

OTS Recommendations: Evaluation and Forward Look: Annexes

Contents

Introduction

Annex 1 – Employment Status

Annex 2 – Employee benefits and expenses

Annex 3 – Competitiveness Report

Annex 4 – Partnerships

Annex 5 – Tax reliefs

Annex 6 – Penalties

Annex 7 – Unapproved share schemes

Annex 8 – Pensioners project

Annex 9 – Reliefs (separate exercise for the Financial Secretary to the Treasury)

Introduction: Listings of recommendations reviewed

The annexes that follow set out the recommendations that we have reviewed in this exercise, collated under the ‘parent’ review headings. The numbers given to the recommendations are those set out in the March 2015 listings; items 1-60 were categorised as major recommendations. Subject to this, the numbering order is effectively date order in terms of when the recommendations were made.

The summaries of each point include in *italics* the previously-published comments. [Further comments in blue plain text reflect recommendations that were revisited in this review.](#)

Annex 1 Employment Status

We had not received a formal response on the 22 employment status recommendations due to the report being published soon before the 2015 General Election. Instead we received a generic comment: “The Government welcomes the OTS review on Employment Status published on 3 March 2015. It will consider the OTS’s recommendations carefully in shaping its programme of tax reform and administration in the next Parliament.”

Therefore the responses received during this stocktake review were our first indication of whether HMRC had accepted and implemented our recommendations. As became clear, HMRC has already begun taking actions in response to many of the recommendations identified in the review. For example, it became clear that HMRC intended to address many of the guidance and industry rules issues with the employment status online tool that it was developing. This tool would also contain clearer guidance on issues, such as rules for TV and film that were identified during the review. At least six recommendations (381 – 386) are likely to be addressed by the online tool. The OTS will need to keep the recommendation that status rulings will not apply retrospectively under review. The recommendation on introducing an employment status helpline has been developed, but other recommendations are on hold pending publication of the Matthew Taylor Ways of Working report.

HMRC has also agreed to legislate for trading income treatment under EIM03002, although we do not have a timetable for this.

No.	Recommendation	Accepted by HMRC	Implemented by HMRC	Comments
381 A	We note that the administrative practice in EIM 03002 is under review but we do have concerns that the document proposing its withdrawal did not have regard to the situation of GPs and related professions. We trust that such considerations are being taken into account in considering the way forward.	Consider	No	OTS update following discussion during stocktake: Tel call 13.02.17, HMRC confirmed trading income treatment under EIM03002 will be legislated for. Timescale not known at present. This will also be the case for ESC A37 and reg 27 following representations from tax professionals. Regarding film, TV and production industry, HMRC were developing the new employment status online tool, available for everyone, and are considering the present guidance and industry rules.
382 A	Extra-statutory concession A37 and the related NICs regulation 27 should be put into legislation to give greater certainty.	Consider	No	
383 C	HMRC should publish updated guidance on the status rules for the film, TV and production industry, with clear signposting from the gov.uk website.	Consider	No	
384 A	Easements and concessions for particular occupations should be formalised in HMRC Statements of Practice and given proper publicity. In particular film industry grading lists and the basis of any agreements should be fully set out within HMRC guidance. All these arrangements should be consistent for both tax and NICs purposes.	Consider	No	Tel call 13.02.17 HMRC agreed current easements and concessions should form Statements of Practice, but as above, online tool was seen as the way forward. The categorisation regulations serve an important purpose but they are kept under review. OTS comment: This area needs to be kept under OTS review post Taylor report. On office holder, HMRC considered there was a good case to continue to distinguish as there was a different legal treatment, but undertook to improve guidance. Accept that the substantive recommendation will not be implemented.
385 AE	A review should be launched into the NICs categorisation regulations, with a view to their abolition. The aim would be to have a single set of rules, rather than a range of rules that override the main rules in some circumstances and which can result in differing treatments of the same income for income tax and NICs purposes.	Consider	No	
386 F	The distinction between 'office holder' and 'employment' should be abolished in the tax legislation. This would apply to income tax and NICs.	Consider	No	
387 B	There are lessons from a number of other countries that can usefully be drawn on for the UK.	Consider	No	387 & 388 will not be commented on by HMRC until the Taylor report on Ways for Working has been published. On 389, progress has been made on Gov.uk dedicated employment status pages, and the Check Employment Status for tax pages for access to online tool for tax answer across different structures (HMRC email 9.5.17)
388 B	The idea of a set de minimis level for payments to an individual who carries out some activities for a business, which would definitely not be an employment, should be explored.	Consider	No	
389 A	All of the government's guidance material on employment status should be brought together in some form of 'employment status portal',	Consider	No	

	covering both tax and employment rights.			
390 A	HMRC should issue guidance on the documentation and actions they would expect to see a business take when engaging a self-employed individual (in effect, a document setting out 'what good looks like').	Consider	No	HMRC see the Check Employment Status for Tax online tool as giving greater certainty.
391 A	HMRC should consider the idea of a 'safe harbour' basis that balances businesses' need for certainty with the risk to HMRC. The main aim would be that an HMRC employment status ruling could apply from the date of the ruling, but could not apply retrospectively.	Consider	No	HMRC have said in context of off payroll working that they will stand by the online tool result provided completed correctly. (HMRC email 9.5.17) OTS need to keep retrospection point on rulings under review.
392 A	HMRC should set up an employment status helpline, where businesses are able to discuss specific queries with an HMRC officer with specialist knowledge of the subject.	Consider	No	Employment status helpline exists and staff capability built (above email).
393 B	HMRC guidance should have more examples of common real life situations and show how employment status case law applies to them.	Consider	No	
394 B	HMRC should consider allocating more resources to employment status and/or ensure that more HMRC employer compliance staff receive specialist training in this area.	Consider	No	HMRC to await publication Taylor Ways of working report (above email)
395 B	HMRC should explore any synergy between the IR35 Forum's recommendations for IR35 purposes and those of the OTS under this employment status review.	Consider	No	
396 A	The case law underpinning HMRC's Employment Status Indicator needs to be reviewed and updated, ideally in an open and transparent way, perhaps by establishing a working group.	Consider	No	
397 A	HMRC's ESI tool should be improved to: (a) Include more real life examples (b) Consider using more industry specific questions (c) Improve help and guidance (d) Prevent software freezing.	Consider	No	
398 A	HMRC's ESI tool should be reviewed to: (a) Consider developing two or more versions for different major industry sectors (b) Better adapt the content and presentation to the users.	Consider	No	Items 396-399 have been dealt with through the work HMRC have carried out to update and recast the ESI into the Check Employment Status for Tax tool that is now operative to support the extension of the IR35 rules for public sector bodies.

