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THE TAX ADMINISTRATION FRAMEWORK REVIEW: NEW WAYS TO TACKLE NON-COMPLIANCE

Response by Association of Taxation Technicians

1 Introduction

- 1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to respond to the HM Revenue & Customs (HMRC) consultation document *The Tax Administration Framework Review: New ways to tackle non-compliance* ('the Consultation') issued on 30 October 2024¹.
- 1.2 The primary charitable objective of the ATT is to promote the education and study of tax administration and practice. We place a strong emphasis on the practicalities of the tax system. Our work in this area draws heavily on the experience of our members who assist thousands of businesses and individuals to comply with their taxation obligations. This response is written with that background.
- 1.3 Whilst we have endeavoured to obtain as much input from members as possible in responding to this Consultation, the timing has coincided with the peak of the Self-Assessment season, which is the busiest time of year for many of our members. As such, securing the appropriate quantity and diversity of feedback has proven challenging. We would welcome the deadline for future consultations not falling in January.
- 1.4 We welcome that the Consultation is taking place at Stage 1 of the consultation process and appreciate the engagement by HMRC through meetings and workshops to further explore the reforming opportunities. Should the decision be taken to progress any of the proposals further, we look forward to the opportunity provided within Stage 2, to consider the options and comment on the detailed policy design.
- 1.5 The Consultation explores how HMRC's approach to correcting mistakes by large numbers of taxpayers might be improved (via amendment to conditions for making claims (Questions 1 – 3)). It focuses on the proportionality and efficiency of HMRC's current correction powers and seeks views on their potential modernisation and reform (reform of Revenue Correction Notice (RCN) conditions (Questions 4 – 8) and introduction of a partial enquiry (Questions 9 – 11)), as well as the potential for a new power which would require taxpayers to self correct their return (Questions 12 -20).

¹ [The Tax Administration Framework Review - new ways to tackle non-compliance - GOV.UK](https://www.gov.uk/government/consultations/the-tax-administration-framework-review-new-ways-to-tackle-non-compliance)

- 1.6 In this response, we have provided an executive summary in Section 2, made some general observations in Section 3, and given detailed responses to the Consultation questions in Section 4. We have grouped our responses where this seemed appropriate.

2 Executive Summary

2.1 *Amendment to conditions for making claims*

- 2.2 We support the submission of additional upfront information for some reliefs and allowances, as this might help HMRC make better judgements when claims are received, and payments can be processed and paid more promptly, and with certainty. The additional information should be reasonable and proportionate to the claim. The system for supplying the additional information should be straightforward and easy to navigate.

2.3 *Reform of Revenue Correction Notice (RCN) conditions*

- 2.4 We agree that greater alignment of RCN conditions across all taxes might make them simpler and easier for HMRC to administer, and for taxpayers to understand and comply with their obligations. Requiring HMRC to provide details of why a RCN is being issued could improve the taxpayer's understanding of the rationale for the correction and might promote transparency and openness - leading to greater trust in the tax system. Equally, a requirement for taxpayers to give an explanation as to why a RCN is being rejected, might help HMRC understand the taxpayer's reasonings and basis for the rejection, and speed up the whole process.

2.5 *Introduction of a partial enquiry*

- 2.6 We do not support the introduction of a partial enquiry process. We consider that there are already adequate statutory provisions for enquiring into an aspect of a return or claim within the tax statute, and that creating more unnecessary legal powers undermines the drive to simplify the tax code.

2.7 *Requirement for taxpayers to self correct*

- 2.8 The requirement for taxpayers to self correct could provide a 'light touch' alternative for correcting errors or mistakes that HMRC discovers through its data collection and interrogation processes. Where the evidence is clear and unambiguous, this might provide a quick, efficient, less intrusive, and cost-effective alternative to a full statutory enquiry. The process could alleviate the need for RCNs or the introduction of a partial enquiry regime, and as such, the ATT are broadly in support of exploring this option further.

3 General Observations

- 3.1 In July 2020, the government issued a report on '*Building a trusted, modern tax administration system*'² ('the 2020 Report'), which recognised that the tax administration framework consists of a patchwork of rules and obligations, parts of which are over 50 years old and not designed to facilitate a 21st century tax system.

- 3.2 In our response to '*the tax administration framework: Supporting a 21st century tax system*'³ consultation in 2021, we documented the changing tax landscape over the past 50 years and nowhere has this been more noticeable than in the intervention work HMRC performs around compliance.

