



ICAEW REPRESENTATION 26/16 TAX REPRESENTATION

Higher rates of stamp duty land tax (SDLT) on purchases of additional residential properties

ICAEW welcomes the opportunity to comment on the consultation concerning [*higher rates of stamp duty land tax \(SDLT\) on purchases of additional residential properties*](#) published by HM Revenue & Customs on 28 December 2015.

As this is a major change to SDLT designed to change behaviour, ie deterring buy-to-let landlords it is inappropriate to restrict the consultation to five weeks contrary to the recommended 12 week period in the government guidance regarding consultations <https://www.gov.uk/government/publications/consultation-principles-guidance>. The proposed changes will impact on many transactions, not just buy-to-let transactions, and lead to unfair outcomes. A proper consultation could help avoid this collateral damage.

This response of 1 February 2016 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.

On 21 January 2016 we attended a meeting with HMRC jointly with other professional bodies in which we were able to put forward some key comments and concerns and discuss aspects of the consultation document.

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MAJOR POINTS

Key point summary

1. Given that this measure is part of a package to deliver affordable homes to first time buyers, it is counter policy that first time buyers will be subject to the higher rate of SDLT because of the planned way in which the joint ownership and partnership rules will operate.
2. The proposed rules discriminate against marriage and, as highlighted in the consultation document, could cause difficulty on the breakdown of a marriage. We would suggest that many of these problems could be overcome by allowing each individual (married or not) to have a main residence.
3. We are concerned about the impact on the housing market. In the light of the plethora of tax changes, a survey commissioned by the Council of Mortgage Lenders indicates that many landlords are considering reducing their portfolios of private rental property. Rather than improving the affordability and supply of housing for first time buyers, first time buyers could have difficulty securing a mortgage if lenders are concerned about a falling market.
4. Coupled with the potential for a reduction in the supply of private rental property, it is conceivable that landlords could simply pass on the tax increases through higher rents, making private rented property more expensive. This could further impact the ability of first time buyers to save for a property.
5. We do not see how the refund mechanism for those that find themselves with an overlap in home ownership assists with the delivery of affordable housing. Requiring payment of the higher rate of tax when the majority of purchasers in this situation would already be subject to the costs of bridging finance could further stifle the housing market. Instead, we recommend a provisional relief approach, similar to that used for provisional claims for capital gains tax business asset rollover relief.
6. To aid employment mobility, we would welcome the introduction of a relocation relief. Individuals who relocate for work or business purposes and who purchase a property in their destination location may not wish to sell their existing home, especially if the relocation is intended to be temporary or if the individual is uncertain about their long-term intentions. Individuals may also need to retain their existing home for family reasons.
7. The short consultation period and the proposed timetable for introduction of the changes means there is insufficient time to properly consider all the implications and we are very concerned that there will be a lot of collateral damage and unintended consequences when the change is enacted.
8. Finally, does HMRC have any evidence that the buy-to-let sector is somehow restricting the availability of housing, particularly for first time buyers? The policy assumes this is the case, but no evidence has been included in the consultation document to support this assumption.

General comments

9. This proposal has attracted a lot of negative comments from ICAEW members who question whether it will deliver its policy objective and have highlighted the unfairness of how the rules will operate in certain circumstances.
10. Given the policy aim is to provide affordable homes to first time buyers, it is counter policy that first time buyers will be subject to the higher rate if:
 - their parents need to take a share in the property in order to secure a mortgage;
 - they are buying jointly with somebody else who owns another property (possibly otherwise unconnected);

