UK FINANCE

Timely payment - Call for Evidence

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UK Finance is the collective voice for the banking and finance industry.

Representing almost 300 firms across the industry, we act to enhance competitiveness, support customers and facilitate innovation. Our members include businesses that are large and small, international, national and regional, corporate and mutual, retail and wholesale.

General Comments

We welcome the opportunity to respond to the HM Revenue & Customs ('HMRC') 'Timely payment – Call for Evidence' ('the Call for Evidence').

We note that the Call for Evidence indicates that consideration is being given to the possibility that, in future, individual taxpayers might need to pay income tax and/or Capital Gains Tax ('CGT') more frequently than at present. It is not entirely clear if this requirement might also extend to taxpayers having to pay tax more frequently on income and/or gains arising on products held with financial institutions, such as interest on savings accounts, and/or dividends and capital gains arising on investment based products.

The Government introduced the personal savings allowance ('PSA') in 2016 and with its introduction removed the bulk of the deduction of basic rate income tax at source of interest. To reverse this and require deduction to be made by financial institutions, but only in certain cases, would be a retrograde step. Due to the fact that the PSA is an annual allowance per recipient, a financial institution may not know whether the PSA has been exceeded for their customer, even if the customer holds multiple products with the financial institution. This is because many financial institutions are not currently able to amalgamate customer balances where these are on separate legacy systems. We would also note that the nature of interest income is that it arises over time but is paid at intervals. Many products have penalties for early withdrawal or a reduction in the balance so that the taxable interest cannot be predicted and does not accrue evenly over time.

If the answer is that more frequent payment of tax by taxpayers might be required for income/gains arising on such products, then the question arises as to whether third party information providers (such as banks and other financial institutions) might be required to provide information directly to HMRC about such income/gains. This might mean new reporting requirements for some types of income/gain where no reporting currently takes place, and/or a requirement for existing reporting to be done more frequently than is currently the case. At present, most reporting is currently done on an annual basis, e.g. that relating to interest on savings and other financial accounts held by the taxpayer/customer.

The Call for Evidence doesn't appear to address these points and the interdependencies with third-party data reporting in any detail. We would urge that, before any decisions are made to require financial institutions (as third party data providers to HMRC) to undertake new reporting obligations or make significant changes to existing reporting obligations, a thorough consultation and cost/benefit analysis is undertaken. This is to ensure that the costs entailed in adding to the reporting obligations of financial institutions, or the frequency of reporting, is proportionate to the benefit to be

derived. In addition, it is essential that any such changes, once consulted upon and finalised, are introduced with sufficient lead times for financial institutions to implement.

Specific Questions

Chapter 2: Principles

Q1. Do you have any comments on the benefits and challenges of timely payment outlined above?

We would note that it is unclear from the Call for Evidence whether Timely Payment will be compulsory or voluntary. We consider that it should be voluntary.

As providers of SME finance, we support the option of offering timely payment, based on in-year information, as it may help with taxpayers' cash flow management and better management of their tax affairs. However, we consider that calculations should be done on a quarterly basis, to lower administrative burden on the taxpayers.

We also agree that any transition from the current to a new regime would need to be carefully managed and consultation will need to be undertaken to avoid adverse impact for taxpayers, e.g. overlapping of payments from the old and new regime.

Q2. Please provide a narrative, with examples if possible, of any other benefits, challenges or impacts which you consider should be of central concern when looking at this proposal.

As raised in our general comments, it is not clear from the Call for Evidence if the requirement for more frequent payment of tax might also extend to paying tax more frequently on income and/or gains arising on products held with financial institutions, such as interest on savings accounts, and/or dividends and capital gains arising on investment based products. We would urge that, before any decisions are made to require financial institutions (as third party data providers to HMRC) to undertake new reporting obligations or make significant changes to existing reporting obligations, a thorough consultation and cost/benefit analysis is undertaken. This is to ensure that the costs entailed in adding to the reporting obligations of financial institutions, or the frequency of reporting, is proportionate to the benefit to be derived. In addition, it is essential that any such changes, once consulted upon and finalised, are introduced with sufficient lead times for financial institutions to implement.

Q3. What are the relative merits and disadvantages of tax payment regimes in other countries compared to the UK's? Q4. Are there examples of tax payment timings from other states or territories which the UK should consider?

We are given to understand that in the Netherlands the corporate income tax (CIT) assessed must be paid within two months from the date of the provisional or final assessment calculated by the Dutch Tax Authorities. The provisional tax assessment can be paid in one lump sum or monthly. A discount is applicable for taxpayers that have opted for lump sum payment. Interest is payable on the CIT due. The interest is calculated from six months following the financial year. The taxpayers can appeal the provisional assessment with supporting calculations. A merit of this approach is that provisional assessment is calculated by the Dutch tax authorities but with the option to appeal by taxpayers, which lessens the administrative burden on taxpayers. A disadvantage is that for taxpayers that do not opt for lump sum payment, there is an increased monthly administrative burden.

