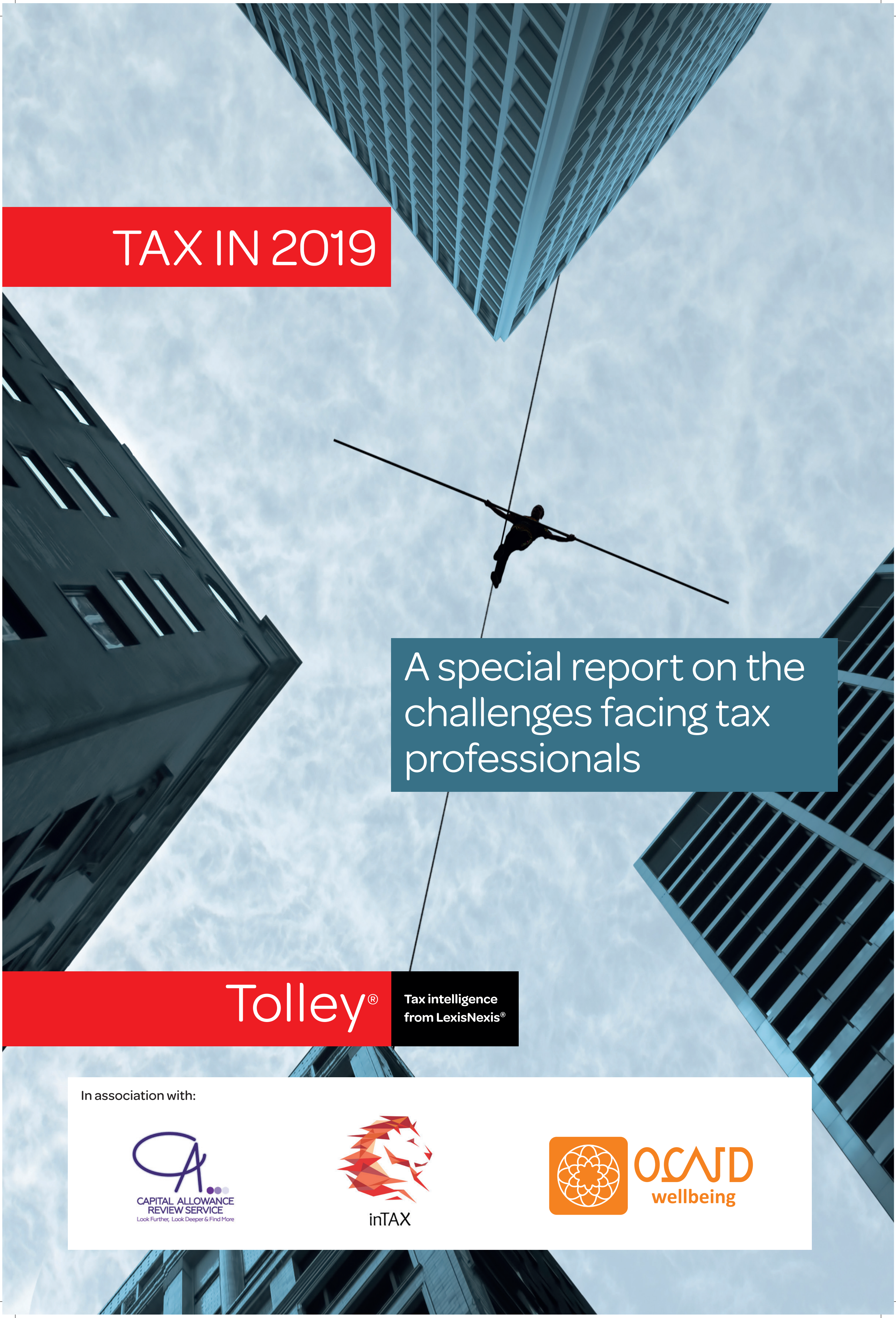

TAX IN 2019

A special report on the challenges facing tax professionals

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A profession to be proud of

Welcome to our special supplement on the state of the tax industry in 2019. We have brought together contributors from all parts of our profession to share their insights into what it means to be a tax professional in today's environment and what the future might bring.

All of our contributors are united in agreeing that the tax profession is going through a period of great change. We see this everywhere, from talk of the breakup of the Big4 and realignment of the mid-tier accountancy firms, to the challenge of making tax digital, the massive public scrutiny of the activities of tax advisers, the wealth of new powers and regulations imposed by HMRC and others and, of course, the uncertainty of Brexit.

> "The reality of exactly what self-assessment in its widest sense actually means is starting to come home to us"

As I was reading through the report before writing this introduction one thing stuck me over and over again. The reality of exactly what self-assessment in its widest sense actually means is starting to come home to us. Individuals and businesses really are responsible for their own tax affairs in a way which just wasn't true when I started my tax career. Taxpayers and their advisers have to make their own judgements on everything from simple compliance through to complex planning and they have to live with the consequences of those judgements. The concept of a dialogue with the tax authorities involving working together to get to the right answer has all but disappeared. An advisor has to be confident that his or her planning will not only stand up to HMRC scrutiny in a world of DOTAS, the GAAR and promoter penalties but also need to have a much more rounded dialogue with clients about what that planning might look if it were exposed to public opinion. Although it has sometimes been a painful journey, I think that in the end this has been good for our profession and reminds us that we don't operate in a vacuum but are part of wider society.

One consequence of this shift in responsibilities is that across whole swathes of taxation HMRC no longer has any role in the day to day operation of the system and instead can choose to intervene when and where it wishes. I don't necessarily think that this is always a bad thing. In an ideal world the tax system would be straightforward enough to operate without HMRC intervention. Technology can have a role here and there is no doubt that there have been some areas where things do work more efficiently than they used to, but you don't need me to tell you that there is a very long way to go before the promised benefits of MTD actually materialise.

