# House of Lords committee reports on basis period reform and uncertain tax treatments requirements

General Features

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**A House of Lords report has again criticised the government's approach to consultation on significant changes to the tax system, calling for more work to be done to manage the impact of basis period reform and for greater support for businesses required to notify uncertain tax treatments. The peers also expressed concerns about current service levels within HMRC, asking that it has sufficient resources update its published guidance on an ongoing basis.**

The Lords Economic Affairs Finance Bill Sub-Committee report ( tinyurl.com/2p95a6m5) addresses the two main areas covered by its inquiry: basis period reform; and notification of uncertain tax treatments. The report makes substantial criticisms of the government's approach on both. More broadly, the sub-committee calls on the government to commission an independent report into HMRC customer service levels and capacity to implement change.

To reach their conclusions, the sub-committee took evidence from a range of witnesses including CIOT, ATT and LITRG.

All three bodies provided both written evidence (www.tax.org.uk/ref842, www.att.org.uk/ref384 and litrg.org.uk/ref2590 respectively) and oral evidence. The final report cites CIOT in 22 places in the main text, ATT nine times and LITRG 11 times (with further citations in the footnotes).

## Basis period reform

The sub-committee considers the consultation on basis period reform ‘flawed’, saying it is unclear why four years after the original consultation the new and different basis period reform proposals were published in haste. However, the peers do not recommend that basis period reform should be abandoned now, even though they do not consider that a compelling case has been made for it.

The report cites ATT’s view that the current rules are familiar to many and that once a business is established, they are ‘fairly straightforward’ and logical to apply in practice; however, it added that ATT appreciates that applying the current rules may be more complex for the unrepresented taxpayer. Peers also noted the concern expressed in oral evidence by CIOT’s Richard Wild that the measure seems to ‘trade one set of complexities that arise on fairly one-off occasions for those that occur on an ongoing basis year in and year out’.

However, the report acknowledged LITRG’s view that one effect of the new rules would be to encourage new businesses to choose either 31 March or 5 April as their accounting date, which would help those who are newly self-employed to better understand their tax affairs from the outset. LITRG’s urging of HMRC to make it as easy as possible to change accounting date is also noted, as is ATT, LITRG and ICAEW’s keenness to ensure that if businesses make such a change before the transition year, they will still be able to spread the excess profit.

The sub-committee welcomes the government’s recognition that further work needs to be done on the impact that this reform will have on businesses which cannot align their accounting periods with the tax year, and a reassessment of the additional compliance costs which businesses in this position will bear because of the reform.

On overlap relief, the report cites CIOT’s view that a business or its agent should be able to obtain or check overlap figures with HMRC, and recommends that by 5 April 2022, HMRC should commit publicly to providing this information.

On preparation for change, the report cites CIOT and LITRG concerns on making sure that information reaches the right target audience. The peers recommend that HMRC directly contacts all taxpayers with accounting periods which are not aligned with the tax year to alert them to the change and its implications for them, and to inform them of what support is available.

The report also recommends that, for businesses which do not have a 31 March to 5 April year end, Making Tax Digital should be deferred until at least 2025/26.

## Uncertain tax treatments

The sub-committee highlights CIOT's view that a Stage 1 consultation should have been undertaken in relation to this measure. This, they note, could have considered alternative ways of addressing uncertainty within the tax system, rather than focusing on one specific proposal.

The sub-committee notes the ATT's Emma Rawson's view that there are more fundamental things (such as the complexity of tax legislation and the availability of HMRC support for taxpayers) that should be looked at if the legal interpretation part of the tax gap is to be tackled. Such criticism led the peers to state their disappointment that the measure remains neither appropriately targeted nor proportionate. The peers also note CIOT's questioning of whether such a small reduction in the legal interpretation tax gap justifies the additional compliance burden.

Drawing on CIOT concerns, the sub-committee says that with businesses required to notify HMRC when they take a view on the law that differs from HMRC's 'known view' (the second trigger), the government must ensure that HMRC has sufficient resources to ensure that their published guidance is updated on an ongoing basis.

Before any third trigger of uncertainty is added, an evidence-based evaluation of the measure should be carried out and, if it shows that the requirement is not delivering the benefits that HMRC expect, then the notification requirement should be repealed in its entirety, says the report.

On compliance, the peers report ATT and CIOT warnings that compliant businesses may be likely to over-disclose uncertainties, leading to HMRC being 'flooded' with notifications. The sub-committee calls for the number of customer compliance managers to be expanded, irrespective of the introduction of this measure, and states that if the measure goes ahead, the government should commit to ensuring that every business affected has a customer compliance manager.

## Broader conclusions and recommendations

In addition to comments on the two main proposals, the sub-committee observes that its analysis 'has identified common themes applicable to both proposals, some of which have also arisen in previous reports by the sub-committee'. These are set

out briefly in a fourth chapter of the report.

The first is a failure to follow the tax policy framework. The sub-committee notes CIOT's view that the process works well 'when the consultation process is followed in full' but concludes (along with CIOT and others) that neither of these measures followed the process in full. The report recommends that in future all consultations involving a significant reform of the tax system should begin at Stage 1. They invite the government to make a renewed commitment to that effect.

The sub-committee also addresses the issue of resourcing of HMRC. Describing the evidence about current service levels within HMRC as 'troubling', they recommend that the government commission an independent report on HMRC customer service levels and capacity. This should consider what will be needed in terms of additional resourcing for HMRC to be able to deliver basis period reform and MTD for income tax without any adverse effect on overall service levels.

A fuller write-up of this report can be read at www.tax.org.uk/basis_period_reform_peers.