

Written evidence submitted by the Chartered Institute of Taxation

1 Executive Summary

- 1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.
- 1.2 HMRC's service levels have been, and remain, the single greatest concern expressed by our members for at least the previous eighteen months. We have asked HMRC whether they have a recovery plan, which they would be able to share, but this has not been forthcoming. We have regular conversations with HMRC about the challenges faced by members and offering our support. We have also raised concerns about the data and assumptions used in decision making and for understanding the causes and impacts of poor service, and the transparency of these. However, our understanding of the challenges HMRC face makes it difficult to expect service improvements for the foreseeable future, particularly in the light of the increased demand which HMRC is likely to experience in the years ahead. The focus instead seems to be on which services can be reduced temporarily or completely, or removed fully or in part.
- 1.3 HMRC's service levels are having a significant detrimental impact, not just on tax matters, but on the wider economy, such as the ability and costs of doing business, and cash flow / finances. They are also having a negative impact on the tax system as a whole, such as attitudes to tax compliance and trust in the tax system.
- 1.4 We are concerned that, in order to save resources, HMRC are adopting radical strategies, such as the closure of telephone lines, removal of paper processes and diverting callers to online resources, without a full understanding of the impact on taxpayers and their compliance. While increased digital interaction may be desirable for all parties, any compulsion to use digital services should be undertaken in a managed way, extending practices more widely only when reliable evidence demonstrates its effectiveness. We are also concerned that there is a lack of understanding as to why people are not using digital services – this may not be the choice HMRC assumes it to be as there may be blockers to usage even where the facility is available with the requisite functionality, for example if it is difficult to find or access.
- 1.5 The fact that HMRC reports nearly 45% of the tax gap arising from 'mistakes' is a damning indictment on the complexity of the tax system. Following the abolition of the Office of Tax Simplification, we remain concerned that HMRC and HM Treasury will be unable to achieve real simplification of the tax system, particularly if governments continue to introduce complexity at each fiscal event through new measures. In the meantime, HMRC will need to ensure that its customer service offering, including its guidance and digital services, better enable taxpayers to understand and comply with their obligations and claim their entitlements. Otherwise, we are concerned that these elements of the tax gap will increase.

1.6 We are also concerned that HMRC's resource constraints are fuelling unsatisfactory compliance approaches. While we recognise and do not condone the abuse of Research and Development (R&D) relief, HMRC's volume compliance approach is causing significant problems, including discouraging R&D activity and claims. In a similar vein, HMRC's 'one to many' letters may reduce costs for HMRC, but can increase costs for taxpayers and agents, while their effectiveness is still to be determined.

2 About us

2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3 Introduction

3.1 We are pleased to submit our evidence to the Committee's inquiry, which is examining the performance of HM Revenue & Customs in 2022-23, how it is being affected by the current economic conditions, and the progress it is making in tackling error and fraud.

3.2 The inquiry is seeking new evidence on these issues. We provided evidence to the Committee's previous inquiry¹ and we will not repeat those points again, although we comment on those topics where there have been recent developments.

3.3 We do not comment on how the current economic conditions are impacting HMRC, as we consider that is a matter for them. However, as is apparent from our comments on the other aspects of the inquiry, it seems clear that they are having a negative impact on HMRC's performance.

3.4 Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.

¹ See <https://committees.parliament.uk/writtenevidence/111167/pdf/>

- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

These objectives promote a ‘healthy’ tax system. As our evidence will demonstrate, if HMRC is performing poorly (as now), it has a significant negative impact on the health of the tax system and wider economy. Conversely, if HMRC is performing well, it has a significant positive impact on the health of the tax system and wider economy.