I hope you will enjoy reading this report even if you don't agree with everything that all of our contributors say. It is one of the strengths of our profession that we do tolerate different views: long may this continue.

Perhaps I can end with a note of caution. I collect old tax books as a hobby (no comment is necessary!) and I am stuck with the fact that almost all of them talk about the complexity of the tax system and look back to the "good old days" when relationship with the revenue were cooperative rather than adversarial. So, while we do rightly get concerned about the challenges we face in an ever-changing world somehow we always get through them.

Our profession is strong, and I have no doubt that in another 50 years when 2019 is being seen as a golden era for tax, we will still have a thriving profession which we can all be proud of.

Andrew Hubbard, Editor-in-Chief, Tolley

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Views from the coal face

The professional body

Ray McCann, CIOT President, on the importance of integrity

As the tax profession moves forward we need to recognise the ways in which our world continues to change. There are three key challenges. Integrity (personal and tax system); automation (will advisers be needed at all); and the integration of activities within firms, what do we call the businesses of the future?

Since 2008 the tax profession has been in the spotlight like never before. Not so long ago there was a belief that if it was legal it was okay. If that was ever true, it is not true today. There remain pockets of resistance to whom if it can legally be done then it should be done. But in the same way that there is no single definition of "tax avoidance" there has been inconsistency in the use of avoidance and evasion, at some point everyone mixes it up. "Avoision"became popular in the 1990s and although today it seems to just skulk beneath the surface it occasionally pops up, look at the mess the Chancellor ended up in defending the 2019 Loan Charge. So professional life carries greater risks.

> "How do you advise a client while staying on the 'right' side of a moving line?"

But integrity is not just how we individually conduct ourselves, it goes to the heart of how a tax system balances taxpayer groups and ensures, as far as can be done, that taxpayers believe the system is fair. I recently listened in on an HMRC session where the speaker was stressing that they [HMRC] had responsibility for "the integrity of the tax system". It grated a little, not because HMRC don't play a crucial part, but rather responsibility for the integrity of the tax system cannot rest solely in HMRC for the simple reason that we have tried that and it did not work. Unless we all play our part HMRC cannot safeguard the tax system in a world where long standing tax principles are increasingly considered inadequate in the face of radical changes in how trade and commerce is transacted and where borders are nothing more than lines on a map or where HMRC is often last to turn up to the "party". Equally, you do not protect the integrity of the tax system by risking the rule of law, as many believe the direction of legislative change has done in the UK. The endless calls for codes of ethics will echo around the system and probably come to nothing until they start to build upon what is already there and become more joined up.

So how do you advise a client whilst staying on the "right" side of a moving line? In the future such concerns may be confined to history if instead of HMRC saying "no" it becomes "Alexa says no", perhaps to a question another Alexa asked in the first place which does seem a bit inefficient! The move to a digital world will see the introduction of more and more automated tax services. Taxpayers will resolve problems without human interaction so who will need tax advisers at all? Well, maybe. The complexity of the tax system is not so much working through statutory provisions and finding an answer, it's persuading the taxpayer the answer is right and if it is right not to game the system to change the outcome. Unless tax systems radically change we will need to find a way of maintaining a high level of expertise in a world where more and more compliance and advisory activities succumb to digitalisation.

And it is here that integration of disciplines may gather yet more pace. Over the past decade some larger UK law firms have looked to non-legally qualified individuals to fill tax roles and more recently the "Big 4" have moved back into the legal market, big time. This multi-disciplinary approach has proved very popular and a number of well known tax experts have held partner level roles in law firms. But what does this mean for Professional Bodies?

The CIOT is obviously already multi-disciplinary in the sense that whether you are an accountant or lawyer does not matter as long as you are a CTA. But what about the Law Society, Solicitors Regulatory Authority, ICAEW and numerous others, how do you effectively regulate firms if those firms provide tax, legal or accounting services but are not traditional law or accountancy firms? And coming full circle how do we ensure the integrity of the tax system as a whole if we have various disciplines working together but subject to a mixed bag of rules that whilst broadly aligned nevertheless have a range of differences and some of the individuals in the firm are not members of any Professional Body? And thinking it through logically how do you regulate Alexa if instead of an accountant or lawyer it is a computer software technician or artificial intelligence specialist who is the "Partner"?

> "Integrity is not just how we individually conduct ourselves, it ... ensures, as far as can be done, that taxpayers believe the system is fair"

The small practice

Rebecca Benneyworth, small practice owner, on why tax professionals should look to the cloud

Many will know of me as a tax lecturer, but I have also been in practice for over 30 years. Two years ago, I decided to re-grow my practice, having offloaded many of my clients some 20 years ago – I just retained a small nucleus of about 20 clients to keep me in touch with practical work.

In thinking about my 'new practice' I looked at a project undertaken by ICAEW called 'Tomorrow's Practice', and this led me to the realisation that my business needed to change quite dramatically. After a slow start, I am now reaping the rewards, and excited to go forward ready to meet the challenges of Making Tax Digital.

I started from the standpoint that none of my existing clients were proficient at bookkeeping, and while keen to bring software into place to improve the standard of bookkeeping, I had to accept that this would not work if I relied on my clients to maintain their records. I concluded that with the client base that I have, I needed to be prepared to bring all record keeping in-house. This led to thinking about staffing, and being fortunate enough to have access to a very flexible staff resource I have now made this transition.

> "Even tiny businesses can benefit from in-year information"

All clients are now on a cloud-based package – the monthly subscription being part of their fee rather than invoiced separately. I receive a substantial discount from the software provider, and have also invested in photo capture software, the cost of which I treat as a practice overhead, so that I provide it to all clients, irrespective of size, who use it if they feel comfortable with it. All clients connect their bank accounts to the software, and from there we can pretty much handle everything.