² [Building a trusted, modern tax administration system - GOV.UK](#)

³ [210712 The Tax Administration Framework - ATT response WEB.pdf](#)

- 3.3 We reiterate comments previously made that the changing tax landscape raises the question whether it is now time to retire the Taxes Management Act 1970 and consolidate all tax administration in a new ‘fit for purpose’ taxes management act. We continue to believe the answer to this question is ‘yes’ and that having all tax administration legislation in one place would simplify and consolidate the tax code, as well as help taxpayers and their agents find the information, they need in one easy and accessible place. Any future changes to the administration code can then be made to this new taxes management act, although we would caution restraint in making too many changes whilst the new act is embedded.
- 3.4 We appreciate that there will always be a need for HMRC to respond robustly to non-compliance in all its guises, and that this has been one of the driving forces behind some of the proposals in this Consultation. However, it is essential that any responses are appropriate, proportionate, fair and thought through.
- 3.5 With closing the tax gap one of the government’s current priorities for HMRC and recognising that the failure to take reasonable care amounts to 30% of the tax gap, it is not surprising that this Consultation is looking at high-volume low-level claims and notices that require taxpayers to correct returns.
- 3.6 It is our view that the strategic focus of the 2020 Report is being lost in a series of consultations addressing current mischiefs in the tax system, such as High-Volume Repayment Agents, and now high-volume, low-level claims. We accept and support the need for timely interventions in these areas, but the ability of the Tax Administration Framework Review (TAFR) group to consider wider strategic issues is being hampered by the focus on these specific concerns, valid and worthwhile though they are in isolation. We would recommend a clear sub-group within TAFR to deal specifically with these issues, allowing thinking and discussions about what a trusted, modern tax system might look like in 2030 to be considered by the main TAFR group. We are already halfway into the 10-year TAFR strategy, and we still have not addressed some of the big issues, such as, what might Self-Assessment look like with greater pre-population and Making Tax Digital for Income Tax Self-Assessment? Will taxpayers truly be self assessing in the future? Will HMRC need taxpayers to self assess in the future?
- 3.7 Self-Assessment itself is defined as a ‘process now/check later’ regime. ‘Process now’ is underpinned by firm procedural rules for filing of returns and payment of tax. ‘Check later’ is supported by enquiry and information powers. Self-Assessment has applied for individuals since the tax year 1996-97 (although for some partnerships the rules did not apply in full until 1997-98), and for companies Corporation Tax Self-Assessment applied to all company with accounting periods ending on or after 1 July 1999. By the end of the review period, both these regimes will be over 30 years old. We think attention should be given to wider questions such as whether the regimes and the legislation underpinning them are still appropriate in light of digital advancements.

4 Responses to questions posed by the Consultation

4.1 *Amendment to conditions for making claims*

4.2 **Question 1: What are your views on introducing additional information requirements to other claims for tax reliefs and allowances?**

- 4.3 In principal, the ATT supports the provision of additional, upfront information in relation to claims for some reliefs and allowances, if it provides HMRC with the assurances that the relief/allowance is being properly claimed, and avoids the need to open an enquiry to check the claim’s validity once submitted, which can be both costly and time-consuming for taxpayers and HMRC.