4 The performance of HMRC in 2022-23

- 4.1 The Committee’s inquiry has, fortuitously, coincided with our recent survey into HMRC’s service levels and their impact. Our survey was undertaken during July and August 2023 and 760 responses were received. Our survey asked for responses based on experiences during the previous three months. Notwithstanding this, the freeform comments, together with the nature of feedback we have been receiving for at least eighteen months, suggests that the results are largely representative of performance across 2022-23.
- 4.2 HMRC’s service levels have been, and remain, the single greatest concern expressed by our members for at least the previous eighteen months. On 15 June 2022 the CIOT, along with ICAS, ATT and ICAEW, wrote a joint letter to Myrtle Lloyd, HMRC’s Director General, Customer Services Group, expressing concerns about HMRC’s service levels.² At our recent meetings with Jim Harra (HMRC’s Chief Executive and First Permanent Secretary) and Angela MacDonald (HMRC’s Deputy Chief Executive and Second Permanent Secretary), discussion of HMRC’s service levels, and how they will be improved, remains a priority agenda topic.
- 4.3 Our survey results are publicly available on our website,³ and so we do not reproduce them here. However, there are several themes which we feel are worth highlighting.
- 4.4 Impact on businesses and taxpayers
- 4.5 Our survey shows that HMRC’s service levels have a significant impact on businesses and taxpayers. 95% of respondents said that poor HMRC service levels have a ‘moderate’ (20%) or ‘significant’ (75%) negative impact on the ability to do business. Conversely, 89% said that good HMRC service levels have a ‘moderate’ (22%) or ‘significant’ (67%) positive impact on the ability to do business.
- 4.6 The impact on cash flow and finance was also substantial, with 91% of respondents saying that poor HMRC service levels have a ‘moderate’ (19%) or ‘significant’ (72%) negative impact on cash flow / finances, while 84% said that good HMRC service levels have a ‘moderate’ (24%) or ‘significant’ (60%) positive impact on cash flow / finances.
- 4.7 In a similar vein, 95% of respondents said that poor HMRC service levels, have a ‘moderate’ (19%) or ‘significant’ (76%) negative impact on the costs of doing business, while 87% said that good HMRC service levels have a ‘moderate’ (23%) or ‘significant’ (64%) positive impact on the costs of doing business. One respondent to the survey summed this up in their freeform comment: ‘Massive negative impact on agents

² See https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/5ba926fa-459c-48f6-a89a-d44ce5cfb3e2/220615%20Joint%20professional%20bodies%20letter%20re%20HMRC%20service%20levels_.pdf

³ See <https://www.tax.org.uk/ciot-survey-into-hmrc-s-service-levels>

and taxpayers, costs and cashflows.’

- 4.8 These results underline the fact that a properly performing tax authority benefits the wider economy, while poor performance damages the economy.
- 4.9 The health of the tax system
- 4.10 Our objectives for the tax system, set out above, are intended to promote a healthy tax system. Our survey also enquired into the impact of HMRC’s service levels on matters such as attitudes to tax compliance, and trust in the tax system.
- 4.11 93% of respondents said that poor HMRC service levels, have a ‘moderate’ (17%) or ‘significant’ (76%) negative impact on attitudes to tax compliance, while 89% said that good HMRC service levels have a ‘moderate’ (20%) or ‘significant’ (60%) positive impact on attitudes to tax compliance.
- 4.12 98% of respondents said that poor HMRC service levels, have a ‘moderate’ (10%) or ‘significant’ (88%) negative impact on trust in the tax system, while 91% said that good HMRC service levels have a ‘moderate’ (14%) or ‘significant’ (77%) positive impact on trust in the tax system.
- 4.13 We are concerned that if the tax authority, as the body which administers the tax system, cannot satisfactorily meet its obligations, there is a risk that taxpayers will consider it acceptable to adopt similar behaviours or give up trying to find the advice they need to get things right.
- 4.14 HMRC’s ‘channel shift’ strategy
- 4.15 It is widely understood that HMRC’s ambition is to increase the use of self-serve and digital channels, with a view to delivering efficiencies and reducing costs for HMRC, improving the customer experience and similarly reducing costs for taxpayers. However, our survey tells us that there is some way to go in order to achieve this.
- 4.16 For example, when asked whether the cause of their phone call to HMRC could have been resolved using HMRC’s online services, 89% of respondents said it could not⁴. However, in confidential discussions with HMRC regarding the agent dedicated line (see later), HMRC suggested that a much higher percentage of contact could have been dealt with digitally.
- 4.17 So, either HMRC’s current digital systems are not meeting the needs of taxpayers and their agents, or there is a significant gap in understanding between what taxpayers and agents think they can do online, and what they can in fact do online. We have recommended HMRC undertake further work to determine which of these (or both) are correct, and put plans in place to bridge those gaps.
- 4.18 Notwithstanding this differential, there is an appetite to use digital tools. 80% of survey respondents say they would use HMRC’s online services or third-party software if it would resolve the cause of their contact⁵. For example, agents tell us that phoning HMRC is normally a last resort. As one agent put it: ‘If it was possible to solve the issue online, I would. Nobody wants to waste their life trying to phone HMRC.’ Yet there are routine activities such as amending clients’ tax codes that cannot be done efficiently online and therefore lead to telephone or postal contact. We would recommend greater collaboration between HMRC, agents and taxpayers, to ensure that the development of digital services meets everyone’s needs and ensure realistic timelines with non-digital services remaining in place while they are still needed.