We have also changed the way that we accept information from clients. I have a young member of staff who arranges directly with clients to come and collect their records on a monthly or quarterly basis (depending on the volume of transactions) which means that accounts are kept up to date throughout the year. Clients do what they feel able to – some not interacting with the software at all. But I am no longer waiting for client records (in a state of disarray); by taking the initiative I am now in the driving seat, and this is paying dividends.

Even tiny businesses can benefit from in-year information. One client, faced with a rent rise, was able to discuss with the landlord what the impact would be on his business, and thus negotiate a better outcome. A pub armed with the information about daily sales could make decisions about whether to continue to offer food service every night, or whether to restrict it to the nights when food sales were significant.

For many practices, this transition is a much harder mountain to climb as they have many more clients with possibly more entrenched views, but in my experience, technology really does offer the answer to the challenges – and indeed much more; the road to more invigorated and modern business, ready to offer support to my clients, including the new clients that I am now taking on regularly.

The specialist practice

Karen Cooper, owner and founder of specialist remuneration practice Cooper Cavendish, on the importance of remaining agile

Being a specialist remuneration tax practice, we face a number of exciting challenges in the year ahead.

Increasingly, clients are looking for high quality technical but practical and cost-effective advice across a broad range of issues. Being a small boutique firm enables us to meet the fast-changing needs of clients as well as responding to the technical developments in tax legislation.

With the uncertainties of Brexit, employers are focussing more on ways to incentivise and retain the best talent and create more innovative ways of utilising the HR budget spend. Some companies have taken pre-emptive steps to ensure they have a base in Europe in the event of a 'no-deal'. This has created opportunities for advisors to help with restructuring and the inevitable impact for employees and their remuneration. For those waiting for the outcome of the negotiations and clarity on any Brexit deal, 2019 is likely to provide more scope to help business who may need to respond in a much shorter time frame.

Employee ownership continues to be at the forefront of the political agenda, as highlighted by Labour's proposal to introduce legislation requiring all companies with more than 500 employees to give shares to their staff worth up to £500 a year, along with the establishment of inclusive ownership funds over at least 1% of a company's shares, should it form a government. Given the current political uncertainty, any change of government could provide significant changes in tax policy.

Many businesses are looking to the future and thinking about succession planning and possible exit strategies. We see 2019 continuing the trend for businesses to look at becoming employee owned, creating longevity and enabling owners to utilise the tax reliefs introduced in the Finance Act 2014.

In addition, the November budget changes to the entrepreneurs' relief rules will undoubtedly cause challenges for owners looking to exit in 2019. These changes will provide firms like ours with the opportunity to assist sellers in establishing whether they continue to qualify for the relief. It may be necessary to alter or restructure previous planning and delay sales to achieve this.

The large accountancy firm

Jane McKay, head of tax at Crowe UK, on automation, Brexit and beyond

Automation and digitisation

The tax profession, and in particular tax preparation, is one of the professions most at risk from automation. Reports on the future of work suggest that 99% of the components which make up the role could be done by automation in the future. This naturally sounds scary but it should be viewed as an opportunity to re-evaluate how the profession might look in the future. In the past, tax professionals needed to be accurate with data, and have a good knowledge and understanding of tax rules. In the future they will need to be highly competent with technology, modern processes and systems and manipulating data to benefit clients. Being proficient with technology will allow tax advisors to spend their time analysing tax data so they can provide insights, rather than just rules, about tax to clients. To help clients plan for a fast changing world, they will also need to make connections between different tax developments and different clients to advise on trends, tax risks and potential tax policy direction in the UK and beyond. 2019 will see a continued focus of making our skills training for our tax professionals fit for today and the future, with an increased focus on IT and communications skills.

> "To help clients plan for a fast changing world [advisers] will also need to make connections between different tax developments and different clients"

Technology

Tax IT systems that are integrated with other software, are intuitive, and are easy to experiment with, will make it easier for the future tax professional to do the job. However, a significant problem is that IT is usually expensive and is either bought by IT teams who do not necessarily understand the tax world, or by tax professionals who do not fully understand IT systems and their full capabilities. The disruption from introducing a new system, or a new way of using it, can mean tax advisors are more likely to stick with what they already have (as well as to sticking with how they have always been using it).

With increasing tax compliance being cited as an ever-growing burden on UK businesses, Crowe always advises its clients to ensure they are not missing out on efficiencies. We work with our clients and invest time to learn about their businesses so we can advise them on how they can take advantage of the significant improvements in functionality of IT systems which are currently available. 2019 will therefore be a year to make sure that tax advisors across the industry are bold in their estimation of their tax teams' ability to learn new ways of working with IT and help their clients to meet their compliance obligations, with minimum disruption to their businesses.

Brexit

The continuing uncertainty about Brexit and the precise impact it will have on the UK and the EU tax legislative and commercial environment makes it hard for tax advisors to prepare clients for the future. As a profession we will need to be ready as the new year begins to help our clients and contacts make smart tax decisions quickly for their business as the form of Brexit becomes clearer. The resultant economic uncertainty for the UK also inevitably creates concern about tax fee income for 2019. Demonstrating excellent client service and value for money is important in order to retain a loyal client base.

International tax

The introduction of a Digital Profits Tax in the 2018 Autumn Budget may have signalled a move away from the international tax consensus of recent years where the BEPS project has dominated the global tax discussion. Leaving the EU in 2019 and potentially the protection of certain EU tax directives, also means that businesses operating internationally will need to be vigilant to avoid double tax charges, and tax compliance burdens in multiple jurisdictions. The challenge for tax advisors will be the need to ensure they are up to date on international issues. Additionally, within the 2018 Autumn Budget, the Chancellor hinted heavily that there might be a further Budget in the spring of next year. With further changes anticipated, advisors must ensure they stay up to date with the latest developments and direction of travel.