- they have a small share in a multiple ownership family property passed down through a couple of generations that they could not occupy as their main home and where their share is at a level where they are unable to force a sale of the property;
 - they are a partner in a partnership (eg, a farming partnership or a veterinary practice) that provides accommodation for its employees
 - there has been a forced inheritance of a property abroad due to the forced heirship laws of that country.
11. Further, given the government's aim to improve flexibility in pension saving, we consider it adversely affects smaller scale investors who have worked hard and have chosen property as a form of investment as part of their retirement planning, while providing relief for the affluent that can afford large scale investment.
 12. There has also been negative comment concerning the fact that the proposed measure discourages marriage and/or penalises married couples.
 13. There will be very little time between the final details being published on Budget Day and implementation on 1 April 2016 (nine working days in total as Easter falls in between). Therefore, if the proposal is to be introduced, the government should consider delaying implementation. Given the important role that advisers will have to play in the administration of the charge and educating taxpayers, it seems unfair to expose them to the risk of being sued if sales are delayed unintentionally beyond 1 April 2016.
 14. Concern has been expressed by members about the potential impact on house prices in general and the rental property market. If this measure (combined with other measures that impact the buy-to-let market) lead to landlords offloading their portfolios, this could potentially lead to a market crash. Rather than boosting home ownership, first time buyers could have difficulty securing a mortgage if lenders are concerned about a falling market.
 15. Furthermore, coupled with the potential for contraction in supply of private rental property, there is concern that landlords could simply pass on the tax increases through higher rents, both making private rented property more expensive. This could further impact the ability of first time buyers to save for a property.
 16. There is a concern that new social housing builds will decrease if there is a downturn in demand for the premium housing that subsidises the social housing building costs.
 17. With appropriate regulation, a well-managed private rented sector would be more capable of ensuring the provision of safe, high quality, living accommodation than can often be achieved through home ownership. Regulations may also provide many tenants with better security of tenure than a large number of home owners who are subject to a mortgage.
 18. The economy would benefit from a thriving private rented sector since landlords who are subject to appropriate regulations are more likely to spend money on property improvements, property maintenance and safety measures than many home owners.
 19. The government will also benefit from a healthy private rented sector through the tax revenue that it generates.
 20. According to a recent YouGov survey commissioned by the Council of Mortgage Lenders (CML), 15% of buy-to-let landlords plan to stop or reduce their investment in the private rented sector as a result of recent tax proposals. A further 13% plan to sell off some or all of their portfolio and 6% will review the mix of properties that they own. The survey suggests that a total of 34% (over a third) of landlords will reduce their investment in the private rented sector as a consequence of proposed tax changes. This does not take account of a further 11% who are currently undecided on their future plans, so the final total could be as high as 45%. As set out above, reductions in investment at this sort of level could have a severe, perhaps

catastrophic, impact on the availability of affordable residential accommodation. The CML's view is that the overall impact of the proposed UK tax changes "will be to lift rents higher and to narrow the availability of homes in the private rented sector".

21. The private rented sector and, in particular, the highly regulated houses in multiple occupation (HMO) market, is an essential element in the provision of residential accommodation to students, migrant workers and many other individuals with little or no interest in purchasing property and who cannot afford to rent alone. The availability of affordable, high quality, rented accommodation is essential to the UK's ability to attract talented individuals, whether as students or workers. Measures which significantly reduce the availability of such accommodation therefore run a severe risk of proving detrimental to the economy.
22. We are disappointed to note that the current proposals include a partial return to the previous 'slab' system applying to Stamp Duty Land Tax on residential property prior to December 2014: with a rate of 3% applying to the entire purchase price on property with total consideration in excess of £40,000. This creates a 'cliff edge' with an immediate charge of £1,200 applying as soon as the purchase price of a property exceeds £40,000. 'Cliff edges' of this type create artificial distortions in the property market.
23. It is noted that multiple dwellings relief is to be retained together with the choice of applying non-residential rates to the full consideration where six or more properties are being purchased together. With the growing disparity between residential rates (particularly with the 3% higher rate) and non-residential rates, it can be seen that applying non-residential rates to the full consideration will become more attractive and that in order to secure lower rates, those that can afford to make bulk purchases alongside an expensive residential property that they are looking to purchase are more likely to do so in order to secure non-residential rates.
24. It is not clear from the consultation whether it is proposed that this higher rate will apply in addition to the existing 15% rate for transactions falling within s55A and Sch 4A, FA 2003.

RESPONSES TO SPECIFIC QUESTIONS

Q1: Are there any difficult circumstances involving family breakdown which mean that treating married couples and civil partners as one unit until they are separated is not appropriate? If there are, how would you suggest those circumstances are treated?

