HMRC call for evidence: enquiry and assessment powers, penalties and safeguards

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19 March 2024

HMRC have published a call for evidence which is inviting views on how certain aspects of the tax administration framework might be reformed. A summary of the document is provided below. We would like to receive your views.

The call for evidence (see tinyurl.com/2p9km4sz) is extensive and wide-ranging, comprising 22 ‘opportunities for reform’ and 31 questions. Because the enquiry is at Stage 1 of the consultation process, it is an opportunity for the CIOT, ATT and LITRG to express our views and any concerns about the ideas contained in the document before any decisions are made by the government about whether to implement some, or all, of them.

Some of the reform opportunities include, for example, the alignment of HMRC powers across direct and indirect taxes, penalty reform, and the alignment of

appeals processes and payment requirements. Such reforms would result in fundamental changes to the status quo, so it is important that we hear your views about them. What would you support and what wouldn't you, and why? What are the risks and benefits of these ideas? Do you have any alternative suggestions?

We appreciate that members may not have time to look at each individual reform opportunity or question. We will, of course, welcome and value your input on any aspects where you can provide feedback.

The consultation closes on 9 May 2024, but to give us sufficient time to prepare our written responses, please would you send any comments you may have to technical@ciot.org.uk or atttechnical@att.org.uk (or email the relevant technical officer) as soon as possible.

Summary of the call for evidence and opportunities for reform

HMRC's enquiry and assessment powers (questions 1 – 10): This section discusses the potential opportunities and risks of streamlining HMRC's powers, whether there are areas of the tax system which could potentially benefit from HMRC taking a different approach, and modernising how HMRC sends statutory notices to taxpayers and agents. Various reform opportunities are discussed:

A: Consistent powers across tax regimes

B: Aligning powers and addressing gaps

C: Consequential amendments and assessments across periods and across taxes

D: Conditions for assessment

E: Tailoring HMRC's powers

F: Modernising administration and communications

Penalties (questions 11 – 21): This section explores the benefits and challenges to increased alignment across different tax regimes, whether there are specific penalties which could be simplified, and the role of penalty escalation for continued and repeated non-compliance within the design of UK tax penalties. Various reform opportunities are discussed:

G: Aligning penalties across tax regimes

H: Simplifying individual and related penalties

I: Reforming the use of penalty suspension

J: Proportional fixed penalties

K: Penalty escalation for continued non-compliance

L: Penalty escalation for repeated non-compliance

M: Designing new penalties to discourage undesirable behaviour

N: Modernising administration and communications

O: Regular uprating of penalties

P: Transparency

Safeguards (questions 22 – 31): This section considers the potential for aligning the processes for direct and indirect tax appeals, expanding the use of statutory reviews and alternative dispute resolution, and making greater use of digital appeal routes. Various reform opportunities are discussed:

Q: Aligning how appeals are made

R: Aligning payment requirements

S: Improving access to alternative dispute resolution and statutory review

T: Mandating statutory reviews in certain circumstances

U: Withdrawing the option of statutory reviews in certain cases

V: Digital administration

Annex A sets out HMRC's Tax Administration Framework Review's objectives and design principles for reform (which stem from the 2005–12 review of HMRC Powers).

Annex B provides some examples of enquiry and assessment powers, penalty regimes and safeguards in other jurisdictions.

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