How has the 2018 Budget affected your standard accounting Capital Allowance routines?

The subject of Property Capital Allowances continues to deliver significant tax savings to those that spend capital buying and improving commercial property.

Over the last 12 months we have seen a high level of difficulties and confusion surrounding CAA2001 Section 198 on the purchase and disposals of commercial property. Our main observations are the lack of detail describing the Property Embedded Fixtures and Fittings (not chattels) and the value attributed to them. Too often, buyers agree a Section 198 Election for £1 which restricts their ability to claim. It is for this reason there has been an increased focus on supporting the legal and accounting professions.

There is no doubt our requirements to support both the legal and accounting sectors in 2019 will continue in ensuring the correct legislation is applied, the best advice is provided, and the clients wishes are protected.

The 2018 Budget has seen further changes to legislation affecting property expenditure.

Integral Features

The rate of writing down allowance on the special rate pool of plant and machinery is reducing from 8% to 6%. The new rate will be effective from April 2019.

Enhanced Capital Allowances (ECA)

Plant and Machinery that is deemed energy efficient and environmentally friendly attracts 100% tax relief through a first year allowance called Enhanced Capital Allowances (ECA). ECA's are to be phased out by 2020. Therefore the last year we expect clients will be able to claim ECA's will be 2021 - this the point the 2020 tax return is closed for amendment.

Annual Investment Allowance (AIA)

The current year allowance will be increased from £200,000 to £1,000,000 for two years from 1st January 2019. This is a generous increase that may have been influenced by the reduction of Integral Features and the phasing out of ECA. It does put pressure on routines in ensuring property expenditure is reviewed in a timely manner to avoid the full AIA being lost. This is often highlighted when a retrospective capital allowances claim uncovers additional qualifying property expenditure.

Structural Buildings Allowances (SBA)

The aim of the SBA is to relieve the costs of physically constructing new structures and buildings that are intended for commercial use. This includes the necessary works to bring them into existence and the improvement of existing structures and buildings, including the cost of converting existing premises for use in a qualifying activity.
SBA will be available for expenditure incurred on or after 29th October 2018 and the tax relief will be given at a flat rate of 2% of a 50 year period.
Integral features and fixtures that are functional assets within a structure or building, such as its lighting or heating system, will continue to qualify for relief as plant or machinery, as they do now, including the AIA within the annual limit and will not be taken into account for the SBA.

Summary

The changes in the 2018 budget will have both a positive and negative impact to clients. Although aspects of Capital Allowances are being reduced, there has been a significant change for the better with the introduction of Structural Buildings Allowance (SBA).

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Philip Woolfson, Partner, Tuchbands Chartered Accountants

A challenging landscape

Andrew Goodall reports on the landscape in which advisers in firms of all size are working, from Brexit and MTD to increased regulatory burden and reputational risk

Brexit worries dominated the political agenda agenda as this article went to press in December. Regardless of the outcome of negotiations, it was clear that businesses faced major changes in relation to customs, VAT and other taxes.

Brexit was by no means the only issue on tax professionals' minds. I asked nine tax advisers to choose from a long list of potential issues, and to share a thought on one or two key challenges facing the profession. Some of those challenges were addressed in a wide-ranging report on HMRC powers, published by the House of Lords economic affairs committee (tinyurl.com/yangjk2y) on 4 December. The report is essential reading for tax professionals and policymakers.

Concerns ranged from the complexity of tax law, and the impact of automation, to the quality of HMRC's services and the department's approach to avoidance and evasion. Mindful of the ongoing debate about the funding of public services and whether an end to austerity is in sight, some tax professionals have begun to question the merits of certain tax reliefs.

Quality of service

Stuart Jones, Kendal-based chartered accountant and director of 3CA Limited, told me he had 'nothing positive' to say about HMRC. Successive governments have done 'less and less' to correct problems, and HMRC's leadership is 'more focused on marketing than delivering an efficient service to the public', he argued. Meanwhile, the cash economy 'continues to flourish'.

Jones complained that 'tax calculations and PAYE codes are incorrect, waiting time for helplines other than those for agents are unbelievable, and front-line staff are poorly trained'.

Jones claimed that tax professionals calling for change are 'playing second fiddle to the ever-growing IT sector', and expressed concern about a growing dependence on tax software. Last February David Southern, barrister at Temple Tax Chambers, told a Journal of Tax Administration conference that it had become 'very difficult for ordinary taxpayers to calculate their tax liabilities with any degree of accuracy or certainty, save by computer program'.

Sue Christensen, of Sale-based accountants McCann Christensen, was also concerned about reliance on software. 'We are all aware that from time to time there are glitches in everyone's software. We accept this, but perhaps we shouldn't as we roll onwards to Making Tax Digital (MTD),' she told me.

'Software should be fully trialled before use, where taxpayers may be disadvantaged and have little knowledge of how to deal with discrepancies.'

Christensen recalled a client who was expecting a refund of £650 based on his return had received an assessment including a 'coded out underpayment for earlier years'. HMRC advised her that its scanning system could now incorporate 'other contemporaneous data', which had suggested that her client would underpay £90 in the current year. 'So this was deducted from his refund. The HMRC adviser confirmed that it was an error and said several assessments like this had gone out. I was advised to keep an eye out for more arriving on my desk,' she said.

The assessment was amended while Christensen was talking to the helpline. But she wondered how unrepresented taxpayers could be expected to deal with this kind of error.

HMRC resources

Technology is crucial to HMRC's transformation, the department said in its August 2018 annual report. MTD, together with a move to regional centres and a more 'highly skilled and sustainable workforce', is intended to help deliver a 'professional, efficient and engaged organisation'.