25. In general, the definition of a married couple in the context of separation is unreasonable. The income tax definition of a married couple treats the parties as ceasing to be married if they are in fact separated in circumstances where the separation is likely to be permanent (s1011(c), ITA 2007). The consultation document omits this test and requires a court order (like s1011(a)) or a formal Deed of Separation executed under seal (which is far more restrictive than s1011(b)). Very many couples separate informally. Even where there is a formal separation agreement, this may well not be under seal, particularly where lawyers have not been involved in drawing up the agreement. Some couples have been separated for 20 or 30 years and may well not even be in touch with one another, particularly where one or both the parties had religious scruples against divorce so are unlikely to know what properties are owned by their former spouse.
26. In our experience Deeds of Separation are not very common and tend to be used in situations where the couple are unable to live in separate houses so the deed formalises the separation even though they are living under the same roof. Clearly in these situations a second property is not in point.
27. In the context of the 18 month gap test, given that there can be delays in arranging financial affairs following a divorce to enable the purchase of a new main residence, it could be beneficial for the couple to be treated as owning a property that is their main residence until they are legally separated. This would lengthen the timescale for a new purchase to be treated

as replacing an only or main residence (on the assumption that it is not their only residential property interest). See also answer to question 2 below concerning the treatment of partners in a partnership.

- 28.** Conversely, a couple may have funds that would enable the purchase of a second property when the relationship has broken down, but before they are legally separated. Putting down roots by purchasing a second home would provide stability and security (which could be particularly important when children are involved). Penalising this situation by imposing a higher rate charge when the purchase takes place before legal separation is unfair. In non-contentious divorces, a two year separation is generally required. There should be a form of relief that can be claimed if legal separation occurs within a fixed amount of time of the purchase, the purchaser can be treated as replacing an only or main residence. This period would need to be longer than 18 months given the general two year separation requirements for divorce. For capital gains tax a couple cease to be treated as a married couple once they are separated and the separation is likely to become permanent, a similar rule could apply for the purchase of a second property when a married couple separate.

Q2: Do you agree that, where property is purchased jointly, if any of the purchasers in a transaction are purchasing an additional residential property and not replacing a main residence, the higher rates should apply to the whole transaction value? If not, how would you suggest the government treats joint purchasers?

- 29.** We do not agree with the proposed treatment.
- 30.** It is very unjust to penalise all joint buyers just because one of the buyers already owns a residential property. Many young people are only able to start on the property ladder by joining with friends to purchase a property so by charging additional SDLT some people would be excluded from this route to property purchase. Apportionment would give a fairer result.
- 31.** Joint purchasers are not necessarily couples living together. For example, a group of friends may purchase a property together to live in. Penalising all joint purchasers based on the circumstances of one of the purchasers is unfair, although it is appreciated that this does provide administrative simplicity. The fair option would be to only apply the higher rate to the share of the consideration attributable to the joint owner(s) that are treated as buying an additional property. *The Pollen Estate Trustee Company Ltd, King's College London v HMRC* [2013] EWCA Civ 753 demonstrates that even though there is a single property transaction by joint purchasers, where one of those purchasers is a charity, the charity can claim relief for their share. This principle should be applied to the circumstances of joint purchasers when considering the extent to which the 3% higher rate applies.
- 32.** Where a partner in a partnership that holds residential property interests purchases a property outside of the partnership (as an individual), they will always fall into the category of needing to consider whether the property purchase is a main residence and replacing an existing main residence. It could be the case that the partner would otherwise be treated as a genuine first time buyer in their own right, but as they are not replacing an existing main residence, they will be subject to the higher rate. Similarly if they are purchasing a main residence following the breakdown of a marriage and the gap between legal separation and the purchase of the new main residence is greater than 18 months, they will be subject to the higher rates. This seems unfair.
- 33.** It is common for certain types of partnership to hold residential property for employee accommodation eg, farming partnerships and veterinary practices. Consideration should be given to providing a relief for employee accommodation so as not to adversely impact certain sectors.
- 34.** The distinction between married and unmarried couples is generally unfair. Unmarried couples can have two homes (if not owned jointly) whereas a married couple can only have one before paying the higher rates. To create fairness, the rules should allow each individual (married or

not) to have a main residence. That could also alleviate problems on marital breakdown (question 1), and improve mobility for employment, although it would not necessarily assist with the gap in ownership test on a marital breakdown if a property is held that is not a main residence.

