ICAEW
REPRESENTATION 69/25

MODERNISING AND MANDATING TAX ADVISER REGISTRATION WITH HMRC

Issued 15 September 2025

ICAEW welcomes the opportunity to comment on the draft legislation covering modernising and mandating tax adviser registration with HMRC published by HMRC on 21 July 2025, a copy of which is available from this link.

In previous consultations, ICAEW has in principle supported mandatory registration for all tax practitioners who interact with HMRC if it meets the needs of firms of all sizes. However, ICAEW has significant concerns that as currently drafted, this legislation – particularly when combined with the draft legislation concerning agents facilitating non-compliance and closing in on promoters of tax avoidance schemes – will not meet the policy objectives.

Instead of driving out the 'bad actors', the measures will impose considerable extra burdens and costs on the vast majority of tax professionals doing a good job.

There is also a wider business impact. We are concerned that the measures will:

- make tax advice unaffordable for businesses and other taxpayers;
- undermine the UK's long-term tax compliance culture;
- make the UK the most hostile tax environment in which to do business in the OECD; and
- weaken the UK's professional and business services sector.

This is not in the public interest.

ICAEW stands ready to continue engagement following the deadline for making comments to achieve better targeting, ensuring that burdens are proportionate and that the measures support the role played by good agents in improving tax compliance. Given the fundamental issues with the drafting of this legislation, ICAEW requests that there is another round of technical consultation on a revised draft ahead of the publication of the Finance Bill.

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This response of 15 September 2025 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, ICAEW's Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of strong economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 172,000 chartered accountant members in over 150 countries. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

GENERAL POINTS

1. As set out on page 1, ICAEW is concerned that instead of driving out the 'bad actors', the measures will impose considerable extra burdens and costs on the vast majority of tax professionals doing a good job.
2. Strengthening the controls on access to HMRC's agent services is considered an important enabling first step towards ensuring tax practitioners meet existing basic standards before being able to interact with HMRC on behalf of their clients.
3. For this reason, ICAEW has supported mandatory registration for all tax practitioners who interact with HMRC. However, as we have said previously, changes to agent registration must reflect the needs of firms of all sizes. ICAEW does not think the draft legislation meets the needs of agents and it requires significant rewriting.
4. Aside from the legislation being impractical for agents, it is also quasi regulation. It is understood that Condition B is the HMRC standard for agents. Monitoring of whether that condition is being met allows for monitoring and enforcement against a standard. However, the process lacks the necessary independence that is normally associated with regulation as the investigating officer also makes the decision to suspend registration. HMRC also has a clear conflict of interest in this role.
5. The proposed new legislation imposes new requirements at a time when the underlying HMRC systems are in flux and agents are playing a critical role in helping HMRC deliver key changes such as Making Tax Digital for income tax. It should therefore be deferred.
6. It is not clear how these rules would operate in practice. As noted below, there could be agents who are agents not in the course of a business. If their existing registration is rolled over, would it be assumed that they were agents in the course of a business, or will there be some form of notification process? If there are to be new processes, does HMRC have time to put these in place?

Practical implementation

7. ICAEW understands that HMRC plans to link this legislation to the ability to have an agent services account (ASA). There are currently 19 different systems covering 29 different HMRC services for which an agent may need to register – not all of which are via the ASA. The plan is to bring all of these systems together.
8. In meetings, HMRC has confirmed that those agents with an ASA will not be required to re-register – although in the future, checks will be performed to ensure that they are meeting the conditions. However, it is unclear whether all legacy codes for other agent services will need to be linked to the ASA, and indeed, how HMRC can police access to legacy systems.
9. The fact that agents with an ASA will not have to re-register is a helpful easement. However, ICAEW considers that this must be made clear in the legislation. Is it proposed that this will fall within the regulation-making powers in cl22?
10. HMRC will need to build a new agent registration system with a single point of access to all services. The ASA already requires significant further development work. A new registration system is a major piece of work that is unlikely to be delivered by April 2026 and would still provide a significant challenge for delivery in April 2027, given the resources required to deliver other projects including Making Tax Digital for income tax.
11. Having a technical consultation on legislation for a digital system that has not been fully designed is a flawed approach. The system needs to be designed and consulted upon first to establish what a good agent registration would look like, or as a minimum what a viable product would be for launch which could be added to at a later date. The design needs to include what arrangements will be necessary for overseas agents who may need alternative provisions or evidence to satisfy the requirements.

