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01 November 2020

Bill Dodwell considers the OTS report ‘Claims and elective review: Simplifying administrative processes’

Key Points

What is the issue?

The Office of Tax Simplification has just published its ‘Claims and elections review: Simplifying administrative processes’.

What does it mean for me?

The OTS report looks at claims, elections and nominations, covering income tax, corporation tax, capital gains tax and VAT, as well as recommendations for general improvements and for certain specific claims.

What can I take away?

HMRC has a strong focus on the new single digital account – the successor to the personal tax account and the business tax account. In the future, this could become the place where a taxpayer lodges all claims and keeps a permanent record of their claims or elections.

The Office of Tax Simplification has just published its report ‘Claims and elections review:

Simplifying administrative processes’ (see bit.ly/3k7x7Qj). This is the first time that the OTS has looked at the broad system for claims and elections, although obviously specific aspects have featured in individual reviews.

The very first review conducted by the OTS in 2010-11 looked at UK tax reliefs. It was the first attempt in the UK to count and classify our tax reliefs – and came up with 1,042, before proposing the abolition of 47 (see bit.ly/3555hhq).

Unsurprisingly, the number of reliefs has now climbed to 1,190, according to the latest report from the National Audit Office (see bit.ly/352zjlU). The important thing about almost all tax reliefs is that they need to be claimed by the taxpayer. HMRC does not have the necessary information to automate claims and naturally a great many of them – and especially elections – involve taxpayer choice.

Areas for reform

The OTS report looks at claims, elections and nominations – any action by a taxpayer to seek a particular tax treatment. The report looks at income tax, corporation tax, capital gains tax and VAT, and contains general recommendations, as well as recommendations for certain specific claims.

The three most significant areas, which would benefit the most people, are for:

- HMRC to improve the functionality of the personal tax account and the business tax account (including the forthcoming, merged, single digital account);
- the government to explore reducing the number of different categories and levels of employee flat rate expense claims; and
- HMRC to improve its online forms.

The ten year Tax administration strategy from HMRC, supported by the Financial Secretary to the Treasury Jesse Norman, contains a strong focus on the new single digital account – the successor to the personal tax account and the business tax account. Making these online accounts the focus of communication between the taxpayer and HMRC (not forgetting tax agents, where relevant) should provide everyone with a much better experience and reduce costs for taxpayers and HMRC alike. Currently, over 19 million individuals have a personal tax account, but the needs of Brexit meant that development of the account was put on hold in April 2018.

A vision of the future

A future vision for the online account would see it become the place where a taxpayer lodges all claims and keeps a permanent record of their claims or elections.

The account should also permit supporting documents to be uploaded in support of a claim, which would bring time and cost benefits to both taxpayers and to HMRC. Of course, the needs of the digitally excluded should not be forgotten, including those who live in areas of limited connectivity, but the cost savings from the improved account could help to fund more personal services for those who need additional help.

It would be helpful to bring additional standardisation to claims and elections. Most claims are made by reference to a tax year or accounting period and it would be useful to extend this to other event-based claims where that is feasible. A good example of this could be the main residence nomination, which is currently required to be made no more than two years from acquiring a second residence (or effectively backdated up to two years from making a claim). This could be changed to allow claims to be made up to two years from the tax year in which the second residence was acquired. At the same time, it would be sensible to ensure consistency in time limits for amending claims and elections, whether made within

or outside a tax return. There should not be an advantage in making a claim outside a return. HMRC should also provide additional claim templates to ensure taxpayers make correct claims.

Online forms

The OTS received a considerable number of comments about HMRC's online forms. There are a limited number of truly online forms, in the sense that the form is completed and submitted online and then processed in an automated fashion by HMRC systems. Many more forms can be completed on a computer but must then be printed before being sent in by post.

There are lots of important detailed improvements which could greatly help the user experience – and help taxpayers to complete the forms correctly and accurately. Too many forms do not start by advising the taxpayer what information will be needed to complete the form, and save and return is not often available. Some forms use technical, ambiguous language. Making greater use of a user panel to review forms and accompanying guidance would help to ensure that the forms are clear, again reducing the capacity for error.

