Timely payment: CIOT, ATT and LITRG responses

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The ATT, CIOT and LITRG have responded to the HMRC call for evidence on more timely payment of tax (that is to say, payments of tax that are both more frequent in nature and are more closely in line with the point in time at which the income, profits or gains to which they relate arise).

Earlier this year, HM Treasury published a call for evidence (see tinyurl.com/5b2kwd38) looking at the benefits and challenges of current tax payment timings, and the potential to move to more frequent, in-year tax calculation and payment. The call for evidence focused on Income Tax Self-Assessment (ITSA) and Corporation Tax for companies outside the quarterly instalment regime, but also explored the potential for more timely payment of other taxes.

The ATT, CIOT and LITRG all responded to this consultation and, at the outset, noted that altering the frequency and/or calculation of tax payments would be a major change for affected businesses and individuals. All three bodies therefore welcomed the fact that this call for evidence takes place at an early stage in the consultation process, as well as the commitment not to introduce any changes within the present Parliament.

The responses also all suggested that as a preliminary step, and before any changes to the timing of payments of tax are mandated, the existing voluntary options should be promoted. Alongside greater education of taxpayers of their liabilities generally, promotion (for example, of the benefits of the Budget Payment Plan) could address many of the concerns or problems that the call for evidence indicates that more timely payments are seeking to address. Thus HMRC’s existing Budget Payment Plan should be improved and access to it widened.

ATT response

In considering the specific proposals, the ATT response (see tinyurl. com/3srcsvej) recognises that whilst there may be benefits to the Exchequer and some taxpayers of bringing tax payments closer to real time, there are concerns that these benefits could be outweighed by the practical and cash flow problems arising from making any such change compulsory.

The ATT therefore recommends that, for ITSA and Corporation Tax:

- Any changes to the frequency of tax payments should not be compulsory, but instead optional with incentives (such as longer filing deadlines, quicker repayments, etc.) to drive participation.
- Instalment payments should be based on the tax liability of the previous year, rather than in-year data.
- If the frequency of tax payments were to be increased, payments should not be required more often than quarterly.

CIOT response

CIOT's response (see www.tax.org.uk/ref773) commented on the lack of clarity around the overall benefits to taxpayers of more timely payments. We commented that whilst some of the benefits of timely payments cited in the call for evidence could arise for some taxpayers in particular circumstances, the challenges that have been identified could adversely impact a great many taxpayers. It is not clear where the balance will lie between the potential benefits and the potential negative impacts for taxpayers in different circumstances; and it is not clear which type of taxpayer would be most advantaged overall by the introduction of timely payments.

The CIOT said that we do not agree that a more frequent tax payment regime should be based on current year liability. It is the CIOT's strong view that a move to tax liabilities based on in-year calculations could only work if the tax system was fundamentally reformed first. At the moment, calculations based on an up-to-date view of the in-year tax position seem highly aspirational. This is because the UK's tax system does not work in real time, it works in arrears. Tax is calculated on total annual income, profits or gains, which in most cases can only be worked out after the tax year has ended. In our view, if payment of tax is to be based more in real time, then there needs to be a fundamentally different basis of determining tax liabilities in real time. That said, we do not have any objections to a regime of more frequent payments based on a taxpayer's tax liability for a previous year that is

known, effectively accelerating or spreading the current payments on account that are made under ITSA. More payments on account based on a previous year's liabilities seem to be the most straightforward way of increasing the frequency of tax payments and present the fewest complications.

LITRG response

In LITRG's view (see www.litrg.org.uk/ref2510), the key to any new timely payments regime is to ensure maximum flexibility around any real time advance payments. But LITRG said that the biggest challenge to this is how to ensure that any real time tax instalments are reasonably accurate – substantially overpaying in advance due to inaccurate in-year calculations could cause significant and unnecessary cash flow difficulties. The primary aim of a more frequent timely payment regime must be made clear from the outset – is it to collect the correct amount of tax in real time, or is to collect tax more quickly in the simplest way possible? There would seem to be tensions between these two principles of accuracy and simplicity.

LITRG warns that how third party data is used will need to be carefully considered when establishing real time liability as there are several issues that need to be addressed in this area, including who is responsible for the accuracy of the data and finding a way for the taxpayer to challenge inaccurate data from third parties.

LITRG have stressed that taxpayers who are digitally challenged or digitally excluded must not be forgotten in the design of any new process – new processes should be designed for all from the start. Non-digital channels must remain open to offer support to those who cannot use digital methods for managing their tax affairs.

LITRG also highlighted that interactions with other areas must be considered – for example, with student loan deductions and with universal credit; and that HMRC also need to ensure they can deal with tax repayments in a timely manner as well.