But tax professionals have raised concerns about training, and some have called for a halt to the year-on-year reduction in HMRC's headcount. 'It just needs to stop. [HMRC does] need more resources, they need more people. It can't just be passing the burden on to the taxpayer to carry the weight of the cutbacks at HMRC,' **Chas Roy-Chowdhury**, head of taxation at ACCA, told the House of Lords Finance Bill sub-committee on 10 October.

Christensen trained in the mid-1960s. 'It was pens and paper, and the District Inspector was God!' she said. 'Some months ago I had to deregister for VAT a client who had completed the transfer of a business as a going concern. 'This went wrong as the VAT office managed to combine its data with a totally different business which had changed its address. It took two months to resolve the mess. Finally, a full apology was sent – to the wrong address. Much is down to staff shortages, but there is less training than there used to be,' she said.

The tax system is more complicated than ever, said **Frank Haskew**, head of tax at the ICAEW Tax Faculty. 'The pace of change continues to increase. But ordinary taxpayers and those running businesses struggle to understand the system and comply with it. Digitilisation is held out as the panacea that will solve all these problems, but will it?'

Haskew pointed to the Tax Faculty's 'ten tenets' (tinyurl.com/y9ceugfr) for a better tax system, including simplicity, certainty and ease of calculation. 'These principles remain equally relevant in a digital tax system as in a paper based one. In our rush to go digital, do we need to rediscover some of these fundamental principles that we identified nearly twenty years ago, which we believe would instil confidence and support in the tax system?'

'Embrace the technology'

'Making Tax Digital presents many challenges for the profession, but also opportunity,' said RSM UK tax partner **Shirley McIntosh**. 'Many small businesses which currently use only paper records will be pushed into digital accounting. Some will be hesitant, but the variety of simple, user friendly packages coming to market should bring benefits for business owners who have previously relied on the annual accounts process to find out how their business has performed,' she said.

'For those prepared to embrace the technology, better, up-to-the-minute information on cash flow, debtors and creditors will be a boon.'

Accountancy firms may find that staff will be less occupied with accounts production, releasing time for provision of 'more value-add business advisory services, increasing job satisfaction for them and improving long term client relationships', McIntosh said. But she recognised that one of the profession's biggest challenges is to 'demonstrate the value that we can add to our clients'.

However, too much complexity can add to fee pressure, McIntosh noted. 'The complexity of legislation, the frequency with which it changes and the sheer volume of law, guidance, cases and commentary that advisers need to negotiate has increased massively in recent years,' she said.

'Add to that increased devolution of tax matters to Scottish and Welsh governments, and in due course to Northern Ireland, and the business of providing advice becomes very time consuming and therefore costly. A brief response to what may appear a simple question can involve hours of research to ensure all bases are covered. Clients frequently do not understand this and fee negotiations can be difficult as a result,' she explained.

Anti-avoidance strategy

McIntosh suggested that for tax professionals, a positive relationship with HMRC provides a vital interface between taxpayers and the tax authorities. 'HMRC's approach in recent years to addressing the tax gap has not always been helpful in maintaining this. Looking at retrospective legislation such as the 2019 loan charge [on disguised remuneration] due next April, many taxpayers are feeling victimised,' she said.

'With the volume of anti-avoidance legislation now on the statute books, the focus must now turn to addressing those who are evading tax. While the public debate on aggressive tax planning has helped to turn the discussion towards the ethics of the profession, it would now be better harnessed in tackling those in our society who simply refuse to pay what is due.'

Christensen too expressed concern about the loan charge. 'I was brought up to believe that if something sounds too good to be true, then it probably is. And so I do find it hard to accept that all the people now caught up in this are "innocent". However, knowing a "non-qualified" accountant who sold such things I understand that if you are a good salesman then you can indeed sell ice cream to eskimos.'

Christensen called for a pragmatic approach. 'The mess is tarnishing the reputation of HMRC, to add to the real damage which I am told is being done to families. Those being affected by the loan charge need certainty about their finances – we need a "Solomon"' she added.

HMRC and tax agents

Andrew Jackson, head of corporate tax at Fiander Tovell and chair of the UK200 Group's tax panel, has observed 'something of a sea change' in relation to how HMRC deals with agents. 'It's not necessarily very apparent behind the looming bulk of MTD, but it is very much linked to digitisation and new ways of working.'

Initial moves in this direction are encouraging, Jackson said, though he recognises that it will be a long time before HMRC's myriad systems are brought up to date. 'The new way of working recognises that the relationship between HMRC and agents needs much smoother integration. HMRC seems to be willing to give agents powers to act on behalf of taxpayers to a greater extent,' he said.

'How far this ends up going isn't clear to me. HMRC does seem to be getting more confrontational in many ways, so this isn't a one-way street; but a better relationship with agents should help even with confrontational issues, and giving them more power to act should help with negotiating HMRC's processes, which do seem to be getting ever more byzantine and inflexible. My wish would be to extend the Agent Account Manager programme (tinyurl.com/y768ugz6), so that agents can have the equivalent of a large business's Customer Compliance Manager (tinyurl.com/yb3psgau).

The cost of tax reliefs

Grant Thornton partner **Jonathan Riley** is a member of the firm's strategic leadership team, with responsibility for quality and reputation. 'The UK suffers from a desire from politicians to meddle with tax policy. Even though we have moved to a single fiscal event, the output from each budget will result in a finance bill running to several hundred pages and containing many new ideas as to what is taxed, or tax relieved,' he said.

Riley said the Office of Tax Simplification has 'tried valiantly' to simplify tax legislation but has made little progress. 'The scope and extent of tax reliefs and allowances have never been evaluated,' he said, noting that HMRC estimated at more than £400bn the cost of tax reliefs for 2017/18.

