Written evidence submitted by the Institute of Chartered Accountants in England and Wales (ICAEW)

On 1 March 2021, two days before the spring Budget, the Treasury Select Committee (TSC) published its report, Tax After Coronavirus (TAC). Commenting on the impact of the pandemic on the public finances, the committee observed:

> 'The public finances are on an unsustainable long-term trajectory that has been exacerbated by the coronavirus pandemic. Additional tax revenue could make a contribution to addressing this. But the tax measures that are most politically palatable in the short term are often not those that minimise distortions to economic activity in the longer term. This is a large-scale and long-term challenge that requires taking a view of the whole tax system, how it can be reformed, and how it can raise revenue in a way that minimises economic damage as well as effectively supporting public services, which can in turn promote growth.'

The TSC was not alone in these conclusions, as reflected in many of the announcements made in the October 2021 Budget Day announcements. ICAEW Tax Faculty was subsequently invited by the TSC to comment on the Autumn Budget reflecting on the usefulness, reasonableness, effect on business and operational implementation of the measures announced.

In response to the TSC's request, we comment on some of the Autumn Budget proposals. We should emphasise that ICAEW's Royal Charter obligations are to support the effective implementation of Government policy rather than with the underlying policy. Our comments below are therefore informed by the ease and efficacy of policy implementation rather than specific comments about policy design which is a decision for Government.

This response of 11 November 2021 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of strong economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 157,800 chartered accountant members in over 147 countries. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

GENERAL COMMENTS

1. The government has not yet brought forward a tax strategy setting out what it wants to achieve from the tax system as recommended by the TSC's Tax after Coronavirus report.
2. While the Government's response to the consultation earlier this year, the Tax Administration Framework Review which forms part of the 10 year strategy, is expected shortly, this is unlikely to tackle some of the ongoing matters of concern to this committee such as the future taxation of work.
3. One strategy the TSC recommended should be included was how tax might help the UK towards 'Meeting climate change goals for net zero and other environmental objectives whilst giving consideration to those who are on lower incomes'. Given the role of the UK in hosting COP 26 so close to the Budget, it was particularly surprising that there was little mention of how the tax system might be used more strategically to support the UK's move to net zero. The need for a strategy for tax in relation to meeting climate change targets is likely to be a subject the TSC will return to in due course.

SPECIFIC COMMENTS

HEALTH AND SOCIAL CARE LEVY

4. Increases in tax to fund health and social care were announced by the Prime Minister on 7 September 2021. This includes a temporary one-year increase in national insurance contributions (NIC) from 6 April 2022, before a new health and social care levy is introduced from 6 April 2023. Dividend tax rates will also increase from 6 April 2022.
5. The TAC report states:

   'major reform of the tax treatment of the self-employed and employees is long overdue. The current system is confused, unfair and unsustainable. The review should incorporate the benefits which accrue upon payment of NICs and other taxes as well as the level, the incentives and the interaction of such taxes. It should look as far as is possible to eliminate the so-called 'three person problem' altogether.'
   (Conclusions and recommendations, para 17)
6. The temporary increase in NIC on employment adds 1.25% to the employees' NIC and also 1.25% to the employers' contributions. Although a similar increase applies to self employed NIC and to dividend income, the overall increase adds 2.5% to the cost of employment as opposed to 1.25% to self employment. This widens rather than reducing the difference and so exacerbates rather than eliminates the so-called 'three person problem'.
7. The Health and Social care Levy (HSCL), which will replace the temporary increase in NIC, is a new tax, introduced without any prior consultation or real opportunity for debate, passing through the House of Commons in just one day. This is clearly contrary to the tax policy making process, reaffirmed by the Government in 2017, and we see no reason why this announcement had to be enacted in this way.
8. The TAC report states:

   'The tax policy making process instituted in 2010 (and reaffirmed in 2017) appears to be sensibly designed; but concerns have been expressed to the Committee that the Government does not always adhere to it and so risks losing the confidence of stakeholders. If the process cannot be followed, for example because there is not enough time to cover all the stages before a change needs to be implemented, the Government should be open about it and should set out its reasons for doing so.'
   (Conclusions and recommendations, para 33)

BASIS PERIOD REFORM

9. The Autumn Budget announcements confirmed that reforms to the taxation of unincorporated businesses (known as 'basis period reform') would go ahead as planned, although

implementation would take effect one year later than had previously been suggested, so from the tax year 2024/25. 2023/24 will be the transitional period. This announcement brought the timing of this reform into line with the one-year deferral to the Making Tax Digital for income tax changes announced in September.

10. We understand the legislative approach mandating the change to basis periods has been taken in order to simplify the system and use up all overlap relief in advance of Making Tax Digital.

11. Although this change will not be welcomed by all businesses, and in particular those for which fiscal year accounting is not possible, for example, seasonal businesses and large multi national partnerships, it could be argued that it aligns with the TSC's recommendation in relation to:

    'reducing compliance costs, through appropriate tax simplification'.
    (Conclusions and recommendations, para 32)

12. We note that the vast majority of businesses already use fiscal year accounting and those which don't usually use a different date for good commercial reasons. It seems therefore that in mandating this reform for all businesses subject to income tax, it will create a new administrative burden for those businesses which will now need to use estimates and make amendments to their tax returns in order to comply with their future self assessment filing obligations, where no such requirement existed previously. We appreciate that this aspect of the change is subject to further consultation.

