & Customs, Room 1C/04, Central Policy, 100 Parliament Street, London SW1A 2BQ

Your details Representative groups may wish to give a summary of the people and organisations they represent and, where relevant, how they consulted in reaching their conclusions. You may wish to include contact details for follow-up (e.g. name, phone number, email address).

Confidentiality Information provided in response to this document, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

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Introduction

The House of Lords' decision in the *Wilkinson*¹ case clarified the scope of HMRC's administrative discretion to make concessions that depart from the strict statutory position. In light of that decision HMRC is reviewing its concessions. The majority can remain as they are, but some are considered to be beyond the scope of HMRC's discretion. Of these, some can be legislated to preserve their effect, some are no longer necessary, and others will need to be withdrawn. This document provides details of four extra-statutory concessions which will be withdrawn as part of the review and gives notice of their withdrawal with effect from April 2018.

This document also sets out HMRC's interim assessment of the potential impact of the withdrawals. Further data to assist HMRC in its assessment is welcome to ensure we fully understand what impact the withdrawals may have. HMRC's impact assessment is set out in chapter 3.

¹ [R v HM Commissioners of Inland Revenue ex p Wilkinson \[2005\] UKHL 30](#)

Chapter 1 – background

1.1 Extra-statutory concessions (ESCs) have been a feature of the UK’s tax system for decades and will continue to be made and withdrawn as necessary. For this purpose the term ‘extra-statutory concession’ refers to any stated concessionary treatment that departs from the statutory tax treatment. It is not limited to concessions published in the former Inland Revenue booklet IR1² and the former HM Customs and Excise booklet Notice 48³.

1.2 The House of Lords’ decision in the *Wilkinson* case clarified the scope of HMRC’s administrative discretion to make concessions that depart from the strict statutory position.

1.3 In light of that decision, HMRC has a programme to review its concessions. Most ESCs can continue in their current form as they are within the scope of HMRC’s administrative discretion. Where an existing concession exceeds the scope of HMRC’s discretion the effect of the concession may be maintained by giving it statutory effect, where it is appropriate to do so. To date HMRC have published seven consultations as part of the review.

1.4 Where it is not possible or appropriate to give statutory effect to a concession which exceeds the scope of HMRC’s discretion it will need to be withdrawn. HMRC has identified the four concessions detailed in this note as needing to be withdrawn. These concessions relate to VAT, income and corporation tax, and withdrawal will take effect from 6 April 2018 for the income/corporation tax ESC and 1 April 2018 for the VAT ESCs, so allowing at least a full year’s notice. A list of the concessions to be withdrawn can be found below, with more details in chapter 2.

1.5 Where an ESC has to be withdrawn, HMRC recognise that taxpayers may have to make adjustments, and will generally offer an appropriate period of notice before the concessionary treatment formally comes to an end. The length of this period may vary between ESCs, but HMRC will aim to allow a period of time that is sufficient for the necessary adjustments to be made. No ESC will be withdrawn retrospectively.

1.6 Chapter 3 sets out HMRC’s interim assessment of the potential impact of the withdrawals. Further data to assist HMRC in fully understanding the impact of the withdrawals would be welcome.

1.7 For general queries on HMRC’s review of ESCs, please contact Joanna Were. Contact details are provided at page 2 above. For queries related to specific concessions, please use the contact named for each concession, below.

² [Former Inland Revenue booklet IR1](#)

³ [Public Notice 48](#)

Extra-statutory concession to be withdrawn	Tax/Duty	Page
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Chapter 2 – extra statutory concessions to be withdrawn

Zero-rating of central processor – Notice 701/7

The concession is contained in para 9.2 Notice 701/7 (August 2002 version) has not been carried forward in the latest VAT Notice 701/7 which can be found on the government website at:

www.gov.uk/government/publications/vat-notice-7017-vat-reliefs-for-disabled-people/vat-notice-7017-vat-reliefs-for-disabled-and-older-people

This concession allows a central processor to be zero-rated if sold as part of a computer system with software installed to enable a disabled person to use the computer system or other software effectively, or to carry out tasks effectively when otherwise they could not.

This concession has caused some problems because of the use of the term 'central processor', which is considered to be outdated in view of technological advances, particularly in the development of tablets and smart phones. The concession allowed the VAT zero-rating of a central processor if it was sold as part of a system designed as a complete package to aid a disabled person to overcome communication problems through the installation of software.

HMRC now considers that the items the ESC was intended to cover fall within existing legislation and the ESC will be withdrawn with effect from April 2018.

Further advice

If you have any questions about this, please contact Phil Sears on 03000 585502 (email: phil.sears@hmrc.gsi.gov.uk).

Composite rate of VAT for computer systems – Notice 701/7

The concession is contained in para 9.3 Notice 701/7 (August 2002 version) has not been carried forward in the latest VAT Notice 701/7 which can be found on the government website at:

www.gov.uk/government/publications/vat-notice-7017-vat-reliefs-for-disabled-people/vat-notice-7017-vat-reliefs-for-disabled-and-older-people

Traders supplying disabled people with complete computer systems that contain significant specialist items for use by the disabled may use a composite VAT rate for such supplies. This rate is based on supplies of such packages made by that supplier over a recent representative period. In addition to the items of equipment designed solely for the use of a disabled person, the suppliers may include the values of the central processor and costs charged to the customer for the installation of the equipment and for the training in its use.

This concession was only intended to be used in conjunction with the ESC zero-rating of a central processor sold as part of a complete computer system package to aid a disabled person to overcome communication problems. HMRC considers this concession to be obsolete and it will be withdrawn with effect from April 2018. If any business would like to use a simplified calculation method in future then this can always be negotiated with HMRC.