⁴ Representing 90% of agents responding, and 79% of taxpayers.

⁵ Representing 81% of agents responding, and 68% of taxpayers.

- 4.19 When new digital services are introduced, we often find that they are inadequately tested, or provide insufficient functionality, either for agents, or when compared to the process they replaced (or both). We have shared with HMRC our suggested guidelines for the minimum standards for the introduction of new HMRC digital systems⁶ and for HMRC's digital forms⁷, to help ensure that the new digital services are implemented in the smoothest manner possible.
- 4.20 This is particularly important because when the automated process fails (ie something prevents it from being dealt with automatically), it then requires human intervention to resolve it. This can lead to significant delays (many months) on HMRC's part as the issue then goes onto a HMRC work list, and its resolution will depend on the availability of suitably experienced staff. Promised dates for resolution of the issues come and go, often with no updates. As one agent reported: 'Constant referrals being made with response dates however the response date comes along and no action has taken place.' We have encouraged HMRC to publicise the reasons why the automated process may fail⁸, and this has happened sporadically, but more regular communication of such issues is necessary.
- 4.21 HMRC's belief that more taxpayers can and should use digital channels is driving the introduction of radical deflection measures. For example, in early 2023, HMRC commenced trials of a new SMS service⁹ where they will terminate some calls (or give the option of termination), in lieu of sending a text message containing a link to guidance on GOV.UK. Though initially a trial, this has since been extended more widely, and there are now well over 40 active SMS campaigns.
- 4.22 While HMRC tell us that around 40% of taxpayers who receive a text message do not then phone HMRC back within seven days, we are concerned that this trial has been extended without being able to fully evaluate the trial. For example, it is not possible to track individual behaviours, such as to check whether the taxpayer actually clicked the link they received and performed the task they had originally phoned HMRC to perform.
- 4.23 HMRC's guidance on GOV.UK was also considered inadequate, with well over half of the taxpayers who responded rating it either 'poor' or 'extremely poor'. We have previously raised concerns at the overly-simplistic drafting approach adopted on GOV.UK, which is not suited to helping people comply with a complex tax and benefits regime. One respondent noted: 'Some of the new Gov.uk VAT guidance is too basic / too dumbed down and does not provide full details; could easily lead to lay-people could [sic] making mistakes.' Inevitably, therefore, people will phone HMRC to understand what they need to do if the guidance does not meet their needs. Fortunately, the more detailed technical guidance found on GOV.UK such as HMRC's manuals and Revenue and Customs Briefs etc received much more favourable feedback, but taxpayers may have difficulty finding such guidance, being stuck in the 'loop' of the mainstream guidance.
- 4.24 Guidance plays a highly significant role in enabling taxpayers to meet their obligations and therefore reducing both taxpayer error, and costs for HMRC. We recognise that addressing the needs of different audiences with differing levels of tax understanding is challenging. One way of doing so is to ensure that users of guidance can easily identify and navigate directly to the level of guidance they need, with clear links from one level to the next. Users should also know when and to what extent they can rely on guidance

⁶ See <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/71d4b116-9834-4f53-9c8a-b7dec4740d45/230907%20Minimum%20standards%20for%20the%20introduction%20of%20new%20HMRC%20systems%20FINAL.pdf>

⁷ See <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/db9b401f-c661-45bb-a53d-29e5537a5c8a/230907%20Minimum%20functionality%20needed%20for%20HMRC%20digital%20forms%20FINAL.pdf>

⁸ For example, the cause of some Self-Assessment repayment delays were highlighted in Agent Update 112.