399 A	Many businesses and representative bodies also indicated that if the ESI tool is properly and reasonably completed (a concept that would clearly need to be defined), then the results should be definitive. We recommend that this is explored in the context of the 'safe harbour' idea above.	Consider	No	This will be informed by the Call for Evidence on Employee expenses; it is also likely to be considered as part of the follow-up to the Taylor report on Ways of Working; OTS need to keep under review.
400 B	There is a need for a proper review of the rules around expenses for the employed and self-employed, to ensure that these are appropriate for current working practices.	Consider	No	HMRC have said in context of off payroll working that they will stand by the online tool result provided completed correctly. (HMRC email 9.5.17)
401 D	The OTS believes there is no easy way to abolish employers' NICs, but an important first step would be to increase transparency around them and hence the understanding of the average individual of how much is being paid in what is, in effect, a payroll tax.	Consider	No	On 401, this has effectively been dealt with through the OTS's Closer alignment of IT/NICs work.
402 D	We think that there is merit in reiterating our previous suggestion of a full review of the taxation of small businesses. That could cover limited companies, partnerships/LLPs and sole traders, and would have regard to employee taxation.	Consider	No	This is being taken forward following the OTS's Small Company Taxation project and in particular our recommendation at the conclusion of our Lookthrough project. Again, it may get attention following the Taylor report in the Summer. An area for the OTS to keep under review.

Annex 2 – Employee Benefits and Expenses

We sought to review 16 recommendations from the Employee Benefits and Expenses Review. Three of these (243, 265 and 274)¹ had been accepted at least in part but not yet fully implemented, nine were being considered and three had been rejected.

The HMRC policy lead has been supportive of much of OTS's recommendations and told us that they had played a key role in informing the work of her team. However, the recommendations would take time to implement. More of the recommendations had been accepted and implemented than we initially understood. In particular three announcements in the 2017 Spring Budget on Accommodation Benefits, Taxation of Benefits in kind and Employee expenses cover many of the OTS recommendations.

Of the accepted recommendations, 243 had now been implemented. 265 was being considered as part of the employee expenses work but there are still difficult questions to answer, especially in identifying the winners and losers of any rate revision and the impacts on them. This also covers the expenses issues raised in recommendation 280 (automatically allowing subscriptions to organisations with a clear business purpose) and 287 (reviewing whether there should be a deduction for non-reimbursed costs for work related training). 275 is being considered in line with OTS recommendations as part of a package of measures on accommodation benefits that would also implement recommendations 240 that has now been substantially overtaken, 273, 281 and 282.

The quick-win recommendation 244, to only have to enter relocation expenses once instead of three times on the P11D form, has been accepted and implemented. Recommendation 274 on travel and subsistence has been accepted but not yet implemented.

Progress on recommendation 284, to allow all removal expenses rather than just up to the outdated £8,000 limit, is less clear. It might be covered by the employee expenses review announced in the Spring Budget but HMRC have accepted it as an issue that needs to be considered.

There is still no intention to implement recommendation 263 that was initially rejected and this is one we probably have to accept. The other rejected recommendation 268 has also not been implemented but HMRC has agreed to take it away and consider it further. Meanwhile recommendation 272 (modernising rules for workplace lunches) that was initially rejected has now essentially been accepted as forming part of the much broader review of the taxation of benefits.

As a result 13 of the 16 recommendations we set out to discuss further have been implemented or are being taken forward including one that was initially rejected.

No.	Recommendation	Accepted by HMRC	Implemented by HMRC	Comments
240 B	HMRC to review published list of employments where it	Under Review	No	<i>HMRC update: "HMRC are actively considering the options for possible reform of this area of tax policy, following the release of the OTS final</i>

¹ Recommendations 243 (publish guidance on temporary workplace rules for projects carried out in phases), 265 (review and update flat rate expenses, and employers allowed to include employees' claims through the payroll) and 274 (10 yearly formal reviews of tax reliefs for travel and subsistence).

	is "customary" to get accommodation.			<p>report into employee benefits in kind and expenses and the recommendations made on living accommodation."</p> <p>Budget 17 announced review of accommodation benefits. This will be in line with OTS recommendations, looking at who is chargeable/exempt and how the charge is calculated.</p>
243 A	HMRC to publish guidance on temporary workplace rules for projects carried out in phases.	Yes	No	<p>HMRC update: "HMRC are finalising work on reviewing the content of booklet 490 and are scheduled to have this completed in May 2015."</p> <p>The booklet 490 has been updated and the revised guidance has been well received.</p>
244 A	Why do relocation expenses need to be entered in three different places on the form P11D? Once is enough.	Under Review	No	<p>HMRC update: "Design changes will need to be made to the P11D for 2015/16 and 2016/17, and the possibility of making other changes will be looked at the same time." Now done</p>
247 C	Add a box to the P11D to tick if the benefit is just for one year.	Under Review	No	<p>HMRC update: "Design changes will need to be made to the P11D for 2015/16 and 2016/17, and the possibility of making other changes will be looked at the same time."</p> <p>HMRC will keep this under consideration for when other changes are being made to the P11D.</p>
263 F	Remove the 5 April requirement in s274 ITEPA: change it to 'within X months of commencing new duties'.	No	No	<p>HMRC Update: "This 'Quick win' is not being taken forward."</p> <p>There are currently no plans to make his change. Remains something HMRC does not want to do: we probably have to accept this.</p>
265 B	Flat rate expenses need to be reviewed and updated, and employers allowed to include employees' claims through the payroll.	Yes	Partly	<p>HMRC update: "HMRC will consider ways of improving the administration of FREs."</p> <p>Employee expenses call for evidence announced Budget 17: amongst other things it will explore why employers do not reimburse expenses resulting in their employees needing to make claims for tax relief</p>
268 C	A specific code for homeworkers with one clear definition of homeworking for all tax purposes.	no	No	<p>HMRC update: "The government will undertake a review of the principles and rules underlying the tax treatment of travel and subsistence expenses. The review will consider how the tax treatment of these expenses can be simplified and best address the challenges of the changes to modern working and travel patterns."</p> <p>HMRC recognise the need for clarity and will consider this further.</p>

272 B	Consideration is given to an exercise to modernise the rules for workplace lunches and canteens to improve consistency.	272 No	272 No	<i>HMRC update: "The government will undertake a review of the principles and rules underlying the tax treatment of travel and subsistence expenses. The review will consider how the tax treatment of these expenses can be simplified and best address the challenges of the changes to modern working and travel patterns."</i>
273 B	Where a deduction is available for attendance at a temporary workplace, living accommodations should be included in a P11D dispensation whether provided through hotel accommodation or use of a company flat (or equivalent).	273 under review	273 No	Taxation of benefits call for evidence announced Budget 17 – potentially answers the OTS suggestion of having a fundamental review of benefits taxation; trying to address the issue of how different routes to giving a benefit can end up with very different charges and indeed the whole 'what is a benefit' question.273 (largely overtaken) Budget 17 announced review of accommodation benefits. This will be in line with OTS recommendations, looking at who is chargeable/exempt and how the charge is calculated.
274 A	A formal review of tax reliefs for travel and subsistence should take place every ten years to make sure the system fully recognises changing work patterns.	274 partly	274 partly	274 HMRC keep the travel and subsistence rules under review.
275 B	Before our more fundamental suggestions are pursued, the HMRC manual guidance should be reviewed to make clear that HMRC consider substantive duties and not job titles. We would also encourage consideration being given to the development of a check list or tool which could help readers assess whether the customary test is met or not.	Under review	No	<i>HMRC Update: "HMRC are actively considering the options for possible reform of this area of tax policy, following the release of the OTS final report into employee benefits in kind and expenses and the recommendations made about living accommodation. Guidance will be reviewed once the policy is settled."</i> Budget 17 announced review of accommodation benefits. This will be in line with OTS recommendations, looking at who is chargeable/exempt and how the charge is calculated.
280 B	Could subscriptions to organisations with a clear business purpose be allowed automatically, rather than have a HMRC approved list? Additionally can the list be kept more up to date?	Under review	No	<i>HMRC Update: "HMRC are actively considering the options for possible reform of this area of tax policy, following the release of the OTS final report into employee benefits in kind and expenses and the recommendations made about termination payments."</i> <i>HMRC Update: "HMRC are currently considering options for ways of improving the administration of subscriptions."</i>