- 4.4 The Office of Tax Simplification's (OTS) 'list of tax reliefs'⁴ indicated that there were 1,140 structured, special, and targeted reliefs. Understanding the aim of a relief/allowance and how it is currently claimed is essential when evaluating whether the introduction of a requirement for additional information is necessary.
- 4.5 Given the number of reliefs available, HMRC should ensure that the requirement for additional information remains reasonable and proportionate to the relief/allowance. Not all reliefs/allowances will need additional information, for some the additional information and evidence necessary to establish the validity of a claim will be apparent and minimal, whereas for others the requirement might be more detailed and complex. Whilst standardising the process could lead to greater simplicity, the breadth of reliefs/allowances available would suggest that a 'one size fits all' approach would not be practical or desirable.
- 4.6 HMRC should outline the key information required to substantiate a claim, whilst avoiding overly prescriptive guidelines that could limit the submission of alternative forms of evidence.
- 4.7 There should be a prescribed timeframe within which HMRC either confirms the validity of the claim or provides a reasoned response as to why the claim, in its view, is not appropriate. If HMRC acknowledges that the claim is valid, then it should not be capable of being enquired into or rejected when the claim is subsequently made in a return, unless the additional information originally provided is materially incorrect when compared to the known facts.
- 4.8 Once the taxpayer has submitted the additional information and HMRC has issued their determination on the claim, there should be no more correspondence until the return including the relief/allowance, is submitted. The process should not permit an ongoing dialogue between HMRC and taxpayers, as this would look more like an informal enquiry, with potentially additional financial costs and time burdens, and would undermining the very purpose of requesting the additional information in the first place.
- 4.9 We support the increased use of digital channels for taxpayers and their agents, and would welcome the development of a straightforward, user-friendly platform for submitting additional information. Any digital service should facilitate the secure uploading of all necessary documentation to validate a claim. Alongside this, the broader system must also accommodate taxpayers who are digitally excluded, offering an alternative process that is easily accessible, comprehensible, and easy to complete.
- 4.10 Given that there are already additional information requirements in place for Research & Development (R&D) reliefs, HMRC should seek to evaluate the success of that process, both from the user-experience and HMRC, and build any learnt outcomes into future additional information processes.
- 4.11 We would also encourage the further review of all current reliefs and allowances to ensure that only those that are still relevant remain on statute.
- 4.12 **Question 2: Are there cases where this approach would be particularly helpful for customers?**
- 4.13 This approach could be particularly helpful for taxpayers where a claim for a relief or allowance is reliant on detailed and complex underlying facts. These complex claims can often end up being cases which require a statutory enquiry to establish the correct facts and tax position, so providing the additional information in advance of a claim could clarify the facts and avoid an unnecessary enquiry.
- 4.14 Providing additional information at an earlier stage, however, will only be beneficial if HMRC are able to fully appreciate and understand the relevance of the information being provided. HMRC would need the capacity

⁴ [Tax reliefs review - GOV.UK](#)

and appropriate capability to deal with the timely review of the additional information for the process to be of added value. HMRC should not ask for information that is already in their possession.

- 4.15 Whilst we consider that the greater benefit lies with the more complex claims, there is also merit in providing additional information for those high-volume low-level claims which are made on tax returns, some of which prove to be invalid. Having a requirement to provide upfront information could deter those taxpayers who would knowingly seek to claim a relief to which they were not entitled. If HMRC is able to establish that a claim for a relief or allowance is unsubstantiated or inappropriate in advance of the submission of the tax return containing the claim, and is able to provide a reasoned response as to why the claim would not succeed, then it is possible (even probable) that the taxpayer would then not make the claim when submitting the tax return. Equally, the provision of a document to support a claim (such as an invoice) may allow HMRC to accept a claim without the need to open a formal enquiry, thus expediting the process.
- 4.16 An area which would need further exploration if additional information were to be provided is penalties. If HMRC have (prior to the submission of a tax return containing a claim) advised the taxpayer that, in its view, the claim is invalid, would this immediately imply that the behaviour of the taxpayer in making the claim is deliberate, with all of the resultant penalty implications for deliberate behaviour?
- 4.17 **Question 3: How could any additional administrative costs be kept to a minimum?**
- 4.18 Any additional administrative costs could be kept to a minimum by ensuring that the process is restricted to the initial provision of additional information by the taxpayer and an opinion on its validity by HMRC. The onus would be on the taxpayer to ensure that all the relevant facts are clearly detailed within the additional information and the appropriate evidence provided, so that HMRC does not need to ask follow up questions. It is these follow up questions, in quasi-enquiry style situations, that add to both the additional financial cost and time burdens. If HMRC disagree with a submitted claim, then HMRC should use its established enquiry powers to challenge the claim. If HMRC introduce the self correct notice, referred to at 4.59 et seq., then it is possible that HMRC might use this process in the first instance before commencing an enquiry.
- 4.19 HMRC should look to utilise digital channels capable of being used by both taxpayers and agents, and uploading the additional information and evidence, as this can speed up the process and allow for a degree of standardisation and consistency in the approach. It is noted that the ability to upload additional information has proven problematic with other HMRC digital services, such as the Digital Disclosure Service (DDS) and VAT Registration Service.
- 4.20 Administrative costs can be kept to a minimum if HMRC ensured that it only sought additional information for those reliefs/allowances where the need for additional information was necessary and appropriate, and kept to a minimum.
- 4.21 As referred to at 3.14, HMRC would need the capacity and appropriate capability to deal with the timely review of the additional information.
- 4.22 ***Reform of Revenue Correction Notice (RCN) conditions***
- 4.23 **Question 4: What are your views on aligning the conditions for when HMRC can make corrections, so that they are the same across relevant regimes?**