12. ICAEW's view is that agent registration should be delayed until April 2027 and checking of existing agents should not happen immediately to avoid the risk of disruption to registered agents' ability to interact with HMRC at a time when firms will be assisting mandated taxpayers with filing their first quarterly Making Tax Digital for income tax updates.

COMMENTS ON THE DRAFT LEGISLATION

13. ICAEW has set out below some of the issues that it has identified with the legislation as currently drafted. However, the consultation period is less than 12 weeks and over the summer holiday period and therefore not all issues may have been identified. The government's own consultation principles highlight that consulting too quickly will not give enough time for consideration and will reduce the quality of responses https://www.gov.uk/government/publications/consultation-principles-guidance
14. Given the fundamental issues with the drafting of this legislation, ICAEW requests that there is another round of technical consultation on a revised draft ahead of the publication of the Finance Bill.

Meaning of tax adviser (clause 1)

15. If this definition is to align with who should have (or currently have) access to the ASA, then it will exclude some groups. For example, some organisations in the voluntary sector have ASA access to assist taxpayers, but they would not meet the definition of doing so "in the course of a business".
16. There are also gaps in who can get ASA access currently. For example, in-house teams can need access to the ASA to assist others in the organisation. However, this definition does not help that group and they appear to be specifically excluded from the requirement to register via clause 3(1)(a) and (e).
17. To aid interpretation, this definition should ideally align with other definitions and use the same terminology. For example, the definition is very similar (but not identical) to the definition of a 'tax agent' in para 2, Sch 38, Finance Act 2012. The Money Laundering Regulations have a much shorter definition of a 'tax adviser'.
18. As anti-money laundering (AML) supervision is a proposed eligibility requirement for registration, then it is important that the definitions for who must apply for registration aligns with those who can be supervised for AML, and that there are not categories of tax adviser that are required to register with HMRC that do not fall within the money laundering regulations.
19. This lack of consistency in terminology may mean that some of the proposed sanctions – such as publication of information (contained in the draft legislation concerning tackling tax adviser facilitated non-compliance) – do not work.

Requirement to register with HMRC (clause 2)

20. Limiting the registration requirement to only those tax advisers who interact with HMRC is a fatal flaw in the design of this important step in tackling the problem of "bad" tax advisers. While we recognise that it would be possible for this registration requirement to be expanded in the future to include the wider definition of tax advisers (as set out in clause 1), establishing a registration process that excludes tax advisers who don't interact with HMRC is flawed.
21. To avoid registration, an adviser simply needs to ask their client to make their own filing with HMRC (or appoint another agent to do so). Indeed, much of the misconduct in the market that we are aware of involves tax advisers whose business model is set up in this way. There is a risk that by limiting the definition in this way, other bad advisers may change their business model along these lines to avoid registration. This would mean that the additional administrative burden would fall almost entirely on compliant tax agents.

22. ICAEW suggests that the registration of agents is extended to all tax advisers from the outset. However, thought is also needed about how registration would apply to some specialist advisers. For example, specialists such as valuers, etc, may interact with HMRC on a client's behalf but not do so using online systems. They generally use a COMP1. Tax barristers are another example where they advise on tax, but do not interact with HMRC's systems.

Exceptions from requirement to register (clause 3)

23. We do not agree with the exclusion from registration for customs and freight agents, where we understand that errors and poor behaviours are often made by agents who are not subject to any regulatory supervision by a professional body. Examples are included in Appendix 2. We know that a voluntary standard for customs intermediaries is being developed, but that should not preclude them from registration – particularly if registration is the gateway to agent services.
24. We note that HMRC's transformation roadmap mentions that HMRC is working with software developers to explore how registration processes can be improved and to refine standards. As software is specifically excluded from this registration requirement, we think it is imperative that this happens to the same timeframe. This is because of the increased requirements for agents to use third party software to be able to assist their clients with their tax filings. Software may apply a particular interpretation of the legislation (either HMRC's published interpretation or some other interpretation), as defined by the software developer, which may amount, in essence, to the provision of advice.
25. 'Works for an organisation' in the draft legislation should be defined. For example, would an employee of a service company of an LLP, 'work for' the LLP?