				Employee expenses call for evidence announced Budget 17 amongst other things it will explore why employers do not reimburse expenses resulting in their employees needing to make claims for tax relief.
281 B	Explore the need for transitional protection as part of formal consultations about the accommodation proposals.	Under review	No	<p><i>HMRC Update: "HMRC are actively considering the options for possible reform of this area of tax policy, following the release of the OTS final report into employee benefits in kind and expenses and the recommendations made about living accommodation."</i></p> <p>Budget 17 announced review of accommodation benefits. This will be in line with OTS recommendations, looking at who is chargeable/exempt and how the charge is calculated.</p>
282 B	The benefit of the provision of ancillary services other than council tax, water and sewage should be tax exempt if the accommodation is tax exempt.			
284 B	Removal Expenses: the current limit of £8000 is outdated; simplification suggests that all removal expenses are 'allowable', balanced with provisions to guard against abuse. At a minimum, excess reimbursed removal costs should qualify for a settlement via a PSA	Under review	No	<p><i>HMRC Update: "HMRC are currently considering options for ways of improving the administration of removal expenses."</i></p> <p>Taxation of benefits call for evidence announced Budget 17 – potentially answers the OTS suggestions of having a fundamental review of benefits taxation</p>
287 B	A more comprehensive review of work related training should be done, to review whether there should be a deduction for non-reimbursed costs, and under what circumstances.	Under review	No	<p><i>HMRC Update: "The government will undertake a review of the principles and rules underlying the tax treatment of travel and subsistence expenses. The review will consider how the tax treatment of these expenses can be simplified to best address the challenges of the changes to modern working and travel patterns."</i></p> <p><i>H M Treasury have started work on a review of the Travel & Subsistence rules. HMT have spoken to a range of stakeholders and undertaken the initial stages of the review and work continues towards a full public consultation on the framework for a new set of rules."</i></p> <p>OTS comment: this recommendation goes beyond travel & subsistence. We reiterate the need for a proper review of training expenses and it seems the Employee expenses call for evidence announced Budget: amongst other things exploring why employers do not reimburse expenses resulting in their employees needing to make claims for tax relief.</p>

Annex 3 – Competitiveness Report

Further comments in blue reflect recommendations that were revisited in this review

We sought to review 12 recommendations from the competitiveness report for further review. One of these² was originally rejected by HMRC and we sought to challenge HMRC's initial conclusion. The other 11 were accepted either in part or in full but were not yet fully implemented at the time of the last update.

Recommendations 350, 351, 352 and 357³ relate to VAT and will be covered in more detail during the OTS's VAT review. HMRC had begun a broader review conducted with Ipsos MORI to look into the operation, merit and popularity of their simplification measures. However, work was overtaken by efforts to develop counter measures to prevent misuse of the flat rate scheme. HMRC will wait until the OTS VAT review is complete before taking a further look at these recommendations.

No.	Recommendation	Accepted by HMRC	Implemented by HMRC	Comments
350 D	Review whether the VAT capital goods scheme is still needed and whether its scope can be reduced.	Consider	No	<i>HMRC update: "We cannot remove the capital goods scheme. This is a fundamental part of the tax and governed by EU rules. Without the scheme many businesses will lose out. For example those businesses who initially acquire a qualifying asset and cannot deduct VAT, because they are not making taxable supplies. If the level of taxable supplies increases over time the CGS adjustments ensure the business is able to recover a proportion of VAT to reflect the increased taxable use of the asset. Without the CGS the input tax will remain irrecoverable. The scope of the scheme could be reduced by increasing the value threshold for assets to be included in the scheme. This would attract both positive and negative reaction. When the CGS was last changed in 2011 some respondents to the consultation were conscious that a higher threshold would disadvantage smaller businesses with assets that fall outside the Scheme and who would not be able to claim back previously irrecoverable input tax. There were also concerns about changing the rules and causing confusion and complexity relating to avoidance and anti-avoidance legislation. Any changes to the scope of the CGS would require amendments to the VAT General Regulations and consultation with</i>

² Recommendation 372: Review the Senior Accounting Officer system for large businesses to see if it remains necessary.

³ These recommendations are to review whether the capital goods scheme is still require or can have its scope reduced, introduce de minimis amounts for changes to VAT retail schemes, review flat rate schemes and improve guidance for property transactions, including better defining "dwelling".

				<p>stakeholders and would have a revenue impact. The scheme was extensively revised in 2011 and will be kept under review as part of regular policy maintenance.”</p> <p>Being considered as part of the OTS VAT review</p>
351 D	VAT retail schemes need to have de minimis amounts for changes built in so that there is more leeway before a retailer needs to change their arrangement.	Consider	No	<p>HMRC update: “We plan to carry out a scoping study in the financial year 2015/16 to consider whether implementing the recommendation would produce an administrative benefit for retailers, whilst enabling them to account for and pay the right amount of tax.”</p> <p>Being considered as part of the OTS VAT review</p>
352 D	Review VAT flat rate schemes and update rates.	Consider	No	<p>HMRC update: “The FRS Scheme is to be reviewed (2015/16) during an overall examination of how VAT Simplification Schemes operate to determine whether they are providing the simplification measures required by smaller businesses.”</p> <p>HMRC note that this plan was been overtaken by action needed to tackle abuse of the flat rate scheme. Generally being considered as part of the OTS VAT review</p>
357 D	Improve VAT guidance on property transactions, particularly for small businesses and the definition of “dwelling”.	Yes	Partly	<p>HMRC update: “Pilot project to test proof of concept on use of IT tool to develop improved interactive guidance for customers in targeted areas of Indirect Tax. Project to report internally by 30/6/15”</p> <p>Will be considered as part of the OTS VAT review</p>
360 H	Legislation needs to be amended to allow employers to give authority for 3 rd parties such as software providers to deal with HMRC on payroll issues.	Yes	No	<p>HMRC update: “It is thought that a legislative change would not be required for employers to allow software providers to act on their behalf as a taxpayer should be able to appoint anyone to act on their behalf currently. HMRC is still looking into the issue.”</p> <p>[Need response from HMRC]</p>
373 D	Raise the de minimis figure on stamp duty.	Consider	No	<p>HMRC update: “Recommendation being considered in conjunction with stakeholder group. Discussed with group in February 2015, asking group to submit comments on proposal, together with examples of where current legislation/policy creates uncertainty/difficulty/inequity for taxpayers.”</p> <p>This is a component of the current OTS paper Stamp Duty review</p>