35. The document assumes that the charge can be avoided when parents help children get onto the property ladder by the parents acting as mortgage guarantors rather than becoming joint owners. However, what if the mortgage company will not lend to the child even if the parent is guarantor? In such cases, the parent is likely to be required to be a joint purchaser as the mortgage company will not accept the property being in a different name to the loan. It is unfair to distinguish between these situations simply based on the ability to secure a mortgage.

Q3: For the first stage of the test for determining whether a purchaser is replacing an only or main residence, does considering previously disposed of property in the way presented above cause practical difficulties or hardship in particular cases?

36. The main residence test has a number of practical difficulties. The consultation document assumes that families will live together in the place where the children are schooled and the parents work and then have a second weekend home. However, it is common that families live apart during the working week and come together at the weekend. There is a reason why the capital gains tax election exists and to have the possibility of the main residence being different for different taxes will be confusing. The tests should be as similar as possible.
37. The difficulty with defining a main residence is evidenced by the number of legal cases trying to establish exactly that.
38. However, unlike capital gains tax, as set out at paragraph 34 above, it would be far better to allow each individual to have a main residence rather than considering a married couple as a single unit.
39. What indications of occupation will be necessary to prove the main residence is being replaced? See example 28, if Q claimed he was living in part of the buy-to-let property at some point in the 18 months before the purchase of the new property.

Q4: For the second stage of the test, do you agree that the rule should require the purchaser to intend to use the newly purchased property as their only or main residence?

40. Intention may be difficult to prove if circumstances change. This has been the subject of numerous cases for private residence relief; there should be an intention to occupy with a degree of regularity/permanence.

Q5: Do you agree that 18 months is a reasonable length of time to allow purchasers a period between sale of a previous main residence and purchase of a new main residence that allows someone to claim they are replacing their only or main residence and therefore not pay the higher rates of SDLT?

41. See response to question 1 above concerning the fact that it can take longer than 18 months to settle a divorce.
42. People with serious medical conditions etc, may not be able to arrange their affairs within this timescale. For example, they may buy a specialised home (possibly near family or a care facility), but owing to their circumstances, they may take longer than usual to sell their former home (possibly because a family member remains in the old home, or the illness becomes very serious and the person is incapacitated).
43. There are many areas where the property market is slow and this test could impact people selling property in those areas, particularly if they are relocating for employment and cannot sell their former residence.

44. This test will be unfair to returning expats or internationally mobile workers who have retained a UK property while abroad as they are likely to have a longer gap in owning a main residence.
45. Furthermore, it is considered that this test should be subject to a transitional provision. Those who have already disposed of a main residence will not have been aware that in doing so, they have triggered an 18 month window in which to purchase another.

Q6: Do you agree there should be a refund mechanism in place for those who sell their previous main residence up to 18 months after the purchase of a new main residence? Are there any other cases where a refund of the additional SDLT paid should be given?

46. No. We do not agree that there should be a refund mechanism and there should be provisional relief in this circumstance. Those who find themselves in this situation are unlikely to have chosen to have an overlap in ownership. The refund mechanism does not meet the policy objective of encouraging home ownership.
47. It is appreciated that the refund mechanism avoids HMRC having to pursue cases to recover additional tax where the sale of the first main residence does not take place within 18 months. However, will HMRC pay interest on the overpaid SDLT when the old home is sold and a refund is claimed?
48. The response to question 1 provides another example of where a refund mechanism might be required where a second home is purchased before legal separation on a marital breakdown, but as set out in response to question 7 below, provisional relief is the preferred mechanism.

Q7: Can you suggest any other actions the government could take to mitigate the cash flow impact on those who only temporarily own two residential properties?

49. Requiring payment of the higher rate of tax when the majority of purchasers in this situation would be subject to the costs of bridging finance could further stifle the housing market.
50. There are other examples within the tax rules that permit conditional relief where the timing of purchases and sales do not coincide eg, provisional claims for capital gains tax business asset rollover relief. A provisional claim to pay SDLT at the normal residential rate would be preferable to subjecting such purchasers to the higher rate. The SDLT legislation already contains provisions for making a further return where relief is withdrawn (s81, FA 2003), so could potentially be used for such a claim. Furthermore, such a relief should contain a power for HMRC to extend the 18 month period on a change of private residence where the taxpayer can show that he was not able to buy or sell the home within the 18 month period. A similar provision has operated well in relation to capital gains tax business asset rollover relief for many years.