Application for registration (clause 4)

26. The definition of senior manager is unclear and incapable of consistent application across firms with different legal forms, size, service lines, and governance structures. Depending on the intended scope, the requirement to provide the name of each senior manager will be incredibly onerous for large firms. To provide an indication of the scale of the challenge, between them, the 'Big 4' firms have over 3,000 principals. Maintaining the list for joiners and leavers will be a considerable administrative burden. Presumably the name provided would need to match the name in HMRC's records. This may be different from the name that they use in a professional capacity. To ensure that firms are able to prepare for the introduction of mandatory registration, the definition of senior manager needs clarifying urgently so that they can identify who is in scope and put systems in place.
27. Details about any additional information/evidence requirements under cl4(3)(d) are needed as soon as possible to assist agents with preparation.
28. Any information or evidence specified under cl4(3)(d) needs to be reasonable and proportionate. Changes to information or evidence requirements should be subject to a regulation-making power rather than by notice and the legislation would need to provide the vires and parameters for this. This is to ensure that there is proper consultation and parliamentary scrutiny about the administration burdens and costs associated with any future additional requirements.

Eligibility conditions (clause 5)

29. The eligibility conditions need to be capable of being met by both new and existing firms. Consideration should be given to whether new firms are able to demonstrate compliance with all eligibility conditions at the outset in order to be able to register and start trading. Conditions may need to be refined to reflect the circumstances of new firms.

Condition A(a)

30. Depending on the intended scope, this condition is likely to be unworkable for any tax adviser organisation other than a sole practitioner and should therefore be removed or significantly revised. This is because it is HMRC that holds this information about individual taxpayers – not the firm. For example, income tax is a personal obligation of the partner/principal and is not something that would generally be discussed or shared with their fellow partners/principals.
31. Although we appreciate a requirement for a tax adviser to keep their tax affairs up to date is included in Professional Conduct in Relation to Taxation (PCRT) and mirrored in the HMRC standard for agents, these requirements are written in general terms and are proportionate, whereas the draft legislation is highly prescriptive, disproportionate and imposes significant compliance burdens. Only those who work in tax need to follow these standards. However, the requirement is potentially being extended out to all partners and principals in other disciplines within a muti-disciplinary firm.
32. Evidencing that the condition is met will present any firm other than a sole trader with significant challenges and is completely unworkable for larger, more complex firms – not least as it would appear that all those falling within the definition of senior manager would need to be compliant even if they are not involved in providing tax services.
33. For these reasons, we do not believe that the condition that the "…*tax adviser and each senior manager of the adviser… does not have any outstanding tax returns or amounts of tax due*" threshold is necessary, and it should be removed – or at least restricted to tax filings and tax payments of the firm only. We consider that quarterly updates for Making Tax Digital for income tax will not be in scope as that particular obligation is not a tax return. However, if quarterly updates are in scope, then the burden will only affect sole practitioners and would be disproportionate.
34. If this condition is retained in a revised and more proportionate form, then "… outstanding …. amounts of tax due" will need clarifying. For example, it is not clear how amounts that are under enquiry that ultimately end up being due or overseas taxes would be treated.
35. We also note that senior managers may 'inherit' outstanding tax compliance and payment obligations in a personal capacity – for example, by being appointed attorney or executor in respect of a relative who has not kept their tax affairs up to date. This is a personal obligation that does not appear to be precluded by the draft legislation that such a senior manager could become responsible for at any time, albeit they might not be aware of the compliance failure until some time after being appointed.
36. Similarly, insolvency practitioners have legal responsibilities for tax returns which may be late due to issues in the businesses they have been appointed to act for. Insolvency services should be excluded.
37. Even if HMRC performs the checks on individuals rather than the firm, there are serious challenges concerning confidentiality and privacy if HMRC needs to alert the firm to a breach of the condition. ICAEW suggests that isolated incidents of late filing and payment should not trigger a flag as they may be caused by an issue for which there was a reasonable excuse (see also para 46 below).

Condition A(c)

38. Clarity is needed about the scope of this condition. A list of the sanctions related to anti-avoidance provisions is required in the legislation similar to the list of offences contained in cl6.

Condition B

39. It is understood that Condition B is intended to be HMRC's agent standard. This is not clear from the draft legislation. This is quasi regulation as it allows for enforcement against a standard. However, there is no independence of process normally associated with regulation as the investigating officer makes the decision (see para 47 below). HMRC also has a clear conflict of interest in this role.

40. Condition B needs to be properly targeted. The open-ended nature of this condition which can be changed at any time by an HMRC notice is wrong in principle. Any conditions should be set by a regulation-making power rather than by notice. This is to ensure that there is proper consultation and parliamentary scrutiny about whether the conditions are reasonable and proportionate and can be met by all firms of all sizes.
41. ICAEW members and members of other professional bodies are already subject to standards and disciplinary procedures, so holding them to another set of similar standards is disproportionate.

