

## Written evidence submitted by the Association of Taxation Technicians

### 1 Introduction

- 1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to provide evidence to the House of Commons Treasury Committee inquiry *Tax after coronavirus* ('the Inquiry').<sup>1</sup>
- 1.2 The primary charitable objective of the ATT is to promote education and the study of tax administration and practice. We place a strong emphasis on the practicalities of the tax system. Our work in this area draws heavily on the experience of our members who assist thousands of businesses and individuals to comply with their taxation obligations. This submission is written with that background.
- 1.3 In sections 2, 3 and 4 below we set out comments on three specific areas of the tax system where we think reform is most needed – employment status, digital services and compliance.
- 1.4 We would be pleased to discuss any aspect of this submission further. Relevant contact details can be found in Section 5.

### 2 Employment status

- 2.1 Employment status – that is whether an individual is self-employed or employed for tax purposes – is an important issue for both individual workers and those who engage them. The self-employed and employed are not only taxed differently, but also engage with the tax system in very different ways (for example, the self-employed report and pay tax through self-assessment, whereas tax is deducted at source under PAYE for employees). One area of particular difference is the National Insurance contribution (NIC) regimes applying to employees and the self-employed - employees generally pay higher rates of NICs, and those businesses that take on an employee are subject to Employer's NICs, with no equivalent amount levied on those engaging the self-employed. Even after taking into account the generally higher financial risks and insecurity faced by the self-employed compared with the employed, this difference in NIC treatment acts to distort the labour market.
- 2.2 Despite the importance of employment status, there is no clear legislative test underpinning it. Instead, determining whether an individual is employed or self-employed for tax purposes requires the application of principles which have developed over time through case law. As a result, the position can often be unclear for businesses, workers and HMRC, as is reflected by the number of tribunal cases which consider employment status.
- 2.3 In 2018 HMT/HMRC/BEIS launched a consultation on Employment Status (the '2018 consultation')<sup>2</sup> which looked specifically at how more certainty and clarity could be provided for businesses when determining employment status, particularly in relation to the realities of the modern labour market. This consultation, to which the ATT responded<sup>3</sup>, closed in June 2018. However, disappointingly, there has still been no formal Government response.

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<sup>1</sup> <https://committees.parliament.uk/work/465/tax-after-coronavirus/>

<sup>2</sup> <https://www.gov.uk/government/consultations/employment-status>

<sup>3</sup> <https://www.att.org.uk/technical/submissions/employment-status-att-response>

- 2.4 We believe that the issue of employment status should be revisited as a matter of priority, and would like to see a wider public debate on how employment and self-employment should be treated for both tax and employment law purposes.
- 2.5 We do not believe that any review of this issue should be restricted to looking at the test for employment status alone. Instead, it should also give consideration to tax rates, employment rights and, importantly, the intermediaries legislation (including the off-payroll working and IR35 rules).
- 2.6 Whilst we welcomed the 2018 consultation at the time, we were disappointed it did not look at the potential to make changes to tax or National Insurance rates or reliefs. The impact of the cost of Employer's NICs on status discussions for both businesses and workers should not be underestimated. Employer's NIC remains the elephant in the room in this debate and the cost of this has a major influence on engagement decisions.
- 2.7 We do not consider that employment status and the intermediaries' legislation can be considered in isolation. The differential in NIC rates between employed and self-employed individuals has encouraged the use of intermediaries such as personal service companies - which in turn led to the introduction of complex rules such as the intermediaries' legislation. Any changes to status determinations will have an impact on those using intermediaries and both issues need to be tackled together.
- 2.8 While we appreciate that, politically, consideration of changes to NIC rates may be unpalatable at the present time, it must be acknowledged that NIC treatment is a significant factor in driving status decisions. A broader debate, involving the public, could determine if it is still felt that such a significant difference between employees and self-employed individuals remains appropriate.
- 2.9 Ultimately, we would be supportive of the creation of a simpler regime in which an individual and their engager can easily determine their employment status, and from that status can determine their tax, rights, benefits and obligations. The test has to work from both the perspective of HMRC and the engager and should not be so resource intensive that it is uncommercial for the engager to apply it, or for HMRC to monitor it.