374 D	Remove the rule that a company secretary commits an offence if they register an unstamped stock transfer form, or the process for stamping itself should be simplified.	Partially consider	No	<p>HMRC update: "Recommendation being considered in conjunction with stakeholder group. Discussed with group in February 2015, asking group to submit comments on proposal, together with examples of where current legislation/policy creates uncertainty/difficulty/inequity for taxpayers."</p> <p>No discernible action but this is a component of the current OTS paper Stamp Duty review</p>
375 D	Review the rules surrounding stamp duty reserve tax and interactions with stamp duty, including group relief for SDRT.	Consider	No	<p>HMRC update: "Recommendation being considered in conjunction with stakeholder group. Discussed with group in February 2015, asking group to submit comments on proposal, together with examples of where current legislation/policy creates uncertainty/difficulty/inequity for taxpayers."</p> <p>No discernible action but this is a component of the current OTS paper Stamp Duty review</p>
376 C	Streamline the requirement to make a stamp duty land tax return at the five year point for a lease with uncertain rent.	Yes	No	<p>HMRC update: "Recommendation being considering in conjunction with stakeholder group. Discussed with group in February 2015, asking group to submit comments on proposal, together with examples of where current legislation/policy creates uncertainty/difficulty/inequity for taxpayers."</p> <p>HMRC email 16.5.17: "Few details were provided to HMRC in response to a request for information about leases that caused problems in practice. We intend to revisit and reconsider streamlining options in the near future."</p>
346 D	HMRC should streamline iXBRL processes and publicise how they use the information.	Partly	Partly	<p>HMRC update: HMRC continues to work with a range of stakeholders including the Financial Reporting Council, agent representatives, and software suppliers. For example, new guidance was issued in February 2015 to support the successful implementation of XBRL taxonomies that accompany new accounting standards.</p> <p>Some limited progress but there will be a recommendation in the current OTS Corporation Tax review that iXBRL reporting is effectively subsumed into MTD reporting.</p>
350 D	Review whether the VAT capital goods scheme is still needed and whether its scope can be reduced.	Consider	No	<p>HMRC update: "We cannot remove the Capital Goods Scheme. This is a fundamental part of the tax and is governed by EU rules. Without the scheme many businesses will lose out. For example those businesses who initially acquire a qualifying asset and cannot deduct VAT, because they are not making taxable supplies. If the level of taxable</p>

				<p>supplies increases over time the CGS adjustments ensure the business is able to recover a proportion of VAT to reflect the increased taxable use of the asset. Without the CGS the input tax will remain irrecoverable.</p> <p>The scope of the scheme could be reduced by increasing the value threshold for assets to be included in the scheme. This would attract both positive and negative reaction. When the CGS was last changed in 2011 some respondents to the consultation were conscious that a higher threshold would disadvantage smaller businesses with assets that fall outside the Scheme and who would not be able to claim back previously irrecoverable input tax.</p> <p>There were also concerns about changing the rules and causing confusion and complexity relating to avoidance and anti-avoidance legislation.</p> <p>Any changes to the scope of the CGS would require amendments to the VAT General Regulations and consultation with stakeholders and would have a revenue impact.</p> <p>The scheme was extensively revised in 2011 and will be kept under review as part of regular policy maintenance."</p> <p>This is part of the OTS's VAT review</p>
372 D	Review the Senior Accounting Officer system for large businesses to see if it remains necessary.	No	No	<p>HMRC update: "Feedback from advisors, CRMs and HMRC customer surveys confirms that the SAO legislation has been effective in encouraging very large companies and groups to strengthen tax governance, processes and controls, something that the OECD has recognised as a priority in the management of tax risk.</p> <p>However, HMRC does keep the application of such administrative requirements under regular review, most recently in 2011."</p> <p>No willingness to revisit but the issue will be touched on in the OTS CT report so leave this specific point.</p>
380 A	Introduce a monthly payment option system for small business corporation tax and income tax.	Yes	No (but part of MTD)	<p>HMRC update: "This recommendation has been incorporated into the Government's vision to modernise the tax system. As announced at budget, small businesses will have the option to pay as they go, to help them manage their tax flow."</p>

Annex 4 – Partnerships

We reviewed 8 of the recommendations under this review. With two notable exceptions, work has been undertaken within HMRC on these, on one occasion (number 325) involving the OTS but otherwise not. In particular, the recommendations 312, 326 and 327 on a single gift aid declaration for partnerships, feed into learning point 5 on policing recommendations. Previous HMRC guidance allowed the practice of a partnership making a single gift aid declaration, which was a useful informal practice but not in accordance with the legislation. The OTS had pushed for the legislation to be changed to legitimise this practice. However, from 6 April 2015, the guidance was changed to disallow the practice. There was no public announcements of the intention to subsequently legislate which would effectively restore the previous position, and the OTS were contacted in the interim by concerned stakeholders. The OTS approached the policy team within HMRC and it became clear that new regulations would be laid in 2017, to allow partnerships to act as intermediaries between partners and charities when partnerships make charity donations. Each partner could then authorise the partnership (as intermediary) to support his/her share of a charity donation with a Gift Aid declaration, giving certainty to the procedure, due to take effect from 6 April 2017.

The two exceptions where no work is being undertaken on the recommendations are at 313 and 316. Recommendation 313 relates to the anomaly where business asset relief is available to a holding company, but not where an LLP holds the trading companies. There is a parallel with entrepreneurs' relief, although clarification within HMRC guidance is planned on this point following the election. The OTS feel a wider review should be carried out on these reliefs. Recommendation 316 proposed allowing partners to claim their allowable expenses incurred from their share of the profits, where the partnership agreement is set out on this basis.

This is an issue that the OTS reiterated in the final partnerships report. The OTS note the current litigation in this area, although the point at issue goes further, involving expenses that may not be wholly & exclusively incurred in the particular trade, in addition to the principle of which level they be relieved. The OTS need to continue to review this proposal when the case is resolved.