The House of Commons public accounts committee noted (tinyurl.com/y9cr2n2g) in November that, according to HMRC's annual report, an overall estimate of £416.8bn reflected the cost of 105 reliefs. 'HMRC assesses [that] a further 80 reliefs have either a nil or negligible cost. It has not published estimates of the cost of the remaining 239 reliefs. HMRC told us that for 179 of these 239 reliefs, information on the use of the relief is not required in tax returns and HMRC judges the cost of collecting usage data would be disproportionate,' the committee said.

Some of those 239 reliefs are likely to 'impose large costs', the committee added. 'We remain unconvinced that HMRC is giving sufficient attention to ensuring all tax reliefs are providing value for money.'

Riley said: 'Reliefs are meant to help the competitiveness of the UK tax system, and act as a mechanism for governments to redistribute wealth and influence good, long term, behaviours. But as with so much of the UK tax system, they are shrouded in complexity.' He questioned the case for retaining capital gains tax entrepreneurs' relief, which HMRC estimated to cost £2.7bn in 2017/18.

Adam Corlett, senior economic analyst at the Resolution Foundation, wrote in August: 'In looking for tax revenues to provide promised extra cash for the NHS – where the question is likely to be "what is the least bad tax rise" – the chancellor needs to take a long, hard look at entrepreneurs' relief: quite likely the worst tax relief in the UK.'

Philip Hammond said in his October 29 budget speech that 'encouraging entrepreneurs must be at the heart of our strategy'. Entrepreneurs' relief would be retained, while changes would be made to counter abuse. But Riley noted that the budget proposals 'add to legislation and complexity'. Removing the relief entirely would have brought a measure of simplicity and a significant saving for the exchequer, he argued.

In September, the Association of Accounting Technicians recommended restricting pension tax relief to 20%, and restricting inheritance tax reliefs for business assets and gifts to charity.

Tax gap

Dawn Register, partner at BDO LLP, noted that according to HMRC figures there has been a long-term reduction in the overall tax gap (tinyurl.com/yb2gprpy), from 7.3% in 2005/06 to 5.7% in 2016/17.

'Failure to take reasonable care' is the largest contributing type of behaviour to the tax gap at £5.9bn,' she said. 'As tax professionals, we often see this type of error made by taxpayers, and even by us as qualified individuals! However, it may be surprising that such a large proportion of the tax gap is simply down to carelessness. Perhaps HMRC really would increase tax yields solely by simplifying areas of the UK tax system,' she suggested.

In contrast to the level of media coverage that it attracts, tax avoidance is now the lowest contributing behaviour at £1.7bn, Register observed. 'These findings suggest that a switch of resources away from counter-avoidance within HMRC is justified. Instead HMRC should focus on investigating tax evaders and "ghosts". HMRC estimates that "evasion and the hidden economy" amount to £8.5bn or 26% of the tax gap.'

Online access 'particularly helpful'

Register was enthusiastic about Making Tax Digital. 'There is a lot of negativity and cynicism around HMRC's use of technology and its impact on tax compliance. However, looking at interacting with the HMRC app and online tax accounts, it is clear that the government has invested in the latest technology. This is ready and able to assist tax agents and taxpayers in getting their tax affairs right. Particularly helpful, of course, is being able to access 24/7 your tax returns, and online tax, NIC and VAT records.'

For agents using the online HMRC software, Register pointed out that there is also 'immediate access to HMRC guidance, notes and often uploaded information'. Security features are also impressive, she suggested. 'When logging into your account on the HMRC website, it does have a similar feel to online banking. Interacting effectively with HMRC technology, and 'upskilling' where necessary, will come increasingly important for all of us as tax professionals.'

Assessment time limits

HMRC is 'continuing its assault on those with errors in their tax returns relating to offshore matters and transfers – whether the errors are deliberate evasion or genuine mistakes', said Blick Rothenberg partner **Fiona Fernie**.

'In recent years taxpayers have been bombarded with punitive rules for offshore tax non-compliance ranging from a strict liability criminal offence to penalties starting at 200% under the "requirement to correct" legislation,' Fernie said.

'In addition, despite the review of HMRC's powers by the House of Lords Finance Bill sub-committee and the concerns expressed – both by witnesses who gave evidence to the committee and by those who responded to HMRC's consultation document about the extension of time limits within which HMRC can assess non-deliberate tax non-compliance – measures allowing HMRC 12 years in which to assess additional tax in these circumstances will apparently be implemented unabated.'

Fernie believes the extended time limits will result in 'excessive periods of uncertainty for taxpayers with all the attendant stress and anxiety', and points out that they will require taxpayers to keep records for longer periods in case HMRC decides to investigate them. 'Arguably it also paves the way for HMRC to become increasingly inefficient,' she added.

Multinationals

One issue that has dominated tax for multinationals is how authorities will tax digitalised businesses, said **Melissa Geiger**, head of international tax for KPMG in the UK.

Hammond proposed a two per cent digital services tax on 'UK revenues of digital businesses that are considered to derive significant value from the participation of their users', according to the consultation (tinyurl.com/yc8l9rvf). HM Treasury's impact assessment noted that the measure will affect mainly 'large multinational businesses which operate search engines, social media platforms and online marketplaces'.

'The chancellor's statement of intent to take unilateral action ahead of any clear international consensus is important,' Geiger said, given that EU proposals for a three per cent DST were 'proving difficult to bring to fruition'.

'The longer the delay to an internationally agreed solution, the higher the risk of a proliferation of unilateral measures, which will make that longer term solution harder to find as jurisdictions become entrenched with their own answers,' she said.

'From a UK perspective everything has to be viewed through a Brexit lens,' Geiger suggested. 'All taxes have consequences and this could have an impact on inbound investment. Whatever Brexit deal is struck, the UK will want to remain business-friendly and competitive so that it can continue to attract foreign investment. One particular concern in the current environment will be any reaction by the US, which has already objected strongly to the EU proposals.'