- 4.24 We agree that greater alignment of the conditions in which revenue corrections can be made across all taxes might make them simpler and easier for HMRC to administer and provide flexibility for compliance officers to work across different taxes without the need for training on conditions specific to individual taxes.
- 4.25 For taxpayers who interact with HMRC across several taxes, the standardisation and alignment of conditions across all taxes might make it simpler and easier for them to understand the correction notice process, and appreciate the action that would need to be taken to reject a RCN, if appropriate.
- 4.26 Any alignment of conditions would need to be ‘fit for purpose’ across all taxes, and where there are currently conditions that deviate from one another, such as the Income Tax Self-Assessment (ITSA) or Corporation Tax Self-Assessment (CTSA) conditions and the Stamp Duty Land Tax (SDLT) provisions, reasons for the deviations should be obtained, understood and taken account of when considering any standard aligned conditions.
- 4.27 The ATT would suggest that any alignment should closely follow the SDLT provisions as opposed to the ITSA and CTSA conditions. The current ITSA and CTSA conditions are that a correction can be made where there is an obvious error (such as an arithmetical error) or ‘*anything else where there is reason to believe the return is incorrect*’. This is too subjective and could lead to misunderstandings and disputes. The requirements under the SDLT provisions are more defined in that they only allow HMRC to make corrections where there appears to be an obvious error or omission, and not where there is a ‘belief’ that the return is incorrect.
- 4.28 **Question 5: What are your views on aligning the ways that revenue correction notices can be rejected, so that they are the same across relevant regimes?**
- 4.29 We support aligning the way that RCNs can be rejected so that they are the same across all tax regimes, providing the opportunity for standardisation and consistency. Another of the main attractions to a single set of rules across all taxes is the straightforwardness and simplicity that this would provide for taxpayers, agents and HMRC staff.
- 4.30 We support the greater use of digital channels for taxpayers and agents, and would welcome an easy-to-use process to facilitate digital rejections.
- 4.31 Whilst (for many taxpayers and their agents) digital would be the preferred method for filing the rejection of RCNs, this should not be a ‘digital only’ process, and it will still require an equally easy to use system for those who are digitally excluded.
- 4.32 **Question 6: What are your views on introducing a mandatory requirement for taxpayers to provide evidence to support a rejection of a revenue correction notice?**
- 4.33 We would support the introduction of a mandatory requirement for taxpayers to provide some form of evidence to support the rejection of a RCN, subject to our comment at 4.35 below.
- 4.34 The proposals sound sensible and could avoid the need for a formal enquiry, providing quicker resolution for taxpayers and HMRC, and providing certainty at an earlier stage. We also agree that this could foster a more collaborative approach between taxpayers and HMRC.
- 4.35 If taxpayers are required to provide evidence to support the rejection of a RCN, then the time limit for rejecting the RCN would need to take account of the time that taxpayers will need to complete the rejection and assemble the evidence. We consider that the time limits for rejection of RCN across aligned taxes, should follow the corporate tax time limit, where a correction can be rejected within three months of the date of the RCN.