Q8: Are there any other situations regarding main residences which require further consideration?

51. Please see responses to previous questions.

Q9: Would there be a benefit to a significant number of purchasers if the test for whether someone owns one, or more than one, residential properties, were undertaken at the time of submitting the SDLT return, rather than at the end of the day of the transaction?

52. Looking at the day of the completion of the SDLT form rather than the day of sale is a potential administrative simplification measure. However, in practice, given that conveyancers have other post transaction filings to make other than SDLT, the forms are often completed pre-transaction to ensure that the current 30 day filing deadline is met. Furthermore, if the filing deadline for SDLT is reduced to 14 days, there will be very little time to capture the necessary information.
53. Such a measure may also lead to delayed filing.

54. As set out at paragraph 50 above, it would be better to allow a provisional claim for SDLT to be paid at the normal residential rate.

Q10: Do you agree with the government's proposed approach to considering property owned anywhere in the world when determining whether the higher rates of SDLT will be due?

55. We can understand why the government would want to include overseas property but it does create questions around administration and compliance. Conveyancers will not necessarily hold this information. It may also be difficult to determine whether interests held via different ownership structures such as a Société Civile Immobilière in France should be included (ie, something similar to the proposed look through for trust beneficiaries with life interests or interests in possession and the treatment of partnerships). Also if the overseas property is the second one to be purchased the additional SDLT cannot be levied and it is inequitable and not a sound basis for taxation for a charge to be levied based on the order in which properties are purchased.

56. As the policy objective is to deter second property buyers depleting the available housing for buyers for residential purposes charging an additional 3% SDLT when somebody buys a property to live in in the UK when they already own one somewhere else in the world does not contribute to the policy objective. In fact by charging the additional 3% SDLT people will be deterred from downsizing if they already own a property overseas so their family home will not be released on the market yet the property overseas is not depriving anybody in the UK from buying a home in the UK.

Q11: Do you agree with the proposed treatment of furnished holiday lets?

57. No. While it is appreciated that holiday lets may impact on the availability of property and property prices, tourism represents a significant and important part of the economy in areas where there is a high concentration of such properties. The industry relies on the availability of high quality holiday accommodation for tourists and other visitors. Property purchased for the purposes of furnished holiday letting should therefore be exempt from the higher rate.

58. Furthermore, it can be the case that planning restrictions designate a property or a development as only being for holiday letting and only permit occupation for 11 months of the year. Where such restrictions exist, the property will never be available to the first time buyer market. Charging the higher rate on such properties would not meet the policy intention.

Q12: Are there any other cases which the government should consider?

59. We believe that the government should consider introducing a relocation relief. Individuals who relocate for work or business purposes and who purchase a property in their destination location may not wish to sell their existing home, especially if the relocation is intended to be temporary or if the individual is uncertain about their long-term intentions. Individuals may also need to retain their existing home for family reasons.

60. Imposing the higher rate under these circumstances will act as a deterrent to potential migrants from overseas or elsewhere in the UK and will be detrimental to the economy as it will inhibit businesses attempting to recruit the most talented individuals to join the workforce.

61. It is also unfair that a worker intending to relocate for employment purposes who must retain a property elsewhere (eg, as a family home) should be placed at a disadvantage compared with another migrant worker without such a property (or an unmarried couple who could each purchase a home).

62. For these reasons, we consider that it is appropriate to include an exemption for individuals relocating for work or business purposes.

- 63.** Furthermore, the proposal does not facilitate moving up the housing ladder or downsizing. Example 9 highlights the potential unfairness and could similarly apply when property one was the main residence and property two is purchased as a new main residence, but property one is retained as a rental property. Given the policy objective to apply a charge to additional properties, rather than charge the additional rate on the purchase of the new home, it would be fairer to apply the charge to the value of the rental property.
- 64.** It is not clear if the charge would apply when a person expands an existing interest in a property. For example, A and B have jointly owned a rental property for many years and also each own their own home. If A were to purchase B's share of the rental property on or after 1 April 2016, would the purchase by A be subject to the higher rate given that it is the expansion of an interest held before 25 November 2015?
- 65.** Members have also commented that there should be an exception where a person acquires a property for occupation as the sole residence of his aged parents or widowed mother/father.