The public debate

A small but growing number of tax specialists are engaging in public debate, and some are clearly eager to help improve understanding of the tax system among the public and mainstream media. To some extent at least, this is an effort to restore trust in big business and a professional services sector arguably tainted by the relatively recent exposure of tax avoidance schemes that were devised long ago – often by promoters not constrained by the leading tax bodies' code of conduct.

Fear of being unfairly accused of defending avoidance may be holding back some commentators. Lydia Challen, partner at Allen & Overy, told the House of Lords economic affairs finance bill subcommittee (tinyurl.com/y9yfkoh5) in October that some well-established arrangements have been countered by measures presented as anti-avoidance measures. 'The language around legislation has changed. I think that affects the type of scrutiny that the legislation gets because politically it is difficult to ask probing questions about things that are purported to address avoidance,' she said.

Andrew Goodall is a freelance tax writer and journalist.

Identifying and tackling stress in the workplace

Dr Carolyn Yeoman
OCAID Wellbeing Limited

Since completing her PhD on Employee Assistance Programmes, Dr Carolyn Yeoman has experience spanning three decades advising organisations on policy and best practice in Wellbeing and Workplace Stress/Psychosocial Risk Management. She has worked in both the private and public sector, in the UK and abroad. Prior to joining OCAID to head up their Wellbeing business Carolyn spent 2 years at HSE working closely with the Work-Related Stress Policy Team.

Scale of the issue

Latest figures (published October 2018) indicate that stress, anxiety and depression related absenteeism equates on average to 25.8 days per employee per year, 11.6% of a full time equivalent. Professional occupations were the area that was the most badly affected.

Given that the UK is already well down the list of nations for employee output this potentially avoidable loss has significant impact on employees, organisations and the nation.

Whilst 'stress' accounts for the largest proportion of all absence, absenteeism is only part of the story. Presenteeism presents a far more worrying and costly problem. The latest research shows that presenteeism, employees who are physically in work but not mentally performing at their best, accounts for a loss of productivity of at least 2 times (and possibly 4 times) that of absenteeism. The combined impact of absenteeism and presenteeism therefore represents over a quarter of the production capacity.

In the short term, that capacity is either lost altogether or partly mitigated by the additional efforts of, and extra pressure on, other employees, which may well then further contribute to future losses. This possibility is borne out by the slow but steady rise in the 'stress' figures over the past 5 years.

Stress and Stressors

It is important to differentiate between stress, the effect, and stressors, the cause. Stress is a natural reaction to a perceived excess of pressure, it can be either acute (short-term) or chronic (persisting over a period). The latter is more likely to lead to mental health issues like anxiety and depression. Either way intervention is required to identify the root causes (stressors) so that they can be properly addressed, and recurrence prevented, thereby benefiting both the employer and the employees.

Reasons to tackle workplace stressors

Given the statistics above and the implications for productivity, this is an obvious reason to want to identify and remove or mitigate stressors in the workplace. In addition, there is of course H&S Law which requires all organisations to carry out stress risk assessments - this is a legal requirement and is enforceable by HSE.

A stress risk assessment, like safety risk assessments, essentially requires you to identify risk factors (in this case stressors) in your workplace, who might be harmed by them and to then put in place control measures to manage the risk. A comprehensive stress risk assessment will identify potential stressors and identify hotpots within your organisation. This enables targeted interventions to be put in place and means that precious budget can be allocated to where it is most needed and will have the greatest impact, ensuring that any interventions are cost-effective.

Whilst identifying stress risk factors and conducting a risk assessment will satisfy legal requirements in terms of compliance, it's unlikely to maximise competitive advantage – you would just be doing what everyone must do legally.

So this brings us to the third reason – to gain competitive advantage. If we change the focus from avoiding loss or penalties to *Creating Wellbeing*™ then we can achieve so much more! When we create wellbeing within our workplaces the business benefits are well documented and include increased employee engagement, improved productivity, better recruitment and retention of staff and reduced absenteeism and presenteeism.

How to *Create Wellbeing*™

To *Create Wellbeing*™ organisations need to develop a comprehensive wellbeing strategy which goes beyond compliance (stress policy or mental health policy) to address not only what the organisation is doing to support individuals but what the organisation can do to proactively address wellbeing. Often this will mean looking at operational processes from a people perspective as well as a functional one.

To do this it is essential to have two types of data. Firstly where the stressors are in the organisation and secondly how the people exposed to them are equipped to deal with them. The latter means we need to understand an individual's personality characteristics and stress tolerance level and hence how well they are matched to the jobs they do, as well as understanding the employees' perception of the measures in place to mitigate any stressors.

Until recently this has been a laborious process, requiring separate tools and survey instruments. What we are seeing now is the emergence of specialised tools which combine all the functionality required to collect, analyse and present the data all in one place.

One such tool is StressFactor™ which can provide key data to inform strategic planning and continual improvement by:

- Identifying pressure hotspots in your organisation
- Assessing Psychosocial Risk in your organisation
- Addressing your legal requirements for undertaking Stress Risk Assessment
- Providing employees with individual personality and stress tolerance profiles
- Providing employers with aggregate data to support the design of effective reward packages

