Tax simplification: where is it heading now?

Management of taxes

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27 January 2023

Following the closure of the Office of Tax Simplification in December 2022, we bring you an insider's view about whether the UK tax system has been left any simpler – and what might happen next.

Key Points

What is the issue?

Six years after entering legislation as a permanent independent office, and 12 years after its formation, it was announced in last year's Growth Plan that the Office of Tax Simplification (OTS) would be closed.

What does it mean for me?

A complex tax system adds costs and uncertainty for businesses, making them less competitive and the UK a less competitive place for investment, and adding administrative burdens for taxpayers, advisers and HMRC. This article reviews whether the OTS fulfilled its remit, and whether the UK tax system is any simpler.

What can I take away?

The OTS issued 56 reports with approaching 1,000 recommendations, consisting of both technical changes in the law and administration improvements. The Growth Plan proposed embedding simplification into the work of HMRC and HM Treasury, but what are the challenges in that approach?

I consider myself fortunate to have been the longest serving Policy Adviser for the Office of Tax Simplification (OTS), in various guises (volunteer, contractor and employee) covering its lifespan from formation in 2010 through to the surprise announcement of its closure in last year's Growth Plan. Although much of that plan was reversed in the subsequent Autumn Statement, the office was effectively closed on 31 December, but interestingly remains currently in place on the statute.

I still recall the buzz of excitement attending the Treasury for the first meeting, having just been invited onto the small business consultative committee, formed of industry representatives, tax advisers and officials from HMRC and HM Treasury.

I was the tax technical director of a mid-sized firm of accountants based in the South West, with a client base consisting mainly of owner managed businesses – so a good match. The small business project was one of the first two reviews of the OTS, having recently been founded by the government in 2010, with a remit to identify areas where complexities within the tax system could be reduced for both individuals and business, with a particular focus on small business.

It is surely common ground that a simplified tax system reduces administration burdens and costs on individuals and businesses, increasing certainty and indeed compliance, and making the UK a more competitive place for business and investment.

The work of the OTS

I quickly discovered that the modus operandi of the OTS was to carry out an extensive consultation process with stakeholders, consisting of professional advisory bodies, industry representatives, advisers, businesses and individual taxpayers, as well as HM Treasury and HMRC officials. The OTS initiated this process before the five-stage tax policy development framework was set up by HM Treasury. Furthermore, the OTS consultation process was proactive, and involved attending industry representative meetings, such as local Federation of Small Business groups, or the Chamber of Commerce, and presenting at conferences, such as the Landlord Expo in Bristol as part of last year's Property Income review.

All the OTS reviews started with a published Scoping Document, agreed with HM Treasury and HMRC. Following a call for evidence, the stakeholder consultation took place and then, based on the emerging themes, the drafting of the report. The draft was shared with HM Treasury and HMRC policy teams, and changes suggested based on policy considerations and sometimes additional information. The OTS was, of course, independent and could have chosen to ignore such representations. However, it was ever conscious that such an approach would mean its recommendations would be unlikely to progress.

Finally, the report was published. It is important to note the OTS could only make recommendations. The decision on implementation always rested with the government.

OTS reports and recommendations

After publication of the interim small business report, I joined the OTS to work on the final report, which covered the cash basis, disincorporation and HMRC administration. The introduction of a cash basis has resulted in over 1.1 million small self-employed traders and the majority of unincorporated residential property landlords adopting this simplified basis. The paper on a disincorporation relief followed extensive stakeholder support for such a measure. Very unfortunately, an asset limit of just £100,000 was added to the measure within the Finance Bill at a late stage, which hadn't been recommended by the OTS and rendered the relief redundant.

A subsequent report of the Tax Professionals Forum (formed of tax advisers appointed by the Financial Secretary to the Treasury to help monitor the tax policy delivery process) (see bit.ly/3Whu36B) in December 2015 suggested incorporating the OTS recommendations into the five-stage framework, which would have improved the effectiveness of developing new policy such as this.

My initial contract was for nine months. However, I continued to advise on consultative committees for the reviews of employee benefits and expenses, and employee share schemes before rejoining the OTS for the 2014 UK Competitiveness review, commissioned by the government to review how the tax system impacted on the competitiveness of UK businesses. Of 52 recommendations, 46 were accepted or marked to be considered by the government and taken forward to subsequent reviews.

Up until around the mid-point in the life of the office, each Finance Bill contained a number of measures based on the OTS review(s) from the previous year. For example, the Small Business reports published in 2012 resulted in the cash basis, fixed rate expenses and disincorporation relief entering Finance Act 2013. Measures to digitise share scheme reporting from the 2013 OTS review entered Finance Act 2014. And various improvements to employee benefits and expenses, published in the 2014 OTS report, entered Finance Act 2015.

Whilst certain OTS recommendations have continued to find their way into the legislation – for example, doubling the capital gains tax reporting and payment deadline to 60 days (sometimes it's the little things that make a difference) – this process was not formalised and became less certain.

All review papers looked at both technical changes to the tax law and administration improvements. The Small Business HMRC administration report, the final Partnership report and the Inheritance Tax review resulted in a number of useful administration improvements. The Guidance review improved HMRC engagement on enhancing and updating their guidance, although as always there is more work to be done here. Comment on HMRC plans for digitalisation were woven into several OTS reports, most recently the Property Income review.

