



# Association of Accounting Technicians (AAT) response to the HMRC Call for Evidence on Modernising Tax Debt Collection from Non-Paying Businesses

## 1. Introduction

- 1.1. Association of Accounting Technicians (AAT) is a professional accountancy body with approximately 50,000 full and fellow members and over 90,000 student and affiliate members worldwide.
- 1.2. Of the full and fellow members, there are more than 5,000 licensed accountants who provide accountancy and taxation services to over 500,000 UK small businesses and individuals.

## 2. Executive summary

- 2.1. **AAT welcomes many of the proposals in the Call for Evidence but believes the suggestion that this is to reflect the changing nature of the economy and new business practices is very misleading.**  
Most of these situations have been known about, and brought to HMRC's attention, over a period of not just years but decades. For example, with regard to in-house leasing, fulfilment centres and intangibles. The use of digital wallets is the only area that could realistically fall within the characterisation of modernisation.
- 2.2. **AAT supports measures to allow HMRC to enter fulfilment houses to seize goods and believes they are long overdue.**
- 2.3. **AAT supports any measures that minimise (or ideally eradicate) non-payment of tax debts through in-house leasing.**
- 2.4. **The restriction of TCoG (Taking Control of Goods) powers so that they cannot be used to incentivise payment where a business primarily has intangible assets, is outmoded, outdated and extraordinarily unhelpful in seeking to minimise non-payment of tax debts.**
- 2.5. **Businesses who can pay their tax debt but repeatedly choose not to are a considerable challenge and AAT suggests that examining the merits of increased and additional fines would be worthwhile here.**  
Proposals for changes to Director liability and the increased use of security deposits are also worthy of exploration.
- 2.6. **The most significant change that HMRC could make to ensure agents help businesses pay the right amount of tax at the right time would be to require professional body membership for anyone offering paid for tax/accountancy services as happens with over 200 other professions in the UK.**  
This would largely resolve the issue of a third of the sector being unregulated i.e. unqualified, unaware of basic tax related matters including PCRT and the HMRC standard for agents etc. and would address the fact that two thirds of all complaints to HMRC about agents relate to the one third who are unregulated.

## 3. AAT response to the consultation paper

- 3.1. **To what extent do businesses not hold any UK assets at their principal place of business, and do you think this will increase? What are your views on whether and how HMRC should modernise to adapt to the increase in businesses who do not hold any UK assets, in order to minimise non-payment of tax debts?**
- 3.2. Given the enormous increase in the use of fulfilment centres by the likes of Amazon (which already has 21 large centres located across the UK) but also the rapid rise of micro-fulfilment warehouses by a range of other organisations, and the fact many sellers, especially international sellers, are acutely aware of the fact HMRC does not have the power to enter a business premise if this is not the principal place of business, i.e. a fulfilment centre or third party warehouse, then it makes absolute sense for the law to be updated as soon as is reasonably practicable.

- 3.3. AAT is aware that this problem has been highlighted to HMRC for many years with no apparent action, e.g. in relation to online VAT fraud, so considers such a change to be long overdue.
- 3.4. **To what extent do businesses make use of in-house leasing, is it more popular in certain industries/sectors than others and do you think this model will increase? What are your views on whether and how HMRC should modernise to adapt to the use of in-house leasing, in order to minimise non-payment of tax debts?**
- 3.5. The merits of in-house leasing, especially relating to tax and VAT considerations in particular, have been publicly promoted for more than twenty years, primarily in relation to cars.<sup>1</sup> However, the aviation and rail industries have similarly taken advantage of the tax benefits arriving from such opportunities too.
- 3.6. For example, Airbus Asset Management acts as an in-house leasing company for the used Airbus aircraft owned or controlled by the Airbus group of companies and Boeing has similar arrangements. TUI Travel, the world's largest package holiday operator, similarly leases its aircraft via an in-house leasing company and then subleases the aircraft to one of their seven airlines. What these examples demonstrate is HMRC's assertion that, *"Ultimately, it is likely to be larger businesses that are able to do this, creating unfairness given this practice restricts HMRC's ability to collect tax debts."*
- 3.7. These arrangements have been around for decades so taking action can hardly be considered as HMRC modernising as the Call for Evidence suggests. However, a belated focus on this area is undoubtedly welcome and AAT would certainly support any measures that minimised (or ideally eradicated) non-payment of tax debts through such arrangements.
- 3.8. **To what extent do businesses make use of intangible assets, and do you think this will increase? What are your views on whether and how HMRC should modernise to adapt to an increased use of intangible assets, in order to minimise non-payment of tax debts?**
- 3.9. A recent report from McKinsey & Co definitively highlights how investment has shifted from tangibles to intangibles in the USA and Europe over the past 25 years, with a particular acceleration of this trend during the Covid-19 pandemic which saw huge growth in home working and digitisation<sup>2</sup>.
- 3.10. Given this definitive trend over the past quarter of a century, the fact that TCoG powers continue to be restricted to tangible assets, and therefore cannot be used to incentivise payment where a business primarily has intangible assets, is outmoded, outdated and extraordinarily unhelpful in seeking to minimise non-payment of tax debts.
- 3.11. **To what extent do businesses use digital wallets, and do you think this will increase? What are your views on whether and how HMRC should modernise to adapt to an increased use of digital wallets, in order to minimise non-payment of tax debts?**
- 3.12. Given HMRC has had the power to recover established debts directly from debtors' bank and building society accounts for seven years, as a matter of principle, equity and fairness it makes absolute sense that HMRC should modernise their approach so that the same power exists in relation to digital wallets.
- 3.13. Although their use may be primarily driven by individual consumers rather than businesses, it is inevitable that business usage will increase given digital wallets have already overtaken debit cards as the most popular form of online payment.<sup>3</sup>