Q13: Do you agree that an exemption should be available to individual investors as well as all non-natural persons? Alternatively, is there evidence to suggest any exemption should be limited to only certain types of purchaser? If so, which types of purchaser?

- 66.** Any exemption should be available to all types of purchaser.

Q14: Do you think that either the bulk purchase of at least 15 residential properties or a portfolio test where a purchaser must own at least 15 residential properties are appropriate criteria for the exemption? Which would be better targeted?

- 67.** The bulk purchase would be a better test if the government's aim is to speed up the finance cycle for developers. However, to ensure the provision of quality housing, a better test would be along the lines of a certification scheme as set out in the response to question 15, below.
- 68.** It is not clear whether all 15 properties have to be purchased at the same time or if the exemption applies once 15 properties have been acquired.
- 69.** A purposive test would be a fairer test; an arbitrary number does nothing to encourage quantity or quality of housing or to encourage redevelopment of empty properties.

Q15: Are there better alternative or additional tests that could be used to better target an exemption and fulfil the government's wider housing objectives?

- 70.** In order to maintain the quality of housing stock and to meet the ever-increasing demand for housing, we consider that it would be appropriate to provide an exemption from the higher rate for accredited landlords. Existing accreditation schemes could be developed incorporating appropriate criteria.
- 71.** We consider this approach to be more appropriate as it allows for a qualitative approach to the benefits of individuals, companies or other entities investing in housing rather than an approach based purely on quantity and legal structure. We do not see how a purely quantitative approach will guarantee the quality of housing stock and nor do we see the relevance of legal structure.

Q16: Are there any other issues or factors the government should take into account in designing an exemption from the higher rates?

- 72.** Please see response to question 15 above.

Q17: Do any specific kinds of collective investment vehicle or other non-individuals need to be treated differently to companies?

- 73.** We are not aware of any other vehicle that should be treated differently. However, we would recommend an exemption for employee accommodation as set out at paragraph 33, otherwise

certain sectors where it is common practice to provide employee accommodation will be adversely affected.

Q18: Do you agree with the proposed treatment of trusts, including the higher rates of SDLT applying to trusts purchasing residential property except where a purchase is a first property or replacement of a main residence for a beneficiary?

- 74.** It is understood that purchases by trustees for beneficiaries with life interests or interests in possession will be treated as if the purchase were made by the individual themselves (and therefore will not be subject to the higher rate if it is the first property or a replacement of a main residence). This means that the trustees will need to take account of any property held by the beneficiary and beneficiaries will need to take account of any property held by the trust when deciding whether the higher rate applies.
- 75.** Purchases by trustees where beneficiaries have no interest in possession over the property will be liable to the higher rates.
- 76.** We agree with this approach.

Q19: Do you think that purchasers are more likely to give accurate answers to main residence questions if HMRC provides specific questions for the conveyancer to ask the purchaser?

- 77.** In complex situations, it is difficult to envisage the questions that will be required to cover off all circumstances (particularly for overseas properties owned in structures subject to different law).
- 78.** It would be easier to comment upon this proposal if example questions were made available.

Q20: Would a formal declaration by the purchaser that the answers to any such questions are accurate help to increase compliance without creating undue burdens for conveyancers? How do you think such a declaration should work?

- 79.** We would suggest that a draft declaration is made available for comment.

Q21: Besides normal publicly available guidance, are there any additional products that HMRC can provide to help purchasers understand what rates of tax they will be paying on a planned purchase?

- 80.** Simple situations will be covered by the flowchart. For those with other property interests eg, trusts, partnerships, joint interests, overseas property, etc, it is difficult to envisage how a tool could operate that could cover all possible situations.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. **Certain:** in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
4. **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. **Properly targeted:** when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. **Constant:** Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. **Subject to proper consultation:** other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. **Regularly reviewed:** the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. **Fair and reasonable:** the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. **Competitive:** tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see via <http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax>).