



Abolition of the Office of Tax Simplification Clause 346

Executive Summary

- We regret the government's decision to abolish the OTS and hope, even at this late stage, that the OTS can be saved. We encourage members of the committee to vote to retain it.
- A decision to retain the OTS, especially if it is strengthened, would send out a strong message of the government's commitment to simplification, whereas abolishing it sends the opposite message.
- If the OTS is to be scrapped then this debate provides an opportunity to press the government on how they will deliver their promise to "embed tax simplification into the institutions of government". Alongside other professional bodies we have made a number of suggestions of processes which could help achieve this.
- We strongly welcome New Clause 1, tabled by members of the Treasury Committee, that would require the Treasury to report annually to the Treasury Committee on tax simplification if the OTS is abolished.

1. Overview

- 1.1. Clause 346 abolishes the Office of Tax Simplification (OTS).
- 1.2. The OTS was originally created by the coalition government in 2010, as an independent office within the Treasury. Its role has been to advise the Chancellor independently on the simplification of the tax system, including improving the efficiency of its administration. It has focused both on areas identified by the Chancellor, and on those chosen on its own initiative.
- 1.3. The OTS was put on a statutory footing by Finance Act 2016 (ss 184-188 and Schedule 25). The then Financial Secretary, Jane Ellison, told the House of Commons that putting the OTS on a statutory footing "indicates the seriousness with which we take its work."
- 1.4. On 23 September 2022, Chancellor Kwasi Kwarteng announced the Government's intention to abolish the OTS. The Government announced that: "Instead of having a separate arms-length body oversee simplification, the government will embed tax simplification into the institutions of government. It will therefore abolish the Office of Tax Simplification and set a mandate to the Treasury and HMRC to focus on simplifying the tax code." (Paragraph 4.13, *The Growth Plan 2022*)
- 1.5. The abolition of the OTS is one of the few announcements in *The Growth Plan* not to have subsequently been reversed.

- 1.6. We regret this decision and hope, even at this late stage, that the OTS can be saved. We encourage members of the committee to vote to retain it.

2. The case for the OTS

- 2.1. The OTS has achieved a great deal since it was established in 2010. Its first report led to the abolition of more than 40 superfluous tax reliefs which were clogging up the tax system. Cash basis reporting has made compliance simpler for more than a million small unincorporated businesses. There have been useful reforms to employee expenses and inheritance tax reporting, among other areas. Almost every Finance Act of the last decade has had measures in it which owe their genesis to the OTS, and which have made navigating the tax system easier for one group or another. In this Bill an example is clause 41, which makes changes to the rules that apply to transfers of assets between spouses and civil partners in the process of separating.¹
- 2.2. A criticism that has been levelled at the OTS is that it has failed to prevent the tax system getting more complicated during the 12 years since George Osborne and David Gauke set it up. But this is to misunderstand the relationship between the OTS and HM Treasury/HMRC. The role of the OTS is to examine parts of the tax system – sometimes at the request of ministers, sometimes on its own initiative – and to produce recommendations on how they might be simplified. That the OTS's most ambitious suggestions have not been adopted - for example, two reports in 2016 making the case for closer alignment of national insurance with income tax - is down to the decisions of ministers rather than the OTS.
- 2.3. The Government's argument appears to be that it is abolishing the OTS because tax simplification is so important that it wishes to bring it 'in house'.
- 2.4. With respect this seems to us a flawed argument. There are a number of reasons why, if the Government are serious about tax simplification, having an arms-length body such as the OTS makes sense, alongside 'embedding it' in the machinery of the Treasury and HMRC –
 - 2.4.1. With the challenges the Treasury and HMRC have had to deal with in recent times and delivering against a background of constant tax policy change (even before the last month), it is surely the case that these departments have focuses more central to their work and will (understandably) never prioritise simplification without a structural source of independent challenge. (We note that the OTS itself gave guidance in its recent report on simplification as to how to 'embed' it within Treasury/HMRC policy making, so this is clearly not an either/or.)
 - 2.4.2. The OTS can be a useful way for government to gauge opinion on reform of parts of the tax system, without setting hares running that the government is immediately about to make a particular change. Depending on reaction this can be seen as either helping to prepare the ground for future reform, or saving the government from a policy change they will come to regret.