⁹ See <https://www.tax.org.uk/intelligent-sms-services-new-service-to-help-customers-get-it-right-message-from-hmrc>

(including interactive guidance). The small business guidance transformation project announced at the Spring Budget 2023 is to undertake a systematic review of tax guidance and forms for small business over the next 2 years 'to make it easier for small businesses to interact with the tax system as they set up and grow'. The project offers a real opportunity to enhance the guidance for small business and improve compliance, particularly considering they represent the greater proportion of the tax gap (see below).

4.25 Until HMRC's digital systems and guidance actually deliver against their ambition, we do not see how service levels can improve. Further, in our survey 79% of people who could not get through on the phone said they would try later, so it appears that demand on phone lines will largely continue.

4.26 Overall outlook

4.27 Our survey asked, overall, how satisfied respondents were with the service provided by HMRC. 31% were somewhat dissatisfied and 63% were 'extremely dissatisfied'; so, 94% in total were dissatisfied. While this is a high number, we do also recognise that in some areas HMRC are performing satisfactorily.

4.28 We also asked how confident respondents were that HMRC's service levels will significantly improve over the next 12 months. 30% were 'not very confident' and 66% were 'not at all confident'; so, 96% were not confident of an improvement. One agent summed up their outlook with 'It is so depressingly bad I no longer want to come to work.'

4.29 Against this already bleak backdrop, previous governmental announcements already mean that, in 2023-24 and beyond, HMRC are going to get significantly more 'customers' (or, at least, more activity within their existing customer base). For example:

- The freezing of the personal allowance, basic rate limit and national insurance contribution thresholds to 5 April 2028, will bring around 1.1 million individuals into income tax between 2023-24 and 2027-28¹⁰.
- The reductions in the dividend allowance (£2,000 to £1,000 from April 23, then down to £500 from April 24) will affect around 3.2 million taxpayers by 2024-25¹¹.
- The reduction in the capital gains tax (CGT) annual exempt amount (£12,300 to £6,000 from April 23) will affect around 570,000 individuals and trusts by 2024-2025, of which around 260,000 will be brought into the scope of CGT for the first-time¹².
- Making Tax Digital for Income Tax Self-Assessment will affect around 700,000 self-employed individuals and landlords from April 2026 and 900,000 from April 2027, which includes moving affected taxpayers from one 'touch point' with HMRC a year to at least five.

4.30 We have asked HMRC to share their recovery plan with us – both to bring service levels back to an acceptable level, and to maintain them going forward in the light of these and other changes. We have not yet seen this, and in the meantime we have seen various 'sticking plasters', such as the closure of the self-assessment helpline over summer 2023, service reductions to the dedicated phone lines used by agents,

¹⁰ See <https://www.gov.uk/government/publications/income-tax-personal-allowance-and-the-basic-rate-limit-from-6-april-2022-to-5-april-2026/income-tax-personal-allowance-and-the-basic-rate-limit-from-6-april-2022-to-5-april-2026> and <https://www.gov.uk/government/publications/the-personal-allowance-and-basic-rate-limit-for-income-tax-and-certain-national-insurance-contributions-nics-thresholds-from-6-april-2026-to-5-apr/income-tax-personal-allowance-and-the-basic-rate-limit-and-certain-national-insurance-contributions-thresholds-from-6-april-2026-to-5-april-2028>

¹¹ See <https://www.gov.uk/government/publications/reduction-of-the-dividend-allowance/income-tax-reducing-the-dividend-allowance> (4,405,000 individuals, less the 27% unaffected).

¹² See <https://www.gov.uk/government/publications/reducing-the-annual-exempt-amount-for-capital-gains-tax/capital-gains-tax-annual-exempt-amount>

and the SMS deflection trial noted above. But without a long-term recovery plan, we simply do not see how, based on recent performance, HMRC will be able to deliver an adequate service.