- 4.36 If HMRC develop a 'new' digital service to handle the RCN rejections, we would ask that professional bodies and other external stakeholders be involved at an early stage in the design process.
- 4.37 **Question 7: Do you think this requirement should extend to HMRC explaining why a correction was made and what evidence is required?**
- 4.38 Yes, we think that this requirement should be extended to HMRC explaining why a correction notice was issued. Taxpayers need to be confident that HMRC's powers are being used reasonably, to maintain and build trust in the tax system. Having the requirement to demonstrate (with evidence) why a RCN is being issued shows transparency and provides taxpayers with the information they need when considering whether to make a rejection. Requiring HMRC to explain their actions gives parity with taxpayers who themselves should be required to justify a rejection.
- 4.39 The process of issuing RCNs should be open and transparent. HMRC should explain the implications of the correction including the tax ramifications and provide details of the evidence used by the compliance officer in establishing that the notice was appropriate, and a correction required. Taxpayers are more likely to accept a correction if they can understand the information and appreciate the rationale for its use. Even in cases where taxpayers do not agree with the RCN, knowing why it was issued is likely to facilitate a more focused rejection, which should help expedite a mutually agreeable resolution.
- 4.40 We would encourage any notice or accompanying correspondence to suggest examples of information or documentation the taxpayer might supply to support a rejection. This should not be so prescriptive as to infer that without such evidence the rejection would/could not be accepted, but it would give the taxpayer the opportunity to provide the additional information that the compliance officer considers relevant and necessary.
- 4.41 **Question 8: What other ways could the revenue correction process be improved?**
- 4.42 In order for the process to be quick and efficient, and for both parties to have certainty in the outcome of the process, we would suggest that as well as placing time limits on the period during which a taxpayer can reject a RCN, that there are also time limits within which HMRC would need to respond to the taxpayer's rejection. Requiring HMRC to acknowledge the rejection and indicate its next steps within a defined period (say 90 days), would give the taxpayer certainty that their rejected explanation had been reviewed. This acknowledgement of the rejection could also provide information and guidance on how the matter would then proceed, leading to greater openness and transparency.
- 4.43 *Introduction of a partial enquiry*
- 4.44 **Question 9: What are your views on introducing a partial enquiry power to allow an enquiry into a specific issue?**
- 4.45 **Question 10: In which circumstances do you think such a power might be deployed, and what would you see as appropriate taxpayer safeguards?**
- 4.46 **Question 11: What limitations do you think should be attached to the use of this power and why?**
- 4.47 We have combined our answers to all three questions on the introduction of a partial enquiry, as the ATT do not, in substance, support this proposal as presented, and we set out below our reasoning.

- 4.48 We appreciate that the established enquiry regime can seem like a ‘one-size fits all’ process, and that this can mean that straightforward, low value level enquiries are required to follow the same processes as larger more complex interventions. HMRC consider that this can mean that high-volume low-level enquiries can be disproportionately time-consuming and costly for taxpayers, agents and HMRC. It is our opinion that this need not be the case and that HMRC could look internally at streamlining its administration processes where cases display low risk levels, thus making the enquiry process more efficient and cost effective.
- 4.49 The Consultation proposal is that existing enquiry powers are amended to enable HMRC to open a partial enquiry into a specific issue or section of a return by means of a new ‘partial enquiry notice’, to be worked within specified time limits, but not affecting the current ‘normal’ enquiry window for enquiring into the return.
- 4.50 These proposals would require additional legislation as well as amendment to the current enquiry provisions contained within Taxes Management Act 1970 for individuals, trusts and partnerships, and Schedule 18, Finance Act 1998 for companies. We question whether the introduction of additional legislation (into a tax statute that is already one of the longest in the world), is necessary, and we consider that there are already adequate statutory provisions to deal with the problems observed.
- 4.51 The current enquiry process allows HMRC to enquire into one specific aspect of a tax return by opening an enquiry or compliance check. The profession refers to this type of enquiry/compliance check as an ‘aspect’ enquiry, whilst recognising that there is no distinction in legislation between an ‘aspect’ enquiry and an enquiry that investigates the whole of a tax return (a ‘full’ enquiry). The legislation therefore already provides the ability for a compliance officer to enquire into any part of the tax return (an ‘aspect’ enquiry) without the need for additional legislation. The problem appears instead to lie in the efficient management and handling of such cases, which we do not see resolved by introducing more legislation.
- 4.52 At present an ‘aspect’ enquiry can easily be extended to a ‘full’ enquiry by a compliance officer merely asking for additional information. This is because the legislation allowing for an ‘aspect’ or ‘full’ enquiry is the same. If there were separate legislation to facilitate a ‘partial’ enquiry, then there would also have to be some mechanism whereby that ‘partial’ enquiry can be converted into a ‘full’ enquiry if the circumstances of the enquiry dictated. This has the potential to be more costly and time consuming than having one enquiry opened covering all matters (even if initially it was restricted to one matter).
- 4.53 Currently, HMRC can only enquire into a tax return once, within specified time limits. If the time limit to open an enquiry has passed, there are discovery provisions available to recover any potential loss of tax (subject to satisfying the relevant conditions). We would suggest that these existing powers already provide HMRC with a framework in which errors outside of the enquiry ‘window’ can be corrected.
- 4.54 We would recommend HMRC review internally its advice, guidance, and training to compliance officers to ensure that ‘aspect’ compliance checks are undertaken efficiently and expediently, thus ensuring that both the time and cost commitments on both sides are kept to a minimum.
- 4.55 The Consultation refers to an enquiry ‘worked within specified time limits’. Based on current experiences, we do not have confidence that these enquiries would be worked within the specific time limit and struggle to see what sanctions could be placed on HMRC if they did not conform to the time limits.
- 4.56 By allowing a partial enquiry to take place which did not affect the current ‘normal’ enquiry window for enquiring into the return, it would seem like HMRC are wanting to have two opportunities to enquiry into a taxpayer’s tax return, and we would not support this approach.

