



Response from ICAS

Amendments to tax returns

Call for Evidence

28 January 2019

About ICAS

1. The following submission has been prepared by the ICAS Tax Board. The Board, with its five technical committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants and ICAS Tax Professionals working across the UK and beyond, and it does this with the active input and support of over 60 committee members. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 21,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.

General comments

2. ICAS welcomes the opportunity to contribute to the consultation "Amendments to tax returns. Call for Evidence" published by HMRC on 7 November 2018.
3. While the concept of a single set of rules for amendments to all tax returns may sound attractive, the reality is that submission cycles and correction timescales differ markedly for different taxes. A single system is unlikely to be appropriate for all taxes.
4. Trying to accommodate a single regime for fundamentally different types of taxes introduces complexity. By different types of taxes we mean:
 - Taxes where the business acts as collector – primarily VAT and PAYE.
 - Taxes that are regular, but profit based, such as income tax or corporation tax.
 - 'One-off' returns, such as inheritance tax, SDLT / LBTT and non-resident capital gains tax.
5. It would make most sense for amendment rules to be aligned as far as possible within each of these three groups, rather than across the whole tax regime.
6. Taxes covered by the proposed new regime also operate on different collection cycles - monthly, quarterly or annual - with the possibility of moving from one to another. Attempts to legislate across this variation are likely to result in difficult, complex legislation.
7. In particular, transactional taxes like VAT require different processes from profit-based taxes such as income tax and corporation tax. This is in part due to the different timescales and cycles on which errors and amendments are likely to happen. Income tax and corporation tax fit an annual assessment period and it is difficult to see, feasibly, how this could change under Making Tax Digital – allowances and claims are still made for tax years and accounting periods.
8. Where agents are involved, errors made by a business during the year are likely to be identified during the annual accounts preparation and be in respect of returns submitted by the business itself.
9. We believe that effective online amendment routes are more important than standardisation across all taxes.
10. Digitalisation also raises other issues which need to be addressed.
11. ICAS does not support mandatory 'online everything' in the tax system. ICAS believes that digital facilities should be accessible to all on the terms that they want and that digital services should be so good that everyone wants to use them.
12. However, there must be proper alternatives for the digitally excluded and adequate support for the digitally challenged. This is clearly important for amendments to tax returns – people can still file paper returns (indeed with the SA exclusions sometimes they must file a paper return even if they do not want to), so a solely digital process for amending returns is not feasible.
13. It is important that HMRC's digital systems work properly. The need for amendments is multiplied where HMRC's digital systems do not deliver. Fixing the existing systems is vital to an effective, smoothly operating tax system. It is better to remove the need for amendments than to shift the focus on to amendment processes. To highlight some current issues:

- There are a significant number of exclusions from online self assessment filing including special cases. These are returns where the taxpayers would like to file online, but HMRC's system is either unable to accept the return, or would calculate the tax liability incorrectly. For 2017-18, there were, at times, over 60 live issues between these lists. [Filing exclusions](#). [Special cases](#).
 - Where online filing is ineffective, amendment is more likely to be needed and also to be more difficult.
 - There have been problems getting amended returns processed by HMRC. Similar problems were also noted with the online filing of the return itself – in one case 3 calls had to be made to HMRC before an online return was processed.
 - Problems were also noted with HMRC incorrectly generating in-year underpayments.
 - A number of firms have reported that HMRC's online system is incorrectly amending the details for some Scottish taxpayers and reclassifying them as UK taxpayers.
- 14.** Many of the problems noted stem from HMRC systems not operating effectively. Would an amended process work any better?
- 15.** The legislation dealing with amendments is a part of the management powers for tax returns.
- 16.** The last significant examination of HMRC's powers was the review of HMRC Powers, Deterrents and Safeguards which ran from 2005 to 2012. This was a programme of consultation and legislative change intended to provide a modern framework of law and practice for tax administration. Following the merger of HM Customs and Excise and the Inland Revenue it also aimed to align powers, deterrents and safeguards across taxes, where this made sense. ICAS contributed to this project.
- 17.** As a result of the review significant changes were made to legislation in Finance Acts for every year from 2007 to 2012. Legislation dealing with HMRC powers, deterrents and safeguards is now scattered across different Finance Acts and the Taxes Management Act 1970, making it very hard for taxpayers to access. Developments in digital processes and handling of information also mean that some parts of the legislation are no longer fit for purpose – as evidenced by numerous Tribunal cases considering issues arising from computer generated communications and decisions.
- 18.** ICAS believes that the time has come for another review of the framework within which HMRC operates. This should include the consolidation in one act (a new TMA) of the legislation governing HMRC powers, deterrents and safeguards. It is at this stage that it would be sensible to review the powers relating to the ability of both taxpayers and HMRC to make amendments to tax returns.

Comments on specific areas

19. Question 1: Which taxes do you submit returns for? How do you make amendments for each tax?

ICAS firms submit returns over the whole range of direct and indirect taxes.

20. Question 2: What are your reasons for making amendments?

The main reason for amendments is errors identified in a business' own tax submissions during annual accounts preparation and review by the agent.

21. Question 3: Do you find it easy to make amendments to returns? Is the process complicated? How long does it take?

Firms report that making self assessment amendments is straightforward, online or by letter or phone. When making small amendments for VAT, it is simple to adjust the next return; however the process becomes complex for larger errors and where an agent, rather than the business, makes the adjustment.

Difficulties have been reported in a number of areas, in particular with PAYE returns.

22. Question 4: If you submit amendments for different taxes, are there any (or elements of any) that are easier or more difficult than others?

See above: the VAT process for larger errors is more difficult and agents lack the access rights afforded to clients.

Resolving errors on PAYE returns can be problematic and time consuming.

23. Question 5: How long does it take to get a response from HMRC?

No comments.

24. Question 6: What is your interaction like with HMRC when you make an amendment?

No comments.

25. Question 7: Is there anything about the current amendments processes that cause you difficulty?

Lack of agent access.

26. Question 8: What possible benefits might there be to a consistent amendments process across taxes?

As mentioned in the introduction, a single process is not the major obstacle. The ability to process all amendments online is essential.

27. Question 9: Do you think having one consistent way to amend all returns will result in savings for businesses? If so, please provide details e.g. simpler process, reduced contact with HMRC etc.

Effective online amendment routes are more important than standardisation across all taxes. Medium and larger business may well have different staff involved in different tax submissions - eg VAT, PAYE and Corporation tax – so uniformity is less essential than ease of use and effectiveness.

28. Question 10: How would you prefer to make amendments to returns?

Online amendment would be preferable, but other options need to be kept available for those who cannot use digital facilities.

29. Question 11: How do you feel about a future single digital amendment process for all taxes?

See comments above. A single digital solution is inappropriate.

30. Question 12: Do you think being able to amend returns digitally will result in savings for businesses? If so, please provide details e.g. simpler process, reduced contact with HMRC etc.

Digital amendment should be simpler to process and simpler to check for businesses, agents and HMRC.

The more opportunity there is for agents to oversee amendments the less likely there are to be errors, or any need for non-digital contact with HMRC.

31. Question 13: If you needed to make an amendment that covers multiple taxes (e.g. correcting IT and VAT) how would you see that working in future? Would you prefer to do each tax separately, or all in one?

A single return correcting multiple taxes is likely to be confusing. Experts in each tax need to review amendments and this is better achieved with separate returns.