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<sup>1</sup> In-house leasing: for richer or poorer?, Just Auto, May 1999:

<https://www.just-auto.com/features/in-house-leasing-for-richer-or-poorer/>

<sup>2</sup> Getting tangible about intangibles: The future of growth and productivity? June 2021:

<https://www.mckinsey.com/business-functions/marketing-and-sales/our-insights/getting-tangible-about-intangibles-the-future-of-growth-and-productivity>

<sup>3</sup> Digital Wallets More Popular Than Debit Cards For Online Payments In UK, FinTech Times, February 2021:

<https://thefintechtimes.com/digital-wallets-more-popular-than-debit-cards-for-online-payments-in-uk/>

- 3.14. As the Call for Evidence notes, existing powers in relation to banks and building societies are rarely used but, “...the existence of this power encourages customers who have repeatedly resisted paying, to do so.”
- 3.15. **Do you have any views on how often businesses who can pay their tax debt repeatedly choose not to, and whether HMRC should take steps to tackle this issue?**
- 3.16. AAT accepts that this is a very challenging cohort and that there is no simple solution but that steps must still be taken to tackle the issue both to protect revenue and to ensure all taxpayers are treated equally.
- 3.17. The reasons for such behaviour are myriad. For instance, some of this behaviour may be driven by cash flow considerations whilst some may also be led by a mistaken belief that not paying the debt will ultimately result in it being written off.
- 3.18. A stronger penalty regime for such behaviour may produce the required results.
- 3.19. AAT recommends HMRC consider looking at research into the behavioural impacts of fines and penalties on motoring offences from the Institute for Road Safety Research<sup>4</sup> fines and penalties relating to child collection and school attendance<sup>5</sup> and general financial penalty related research from the University of Cologne, University of California and Carnegie Mellon University<sup>6</sup>, which shows that, “... individuals often use cognitive shortcuts to make their decisions, rather than relying on computations of expected utility” and that larger fines generally act as a greater deterrent.
- 3.20. This cohort may respond better to the threat of additional or growing fines for continued failure to pay. AAT instinctively believes that further penalties would seem like a strong deterrent. However, more evidence than instinct is required. As a result, it is useful to note recent research and academic studies which suggest that non-compliance decreases with the size of the fine, although it should be noted that this covered small-scale unethical behaviour rather than significant tax avoidance.<sup>7</sup>
- 3.21. **To what extent do you think expanding security deposits to include repeated, intentional non-payment would incentivise businesses to pay their future tax liabilities on time?**
- 3.22. Logically AAT agrees that expanding security deposits may have some impact.
- 3.23. However, this is highly speculative. The fact that 8 of the 9 companies for whom this approach was enforced in 2018/19 ignored the notices and had to be taken to court suggests that they may not be particularly effective in changing behaviour.
- 3.24. AAT suggests that if such an expansion is undertaken, it should be piloted on a trial basis and the results used to determine whether or not such an approach should be rolled out on a permanent nationwide basis. The benefit of a trial is that it could be undertaken more quickly than wholesale changes and if positive it would significantly increase the justification for making a permanent change.