- 4.57 The requirement for taxpayers to self correct (discussed further at 4.59 et seq.) could alleviate the need for a partial enquiry regime as any small or one-off errors on a tax return could be corrected by a requirement for the taxpayer to correct their tax return.
- 4.58 One benefit of a statutory partial enquiry process is that taxpayers with agents would be able to access their fee protection insurance to assist with the professional costs incurred in dealing with the partial enquiry. At present, where such a taxpayer receives an 'informal' intervention letter, such as a prompt or nudge letter, there is no access to the fee protection insurance due to there being no statutory basis for the issue of the letter. This can often influence the decision that some taxpayers take when deciding not to respond to informal intervention letters. Whilst we see this as a modest benefit, we consider that this is outweighed by the disadvantages referred to above.
- 4.59 ***Requirement for taxpayers to self correct***
- 4.60 **Question 12: What are your views on how this power could be used? Where do you think this power could be applied most and least effectively?**
- 4.61 **Question 13: What are your views on the merits and challenges of requiring taxpayers to respond to the new notice and correct their own return?**
- 4.62 The Consultation set out proposals for a new power requiring taxpayers to self correct, which could work as follows:
- HMRC would identify returns or claims with issues that have common features. Examples could include: several similar errors submitted by the same agent or discrepancies between third-party data and the tax return.
 - Where there is evidence the issue might apply to a taxpayer, HMRC would issue a new taxpayer self correction notice. This notice would detail the issue and the reason HMRC believes this has a high likelihood of affecting the taxpayer.
 - The taxpayer would have a legal obligation to respond to the notice by amending their return or claim within a set period of time or providing an explanation as to why no amendment is required
- 4.63 Before any new tax legislation is introduced, we should clearly define its objectives and assess whether existing laws can be amended to achieve the same outcome. In the case of these proposals, the intent is to create legislation that requires 'taxpayers to respond to, and take action upon, a notice issued when HMRC has reason to believe their return is incorrect'. We understand that one of the issues the proposed legislation seeks to address is the lack of resources within HMRC to investigate all cases where taxpayers, for various reasons, do not respond to nudge or prompt letters. The proposals effectively formalise these nudges and prompt letters by introducing a statutory obligation for taxpayers to act, rather than simply ignoring them.
- 4.64 A requirement to self correct could alleviate the need for a partial enquiry regime, as any small or one-off errors on a tax return could be corrected by a requirement for the taxpayer to correct their return.
- 4.65 The proposal could also avoid the need to change the RCN conditions, as the proposed scope of a Self Correction Notice (SCN) goes further than that of a RCN. The RCN process might feasibly be subsumed into a requirement to self correct process.
- 4.66 Where the evidence is clear and unambiguous, then this process has the potential to provide a quick, efficient, less intrusive, and cost-effective alternative to a full statutory enquiry.