Further advice

If you have any questions about this please contact Phil Sears on 03000 585502 (email: phil.sears@hmrc.gsi.gov.uk)

Affiliation fees for sports clubs – Notice 701/45

The concession is published in paragraph 3.6.2 of VAT Notice 701/45 and can be found on the government website at:

www.gov.uk/government/publications/vat-notice-70145-sport/vat-notice-70145-sport#sporting-services-exempt-from-vat

A sport's governing body, or similar umbrella organisation, often charges an affiliation fee to individual clubs who make an onward charge to their members. Where the clubs are non-profit making, the supply of this affiliation fee to their individual members is exempt from VAT. However, if the club is a profit-making commercial club, then the supply to their individual member is standard rated. The concession seeks to put profit-making commercial clubs in a similar position to non-profit making clubs, in that they do not need to account for output tax on the fee charged. It achieves this by allowing profit-making commercial clubs to treat these re-charges to their members as though they were disbursements. However, as such re-charges of affiliation fees are not legally a disbursement the concession goes beyond HMRC's discretion and it will be withdrawn with effect from April 2018.

Withdrawal of the concession means that the onward charge of the affiliation fee will be liable to VAT unless it meets the conditions of a disbursement. The withdrawal of this concession has no impact on the VAT treatment of affiliation fees by non-profit making sports governing bodies, or similar umbrella organisations, and on non-profit making sports clubs to their members. In their case, the charge they make of affiliation fees continue to be exempt under the law.

Further advice

If you have any questions about this please contact Jane Hassan on 03000 524135 (email: jane.hassan@hmrc.gsi.gov.uk)

C12 Retail co-operative societies: accounting periods

Concession C12 is published in the Former Inland Revenue booklet IR1.⁴

C12 treats accounts comprising 12 months to an agreed terminal date as one accounting period even if a retail co-operative society draws up accounts on a quarterly or half-yearly basis, provided the society adheres consistently to this approach.

Following closures and mergers there are now only 12 retail co-operative societies. All have been contacted. Of the ten that have replied, all have confirmed that they no longer make up accounts for shorter periods, they make up only annual accounts. They no longer use the concession and are not likely to use it in the future. Publicly available information indicates that the remaining societies also produce annual accounts. HMRC considers the concession is now obsolete and it will be withdrawn with effect from April 2018.

Further advice

If you have any questions about this please contact Lorraine Coster on 03000 585676 (email: lorraine.coster@hmrc.gsi.gov.uk)

⁴ [Former Inland Revenue booklet IR1 \(page 39\)](#)

Chapter 3 – interim tax impact assessment

3.1 The nature of ESCs is that, in general, it is not necessary for taxpayers to make any formal claim to HMRC in order to make use of an ESC. This means HMRC has limited data on the extent to which they are used in practice.

3.2 The Government's tax policy making process includes ensuring the expected impacts of policy changes are understood throughout the policy making process.

3.3 This chapter sets out our interim assessment of the potential impacts of withdrawal of the ESCs detailed at chapter 2. Any relevant data we can gather during the withdrawal notice period, particularly from taxpayers affected or groups representing them, will allow HMRC to better validate its interim assessment. Depending on the information available, a final assessment in the form of a tax information and impact note may be published nearer the time planned for the withdrawals to take effect.

How to contribute

3.4 As outlined at paragraph 3.3 above we welcome comments on our interim assessment of the impacts of these withdrawals. Contributions by 7 March 2017 would be helpful to ensure they can be given sufficient consideration, but contributions after that time may also be taken into account prior to publication of any final tax information and impact note, if applicable.

3.5 Page 2 of this document above sets out how to contribute.

Summary of impacts

Exchequer impact (£m)	2016-17	2017-18	2018-19	2019-20	2020-21
	-	-	negligible	negligible	negligible
	<p>HMRC has limited information on the use of these concessions, but as most are (or will shortly be) obsolete we do not expect their withdrawal to have a significant impact on tax receipts from April 2018. HMRC would welcome more information from those affected on the likely impacts. Any impact would be subject to scrutiny by the Office for Budget Responsibility.</p>				
Economic impact	No significant economic impacts are anticipated.				
Impact on individuals, households and families	<p>The withdrawal of these concessions is likely to affect a limited number of individuals (and households) and the impact on affected individuals (and households) is anticipated to be negligible. There may be some compliance costs for those currently using the theatre and sub-postmasters concessions if they need to change the way they complete their tax returns. The measure is not expected to impact on family formation, stability or breakdown.</p>				
Equalities impacts	<p>Equalities impacts have been considered and none have been identified. The withdrawal of concessions zero-rating of central processor – Notice 701/7 and the composite rate of VAT for computer systems – Notice 701/7 will have no impact on disabled groups. Both concessions are now obsolete due to advances in technology and the development of tablets and smart phones. The concession was not carried forward into current version of notice 701/7 (December 2014) and this has not apparently caused any problems. Eligible supplies of such systems can also be zero-rated under existing legislation.</p>				
Impact on business and civil society organisations	Most of the concessions are believed to be obsolete so withdrawal will have little or no effect on business and civil society organisations.				
Operational impact (£m) - HMRC	The additional costs/savings for HMRC in implementing this change are anticipated to be negligible.				
Other impacts	Other impacts have been considered and none have been identified.				

Monitoring and evaluation

The impacts will continue to be monitored through communication with the taxpayer groups affected.