No.	Recommendation	Accepted by HMRC	Implemented by HMRC	Comments
302 C	HMRC guidance should be clearer on stamp duty land tax (SDLT) liabilities following changes in profit sharing ratio.	Yes	No	<p><i>HMRC update: "HMRC works closely with stakeholders on a continuing basis regarding SDLT rules and guidance. We will examine this area and strengthen existing guidance which will then be included in the HMRC consolidated partnership tax manual."</i></p> <p>HMRC email 11.5.17: "HMRC recognises the importance of our guidance to customers. The partnership chapter of the SDLT manual still needs to be improved. HMRC is currently undertaking a wider review of SDLT guidance and engaging with external stakeholders on prioritisation. We will be improving the partnerships section of the manual in due course as part of that work and then considering what consequential improvements should be made to the Partnerships Manual."</p>

310 B	<p>Tax returns for partnerships can be simplified by simplifying basis periods for non-trading income for partnerships, probably by being able to sweep small amounts of interest or property income into trading income.</p> <p>There should be consideration to phasing out overlap relief and replacing it with something that better interacts with double taxation agreements.</p>	Under review with MTD	No	<p><i>HMRC update: "HMRC will consider both of these points as part of a more general review into the way the rules around basis periods and overlap relief operate."</i></p> <p>Following the consultation on basis periods (although this excluded partnerships curiously) it had not been planned to pursue in the original 2017 finance bill. However, the area would remain under review in light of MTD (including partnerships) for the 2018 bill.</p>
312 A	<p>The law on gift aid should be changed to allow partnerships to claim relief, paralleling companies.</p>	No	No	<p><i>HMRC update: "The Gift Aid rules for companies operate in a very different way from those for individuals, and the proposal would create inconsistencies with the tax treatment for unincorporated businesses when compared to partnerships, and would involve a major change in primary legislation.</i></p> <p><i>Allowing Gift Aid on donations by partnerships would require significant legislation around the Gift Aid declaration and attributing the donations and tax to individual partners. This would likely introduce complexities for the partnership and the individual partners.</i></p> <p><i>The alternative routes suggested would, however, be a brand new tax relief and would very likely open up obvious questions as to why sole proprietor businesses shouldn't also get the relief. All of this means additional complexity through changes in processes, less income for charities and risks for the Exchequer. This is very likely to reduce charity income.</i></p> <p><i>HMRC policy and technical colleagues responsible for Gift Aid have met OTS colleagues and work is underway to review the guidance."</i></p> <p>Regulations to be laid in 2017 allow partnerships to act as intermediaries between partners and charities when partnerships make charity donations. Each partner can authorise the partnership (as intermediary) to support his/her share of a charity donation with a Gift Aid declaration, due to take effect</p>

				from 6 April 2017. In effect this recommendation has been done.
313 E	There is a strong argument for an equivalent to s105(4)(b) IHTA to be available for partnerships, as this reflects how such entities are being used.	No	No	<p>HMRC update: "Any difference in treatment between a company and an LLP would involve changes to primary legislation. HMRC believes that this would need to be considered as part of a much wider review of Business Property Relief and other IHT legislative changes."</p> <p>OTS to consider review on BPR and ER (ER point included in professional bodies questions at 325 below)</p>
316 E	Allow partners to claim their allowable expenses incurred from their share of the profits, where the partnership agreement is set out on this basis.	No	No	<p>HMRC update: "Allowing individual partners to claim expenses on their personal returns would be likely to add further significant burdens to the administration of partnerships and partners, and not reflect the true profit or loss of the partnership business or the profit share of the individual partners. This may also have significant Exchequer costs and raise compliance issues. The issue is also currently being litigated. Given this, it is unlikely that this proposal will be taken forward."</p> <p>The HMRC position on business expenses deduction at partnership level is a policy red line – they were maintaining a robust view and matter was subject to litigation (Vaines Court of Appeal thought to be heard November 2017). It was acknowledged that the case involved expenses that may not be wholly & exclusively incurred in the particular trade, in addition to the principle of which level they be relieved, and OTS need to review when the case is resolved. (HMRC tel call 27.4.17)</p>
318 C	The position on composite international partnership returns to be formalised to provide certainty, possibly through an HMRC Statement of Practice.	Yes	No	<p>HMRC update: "Customers are entitled to rely on HMRC guidance just as they would on an SP. HMRC welcome suggestions for improving existing guidance on the use of composite returns to ensure that up to date information on the process is available to everyone."</p> <p>HMRC were aware of the difficulties regarding composite international returns, and it was anticipated these would be reviewed through further consultation under MTD. (tel call 27.4.17)</p>

319 A	Guidance on procedures to obtain a Unique Taxpayer Reference is in the Self- Assessment Manual [2], and the OTS recommends that this is clearly linked from the Partnership Manual.	Yes	Partly	<p><i>HMRC update: "HMRC will update guidance on the revised UTR process and will ensure that the partnership manual links to it."</i></p> <p>Following the 2016 partnership consultation, legislation had been drafted in response intending to help partnership reporting. The problem behind the recommendation related to valid partnership returns being rejected purely because of missing UTRs of non UK resident partners. Penalties etc. then followed. A dedicated UTR process has been set up and HMRC guidance would be updated to reflect this.(tel call 27.4.17)</p>
321 H	The alignment of the tax rules of foreign exchange for partnerships should be pursued, but if it is considered that such changes would be too difficult to effect, then at a minimum HMRC should publish clear guidance on the area.	Partly	Partly	<p><i>HMRC update: "Aligning the income tax rules with the corporation tax rules for foreign exchange would represent a significant legislative and policy change, and it is not clear at present that there is sufficient justification for this change. HMRC will however review the current guidance in this area to make sure that it is clear and effective."</i></p>
325 A	Full clarification on the questions raised by the Professional Bodies on entrepreneurs' relief to be included within the Partnership Manual.	Under review	No	<p><i>HMRC update: "HMRC accepts the need to address these questions and a technical advisor will write material for the entrepreneurs' relief section of the Capital Gains Manual. This material will then be cited in or linked to the Partnership Manual."</i></p> <p>These questions have now been addressed, and the Capital Gains and Partnership manual guidance will be fully updated following the election with appropriate signposting from the Partnership manual.(HMRC email 9.5.17)</p>

326 A	HMRC guidance on gift aid needs to be amended to reflect the correct legal position.	Under Review	Partly	<p>HMRC update: "The Gift Aid rules for companies operate in a very different way from those for individuals, and the proposal would create inconsistencies with the tax treatment for unincorporated businesses when compared to partnerships, and would involve a major change in primary legislation.</p> <p>Allowing Gift Aid on donations by partnerships would require significant legislation around the Gift Aid declaration and attributing the donations and tax to individual partners. This would likely introduce complexities for the partnership and the individual partners.</p> <p>The alternative routes suggested would, however, be a brand new tax relief and would very likely open up obvious questions as to why sole proprietor businesses shouldn't also get the relief. All of this means additional complexity through changes in processes, less income for charities and risks for the Exchequer. This is very likely to reduce charity income.</p> <p>HMRC policy and technical colleagues responsible for Gift Aid have met OTS colleagues and work is underway to review the guidance."</p> <p>HMRC guidance changed to disallow the practice of the partnership making a single gift aid declaration from 6 April 2015. See 312 and 327 for new legislation that enables a similar route, but backed by statute rather than practice which went against the previous legislation.</p>
327 A	<p>Introduce two alternative routes to gift aid for partnerships:</p> <p>a) The firm may make a donation and the relevant gift aid declaration is made by the representative partner. The donation would be treated as made under gift aid by the individual partners with the charity entitled to reclaim the basic rate income tax.</p> <p>b) The firm may simply take a deduction for the donation in its computation of trading</p>	No	No	<p>HMRC update: "The Gift Aid rules for companies operate in a very different way from those for individuals, and the proposal would create inconsistencies with the tax treatment for unincorporated businesses when compared to partnerships, and would involve a major change in primary legislation.</p> <p>Allowing Gift Aid on donations by partnerships would require significant legislation around the Gift Aid declaration and attributing the donations and tax to individual partners. This would likely introduce complexities for the partnership and the individual partners.</p> <p>The alternative routes suggested would, however, be a brand new tax relief and would very likely open up obvious questions as to why sole proprietor businesses shouldn't also get the relief. All of this means additional complexity through changes in</p>