Additionally, for taxpayers that opt for lump sum payment, it may result in problems with cash flow management.

We are given to understand that in Germany corporate taxes are payable in quarterly instalments during the year, with a final settlement when the assessment is issued. The quarterly instalments are based on the estimated ultimate liability. Usually, this is the total tax due shown by the last assessment issued, as adjusted by any rate changes. The corporation tax instalments are due on the tenth day of March, June, September, and December. For trade tax, the due dates are the 15th day of February, May, August, and November. Failure to pay by the due date followed by a three-day period of grace leads to a penalty of 1% per month. The merit of this regime is that calculations are based on the prior year tax return calculations. A disadvantage is that this approach may not reflect the current tax position of taxpayers.

We are given to understand that in Belgium advance corporate tax payments, needed to avoid the CIT surcharge, can be made in quarterly instalments. In the situation where the company's financial year ends on 31 December 2020, the due dates for the advance tax payments are 10 April 2020, 10 July 2020, 10 October 2020, and 20 December 2020. If the due date is a Saturday, Sunday, or a bank holiday, the payment is due on the next working day. The merits of this approach are that calculations are based on the prior year tax return calculations. As with the German regime, the disadvantage is that this may not reflect the current tax position of taxpayers.

Q5. Where people have experience or data of timing changes in other countries (e.g. recently in France), what have been the impacts and what should have happened differently?

No comments.

Chapter 3: Overview of Current Regimes

Q6. What are the advantages of the current payment timings? Are there any groups who rely more heavily on these than others?

The current payment timings provide a helpful source of additional working capital for many businesses. We are unsighted on what specific groups or sectors may rely heavily on the current timings, but particularly / arguably for successful and growing businesses the current timings enable greater levels of cashflow to remain in the business for longer periods which in turn enables opportunities for greater levels of investment and growth, if managed properly.

Q7. What are the challenges with the current payment timings? Are there any groups who are challenged or disadvantaged more than others?

We agree with the challenges as set out in the Call for Evidence, and for the UK Taxpayer, the current timings and delays in HMRC receiving payment leads to an increase in the likelihood of recovery of due taxes.

Q8. - Q10.

No comments.

Q11. What are the benefits of the existing payment timings for CT? Are there any types of company, sectors, or other distinctions which rely more heavily on the long payment window than others?

As set out in response to Q6.

Q12. What are the challenges with the current payment timings? Are there any types of company, sectors, or other distinctions which make the current payment timings challenging or disadvantageous?

As set out in response to Q7.

We understand from that the current payment timings for CTSA are burdensome for companies that are not within QIP regime, as they have to pay their CT liability in one go. Consequently, we can appreciate that it would help with a CTSA taxpayer cash flow management if they had the option to change the current payment timings to a more regular one, e.g. quarterly and to be in line with the proposed MTD on CT.

Chapter 4: Handling More Regular Payment

Q13. Do you agree that if there is to be a more frequent tax payment regime, it should generally be based on current year liability?

A transition to more regular 'current year' payments would be reliant on and subject to businesses preparing regular and up to date accounts to obtain an accurate picture of their current tax liabilities. Although this would encourage good practice, for many (particularly smaller) businesses, we assume that this will almost certainly require significant changes to their current habits.

We agree that the frequent CTSA tax payment regime should generally be based on current year liability but would need to be interlinked with MTD to reduce the additional compliance burden. It would undoubtedly assist the transition if HMRC were to announce the tax base and the rates in advance and legislate them.

Q14. Do you have any initial comments on the benefits and challenges of different calculation options to meet diverse taxpayer needs versus one process for all taxpayers in scope?

No comment.

Q15. What are your views on using digital solutions to facilitate in-year calculation, and what and how could specific groups be affected negatively by this?

We would encourage improvements to the Budget Payment Plan and the inclusion of similar tool in respect of Corporation Tax. Digitally-excluded or digitally less able groups are likely to be negatively affected.

Q16.Do you have any comments on how the needs of taxpayers for whom digital solutions are unavailable or challenging could be met when considering calculating tax liability in-year?

We would anticipate that many companies would initially be using excel based solutions to facilitate in year calculations unless in-built functions may be available for some companies using specific software. We do not propose that a specialist software is used to assist with the calculations as it would result additional costs for the taxpayers.

Q17. - Q23.