<sup>4</sup> The effect of severity and type of traffic penalties on car drivers' emotions, perceptions of fairness, and behavioural intentions, Institute for Road Safety Research, January 2013:

[https://www.researchgate.net/publication/260225976\\_The\\_effect\\_of\\_severity\\_and\\_type\\_of\\_traffic\\_penalties\\_on\\_car\\_drivers'\\_emotions\\_perceptions\\_of\\_fairness\\_and\\_behavioural\\_intentions](https://www.researchgate.net/publication/260225976_The_effect_of_severity_and_type_of_traffic_penalties_on_car_drivers'_emotions_perceptions_of_fairness_and_behavioural_intentions)

<sup>5</sup> RSA, 2014:

<https://www.thersa.org/blog/2014/01/the-problem-with-fines-is-that-they-can-turn-into-fees>

<sup>6</sup> Do Fines Deter Unethical Behaviour? The Effect of Systematically Varying the Size and Probability of Punishment, April 2018:

[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3157387#:~:text=Uri%20Gneezy,-University%20of%20California&text=In%20all%20our%20experiments%2C%20lying,the%20size%20of%20the%20fine.&text=In%20all%20settings%2C%20changes%20in,altering%20the%20probability%20of%20punishment](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3157387#:~:text=Uri%20Gneezy,-University%20of%20California&text=In%20all%20our%20experiments%2C%20lying,the%20size%20of%20the%20fine.&text=In%20all%20settings%2C%20changes%20in,altering%20the%20probability%20of%20punishment)

<sup>7</sup> Ibid

- 3.25. **To what extent do you think using director's personal guarantees for businesses with a history of repeated, intentional non-payment would incentivise businesses to pay their tax debt?**
- 3.26. Again, this makes logical sense, is also speculative but could result in considerable behaviour change given the concentration of the mind that personal liability would bring compared to business liability. As a result, AAT would certainly support further exploration of this option.
- 3.27. **What opportunities are there for agents and intermediaries to play a greater role in helping their clients engage with, and pay tax due, to HMRC?**
- 3.28. Given a third of the agent community is unregulated and plays a role in ensuring clients do NOT pay the right amount of time at the right time, addressing that fundamental failing by requiring professional body membership would be the most significant change that HMRC could make to ensure small and medium sized businesses engage with and pay tax due.
- 3.29. HMRC's recently published research<sup>8</sup> worryingly confirmed that:
- only 4% of unregulated tax advisers follow the professional conduct in relation to taxation (PCRT)
  - that only 18% of unregulated tax advisers follow HMRC's standards for agents with an astonishing 46% stating that they weren't even aware of it and a further 15% stating they have heard of it but know nothing or very little about it
  - 82% of unregulated agents do not hold any type of professional accountancy or tax qualification with most not holding any qualifications at all beyond secondary school level
- 3.30. With regard to the two thirds of agents who do belong to a professional body, they already make a substantial contribution to helping their clients engage with and pay any tax due to HMRC at the right time but most would be keen to do more were HMRC to facilitate this.
- 3.31. AAT notes the HMRC assertion that *"Many agents however do not get involved in whether their client actually pays what they owe after an agent submits a return."* There is probably a degree of assumption that given the tax return has been completed and submitted on time, the payment of tax will naturally follow. Where this does not happen, the agent is unlikely to know this for some time.
- 3.32. Perhaps a simple technical solution could exist whereby the agent receives automatic notification of when tax owing has been paid or when tax owing remains unpaid, as well as the business. This could then prompt interaction between the client and agent at a much earlier stage and in many circumstances result in faster payment.

#### **4. AAT**

- 4.1. AAT is a professional accountancy body with approximately 50,000 full and fellow members and over 90,000 student and affiliate members worldwide. Of the full and fellow members, there are more than 5,000 licensed accountants who provide accountancy and taxation services to over 500,000 British businesses.
- 4.2. AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

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<sup>8</sup> Understanding the characteristics of unaffiliated tax agents, HMRC, November 2021:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1037031/Understanding\\_the\\_characteristics\\_of\\_unaffiliated\\_tax\\_agents.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037031/Understanding_the_characteristics_of_unaffiliated_tax_agents.pdf)

## 5. Further information

- 5.1. If you have any queries, require any further information or would like to discuss any of the above points in more detail, please contact Phil Hall, AAT Head of Public Affairs & Public Policy:
- 5.2. E-mail: [phil.hall@aat.org.uk](mailto:phil.hall@aat.org.uk) Telephone: 07392 310264 Twitter: @PhilHallAAT
- 5.3. Association of Accounting Technicians, 140 Aldersgate Street, London, EC1A 4HY

Phil Hall, 14 January 2022