### **3 Digital Services**

- 3.1 As part of any tax reform, it is important that the right administrative structures are in place to support the operation of the tax system. From a legislative perspective, the Taxes Management Act 1970 is now half a century old and resembles a patchwork quilt with the number of amendments that have been made to it. It is no longer fit for purpose in the context of a modern, digital tax system and needs to be completely overhauled.
- 3.2 Equally, HMRC's digital operations form another patchwork, consisting of a large number of legacy computer systems as well as newer services.
- 3.3 We understand that changes here will take time and that HMRC are in a process of migrating their services across to the ETMP (Enterprise Tax Management Platform). In the meantime, systems for new services are being developed piecemeal and while services such as the Personal Tax Account (PTA) and Business Tax Account (BTA) for individuals and the self-employed have many valuable features, their development appears to have stalled and new services (for example the UK Property Reporting Service required to report disposals of residential property within 30 days of completion) are not linked to either the PTA or BTA. This piecemeal approach is hard to navigate and often agents are left out of the loop, unable to access the same

data that their clients can.

- 3.4 We are particularly disappointed that development of the PTA has stalled, as this has potential to be a very valuable service for many individual taxpayers. There are many simple features of the tax system which could be plumbed into the PTA to make tax simpler, for example, it could allow individuals who are not in self-assessment to report basic details like taxable interest or dividends without having to call HMRC and take up expensive telephone time. At present, its potential is nowhere near to being fully exploited and if it is not improved to make it fit for purpose, there is a risk that the PTA's reputation could be significantly damaged.
- 3.5 Ultimately there needs to be a single coherent structure in which HMRC's digital services are underpinned by a clear legislative basis. Since this is a mammoth task, in the meantime for both taxpayers and their agents more clarity in how services are being developed and a route map setting out how HMRC intends to move towards unifying its systems would be helpful and provide reassurance that things are heading in the right direction.
- 3.6 As a professional body, we believe our members need to be able to see and do what their clients can. Agents should, in most cases, have equal access with their clients to HMRC's digital services and the data that HMRC holds about their clients. For many individuals and businesses, the most cost effective way to meet their tax obligations is to employ an agent to handle their tax affairs. To do that well, with minimum of disruption to the client, an agent needs access to client data. We were pleased to see this recognised in July<sup>4</sup> when HMRC committed to providing a more personalised service for taxpayers through their PTA and at the same time improving parallel services for their agents to enable agents to see and do what their clients can by designing in agent access from the outset. This recognises the important role that agents play in helping clients comply with their tax obligations and is something we have long been asking for.

## 4 Compliance

- 4.1 The long recovery period which the economy will need following the prolonged pandemic will require the highest possible level of confidence in the integrity of the whole tax system. In addition to the pre-existing challenges of globalisation and technological change, the probability of higher levels of taxation has the potential to fuel increased evasion and aggressive avoidance.
- 4.2 For those individuals who have experienced very substantial reductions in income and businesses which have struggled (and in many cases are continuing to struggle) to survive, maximising their contribution to the Exchequer is unlikely to be a high priority. Having to meet tax liabilities which were deferred as part of the COVID-19 emergency measures from severely depleted or non-existent cash reserves will be a major problem. At best, there is likely to be high demand for time to pay (TTP) arrangements (which will put pressure on HMRC staffing resources). If TTP is unavailable or seen as unmanageable because of continuing uncertainties within a business, non-compliant behaviour is a likely outcome. Faced with unprecedented threats to their personal or business livelihood, there is a risk that many who would previously have agreed with the mantra that aggressive tax avoidance (let alone evasion) was morally indefensible may unwittingly recalibrate their moral compasses in order to pay their rent/mortgage or supermarket bill, their staff or

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<sup>4</sup> <https://www.gov.uk/government/publications/tax-administration-strategy/building-a-trusted-modern-tax-administration-system> HMRC/HMT 21 July 2020

their suppliers.

- 4.3 To counter the threat to the tax gap which this vision creates, HMRC needs to be properly resourced (both in personnel and technology) with maximum publicity given to any increased staffing. The perception of HMRC as being under-resourced (why otherwise does it take 40 minutes to get through on the phone?) can feed non-compliance. By contrast, something as simple as an HMRC officer promptly following up a non-payment of tax and converting that into a TTP arrangement can prevent the behaviour morphing into intentional non-compliance. HMRC need to wear a virtual hi-vis jacket.
- 4.4 We have commented in section 3 above on the need for HMRC's digital systems to be completely overhauled. We recognise that this has major resourcing implications but at the same time we believe that effective systems which enable HMRC to get basics right and enable taxpayers and their agents to report information as simply as possible are essential to ensure high levels of compliance and the reduction of the tax gap.

## **5 Contact details**

- 5.1 We would be pleased to join in any discussion relating to this consultation. Should you wish to discuss any aspect of this response, please contact us.

The Association of Taxation Technicians

## **6 Note**

- 6.1 The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has more than 9,000 members and Fellows together with over 6,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.

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