No comments.

Q24.Do you have any comments on the benefits and disadvantages of flat rate expenses?

We agree that using one standard rate of expense for income or corporate tax may result in unfair outcomes. We do not agree with using a flat rate expense scheme.

Q25. What examples are there that work well and would be appropriate for Income Tax expenses that would not be captured through any MTD updates?

No comments.

Q26. If there were flat-rate expenses, should they replace the actual expenses or only act as a proxy for in-year calculation?

No, it should not replace the actual expenses. It should only act as a proxy for –in year calculation. However, saying that, having a flat rate scheme could skew the amount required to be paid on a regular basis when the objective of having a regular CTSA payment would be to help with cash flow and to provide a better management of the taxpayers corporate tax affairs.

Q27. If flat-rate expenses were introduced, should they be restricted to smaller businesses?

We believe that the regime should operate on a voluntary and optional basis.

Q28. Do you have comments on the impact and challenges of recognising annual reliefs, allowances, deductions, and other amounts?

No comments.

Q29. Do you have any initial views on the benefits and challenges of monthly, quarterly, or other, payment frequency?

Please also refer to our response to Q13.

We would encourage either a less frequent requirement, or at least flexibility for businesses to select the frequency to align with their (management) accounting processes as well as reduce administrative burden.

Q30. Do you have any comments about how over- or under- payments of tax could be resolved in -year?

No comment on how this could be handled but we would certainly encourage a clear commitment from HMRC, possibly set out in a charter, that where refunds are due back to businesses, these are handled in a speedy and efficient manner.

Q31. What systems and processes exist that would help to ensure protection against fraud and organised crime, whilst also allowing quick and easy repayment?

UK Finance would be happy to facilitate a conversation with our fraud and economic crime prevention specialists to advise on these matters.

Q32. How could more frequent payment based on current year liability be phased in?

For many businesses, the current tax regime has been built in to their planning and budgeting for many years, and as per the notes in the Consultation Paper, these firms will be required to catch up on historical liabilities whilst at the same time paying in year liabilities. We would urge as much flexibility as possible during the phasing in process.

Q33. Do you have any comments on any specific impacts that more frequent payment of tax could have on large partnerships and how these might be mitigated?

No comments.

Chapter 5: Cash-Flow Impacts

Q34. - Q35.

No comments.

Q36. Do you have any comments on the positive and negative cash-flow impacts for businesses of more timely payments?

As the Call for Evidence notes, whilst there will be no change in overall liability, there will be a significant impact on many businesses' in-year cashflow, particularly during the period of implementation (when they will be 'catching up) but also within tax years on an on-going basis. As noted above, careful consideration of the phasing of this measure will be essential.

Q37.- Q39.

No comments.

Q40. Do you have any comments on the cash-flow impacts on the case studies outlined above?

Section 2.22 of the Call for Evidence provides a helpful scenario setting out one of the negative impacts of more timely payments, where a business has a period of time between paying for stock and receiving income, and how the current payment timescale provides them with access to cash to help fund this gap.

Prior to the recent extension of Secondary Preferential Creditor Status by HMRC, businesses similar to this one would have been able to access finance through the provision of stock as security to a lender.

Due to the nature of stock, lenders would only generally be able to take security by way of a floating charge. With the extension of preferential status in 2020, HMRC now rank ahead of floating charge holders, which means that lenders are less able to provide the much-needed finance required by this type of business.

UK Finance ask that HMRC consider this Call for Evidence alongside the impact that Secondary Preferential Creditor Status has on businesses ability to access much needed cashflow, and would question whether it is appropriate to retain such status, particularly as HMRC move towards more effective tax collection. As a general point, it seems inconsistent to take such a retrograde step back towards the reintroduction of classes of preferential status at the same time as technology is allowing more timely payment of taxes.

Q41. - Q43.

No comments.

Q44. Do you have any initial comments on the opportunities and challenges of more timely payment of CGT?

Depending on the role of the financial institution, it may or may not know the base cost of assets that it holds for its customers (inheritance, transfers by spouses, custody of pre-owned assets etc) so computing any CGT in order to deduct tax (and knowing the customer's CGT rate, allowances, losses etc) is not within the FI's gift.

We would, however, recommend that the 30 days reporting rule for residential property chargeable gains is evaluated to understand the problems taxpayers have with it, including e.g. the mechanics of getting a Government Gateway ID.

Q45. Is there anything else you would like to suggest to help progress the exploration of this policy?

No comments.

If you have any questions relating to this response, please contact Sarah Wulff-Cochrane, Principal, Taxation Policy, UK Finance (sarah.wulff-cochrane@ukfinance.org.uk).