5 The progress HMRC is making in tackling error and fraud

5.1 In this section we restrict our comments to HMRC’s ‘normal’ compliance activities. We are not commenting on the COVID support schemes as these were covered in our previous evidence, and we have nothing further to add in relation to them.

5.2 The tax gap

5.3 On 23 June 2023, HMRC published the tax gap estimates for 2021-22¹³, and we have summarised the behavioural elements of the tax gap in the appendix. We would make several observations in relation to HMRC’s estimates.

‘Mistakes’

5.4 The report puts tax lost in 2021-22 due to taxpayers’ mistakes at £16.1bn (2020-21 £12.3bn), representing 45% (2020-21 40%) of the total tax gap. This comprises failure to take reasonable care of £10.7bn (2020-21 £8.2bn) and tax lost due to taxpayer error at £5.4bn (2020-21 £4.2bn).

5.5 The equivalent figures for 2020-21 and 2019-20 were also revised significantly upwards ie:

	Original 2019-20	Revised 2019-20	Change	Original 2020-21	Revised 2020-21	Change
Failure to take reasonable care	£6.1bn	£8.1bn	+£2bn (33%)	£6.1bn	£8.2bn	+ £2.3bn (34%)
Error	£3.5bn	£5.0bn	+ £1.5bn (43%)	£3.0bn	£4.2bn	+ £1.2bn (40%)

5.6 In chapter L of the methodological annex¹⁴, HMRC explain at L12 that *‘For ‘Measuring tax gaps 2023 edition’ we have updated some of the behaviour models that previously relied solely on historic fixed assumptions, replacing these with a combination of random enquiry programme customer behaviour data and operational expertise and insight.’*

5.7 This statement seems to support what appears to be the consequence of a shift in HMRC’s approach to penalties. For example, in relation to compliance around research and development tax credits (see also below), we have seen HMRC officers making quite strong assertions about what amounts to failure to take reasonable care, so it may be that more cases are being categorised as such.

5.8 We also worry that the difficulties taxpayers are having getting answers to queries from HMRC is having an impact on errors. In our survey, when asked ‘When you are unable to get through to an HMRC adviser, what do you normally do?’, 20% of those who responded chose the option ‘Give up’. This emphasises the importance of improving service levels so that taxpayers have the support from HMRC to get their taxes

¹³ See <https://www.gov.uk/government/statistics/measuring-tax-gaps>

¹⁴ See <https://www.gov.uk/government/statistics/measuring-tax-gaps/methodological-annex#chapter-l-tax-gap-by-customer-group-and-behaviour>

right.

Making Tax Digital

- 5.9 We now have tax gap figures for the first three years of Making Tax Digital (MTD). It is hard to judge with any precision what impact, if any, MTD has had on taxpayer errors, because the tax gap figures do not provide sufficient level of granularity to draw any conclusions.
- 5.10 However, in summer 2023, we also carried out a survey about MTD,¹⁵ to which we received 517 responses. In relation to the impact of MTD for VAT on the accuracy of returns, 81% of respondents said it had stayed about the same, with about 11% saying it had increased accuracy, and 8% saying accuracy had decreased. Based on this and previous surveys undertaken, we remain sceptical of HMRC's claims that MTD will significantly reduce the 'mistakes' elements of the tax gap.

Simplification

- 5.11 The fact that HMRC reports nearly 45% of the tax gap arising from 'mistakes' is a damning indictment on the complexity of the tax system. Ministers must focus on the need for simplification. A simple tax system, with clear rules and easy to navigate guidance, will lead to fewer mistakes by both taxpayers and HMRC.
- 5.12 While we remain disappointed at the closure of the Office of Tax Simplification, we are somewhat heartened by the Minister's assurances to us that simplification remains a key priority and that accountability for its delivery remains important. In this regard, we were pleased to see the Minister's recent commitment to the Treasury Select Committee to provide an annual report of progress on simplification.
- 5.13 But if the government is serious about tax simplification, it needs to do more. Along with other professional bodies, we wrote to the Minister in April¹⁶, making nine recommendations which the government should implement in order to deliver on its promises, and demonstrate its commitment to tax simplification. These were:
1. Identify the characteristics of tax simplification.
 2. Ensure someone is accountable for delivery of tax simplification.
 3. Include simplification declarations in tax information and impact notes.
 4. Gaining external input to policy design and implementation.
 5. Seek feedback from a broad range of stakeholders.
 6. Ensure HMRC and Treasury engagement groups include tax simplification as a standing objective.
 7. Increase awareness and improve guidance.
 8. Allow time for development and integration of systems.
 9. Adopt a consistent approach across tax regimes.