- 4.67 From a legal prospective, taxpayers already complete their tax returns on the basis that the information being provided is 'both complete and correct to the best of their knowledge and belief', and it is in the taxpayer's interest that where omissions or errors are uncovered, that they amend their returns as soon as possible (see 4.68), thus mitigating both interest and penalties.
- 4.68 There is a statutory provision⁵ allowing taxpayers to amend their tax returns by notice to an officer of the Board within 12 months of the filing date. If a taxpayer is aware of an error within the amendment period, then they should make that amendment using these provisions. If there is an omission to the tax return that is known after the amendment period, then taxpayers can make voluntary disclosures to HMRC of the omission.
- 4.69 Agents have a duty (when they are made aware of an error in a client's tax return), to inform their clients to correct errors on a timely basis. The *Professional Conduct in Relation to Taxation (PCRT) rules, Helpsheet C: Dealing with Errors*⁶ states that, 'during a member's relationship with the client, the member may become aware of errors in the client's tax affairs. Unless the client is already aware of the possible error, they should be informed as soon as the member identifies them'. Also, subject to some limited circumstances 'the member should ask the client's permission to notify HMRC of the error. A member should encourage the client to make a timely disclosure. The member should advise the client of their obligations under the relevant tax legislation and refer, as relevant, to interest, surcharges, and penalties for errors.'
- 4.70 **Question 14: What are your views on reasonable timeframes for a taxpayer to respond to a taxpayer correction notice and, subsequently, for HMRC to confirm its position?**
- 4.71 Many SCNs would be straightforward, easy to understand and require little assessment as to what action was needed. However, undoubtably some notices will require corrections which need greater taxpayer and agent consideration and research to assess whether making a correction is appropriate. We consider that the timeframe for taxpayers to respond to a taxpayer correction notice must be sufficient to recognise and accommodate the breadth of notices that could be issued. We would recommend that that timeframe for responding to all SCNs is not less than 60 days.
- 4.72 We acknowledge that where a taxpayer has chosen to provide an explanation as to why no amendment is required, that HMRC will need sufficient time to assess and evaluate the evidence and formulate its response. In the interest of parity between parties, we would also recommend that the timeframe for HMRC to respond is not less than 60 days.
- 4.73 **Question 15: In addition to the above, what else might HMRC need to take into consideration when designing obligations?**
- 4.74 A critical element of a successful self correction obligation will be HMRC's ability to ensure the accuracy, quality, and integrity of the source data used as the basis for issuing notices. Inaccurate, incorrect, or inappropriate requests made to otherwise compliant taxpayers could undermine the fragile relationship and trust between taxpayers and HMRC.
- 4.75 The actions being sought because of the receipt of a SCN, should be clear and unambiguous. It should include the source of HMRC's data within the notice, so that taxpayers can understand why the request is being made.
- 4.76 Where the SCN has been issued based on the interpretation of legislation or case law, the notice should contain references to the relevant legislation/case law and indicate guidance on how further information can be obtained.

⁵ Section 9ZA Taxes Management Act 1970

⁶ [C Errors helpsheet 1 March 2019.pdf](#)

- 4.77 Tailoring HMRC's approach based on 'the severity of the perceived issue, or amount of money involved' sounds sensible. The latter point has hints of materiality which doesn't exist (officially) in tax. Perhaps a better idea is to suggest there should be openness such as extending response deadlines for more complex cases.
- 4.78 The proposals do not indicate the period over which a SCN could be issued. For instance, would it be limited to the period during which either the taxpayer or HMRC could normally 'amend' a tax return? Or is it envisaged that a SCN could be issued at any stage when information became available to HMRC that there was an error or amendment required to a tax return? The interaction between a SCN and the ability for HMRC to raise an assessment would need to be carefully considered. We would not support the ability for HMRC to issue a SCN outside of the current assessing time limits.
- 4.79 It is possible that an error or amendment to a tax return may involve more than one tax year. The proposals do not indicate if a SCN can be issued for multiple tax years or limited to those tax years which are still within an enquiry 'window'. It is also unclear if multiple SCNs can be issued for the same tax year.
- 4.80 **Question 16: What are your views on any potential impacts, costs, or burdens of introducing this approach?**
- 4.81 Elements of the impact of introducing this approach have been covered in the answers to questions 12 and 13 above, where we can see that when the evidence is clear and unambiguous, then this process has the potential to provide a quick, efficient, less intrusive and cost effective alternative to a full statutory enquiry, whilst offering the potential to be more effective than current non-statutory approaches such as nudge letters.
- 4.82 Providing a statutory framework for SCNs could allow represented taxpayers access to their fee protection insurance, which would usually cover the professional costs incurred by their agent in helping respond to a SCN. This would help keep represented taxpayer costs to a minimum.
- 4.83 Where a taxpayer agrees with a SCN, then the action required would be to amend and re-file their tax return with the correction, using the existing tax return filing system. HMRC would then see that the tax return has been updated, and it should be possible to close the matter efficiently. However, there will be cases where taxpayers consider that the SCN is wrong, and a correction is not needed. In those cases, taxpayers will want to tell HMRC why they think the correction is not needed. We would support HMRC having a digital system, accessible to both taxpayers and agents, to facilitate the rejection of the SCN, with an upload option for supplementary documentation.
- 4.84 **Question 17: What do you think would be an appropriate consequence for non-compliance with a notice, and what factors should HMRC take into consideration?**
- 4.85 There are two elements of the requirement to self correct that could give rise to a sanction; failure to correct a return or claim where the required correction proves to be valid, and failure to make a correction or provide an explanation as to why no amendment is required within the specified timeframe.
- 4.86 HMRC should seek to educate taxpayers via guidance and 'what next' prompts within correspondence to support and encourage taxpayer compliance. HMRC could adopt a financial penalty regime to address those who do not respond to a notice, but this would need to be accompanied by a suitable appeals procedure. Both the penalty regime and the appeals procedure would add complexity to the process. HMRC could adopt the principals embedded in the Making Tax Digital (MTD) for VAT and MTD for Income Tax Self-Assessment (ITSA) where there is a 'light touch' on financial penalties and a greater emphasis on education and supporting compliance.
- 4.87 Any consequences for non-compliance with a SCN should be clearly communicated to the taxpayer, (with copies to agents) so that they are fully aware upfront of the implications should they chose not to respond.