HMRC has allowed a number of easements during the Covid-19 pandemic, including reducing the number of forms requiring an actual signature. However, submitting forms through an online account would act as a much better form of taxpayer authorisation. It would also be sensible for HMRC to permit overseas-resident taxpayers to file and make claims online, using the personal tax account, or HMRC's online Self Assessment portal. Currently, those taxpayers either need to buy specific software or rely on the postal service.

The cost of developing the necessary non-resident form is surely not very significant, compared to the savings for HMRC in reducing the postal forms.

Specific recommendations

The report also contains a range of specific recommendations. Over 5 million employees make 7 million claims for tax relief on expenses not reimbursed by their employer. It is thought that about 80% relate to flat-rate expenses, typically for cleaning uniforms or other workwear, or for tools. HMRC has introduced an online claim form for most expenses below £2,500 but has not yet tied the claim form into the personal tax account. The report recommends clearer guidance and simpler

forms.

The report also recommends changes to HMRC's current process of continuing to include claims for relief in future years' tax codes. There should be an immediate withdrawal of relief where an employee moves jobs, combined with a request to make a new claim if relevant. For employees in continuing employment, HMRC should introduce a review point every few years.

> Almost all tax reliefs need to be claimed by the taxpayer. HMRC does not have the necessary information to automate claims.

Finally, the government should consider reducing the large number of different levels of flat-rate expenses to something easier to work with, and consider allowing employers to pass information to HMRC about eligibility for flat-rate expenses through the RTI for PAYE service.

At the start of the review, the OTS heard directly from taxpayers and advisers that the process for making carry-back claims for Gift Aid does not work well. Carry-back was introduced to allow a taxpayer who had realised a one-off substantial gain or income to make a large donation to charity in the following tax year and get effective tax relief for it (typically, at higher or additional rate).

As a couple of tribunal cases have shown, the requirements for making the claim are unnecessarily difficult. The OTS recommends that the government allows part of an individual Gift Aid payment to be carried back and that the taxpayer should be able to amend the tax return to claim it. Further, as an administrative benefit, lower level donations should not be capable of being carried back, which would avoid complexity and error for taxpayers who did not need carry-back to get higher rate relief for their gifts.

Business claims

There are several specific recommendations relating to business claims. Firstly, the government should consider the benefits and costs in introducing a pooling mechanism for short life assets acquired in a particular year. Further, the current information requirements for short life assets should be reviewed, to identify whether claims could be simplified or reduced. A template for businesses to use to agree the value of fixtures on an acquisition would be helpful.

Small businesses do not suffer restrictions on the use of corporation tax losses, which apply only where they are sought to be offset against profits over £5 million per year. However, they still need to report the deduction allowance on their corporation tax return. This is unnecessary for 98% of companies and the OTS recommends that the government introduces a de minimis (significantly below £5 million) where this need not be reported at all.

The tax rules on loans to participators in close companies are an important anti-avoidance mechanism. However, reclaiming the tax deposited with HMRC could be made simpler, where the loans are repaid. The online process should allow multiple reclaims and should be opened up to tax agents. Further, the government should look to make a specific provision for earlier repayment of tax paid on loans to participators in the case of liquidations and review the requirement for loans to have been repaid within an accounting period.

Finally, the OTS recommends that the election for employment-related securities should be reversed, so that the unrestricted market value should automatically apply where restricted securities are acquired. The employer and employee should have the option to make a joint election to disapply that treatment and, unlike the current approach, that election should be filed with HMRC.

Finally…

As always, the OTS team has worked closely with a wide range of tax agents, professional and representative bodies and with HMRC to produce this report. Ruth Stanier OBE, HMRC’s Director General for Customer Strategy and Tax Design, has welcomed it as a useful contribution towards ensuring that taxpayers receive the reliefs to which they are entitled – and something that fits well with the Tax Administration Strategy.

Let us hope that HMRC will receive the necessary funding in the Spending Review to support developing the single online digital account and that many of the recommendations can be adopted in the relatively near future.