Our April letter expands on each of these points.

- 5.14 We have met with HMRC and HMT officials, and followed up with further correspondence in September¹⁷.

¹⁵ See <https://www.tax.org.uk/making-tax-digital-our-survey-says>

¹⁶ See <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/1568f452-e94d-4147-91f3-0465df636f5f/230405%20Joint%20professional%20bodies%20letter%20to%20the%20FST%20re%20tax%20simplification.pdf>

We are yet to receive a substantive response to either letter, and we remain concerned that simplification will only receive ‘lip service’, and the tax system will continue to become increasingly complex, with a consequential impact on the level of mistakes.

5.15 *Small businesses*

5.16 Small businesses make up 56% of the tax gap, with the lost tax being estimated at £20.2bn.¹⁸ While the latest published figures are for 2019-20, 27% of business taxpayers’ self-assessment returns contained an underdeclaration,¹⁹ and 37% of small business’s corporation tax returns contained an underdeclaration.²⁰

5.17 This gives HMRC something of a problem, as the likely return on an inquiry into a small business would be relatively modest, while the effort necessary to prove an underdeclaration, and collect the tax, could be significant.

5.18 HMRC are increasing their use of ‘one to many’ letters in an effort to tackle non-compliance, whereby HMRC write an identical letter to several hundred / thousand people, either to raise their awareness of their obligations, or to notify them that HMRC think their returns may be inaccurate. We are aware of well over 30 such campaigns in 2023 so far.

5.19 We regularly engage with HMRC on this activity, and we are encouraging them to be more transparent about how they evaluate the impact of this approach. This is clearly cost-effective for HMRC, as it saves having to open lots of individual enquiries into returns, but it is vital that campaigns are properly targeted so that letters are not sent to compliant taxpayers. This can occur if there are discrepancies or omissions in the data HMRC have used to select a recipient (which has happened particularly with data received from overseas tax jurisdictions), or if entries on recipients’ tax returns are not checked beforehand. Such instances create unnecessary stress for taxpayers, harms the relationship between the taxpayer and their agent (because the taxpayer will think that their agent hasn’t done a proper job), leads to unnecessary costs for taxpayers, their agent, and HMRC, and reduces trust in the tax system.

5.20 *Fraud*

5.21 Illegal behaviour represents around 30% of the total tax gap, at circa £10.9bn, albeit seemingly on a gentle downward trend from previous years. While this represents movement in the right direction, we remain concerned at the consistently high levels of fraudulent activity.

5.22 At the moment, we still believe there is a widely held belief that HMRC simply will not find out about your behaviour and / or take any action, particularly if the amount of tax involved is relatively modest.

5.23 We would encourage HMRC to ensure that it is allocating sufficient resources to combat fraudulent activity, and promote its activities to identify fraud and the details of successful prosecutions. We believe that the ‘ripple effect’ caused by this activity would increase the perceived risk of being caught and hence protect significantly more revenue.

5.24 Research and Development relief

¹⁷ See <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/29a70812-d4f8-4c54-be91-599753e6821c/230915%20Joint%20professional%20bodies%20letter%20to%20the%20FST%20re%20tax%20simplification.pdf>

¹⁸ Table 1.4 at

https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fgovernment%2Fuploads%2Fsystem%2Fuploads%2Fattachment_data%2Ffile%2F1164246%2FMeasuring_tax_gap_online_tables_2023.xlsx&wdOrigin=BROWSELINK

