Welcome to the December Technical Newsdesk

Welcomes

01 December 2020

Following the announcement on 23 September that Making Tax Digital for Income Tax (MTD for ITSA), and the reform of basis periods, were to be delayed, we received several thank you messages from our members and volunteers. The receipt of these messages (which, to be honest, is quite unusual) made me reflect on what had prompted them. You might think that change is the only constant when it comes to tax matters, and dealing with new (often imperfect) taxes and obligations is part of the 'norm' for many members. Why were these two measures so troubling that their deferral triggered what seemed to be a collective sigh of relief all around (even at HMRC)?

Of course, we all know the answers. We are concerned about the availability of software for MTD for ITSA, testing the interactions with HMRC, educating clients and managing the future relationship. We are concerned too about the pace of the basis period reforms, which bring challenges for those affected both during transition and on an ongoing basis. And this is to name just a few concerns…

So why do we find ourselves in this situation? Well, I strongly believe that it's a result of failing to follow the tax consultation framework. I've written about the framework before (see my August introduction) and so I won't repeat this again, but it's instructive to remind ourselves where the process started for these measures.

Many readers will remember the 'death of the tax return' announcement by George Osborne at the March 2015 Budget – and then the relative silence until MTD was 'launched' in December 2015 and numerous stage 2 consultations were issued in August 2016. So, the path had already been laid and key decisions taken. The consultation was mainly around implementation.

The consultation around basis period reform (influenced, I suspect, by an element of panic, with MTD for ITSA still scheduled for April 2023) took places at stages 2 and 3 – presenting more of a final outcome than an opportunity to discuss options.

In mid-October, I gave evidence to the House of Lords Finance Bill Sub-Committee in relation to its inquiry into the draft Finance Bill 2021/22 (see ti nyurl.com/xvh3cfs5). The inquiry is focusing on basis period reform and the notification of uncertain tax treatment (which also started at stage 2). It made me smile when Jason Piper of ACCA referenced the joke about giving directions – that if you want to get there, I wouldn't start from here. If we remind ourselves where 'there' is: for MTD, it is the reduction in the tax gap relating to error and failure to take reasonable care; and for uncertain tax treatment, it is a reduction in the tax gap relating to legal interpretation. But instead of asking the question: 'How do we reduce the tax gap relating to…?' – making 'here' stage 1 of the consultation framework, the beginning of the journey – we seem to have started on a particular route before asking for directions. So, when the consultation commences, 'here' is stage 2 of the consultation framework, and often the wrong starting point.

By the time you read this, we will have had the Budget (and perhaps the Finance Bill) and so we will see what happens to the measures discussed above, and the starting point for any new proposals. In this month's edition, you will see that we have commented on various clauses in the draft Finance Bill, as well as making suggestions for the things the government might consider in this or future Budgets.