¹ This was recommendation 7 of the second OTS report on capital gains tax - <https://www.gov.uk/government/publications/ots-capital-gains-tax-review-simplifying-practical-technical-and-administrative-issues>

- 2.4.3. The OTS has a very impressive record on effective consultation, reaching out proactively to meet with affected groups around the country to identify burdensome complexity in the tax system. This work will be missed. Do HMRC and the Treasury really have the capacity to take it on?
- 2.4.4. The OTS is a crucial interface between HMRC/Treasury and external experts in the private sector, professional bodies and academia. CIOT, through our technical committees, have engaged with all the OTS calls for evidence via meetings (at their or our invitation) or written submissions. To pick just a few examples, these have ranged from capital taxes to VAT to owner managed business, including the reviews into Small Company Taxation, Capital Allowances and Depreciation and Business Life Cycle, where we have been able to feed in the expertise and insights of our members as well as our Technical Officers. If the tax simplification conversation is conducted entirely in-house without engaging external expertise, or without a clear understanding by professional bodies and others of when and how they will be consulted, this risks a retreat into institutional or political group-think lacking real world insights, with potentially damaging results.
- 2.5. The government has also put forward the argument that the OTS is being abolished because it is poorly placed to manage the trade-offs involved in tax policy-making. For example, the Chancellor, in his letter of 20 March to the Treasury Committee, said that, “by virtue of being an independent body of the Treasury the OTS was not always able to weigh up the competing, legitimate objectives and priorities for tax policy that Ministers take into consideration, including delivery, fairness, impact on business and individuals, and costs to taxpayers”.
- 2.6. In our view this misunderstands the value of the OTS’s role. It is true, of course, that the OTS’s remit focuses it on simplification, and that there are other factors involved in tax policy-making. But final decisions on policy rest with ministers, and no-one in this debate is suggesting otherwise. The OTS’s role is merely to suggest simplifications that ministers can accept or reject. Furthermore, even if fairness or another factor trumps simplicity for a specific measure that isn’t the end of the story – simplification is still relevant to implementation of whatever it is and in any processes.
- 2.7. If the OTS is felt to have been insufficiently effective so far, there are a range of ways in which it could be strengthened. It could be given a greater role in scrutiny of new proposals. It could take on post-enactment review of new legislation. Reforms such as these would genuinely help embed tax simplification across government.
- 2.8. In addition, a decision to retain the OTS, especially if it is strengthened or with a revised focus, would send out a strong message of the government’s commitment to simplification, whereas abolishing it sends the opposite message.

3. The future of tax simplification

- 3.1. While retaining the OTS is our favoured approach, if it is to be scrapped then this debate provides an opportunity to press the government on how they will deliver their promise to “embed tax simplification into the institutions of government”.

- 3.2. In a joint letter² with the Association of Taxation Technicians, ICAEW, ICAS and our own Low Incomes Tax Reform Group, sent to the Financial Secretary on 5 April, we set out a number of processes which we think the government should introduce in order to deliver on its promise, and demonstrate its commitment to tax simplification. These are summarised below.

3.3. **Identify the characteristics of tax simplification**

It is important that the government sets out what it means by tax simplification, so it is clear to officials and external stakeholders what the government is seeking to achieve. We would welcome the opportunity to help identify these characteristics or develop a definition. The OTS identified a working summary of simplification in its recent 'Review of Simplification' report,³ and there is a great deal of work which can be readily built upon.

3.4. **Ensure someone is accountable for delivery of tax simplification**

If the government is to simplify the tax system, someone needs to be accountable for its delivery. We welcome the Chancellor's comments in his letter to the Treasury Committee⁴ of 20 March that he will oversee simplification supported by the Financial Secretary. However an accountability mechanism needs to be devised, including directly before parliament, perhaps at the Treasury Committee, so that progress can be monitored and scrutiny applied.

With this in mind we strongly welcome New Clause 1, tabled by Harriett Baldwin and other members of the Treasury Committee, that would require the Treasury to report annually to the Treasury Committee on tax simplification if the OTS is abolished.

3.5. **Include simplification declarations in tax information and impact notes**

Tax information and impact notes (TIINs for short) set out the objectives and expected impacts of a policy. As well as the financial impact of a tax change and the impact on groups such as businesses and households they should include an assessment of how the measure contributes – or not – to simplification.