¹⁹ Table 4.5

²⁰ Table 5.3

- 5.25 In our previous evidence, while mindful of the need to combat abuse of R&D tax reliefs, we set out our concerns at the proposals which were intended to target such abuse (such as the notification requirement) and the compliance approaches being adopted by HMRC.
- 5.26 Following a meeting with HMRC in February 2023, we wrote to HMRC²¹ in July 2023 to set out our concerns regarding how HMRC are conducting R&D inquiries. In particular, that HMRC's 'volume compliance approach' is causing significant problems as a result of a lack of engagement between HMRC and the taxpayer / their agent, a lack of due consideration of the claim, technically inaccurate decisions, and inconsistent and technically incorrect approaches to penalties, to name but a few. By way of limited examples:
- HMRC stating in correspondence that 'we are generally able to conduct our enquiries without recourse to face to face meetings, or conference calls ... because we cannot use any unsupported opinions or information when gathering evidence or making decisions', even though assessing R&D activity requires a degree of understanding that can best be provided by speaking to the competent professional, and is contrary to HMRC's guidance²².
 - HMRC alleging careless behaviour because 'you relied upon advice from the agent [name of agent], and you did not contact HMRC directly', even though HMRC's Compliance Handbook manual at CH81130 includes 'acting on advice from a competent adviser which proves to be wrong despite the fact that the adviser was given a full set of accurate facts' as a situation in which a taxpayer takes reasonable care (and is, therefore, not liable to an error penalty).
 - HMRC making incorrect statements, such as 'You are aware that subcontracted expenditure cannot be claimed unless it is directly undertaken by a charity, a higher education institute, a scientific research organisation, a health service body, an individual or partnership of individuals.' The claim was made under the SME regime, and such restrictions only apply under the RDEC scheme.
- 5.27 HMRC has responded to our letter, and we continue our positive engagement with them, though we continue to see and receive reports of these problems continuing.
- 5.28 While HMRC have reported that the volume compliance approach is systematically finding problems in relation to claims for R&D tax relief, our view is that this approach is not giving a fair or full reflection of what is happening in practice. Even to the extent that it is identifying errors in claims, our concern is that this is at the detriment of genuine R&D tax relief claims. Indeed, in many cases we are hearing that aggressive positions are being taken by the compliance team which, along with a refusal to have conversations (in person or virtual meetings, or telephone conversations) with the competent professionals and delays in issuing formal appealable decisions, make it very difficult for genuine claimants to defend their claim. We understand that some of the 'incorrect claims' HMRC are finding are in fact valid claims that the taxpayers decide to walk away from because of the costs of defending the claim (compared to the credit due) and HMRC's approach.
- 5.29 HMRC's approach is, therefore, driving behaviour which a) discourages legitimate claims from SMEs, which is undermining the policy intentions of encouraging R&D, and b) will skew any statistics to measure the error rate in R&D claims, if these are counted as cases where there was an error (particularly as early evidence

²¹ See <https://assets-eu-01.kc-usercontent.com/220a4c02-94bf-019b-9bac-51cdc7bf0d99/c683edd0-897a-4454-a005-dc6336f43f05/230703%20RD%20tax%20relief%20enquiries%20-%20CIOT%20letter.pdf>

²² The CIR manual says at paragraph 80525: 'During the course of an enquiry into an R&D claim, an officer from a specialist R&D Unit will normally make arrangements to discuss the claim with the company's management and technical experts' and HMRC's enquiry manual (EM1822) notes that 'Meetings with the taxpayer are an important part of enquiry work...'

suggested that many of these cases were being charged a penalty for ‘careless’ behaviour).

- 5.30 The approach also gives rise to unwelcome inconsistency in the experience of the SME taxpayers that are subject to enquiries by the ISBC team, as opposed to enquiries conducted by the WMBC team or large business, who are still arranging calls to discuss R&D projects.
- 5.31 In their report on HMRC’s 2022-23 annual report and accounts, the Comptroller and Auditor General gave a qualified opinion in relation to error and fraud in R&D relief. In the light of this, we recognise that HMRC should tackle the amount of abuse of R&D relief. We agree that this is a significant problem, and we support them in their efforts to do this and we are committed to our own role in upholding professional standards in the tax service industry. But HMRC’s actions must lead by example and be in accordance with their own compliance professional standards²³ and Charter commitments,²⁴ as well as, of course, the law.
- 5.32 We accept that increased activity by HMRC in relation to R&D compliance will have an impact on all claimants of R&D relief, and we and our members also want bad claims rooted out from the system. However, the impact of HMRC’s compliance approach should not be the refusal of genuine claims, especially without due consideration of the facts and opinions of experts, reasoned judgments or proportionate engagement with taxpayers and their agents.