13. We note that the basis period changes also bring forward the time at which tax on trading profits becomes due for payment. Although tax payments by the self employed will still be based on two payments on account rather than the near to real time Pay As You Earn system which collects tax from employees, it will effectively reduce the tax payment timing gap for taxpayers who are not on a fiscal year end, although the precise impact will depend upon their year end..

TAX STRATEGY TO MEET NET ZERO

14. The Government has yet to develop a clear tax strategy to meet net zero.

15. From 1 April 2023 a new (lower) domestic band for air passenger duty (APD) will be introduced to cover flights within the UK, to support UK connectivity. In addition, a new (higher) ultra-long-haul band will be introduced to cover destinations with capitals located more than 5,500 miles from London, to align APD more closely with the government's environmental objectives.

16. The rates for the short and long-haul bands will increase in line with RPI, meaning a real-terms freeze.

17. Meanwhile, fuel duty rates will remain frozen for 2022/23, for the 12th year in succession. No reference was made in the Budget to how fuel duty might be replaced.

18. It is not clear how these tax measures incentivise the behavioural changes needed to achieve net zero.

COMMENTS ON OTHER MEASURES

FILM AND HIGH-END TV TAX RELIEFS

19. The TSC report advocates 'Securing a neutral tax system which treats similar activities in similar ways' para 32. This is achieved by the following measure.

20. Where a film is initially intended for theatrical release in cinemas but subsequently the intention changes so that it will be broadcast or available for stream on TV, the production no longer remains eligible for film tax relief, nor can it attract high-end TV tax relief.

21. From 1 April 2022 changes to the qualifying conditions for these reliefs will mean that a film will continue to benefit from tax relief going forward if such a switch in intention takes place during the course of production activities.

FREEPORT TAX SITES

22. It is not yet clear what effect the new Freeport tax sites will have on business and on local employment. In some senses they create a micro tax environment which will enjoy more favourable tax treatment. Their operation and progress is likely to be of considerable interest to the TSC as they develop as many of the recommendations made in the Committee's report are in point.
23. In the Spring Budget 2021, the government announced that following the completion of a bidding process, it would create eight freeports in different regions of England. The current freeports initiative forms part of the "levelling up" agenda.
24. The stated purpose behind freeports is to encourage businesses to create new hubs of global trade that will transform economic prospects and job opportunities for local communities. Freeports are special economic areas where the normal custom rules do not apply and which allow for duties etc on imports of goods to be suspended or deferred until the either goods enter the domestic market or are re-exported, in the latter case potentially resulting in no customs duty being payable.
25. In addition, within the wider freeport area, special tax sites of up to six square kilometres may be designated which will provide very generous tax incentives for development and operations within them, including:
    - enhanced capital allowances on plant and machinery and structures and buildings,
    - stamp duty land tax relief on the purchase of land,
    - business rates relief, and
    - an employers' NIC holiday for up to three years for new employees in a freeport zone, up to a £25,000 limit.

26. The tax sites bear some comparison with the former enterprise zones, but the reliefs available are far more generous.
27. The first designated tax sites have been announced in Humber, Teesside and Thames freeports and while as yet no freeports have been designated beyond those announced in England, the government is committed to establishing at least one freeport in Scotland, Wales and Northern Ireland.
28. They will be able to begin initial operations from November 2021.

BUSINESS RATES AND ONLINE SALES TAX

29. The TSC has long argued that the business rates system needs reform and has encouraged government to improve the overall functioning of the business rates system for the long term.
30. There has been a concern for many years that business rates impact "bricks-and-mortar" businesses more than online businesses and that this imbalance is fuelling the death of the high street. Before the Budget, there was much speculation that the government might introduce an online sales tax to help fund a reduction in the business rates charge.
31. The government has now published a final review of business rates.
32. The final review makes it clear that there is little appetite in government to consider making radical changes to the underlying structure of business rates. However, a number of announcements were made to help alleviate some of the burdens placed on businesses, especially for businesses in the hospitality sector. The changes to improve the existing system included:
    - Moving to three-yearly revaluations – currently the aim is for five years but the proposed revaluation for April 2020 was cancelled and will now take place in England in April 2023, moving to a three-year cycle from that date.

- Freezing the business rates multiplier in April 2022 for a second year running. This is the mechanism whereby rates are usually increased annually in line with CPI. While this may not seem significant, the net benefit to business per year over the review period is about £900m per year.
- From April 2023, the introduction of a new relief which will give 100% rates relief for a year on improvements made to an existing property which increase its rateable value. The government will publish a consultation document on how best to implement this relief, which will take effect in 2023.
- Supporting the net zero target by introducing, from 1 April 2023 for a period of 12 years, a targeted business rate exemption for eligible plant and machinery used in onsite renewable energy generation and storage, and a 100% relief for eligible heat networks.
- For the year 2022/23, introducing a new 50% business rates relief for retail, hospitality, and leisure sectors, capped at £110,000.

33. The government also announced that it will shortly publish a consultation document outlining the arguments for and against an online sales tax which might be used (perhaps even hypothecated) to reduce business rates. Given that this consultation will be about the merits of such a tax rather than explore the detail of how such a tax might be designed, it is unlikely that such a tax would be introduced in the immediate future.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see https://goo.gl/x6UjJ5).

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