Determination of application (clause 7)

42. As an agent will be unable to act for a client until their application is approved, the determination of an application must be subject to a set timeframe.

Monitoring of eligibility conditions etc (clause 8)

43. In meetings, HMRC has assured attendees that this is supposed to be a light touch and automatic regime and that firms will not need to monitor that they continue to meet the eligibility conditions. However, this is not what clause 8(2) says. Clause 8(2) requires registered tax advisers to inform HMRC of "a change in circumstances relating to whether the eligibility conditions are met in relation to the adviser".
44. If the intention is only that a registered adviser has to keep HMRC informed of changes to its name and address and the list of names of senior managers, then clause 8(2) needs revising to state "A tax adviser who is registered under this section must, as soon as reasonably practicable, notify HMRC if there is a change in the name and address of the adviser or the names of the senior managers of the adviser."

Suspension of registration (clause 9)

45. Suspension of registration critically impacts an adviser's ability to act for clients. Therefore, timeframes are required to ensure that lifting of suspension happens without undue delay.
46. If current condition A(a) is retained as currently drafted, then suspension of registration should only apply where there are substantive failures – similar to the threshold where HMRC would currently inform ICAEW's Professional Conduct Department. Otherwise, late filing or late payment by one senior manager in a large firm could cause significant disruption for the whole firm and its clients, which is disproportionate and not in the public interest. We note that cl9(2) allows the tax adviser the opportunity to regularise their affairs, but this does appear to be at the HMRC officer's discretion.
47. Any decision to suspend registration should be subject to an independent process and must be taken at a senior level within HMRC. We consider that this should be an 'authorised officer' as set out in in HMRC's Compliance Handbook at CH261000.
48. Clause 9(3) says the officer 'may' end a suspension if the officer is satisfied that the eligibility conditions are met. Why only 'may'? An adviser should get the opportunity to make amends and, if they do, surely they have a right to be reinstated?

Prohibition against registering etc (clause 14)

49. ICAEW notes that there is no power for HMRC to withdraw a notice that prohibits an adviser from registering. ICAEW suggests that the power to withdraw a notice is required to give effect to the outcome of an appeal (under para 1, Sch 1) or a review (under para 2, Sch 1).

Requirement to notify clients of sanctions (clause 15)

50. Without reasonable timeframes for HMRC to take action under cl9 (see para 45 above), it is unreasonable to require an adviser to notify clients of a suspension that lasts more than 30

days – particularly if the suspension has extended beyond day 30 because of HMRC delays and the temporary suspension is lifted during days 31-60.

51. There are also practical issues. 'Clients' are widely defined in cl1(3). But a tax adviser may not be able to easily identify their continuing client base. For example, there may be irregular clients to which advice has previously been given that have not been formally disengaged but where there is only very limited prospect of further work.

Disclosure of information (clause 20)

52. ICAEW welcomes the proposals to disclose information to supervisors of tax advisers and other professional advisers. This should be the primary escalation route for concerns about the conduct of a professional body member.

53. While we note the need for confidentiality of any information disclosed by HMRC to professional regulatory bodies, there should be the ability for the body to publish the details of any regulatory or disciplinary action taken against the member or regulated firm without this constituting a breach of Commissioners for Revenue and Customs Act 2005. Publication of regulatory and/or disciplinary action taken is an important element of protecting the public by ensuring information about the misconduct by the regulated adviser or firm is in the public domain. This may be the case if the breach of eligibility conditions are issues that ICAEW would consider to be misconduct.

54. Regulation 52 of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (The Money Laundering Regulations) allows HMRC to share information with the professional body supervisors (PBSs) to assist the PBSs with the AML supervisory obligations. Clause 20 needs to interplay with reg 52 to ensure that information shared concerning tax agents, who we supervise for AML, is not restricted in any way.

Interpretation of Part (clause 21)

55. The definition of a senior manager is unclear. From discussions in meetings with HMRC, it is understood that the intended scope is the senior leadership team within a firm. However, this doesn't work in a larger multi-disciplinary firm where the main board will not be setting the direction for the tax service line. In those firms, it would be more appropriate for it to be the members of the tax board that sets the direction and governance of the tax service line. But each firm may be structured differently.

56. The drafting is also unclear for limited liability partnerships. For example, it could be interpreted as extending to any line manager who is a member of such a limited liability partnership rather than those involved in the strategic management.