The OTS was put on a permanent independent statutory footing in Finance Act 2016. Whilst the earlier OTS reviews were all commissioned by the Chancellor of the Exchequer on behalf of the government, following the statutory footing the OTS was able to commission its own reports where there was evidence of complexity. I remained working at the office until the end of last year, contributing to the Property Income review and the Hybrid and Distance Working report, when the work of the office ceased.

Over the lifetime of the OTS, 56 reports have been published. A full list can be accessed from the OTS website at bit.ly/3GKuWyP. Of particular interest will be the links to the government response to each review, where commissioned by the Chancellor.

Did the OTS fulfil its remit?

As set out above, the remit when the office was formed was to identify areas where complexities within the tax system could be reduced for both individuals and business, with a particular focus on small business. This focus was confirmed in the government response to the OTS 'Tax Simplification' review, following the five-year review of the office.

The 56 reports published include approaching 1,000 recommendations. Given the extensive consultation that the OTS carried out with stakeholders on each report, I will allow the reader to reach their own conclusion. It may be considered unfair for someone who worked at the OTS throughout its lifetime to answer this question...

So, after 12 years, is the tax system simpler?

I think everyone who works in tax knows that the answer to this question is no. So why hasn't the (hopefully) positive response to the question of whether the OTS fulfilled its remit followed through into this question? I believe there are two principal reasons.

Taking recommendations forward

It will be seen from the Chancellors' response letters that up until around the mid-term point, each principal recommendation was marked as 'accept', 'consider' or 'reject'. As mentioned above, on the UK Competitiveness review 46 of the 52 recommendations were marked as 'accept' or 'consider', and many were taken forward into the Small Company and Simplification of the Corporation Tax Computation reviews.

As part of last year's Property Income review, the OTS received feedback that two thirds of rural agricultural businesses were diversifying to support their farming activity. Although unified accounts were prepared for the business overall, the tax system required separate reports for each business. In the UK Competitiveness report in 2014, the proposal for schedular reform allowing pooling of income and expenditure for tax purposes had been marked as ‘consider’.

The government response to the Corporation Tax Computation review of 2017 on this point was to ask officials to gauge costs, risks and impact on customer groups. However, when this proposal was raised with current policy teams, it was unclear whether such work had been undertaken.

Whilst the OTS periodically published update documents on primary issues, the CIOT response to the OTS five-year review suggested the need for a framework to be put in place setting out which recommendations government would be taking forward (including non-Chancellor commissioned reviews) and the likely timescale.

This should also track which recommendations would not be taken forward, with the reasons given. This would help to facilitate the tracking of past recommendations.

New tax legislation

A second consideration relates to new tax legislation. The OTS reviews were based on the stock of existing tax legislation. However, changes made following recommendations have been dwarfed by the flow of new legislation, on which the OTS had no say. The OTS’ Tax Simplification report of 2022 recommended that simplification should be embedded into each stage of the tax policy making process in order to address this.

A useful analogy could be the number of tax reliefs on statute. At the time of the OTS 2012 review, there were 1,042 reliefs. The OTS picked out 155 reliefs to review in detail, of which 43 were actually abolished (see bit.ly/3wf2Ir1) , neatly bringing the total number down to below 1,000. However, by 2018, the number of reliefs had grown to over 1,100 (see bit.ly/3XKcCg7). Although the number of reliefs has not fallen, there are fewer than if the OTS had not acted. The same could be said regarding the impact of the OTS work on simplification.

What is the future for simplification?

When the announcement of the OTS closure was made in the 2022 Growth Plan, it was stated that simplification would be embedded into the work of HM Treasury and HMRC. Is that a reasonable direction of travel? In the government’s response to the OTS 2022 paper on ‘Tax Simplification’, the Financial Secretary at the time acknowledged that there are trade-offs between simplification and other policy objectives. Whilst these two departments are not against simplification, would not the department’s own policy agenda be a conflict of interest and compromise simplification measures?

So, what is the future for tax simplification? A positive move would be to embed simplification measures into the tax policy making framework. This could include entering simplification on each new policy onto the Tax Impact and Information Notes (TIIN), which could possibly make use of the complexity index developed by the OTS in 2017. (The index measures complexity by assigning ten factors – six for intrinsic complexity and four for impact of complexity.) The Tax Professionals Forum could continue to oversee this process.

However, introducing simplification requires an understanding of the burdens faced by individuals and businesses, and the need to have certainty on the tax impact of choices made, to help make business more competitive and the UK a competitive place to invest. The OTS was able to engage freely with external specialists and industry groups, and as noted in the CIOT response document, was open minded to the views of others. So, could a privatised office, with relevant specialists brought on board, take on the OTS’ role instead?

Such an office may not have such ready access to HM Treasury and HMRC policy teams, nor the data from the knowledge, analysis and intelligence (KAI) team within HMRC. But it would be free to comment in its report papers without fear of pushback, although this may also give rise to perceived conflicts with its own members' interests.

Perhaps it could work under the control or sponsorship of one or more of the professional bodies, who share similar aims and values to those of the OTS. The work of the new office need not be confined to the UK tax system, so could cover devolved taxes under the powers of the Scottish and Welsh governments, or indeed the tax regimes in other countries. Views on the appetite for setting up such an office would be most welcome.