	profits. In this case it would be treated as a gross donation with no eligibility for the charity to reclaim basic rate tax, in parallel to the gift aid system for companies.			<p><i>processes, less income for charities and risks for the Exchequer. This is very likely to reduce charity income.</i></p> <p><i>HMRC policy and technical colleagues responsible for Gift Aid have met OTS colleagues and work is underway to review the guidance."</i></p> <p>Regulations to be laid in 2017 allow partnerships to act as intermediaries between partners and charities when partnerships make charity donations. Each partner can authorise the partnership (as intermediary) to support his/her share of a charity donation with a Gift Aid declaration, due to take effect from 6 April 2017. In effect this recommendation has been done</p>
329 A	There appears to be no particular reason for limiting the DTP Scheme to corporate borrowers where the UK tax risk is with the identity of the lender rather than that of the borrower. This distinction appears to simply derive from the terms on which the scheme was written, and we raise this issue for HMRC to review.	Under Review	Yes	<p><i>HMRC update: "The DTP is a scheme that helps overseas corporate lenders by allowing them to receive interest (gross or at the treaty rate) quickly from UK corporate borrowers.</i></p> <p><i>As part of reviewing the DTP scheme next year we will consider how partnerships could also benefit from the DTP scheme."</i></p> <p>May 2016 HMRC issued a consultation on the renewal and extension of the DTP scheme. In the response document published at Spring Budget 2017, it was confirmed that UK partnerships could be admitted to the scheme as borrowers, and overseas partnerships admitted as lenders (where all partners resident in the same jurisdiction and entitled to the same treaty benefits). Per tel call HMRC 17.5.17, broader review prompted by the OTS review, restriction for overseas lenders in same jurisdiction needed for various reasons, effective for loans on/after 6.4.17, recommendation completed.</p>

Annex 5 – Tax Reliefs

We sought to review nine recommendations from the Tax Reliefs Review. Two of these were in the interim report and the other seven were from the final report. None of these recommendations had been accepted by HMRC.

Despite none of these recommendations being accepted at the time, HMRC has subsequently reviewed or reconsidered many of the areas highlighted by the OTS and has gone as far as implementing elements of recommendation 76 to simplify the guidance on CGT entrepreneurs' relief. The guidance had been rewritten to take account of new measures in the 2016 Finance Act. However, they were not able to implement flowcharts we had also recommended as they presented formatting difficulties.

There was agreement that the lease premium relief should be reviewed as per recommendation 65 to see if it could be simplified to follow the accounting treatment for lessors and lessees, although it is not clear whether this will actually take place: it would be good small OTS project. It was also mentioned that principal private residence relief (recommended for simplification as per recommendation 82) will in fact be reviewed under HMRC's practice of regularly reviewing reliefs.

There has been more positive action regarding recommendation 80⁴ as this relief has been reviewed as part of the Company Distributions Condoc and an advance clearance process and checklist has now been put in place. This is a good step in the right direction but there still appears to be scope to provide further simplification by better signposting in the CT manual and publishing case studies on successful applications.

HMRC has further reviewed recommendations 79 and 83⁵ but has still decided not to accept them. There has been no further update on recommendations 63, 74 and 75.⁶

No.	Recommendation	Accepted by HMRC	Implemented by HMRC	Comments
63 D	VAT and charities – revise and clarify HMRC guidance.	Yes	No	<p>HMRC update: "In response to the OTS VAT recommendation in its review of the Competitiveness of UK tax administration where the OTS recommended that HMRC should look for ways of giving greater certainty over the categorisation of supplies both in terms of rulings and boundary issues, and that there needed to be better guidance around property transactions, particularly aimed at smaller businesses, the Government said at AS14 that it would accept the recommendations."</p> <p>Something to check through the OTS VAT review</p>

⁴ 80 – Simplify relief for company purchase of own shares, for example by using a simple online questionnaire or by publishing case studies.

⁵ 79 – Abolish shadow advance corporation tax and surplus ACT. 83 – Increase chattels exemption from £6,000 to £12,000.

⁶ 63 – Revise and clarify HMRC guidance. 74 – Simplify guidance on qualifying conditions, using flowcharts or checklists. 75 – Align time limits and conditions of EIS and VCT schemes.

65 E	Lease premium relief – review the tax regime covering leases, simplify to follow accounting treatment for lessors and lessees. (Also see page 23 of final report)	No	No	HMRC advised there had been some avoidance where relief claimed but premium was not charged on exempt body. They acknowledged this is worth another review of the lessor/lessee provisions to see if it still followed the original provisions; need to ascertain whether accounting treatment (IFS16) was really an answer. Potentially an area for OTS to review.
74 A	Venture capital schemes – simplify guidance on qualifying conditions, using flowcharts or checklists.	No	Yes	Following a consultation on streamlining the advance assurance service for the tax-advantaged venture capital schemes, HMRC is reviewing its guidance to make it easier and more accessible. <i>[para 3.5 of summary of responses]</i> . ⁷
75 D	Venture capital schemes – align time limits and conditions of EIS and VCT schemes.	No	No	Potentially within the OTS OMB project if that happens.
76 A	Capital gains tax, entrepreneurs’ relief – simplify guidance on qualifying conditions, using flowcharts or checklists.	No	Yes	HMRC guidance paragraphs on Entrepreneurs’ Relief were rewritten by their technical adviser to bring in FA16 measures. Partnership SP D12 changes already incorporated. Unfortunately flowcharts presented format problems. Non-statutory clearance available for trading/non-trading, FA16 made it difficult to give assurances, but this had now been resolved. Effectively completed.
79 D	Corporation tax – abolish shadow advance corporation tax and surplus ACT.	No	No	Discussed as part of OTS Corporation Tax review (only couple of hundred companies remain with surplus ACT) - could shadow ACT be abolished to simplify means of relieving those remaining with surpluses? Included in OTS CT report.
80 C	Corporation tax – simplify relief for company purchase of own shares, for example by using a simple online questionnaire or by publishing case studies.	No	No	Has been reviewed as part of Company Distributions Condoc - advance clearance, and checklist in place – OTS have suggested better signposting from the CT manual and revisiting proposal for case studies on successful applications. HMRC to consider.
82 C	Capital gains tax – simplify principal private residence relief, especially the qualifying conditions.	No	No	HMRC say the intent of PPR is being looked at under good practice to periodically review significant reliefs. HMRC acknowledged a good idea to look at the guidance, including help sheets and signposting. Could be a subject for OTS to review depending on what happens but unlikely to be an area for significant change because of sensitivities.