- 4.88 If a taxpayer fails to respond to a SCN, HMRC still have the option (where time limits permit) to open a compliance check into the tax return and resolve the issue through their existing enquiry powers.
- 4.89 Where a taxpayer fails to correct a return or claim having received a SCN and the correction proves to be valid following a compliance check, HMRC might consider higher 'prompted' penalties.
- 4.90 **Question 18: What incentives could HMRC provide to encourage the taxpayer to comply with a notice in the specified timeframe?**
- 4.91 HMRC could provide some incentives to encourage taxpayers to comply with a notice within the specified timeframe, but a key aspect of any compliance with new legislation is the need for clear guidance, which is easy to access and understand, so that taxpayers fully appreciate their new obligations. Whilst legislation is usually published before it takes effect, HMRC can often be slow at providing appropriate guidance. We would recommend that guidance is prepared and shared with interested stakeholders for comment well in advance of changes taking effect so that it can be reviewed and considered from the end-user perspective.
- 4.92 Providing taxpayers with the assurance that no further checks on an item contained within the SCN might be an incentive, but this will only be the case if HMRC tell the taxpayer of the risks of non-compliance, what those sanctions might look like and follow through with those threats where there is non-compliance.
- 4.93 **Question 19: What are your views on the potential benefits and risks to this approach: for taxpayers, agents and HMRC?**
- 4.94 The potential benefits of a SCN approach could include:
1. Alleviating the need for a partial enquiry regime.
 2. Avoiding the need to change the conditions on RCNs by subsuming the RCN process with the SCN process.
 3. Potentially more effective than One-To-Many letters, which some taxpayers ignore with no (immediate) consequences.
 4. If managed correctly, it could provide a quick, efficient, less intrusive, and cost-effective alternative to a statutory enquiry.
- 4.95 The potential risks of a SCN approach could include:
1. inaccurate, incorrect, or inappropriate requests made to otherwise compliant taxpayers which could undermine the fragile relationship and trust between taxpayers and HMRC.
 2. Taxpayers could reject a notice (possibly at the 'eleventh hour') even where it is clear that an amendment is required just to prolong matters, thus deferring the need to pay any additional tax. However, whilst it would be hoped that the number of these cases would be minimal, HMRC can counter this by proceeding to a formal compliance intervention, and charging interest and higher penalties due to a 'prompted' intervention and a lack of co-operation.
- 4.96 **Question 20: What do you believe would be appropriate and proportionate taxpayer safeguards?**
- 4.97 We acknowledge that any new power would normally need to contain appropriate safeguards to ensure taxpayers are treated fairly and in accordance with their rights under the law, but these provisions, as proposed, merely provide a requirement for taxpayers to either self correct their submitted return, or provide an explanation of why no amendment is required. The process should not provide for extended dialogue between parties where they may have differing views about the accuracy or strength of their findings, or

whether a correction is needed or not – this should take place during a subsequent statutory compliance check with all those inbuilt powers and safeguards.

- 4.98 The Consultation suggests that there would need to be appropriate channels for dispute resolution in cases where the taxpayer and HMRC disagree on the taxpayer's response, for example, on whether a correction is needed or not. As stated above, it is our view that where there is a dispute with the SCN, HMRC should issue a formal compliance check into the return which needed the correction, rather than extend out the SCN process. This would seem like the most appropriate place for any differences to be examined further within procedures which already have their own built-in safeguards.

5 Contact details

- 5.1 We would be pleased to join in any discussion relating to this consultation. Should you wish to discuss any aspect of this response, please contact our technical team via atttechnical@att.org.uk

The Association of Taxation Technicians

6 Note

- 6.1 The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government, and academia.

The Association has more than 10,000 members and Fellows together with over 7,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.