6 Acknowledgement of submission

- 6.1 We would be grateful if you could acknowledge safe receipt of this evidence and ensure that the Chartered Institute of Taxation is included in the List of Respondents when the Committee’s report is published.

October 2023

²³ See <https://www.gov.uk/government/publications/professional-standards-for-hmrCs-compliance-work/hmrc-professional-standards-for-compliance>

²⁴ See <https://www.gov.uk/government/publications/hmrc-charter/the-hmrc-charter>

Behaviour	Tax gap as percentage of liability or £bn	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Failure to take reasonable care	Tax gap as percentage of total theoretical liabilities (TTL)	1.4%	1.4%	1.2%	1.0%	0.9%	0.9%	1.2%	1.3%	1.4%
	Tax gap in £bn	7.2	7.9	7.0	6.3	5.9	5.9	8.1	8.2	10.7
Criminal attacks	Tax gap as percentage of TTL	1.0%	0.8%	0.8%	0.8%	0.7%	0.8%	0.8%	0.7%	0.6%
	Tax gap in £bn	5.4	4.3	4.7	4.8	4.4	5.0	5.2	4.6	4.1
Evasion	Tax gap as percentage of TTL	1.2%	1.1%	0.9%	0.8%	0.8%	0.7%	0.6%	0.6%	0.6%
	Tax gap in £bn	6.3	6.1	4.9	4.7	4.7	4.8	4.1	3.7	4.7
Legal interpretation	Tax gap as percentage of TTL	1.2%	1.2%	1.1%	1.0%	0.9%	0.7%	0.6%	0.5%	0.6%
	Tax gap in £bn	6.6	6.6	6.1	6.2	5.3	4.5	4.2	3.3	4.1
Non-payment	Tax gap as percentage of TTL	0.8%	0.7%	0.6%	0.6%	0.6%	0.6%	0.6%	0.6%	0.4%
	Tax gap in £bn	4.2	3.7	3.2	3.4	4.0	4.2	3.9	3.6	3.3
Hidden economy	Tax gap as percentage of TTL	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.4%	0.3%	0.3%
	Tax gap in £bn	2.6	2.8	2.9	3.0	3.1	3.2	2.7	2	2.1
Error	Tax gap as percentage of TTL	0.7%	0.7%	0.6%	0.6%	0.5%	0.5%	0.8%	0.7%	0.7%
	Tax gap in £bn	3.7	3.7	3.4	3.5	3.3	3.1	5	4.2	5.4
Avoidance	Tax gap as percentage of TTL	0.4%	0.3%	0.3%	0.3%	0.3%	0.2%	0.2%	0.2%	0.2%
	Tax gap in £bn	2.0	1.8	1.8	1.7	1.8	1.4	1.3	1.3	1.4
Total	Tax gap as percentage of total theoretical liabilities	7.2%	6.7%	6.0%	5.6%	5.2%	4.9%	5.2%	4.8%	4.8%
	Tax gap in £bn	38	37	34	34	32	32	34.5	30.8	35.8
Total 'mistakes' (Failure to take reasonable care PLUS Error)	Tax gap as percentage of total theoretical liabilities	2.1%	2.1%	1.8%	1.6%	1.4%	1.4%	2.0%	2.0%	2.1%
	Tax gap in £bn	10.9	11.6	10.4	9.8	9.2	9.0	13.1	12.4	16.1
Total 'fraud' (Criminal attacks PLUS	Tax gap as percentage of total theoretical liabilities	2.7%	2.4%	2.2%	2.1%	2.0%	2.0%	1.8%	1.6%	1.5%

Evasion PLUS Hidden economy)	Tax gap in £bn	14.3	13.2	12.5	12.5	12.2	13.0	12.0	10.3	10.9
------------------------------------	----------------	------	------	------	------	------	------	------	------	------