⁷ For DN: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/601206/Tax-advantaged_venture_capital_schemes__streamlining_the_advance_assurance_service_-_summary_of_responses.pdf

83 F	Capital gains tax – increase chattels exemption from £6,000 to £12,000.	No	No	Limit of £6,000 had not changed but HMRC internal review found no reason to revise in view of the number of associated exemptions, e.g. wasting assets, meaning very limited number of cases where limit exceeded. Accept position.
---------	--	----	----	--

Annex 6 – Penalties

We sought to review four recommendations from the Penalties Review:

- 47: Harmonise VAT penalties for late filing/payment with other taxes by extending Sch 55 and 56 FA09 to VAT
- 335: Allow alternative payment methods for overdue PAYE/NICs – currently limited to UK cheques
- 338: Carry out assurance work on suspension of penalties for carelessness to improve consistency
- 341: VAT penalties: De-register businesses that have stopped trading

Recommendation 47 is being progressed via MTD and HMRC is currently consulting on an interest based penalty, while the issue raised with recommendation 335 has been accepted and HMRC is currently review potential solutions.

HMRC originally accepted recommendations 338 and 341. Regarding 338, HMRC conducted a review that found an issue with section CH83143 of their guidance that suggested too restricted an approach to suspension. They are now consulting with the Compliance Reform Forum on a suitable solution and have also committed to review inaccuracy penalties to make them more straightforward and easier to understand.

HMRC has also taken a number of steps to de-register businesses that have stopped trading (341) and the percentage of businesses submitting nil returns has fallen from 10% to 6%.

No.	Recommendation	Accepted by HMRC	Implemented by HMRC	Comments
47 B	Harmonise VAT penalties for late filing/payment with other taxes by extending Sch 55 and 56 FA09 to VAT.	Under Review with MTD	No	<p><i>HMRC update: "Future VAT late filing/payment penalties will be developed through the new HMRC penalty consultation."</i></p> <p>This is now being taken forward through MTD</p>
335 A	Allow alternative payment methods for overdue PAYE/NICs – currently limited to UK cheques.	Under Review	Partly	<p><i>HMRC update: "PAYE underpayments are normally collected through adjustments to the customer's tax code. Where that can't take place customers are asked to make a payment on a voluntary basis by cheque. If payment is not received a small number are set up in Self-Assessment so that formal processes can be used to collect the tax due. HMRC are aware that some customers would prefer to make payment by card over the telephone and although the individual's record will be updated with that payment, currently there isn't an automated link to remove the underpayment from a planned future code. We are exploring options following a recent trial to overcome this issue as well as working with colleagues to see if the ITA process can be adapted to support a better service for our customers. Any payment by card over the telephone is likely to be limited to single payments only."</i></p>

				Evidence suggests satisfactory; credit card payment not something we would want to see pushed as a prime route in any event.
338 C	Carry out assurance work on suspension of penalties for carelessness to improve consistency.	Yes	Partly	<p>HMRC update: "HMRC are currently scoping a pilot to examine suspension cases to establish whether the customers have complied with conditions and if the conditions set by the caseworkers were SMART (Specific, Measurable, Achievable, Realistic, Timely)."</p> <p>The Compliance Reform Forum (CRF) have raised an issue with a particular section, CH83143, of HMRC's guidance on suspension. The guidance covers the types of circumstances in which it is possible to set suspension conditions. HMRC accepts that CH83143 suggests too restricted an approach to suspension. HMRC has agreed to consult with CRF members on the new guidance to help ensure HMRC officers, customers and their representatives have a common understanding of the scope of suspension.</p> <p>HMRC has committed to review inaccuracy penalties to make them more straightforward to operate and understand than the current system. As part of this work we will consider the operation of suspension. HMRC will consider changes to inaccuracy penalties after it has completed their review of sanctions for late submission and late payment.</p>
341 D	VAT penalties: De-register businesses that have stopped trading.	Yes	Partly	<p>HMRC update: "HMRC have a pilot in progress in Compliance Centres to identify businesses which have ceased to trade and deregister them."</p> <p>HMRC is pursuing a number of avenues to identify and de-register those who are no longer trading:</p> <ul style="list-style-type: none"> - HMRC undertook a cleanse exercise by profiling customers who were submitting nil returns. This led to the proportion of those on the register submitting nil returns falling from 10% to 6%. - With a change in the legislation to allow variations and de-registrations to be made by other means than just writing in, HMRC has implemented a process for internal referral if a customer tells us on the phone that they are no longer trading - HMRC has trialed a risk profile to identify customers who are probably no longer trading, and are failing to submit returns. The trial showed that nearly 75% of those identified were de-registered. HMRC is in the process of implementing this as BAU. - HMRC is in the process of investigating how HMRC can use its current links to Companies House data to identify and de-register companies that are in the process of being struck off. - HMRC continues to de-register businesses which go missing and cannot be traced

			<p>- HMRC is continuously improving profiles and processes to pro-actively identify and de-register those who are no longer required to be registered.</p>
--	--	--	--

As more data becomes available from across and outside of HMRC, the identification will improve in its accuracy, and the processes will become less resource intensive.

Also something to consider as part of the OTS VAT review

Annex 7 – Unapproved Share Schemes

We sought to review three recommendations from the Unapproved Share Schemes Review:

- 201: Increased pre-transaction valuations for unapproved schemes under certain circumstances.
- 202: Provide outline valuation methodologies and checklists.
- 203: More flexibility for non-recognised stock exchange listed companies.

Recommendations 201 and 202 were under review while recommendation 203 was initially rejected. HMRC is now working with relevant stakeholders that valuations will not be challenged unless they are demonstrably unreasonable. This in effect solves 201. HMRC is also consulting on changes to improve guidance setting out steps to follow in arriving at a valuation. This tackles the issues that we were attempting to address with recommendation 202.

HMRC has continued to reject recommendation 203 due to potential risks with tax avoidance schemes.

No.	Recommendation	Accepted by HMRC	Implemented by HMRC	Comments
201 B	Increased pre-transaction valuations for unapproved schemes under certain circumstances.	Under review	No	<p>HMRC update: "Considered further once the impact of the employee shareholder status on HMRC's valuation resources has been assessed".</p> <p>Post-transaction valuations now removed, per recommendation 202 below, HMRC meeting outside bodies, employment related security forums, in order to improve guidance to provide greater clarity and increase certainty that no challenge unless valuation demonstrably unreasonable.</p>
202 B	Provide outline valuation methodologies and checklists.	Under review	Partly	<p>HMRC update: "Ongoing work to improve valuation guidance".</p> <p>Currently under discussion between HMRC and outside professional bodies, for guidance setting out steps to follow in arriving at a valuation. Bread & butter valuations should be straightforward, aim is to educate and build confidence (this process used recently to improve EMI scheme and Employee Shareholder scheme).</p>
203 F	More flexibility for non-recognised stock exchange listed companies.	No	No	<p>HMRC update: "The Government believes that it is beneficial for both businesses and HMRC to have flexibility to be able to adopt a different valuation approach where appropriate."</p> <p>HMRC confirmed where straightforward, there is no issue with using previous day's closing price, but issue with making this automatic owing to tax avoidance schemes utilising smaller stock exchanges, with significant tax at stake. Accept the position.</p>

Annex 8 – Pensioners project

We did not carry out a formal review of the recommendations from the Pensioners project with HMRC as it was possible for us to do a desktop review. There were in effect nine recommendations, five technical/policy and four administrative. As we were well aware at the time, many would apply to all taxpayers, not just pensioners but that did not seem to be a reason not to put them forward – nor an excuse for not taking action.

