

Call for Evidence: Draft Finance Bill 2021-22

A call for evidence issued by the House of Lords Economic Affairs Committee
Finance Bill Sub-Committee

Comments from ACCA to HMRC
October 2021

About ACCA:

ACCA (the Association of Chartered Certified Accountants) is the global professional body for professional accountants.

We're a thriving global community of **233,000** members and **536,000** future members based in **178** countries and regions, who work across a wide range of sectors and industries. We uphold the highest professional and ethical values.

We offer everyone everywhere the opportunity to experience a rewarding career in accountancy, finance and management. Our qualifications and learning opportunities develop strategic business leaders, forward-thinking professionals with the financial, business and digital expertise essential for the creation of sustainable organisations and flourishing societies.

Since 1904, being a force for public good has been embedded in our purpose. We believe that accountancy is a cornerstone profession of society and is vital helping economies, organisations and individuals to grow and prosper. It does this by creating robust trusted financial and business management, combating corruption, ensuring organisations are managed ethically, driving sustainability, and providing rewarding career opportunities.

And through our cutting-edge research, we lead the profession by answering today's questions and preparing for the future. We're a not-for-profit organisation. Find out more at accaglobal.com

For further enquiries please contact:

Glenn Collins
Head of Policy, Technical Advisory
& Strategic Engagement
glenn.collins@accaglobal.com

Jason Piper
Head of Tax and Business Law
jason.piper@accaglobal.com

GENERAL COMMENTS

1. ACCA is required to work within its public interest remit, to pursue policy that will pursue wider good rather than solely representing the interests of our members. We also set and maintain the standards of members operating within and advising private sector businesses on all issues, including those relating to tax reporting and compliance.
2. ACCA's report in September 2020, 'Foundations for a Sound Tax System'¹ identified three fundamental considerations which every tax system should strive for, and by which citizens can measure the success of governments and tax administrations in developing laws and processes. Government must consider simplicity, certainty and stability as the cornerstones of a good tax system.
3. It is vital also that the HMRC consider the wider impact of their actions on businesses and their advisers in the context of current economic circumstances, and in the light of a realistic appraisal of their own capacity to usefully and effectively implement change.
4. The administration of tax systems can be as important to taxpayers as the policy design behind them in determining individual experiences. This applies to the proposals for both Basis Period Reform and Uncertain Tax Positions.

SPECIFIC COMMENTS

Basis period reform

1. The proposals for basis period reform have been introduced at a comparatively advanced stage in the development of the income tax regime for the all digital MTD model. They are a purely administrative element, having no bearing on either rates or

¹ https://www.accaglobal.com/my/en/professional-insights/global-profession/foundations_tax.html

incidence of tax, although to the extent that overlap relief arises they may affect the timing of tax burdens arising for some tax payers.

2. The basis period for tax will be a fundamental design element of any integrated software package for maintaining accounts and making submissions to HMRC under the MTD regime. Software developers will need to be absolutely clear as to the wording and intention of any final legislation in order to build systems which can accurately and reliably give effect to Parliament's intentions. (The position is slightly different for "bridging software", as this would import information from independent record keeping systems).
3. The timeframe for HMRC to develop and finalise MTD regulations for which software can be developed is extremely tight, especially given the need for user testing and pilot programmes.
4. HMRC must also consider the wider operating environment when proposing fundamental changes to the administration of the tax system. Ensuring that all parties will have adequate time and resources to implement the change before embarking on significant disruption is essential.
5. Our Members are already stretched dealing with the consequences of Brexit and the COVID-19 pandemic, as are the businesses they advise. HMRC service levels indicate that they too are resource constrained, raising doubts as to their capacity to undertake the significant taxpayer education exercise which will be needed for those businesses who are not represented by an agent or accountant, and will be relying on HMRC for their information and guidance regarding tax obligations.
6. More broadly the COVID-19 pandemic has exposed the impact of increased compliance and additional time required to manage client requests for support from HMRC. It is vital that HMRC considers the needs of the wider business communities and ensure the most vulnerable businesses are appropriately throughout in pilot stages, while working collaboratively with professional bodies and their member networks to gauge appropriate mitigation activities.

7. Turning to matters of underlying principle, businesses maintain accounting records for a number of reasons, and to varying degrees of complexity. Where there is a compelling reason to choose a particular point or period in the calendar year for making up those accounts then that should not be disturbed purely for tax administrative convenience. The Committee is well aware of the sectors for whom a 31 March/6 April year end would be administratively problematic.
8. The simplicity of imposing a fiscal year basis for tax must be set against the flexibility for businesses to draw up their annual accounts on a commercial basis and for commercial reasons.
9. The transition to a new Basis Period would create a one-off burden of calculating and utilising Overlap Relief. It is understood that for many businesses this will be problematic, and may impose a burden on HMRC as businesses request confirmation of the relevant figures for historic periods.
10. It is worth noting that under MTD for ITSA, record keeping issues around overlap relief would no longer arise, as HMRC (and, by reference to their tax account, the taxpayer) would have a centralised and agreed record of all relevant information.

Uncertain Tax Positions

11. The Uncertain Tax Treatment proposals have been subject to a lengthy process of consultation and been significantly revised. Unfortunately, in their current form they do not meet the goals of promoting either simplicity or certainty.
12. We are concerned that the current tests, and in particular the third test of Tax Tribunal Interpretation, impose a disproportionate burden on taxpayers. That test alone contains three separate subjective elements for analysis, and there is a clear risk that risk averse “compliant” taxpayers will swamp HMRC with precautionary disclosures, while the supposed target audience of non-compliant taxpayers are less likely to inconvenience themselves engaging with the process.
13. The apparent aim of the proposal is not to prompt disclosures, but rather to encourage cooperative compliance between taxpayers and the authority. However

this is dependent upon both parties having the resource to devote to the exercise.

Reports from taxpayers indicate that HMRC are currently struggling to maintain effective service levels through the CCM programme as businesses and HMRC alike try to cope with the impacts of Brexit and the COVID-19 pandemic.

14. HMRC should also consider the longer term implications of a “successful” implementation of the scheme. Public trust is central to tax morale, the tendency for individuals and businesses to pay their tax voluntarily and without intervention by tax authorities. However there is significant distrust among the general public of both tax authorities and business leaders in relation to tax affairs².
15. While the benefits of cooperative compliance are recognised by both business and tax authorities, care must be taken that transparency and accountability extend beyond the direct parties to the relationship. Public confidence in the system will depend upon appropriate transparency from all parties.

² 11% of respondents Distrust HMRC and 14% Highly Distrust HMRC, while a net 15.4% of UK respondents believe the taxes paid by multinational companies to be “unreasonable” - *Public trust in tax: surveying public trust in G20 tax systems* (ACCA,IFAC and CAANZ) September 2021
<https://www.accaglobal.com/my/en/professional-insights/global-economics/public-trust-in-tax.html>