3.6. **Gaining external input to policy design and implementation**

The tax system contains many examples of legislation and obligations which are overly complex, because the tax policy-making process set out in 2010 and continued by subsequent administrations was not fully respected, and consultation took place too late in the process (if at all).⁵ We encourage the government to re-commit to the tax policy making process, consulting on new policies at stage 1 (setting out objectives and identifying options), with tax simplification considerations being a mandatory part of the process.

3.7. **Seek feedback from a broad range of stakeholders**

² <https://www.tax.org.uk/office-of-tax-simplification-ciot-letter-to-the-chancellor>

³ Paragraph 1.37, <https://www.gov.uk/government/publications/ots-review-of-tax-simplification>

⁴ <https://committees.parliament.uk/publications/34633/documents/190670/default/>

⁵ The High Income Child Benefit Charge, and 30/60 day CGT reporting are just two examples.

One of the strengths of the OTS was its willingness and ability to engage with a wide variety of groups affected by the tax system. While professional bodies and other representative groups reach out to their members for feedback, it is often difficult to obtain feedback from individual businesses and personal taxpayers. Consideration should be given to identifying new ways of seeking this direct input.

3.8. Ensure HMRC and Treasury engagement groups include tax simplification as a standing objective

Professional bodies such as ourselves, and other stakeholders, have extensive interaction with HMRC and the Treasury through a variety of engagement groups. We recommend that tax simplification forms part of the remit of each of these engagement groups. This will help support embedding the mandate of tax simplification across HMRC and the Treasury, rather than it being the responsibility of what currently appears to be a small team.

3.9. Increase awareness and improve guidance

Taxpayers should be informed of their obligations and entitlements, and have easy access to guidance which is sufficient to enable them to be understood. Guidance on GOV.UK can be hard to find, inaccurate, and difficult to follow. We are pleased that the government is to undertake a systematic review of HMRC guidance and key forms for small businesses.⁶ We also believe that more can be done to inform people of their obligations and entitlements, particularly in emerging areas such as the digital economy and hobby businesses.

3.10. Allow time for development and integration of systems

Changes to taxes frequently involve the development of new processes and digital systems to enable compliance. Too often recently, tax changes have resulted in new, stand-alone systems (such as the CGT property reporting service) which do not communicate with existing systems (such as Self-Assessment). We consider that any tax changes should be capable of being accommodated within HMRC's existing systems and processes, and sufficient time permitted for design and testing before the policy is implemented. Any change to existing processes should deliver, as a minimum, the existing functionality.

3.11. Adopt a consistent approach across tax regimes

Across tax regimes, many of the rules and processes for doing ostensibly the same things, are different. For instance, the rules for checking returns, assessing tax due, and resolving disputes are not consistent. This causes complexity not only for taxpayers and their agents, but for HMRC, too, and leads to increased litigation. We welcome that HMRC is starting to look at such matters, and some policies (eg penalty reform) will align existing disparate rules. But we specifically encourage the government to focus on bringing consistency across the tax system, and to consult on where that might be achieved.

3.12. Ultimately, with or without an OTS, the success or otherwise of efforts to simplify the tax system depends on senior policy-makers, and above all, ministers. If ministers are serious about simplification they must be prepared to amend or drop otherwise attractive proposals if the complexity cost is too high.

⁶ Box 3.C Tax simplification and paragraph 4.92, 'Spring Budget 2023'.

- 3.13. There have been some praiseworthy moves towards simplification in recent years. The flow of tax legislation has reduced somewhat (as advocated by the 2017 Better Budgets report⁷). Aligning income tax and NI thresholds is a step in the right direction. But if we want a genuinely less complex tax system policy-makers need to ‘think simple’ at every stage of tax policy consideration.

4. The Chartered Institute of Taxation

- 4.1. The CIOT is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT’s work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members’ experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT’s comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT’s 19,000 members have the practising title of ‘Chartered Tax Adviser’ and the designatory letters ‘CTA’, to represent the leading tax qualification.

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⁷ Better Budgets: making tax policy better’, jointly published by the Chartered Institute of Taxation, the Institute for Government and the Institute for Fiscal Studies in January 2017 - https://www.instituteforgovernment.org.uk/sites/default/files/publications/Better_Budgets_report_WEB.pdf