Administrative

1. The DWP should introduce a 'DWP60' form, to report the taxable/non-taxable benefits that pensioners receive during the year

Not pursued due to DWP concentration on Universal Credit but much improved information flow between DWP and HMRC now in place so pre-population of tax returns now manages some of this issue. It is not a complete solution however.

2. HMRC should introduce a composite PAYE coding notice – 'P2C'

The revised Coding notices effectively delivers this with a listing of the way jobs fit together.

3. Better information needs to be provided on how the State Pension is taxed

Our interim report had concluded that ideally state pension should be brought into the PAYE net but it was clear that (partly because of DWP resourcing issues) this was never going to happen. Accordingly we asked for better information on the state pension's taxability to be promulgated. This does seem to be happening and the efforts of groups such as LITRG to reinforce the message continue. Pre-populating tax returns with state pension payments helps greatly but it does not necessarily solve the problem completely; some pensioners may still be surprised or confused with a tax demand on their state pension.

4. The Form R85 needs to be redesigned and improved, and HMRC needs to do more to check that savers are not over/underpaying tax on savings

The form was indeed redesigned and the accompanying guidance improved. But the substantive issue has been overtaken by legislative changes as the first tranche of savings interest is now exempt and the 20% deduction at source no longer applies.

5. The R40 form should be dealt with electronically, not just by paper.

Effectively done

Technical

6. The 10% savings rate should be abolished

Not formally abolished, but now effectively redundant following wide reforms to the taxation of savings interest.

7. The married couples allowance, if retained, needs to be simplified

No action taken; action was concentrated on the general transferable married allowance. The MCA for the elderly remains over complex but it seems a decision has been taken to allow it to 'with on the vine'.

8. The Blind persons allowance should be replaced with direct grants to eligible people; if it is retained the claims process needs to be simplified

The OTS's recommendation was rejected, due to cost and the difficulty in presenting it. It is not clear whether the simplification process has been simplified.

9. The little-known relief for interest on loans for life annuities taken out before April 2009 should be abolished in five years' time.

Consultation took place on the abolition but it was decided following the consultation to leave it in place.

Annex 9 – Reliefs

In a separate exercise for the Financial Secretary to the Treasury, we looked generally at the results of the 2010/11 project and tried to set out which reliefs recommended for abolition in Chapter 4 the 2010/11 Review are still with us.

The table below gives the ‘scoreboard’ in terms of the reliefs we looked at, as set out in Chapter 4 in the Reliefs report. This listed 43 for abolition; with some further work 50 were considered for abolition. Of those, the government rejected the OTS recommendation in 8 cases; 4 were retained following consultation; one was to be reviewed and reformed more widely (only limited action taken).

Of the rejections, some were for no expressed reasons; some for challengeable reasons; consultation overturned planned abolition of Late Night Taxis for reasons that could be challenged given the advent of the Trivial benefits relief.

We listed separately 17 reliefs that we thought needed fuller review to simplify their operation: see the analysis below. Some were large, complex and important reliefs; others were smaller but would still benefit from simplification; some seemed to need a line drawing under them. At the time, we envisaged that having saved the Exchequer a small amount through the abolition recommendations, that money could help in considering simplification of one or more of these items (as happened with entrepreneurs relief improvements). There is clearly scope for some to be in our future work programme.

Numerical analysis of reliefs reviewed in the 2010-11 OTS project work

The March 2011 report⁸ analysed our findings on 155 reliefs; there were 3 others noted in the interim report. Our conclusions on the reliefs:

• Retain	54	
• Needing more work	30 ⁹	
• Already under review/consultation by HMRC/HMT	6	
• Recommended for further study	18	
• No conclusion possible due to lack of data/information		5
• Already repealed	2	
• Recommended for abolition	<u>43</u>	
Total reported on (155 + 3)		<u>158</u>

What happened to our recommendations for abolition? There was immediate action on abolishing some minor reliefs; some of our recommendations were not accepted; consultation took place on abolishing 36 reliefs. This all produced:

• Advice to abolish rejected	8
• Abolished	32 ¹⁰
• Immediately repealed	4

⁸ All reliefs reports are at <https://www.gov.uk/government/publications/tax-reliefs-review>

⁹ Most of these (27) related to Inheritance tax; our conclusion was that there was no point in reviewing these in isolation – what was needed was a general review of IHT so they were considered in context.

¹⁰ Includes the ‘other 3’ from the 30 ‘needing more work’ category and 4 that OTS had recommended for abolition despite no clear merit, simply because we were unable to get proper data/information.

• Dealt with by wider reforms	1
• Government planned wider reform	1
• Not abolished following consultation	<u>4</u>
Total	<u>50¹¹</u>

Reliefs recommended for review and simplification

We identified 17 of the reliefs reviewed for simplification, and made some initial suggestions of how changes might be made, but only after separate review (which might be a significant exercise in some cases, e.g. Principal Private Residence). In recommending some reliefs for abolition – which would save HMT some money – we envisaged that those savings, albeit small, would help consideration of possible improvements. The reliefs:¹²

- **Enterprise Investment Scheme** (4 separate reliefs) (Annex A)
- **Venture capital trusts** (2 separate reliefs) (Annex A)
- **Entrepreneurs' relief** (Annex A)

OTS comment: some improvements have been made here

- **Annual Investment Allowance** (Annex C)

OTS comment: this has been reformed as OTS suggested, i.e. fixing the amount for five years

- **Enhanced capital allowances for energy and water efficient technologies** (Annex C)

OTS comment: we touched on this area in our Competitiveness work, questioning how effective the enhanced reliefs were and will do so again in our current Corporation tax project.

- **Unrelieved surplus advance corporation tax** (Annex D)
- **Purchase of own shares** (Annex D)
- **Demergers** (Annex D)
- **Principal Private Residence** (Annex F)
- **Chattels exceeding £6,000** (Annex F)

OTS comment: discussed with HMRC who have reviewed this and concluded that there is no real need to increase the threshold as OTS suggested.

- **Seafarers' earning deduction** (Annex J)
- **Real estate investment trust** (Annex O)
- **Lease Premium relief** (Annex P)

OTS comment: as noted in the conclusions to this report, reviewed with HMRC; this may be an area OTS look at generally, i.e. for both income tax/corporation tax and CGT impacts.

¹¹ This 50 = 43 'recommended for abolition' + 3 'further study' + 4 'retain due to lack of information'

¹² Again the Annexes refer to the original OTS report where full analysis of the recommendation is given.