57. ICAEW also notes that the drafting of the senior manager definition is different to the drafting contained in Draft legislation — Disclosure of tax avoidance schemes: offences and penalties. This may cause further confusion and uncertainty – either the definition of senior manager should be the same or different terms adopted. Why were different definitions adopted?

Commencement (clause 22)

58. As it is only just over six months to the requirements coming into force, if the legislation is not deferred, serious consideration needs to be given to providing a longer transitional period to ensure no disruption to agents being able to act on behalf of taxpayers.

Registration of tax advisers: Reviews and Appeals (Schedule 1)

59. To ensure that HMRC takes action if a decision is cancelled, the outcome of a review (para 6(4), Sch 1) or appeal (para 8, Sch 1) must link back to the ability to end suspension (clause

9). As mentioned in para 49 above, it is assumed that a power to withdraw a prohibition order is required to give effect to the outcome of an appeal or a review.

60. A timeframe must be set in para 6 for the consideration of representations and the making of a decision.

Review (para 6)

61. Paragraph 6(6) says that a review is treated as upheld an officer or Revenue and Customs does not give notice of the outcome within the required period. This is completely wrong in principle as the officer has no motivation to conclude the review by the deadline. Surely, if the officer does not meet the deadline, then the decision should be treated as cancelled.

Temporary relief (para 9)

62. The grounds for temporary relief are unlikely to ever apply for the largest firms as it is unlikely that they could argue a going concern threat – even if suspension or prohibition could cause serious damage to their tax service line. ICAEW suggests that the going concern condition in para 9(3)(a) should be removed. ICAEW suggests that, instead, HMRC should consider whether it is in the overall interests of the firms' clients to receive ongoing tax services from the adviser.

63. It appears that the same officer may consider a claim for temporary relief as the officer that makes the original decision. This would be a clear conflict of interest and should be changed to ensure that temporary relief is subject to independent review.

64. It would also be preferable for details about timing, form, etc, of temporary relief to be in primary legislation rather than a notice.

Other considerations

65. Part 1 and Schedule 1 do not include any information in relation to the gateways and obligations on HMRC and supervisory authorities to share information about firms supervised under The Money Laundering Regulations. ICAEW would welcome the opportunity to have early sight of any draft legislation that creates these gateways to avoid the pitfalls and challenges experienced with the Companies House Authorised Corporate Service Provider regime – such as the challenges associated with sharing personal data and creating a legal obligation to share that data.

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 TAXGUIDE).

APPENDIX 2

EXAMPLES OF POOR PRACTICES EXPERIENCED WITH CUSTOMS AGENTS

Examples of poor practices in this market seen by ICAEW members include:

- Brexit levy charged as if it were a government tax in 2021;
- pressure to use agent deferment accounts with administration fees of between 3% and 12%, even though the agent carries no risk because the taxpayer pays the duty (and sometimes VAT) to clear the goods;
- failure to tell taxpayers about postponed VAT accounting and then pressurising the taxpayer to use the agent deferment account – often giving rise to significant unnecessary costs for businesses;
- vague and/or incorrect descriptions of goods on import declarations leading to additional duty being assessed on the client;
- incorrect determination of the goods classification leading to increased duty charges;
- incorrect origin used, resulting in goods coming into the UK duty free when they should not have, despite the origin being clearly stated on the packaging and the commercial invoice;
- failure to apply preferences meaning that taxpayers overpay duty;
- failure to provide taxpayers with copies of import declarations;
- failure to provide taxpayers with export declarations, resulting in the zero-rating of exports being removed and VAT assessed on the taxpayer;
- use of another taxpayer's EORI number, resulting in declarations being amended (at cost to the taxpayer) and warning letters from HMRC;
- failure to check the Goods Vehicle Movement Service (GVMS) for customs inspection requests leading to warning letters and threats of fines to the taxpayers from HMRC;
- failure to give adequate instructions to drivers to the correct facility when a customs inspection is required;
- failure to check that a good movement reference is present for all consignments on the load, resulting in goods being offloaded at border control posts, which then need checking, locating and collecting by the taxpayer;
- failure to use the GVMS system correctly on entering the UK, resulting in goods not being declared as arrived;
- using the final customer details as importer details under delivered duty paid (DDP) terms, rather than the supplier (which is what it should be under DDP terms). which usually occurs where the supplier is not established in the UK and the agent should act as an indirect representative with joint and several liability for errors; and
- deliberately ignoring taxpayer instructions for payment of VAT and duty via means other than the agent deferment account.