OCAID wellbeing

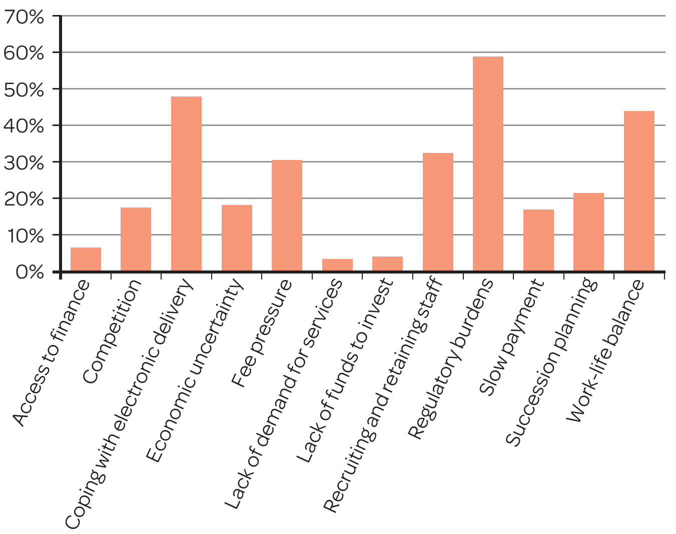
OCAID Wellbeing Limited is part of the OCAID family of companies which specialise in Organisational Culture and Individual Development. Working worldwide across multiple sectors OCAID Wellbeing focusses in the areas of Wellbeing, Employee Engagement and Leadership. Services offered cover a spectrum of development needs, from assessment of culture, organisational stress/psychosocial risk, individual stress risk, personality and leadership capability, through strategy development to training in Stress awareness & management, leadership development and designing & organising high-impact wellbeing days. A recent addition to the range of services is StressFactor™ which provides an organisation with a Stressor Heatmap, visually showing detailed data on potential hotspots enabling efficient targeting of resources to support maximum productivity, compliance and caring.

Our survey says...

Highlights from Tolley's soon-to-be published industry report surveying more than 100 tax businesses. The survey will be available from Tolley.co.uk/Intelligence

The pressures on your business

What are the biggest challenges facing your business?



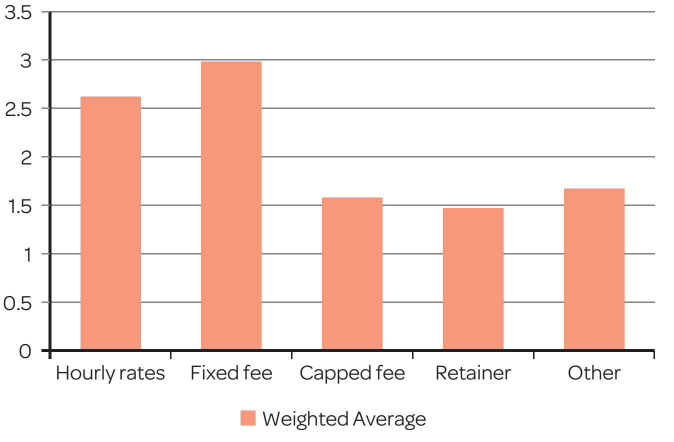
	2018
Access to finance / willingness of banks to lend	6%
Competition	17%
Coping with the increasing migration of business to electronic delivery	48%
Economic uncertainty	18%
Fee pressure	30%
Lack of demand for your services	3%
Lack of funds to invest	4%
Recruiting and retaining suitably trained staff	32%
Regulatory burdens	59%
Slow payment	17%
Succession planning	21%
Work-life balance	44%

The biggest challenge facing businesses in our sector is regulatory burden. At one level that might seem surprising because in the UK tax is not a regulated profession: a person can set up a business as a tax advisor even if he or she has absolutely no tax knowledge or experience. But the reality is that tax advisers do face ever-greater regulatory demands. Compliance with such things as anti-money laundering rules and GDPR take up huge amounts of time and money and many would argue that this is completely disproportionate to the benefit that they bring. All financial businesses face these pressures but in addition tax advisers face additional obligation. Although HMRC does not regulate advisors as such a forest of rules and regulations have grown up over recent years. Although it is unlikely that many advisers will find themselves caught by the General Anti Abuse Rule or the Disclosure of Tax Avoidance Scheme regulations significant amounts of work have to be done to show that these rules don't apply to particular transactions. When you add in the rules about high risk promoters and serial tax avoiders advisers are faced with daily, to say nothing of HMRC's far more inflexible way of dealing with clients, and it is becomes clear why regulatory burden is the number one concern.

The next two highest scores – work life balance and migration to electronic delivery – can actually be looked at together. Once upon a time we all thought that technology would take over many of our routine tasks and we would all have more leisure time than we would know what to do with! That dream has long gone, and technology has meant that we never switch off. Clients expect advisers to be available all day every day and it is very difficult to carve out any personal time. Controlling technology rather than letting it control us will continue be one of the major challenges for tax professionals over the next few years.

How do you bill?

There are many different ways to package fees, which of these does your firm currently offer and to what proportion?

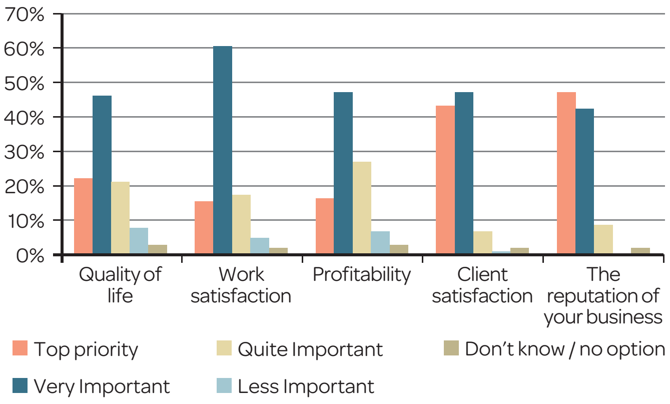


	Less than 25%	24–49%	50%–74%	75%–99%	100%	N/A	Weighted Average
Hourly rates	25.62%	14.05%	15.70%	14.88%	9.92%	19.83%	2.62
Fixed fee	22.31%	14.05%	14.88%	19.01%	19.01%	10.74%	2.98
Capped fee	33.06%	6.61%	0.83%	1.65%	3.31%	54.55%	1.58
Retainer	28.10%	1.65%	4.13%	0.00%	1.65%	64.46%	1.47
Other	16.53%	0.83%	1.65%	2.48%	0.83%	77.69%	1.67

Our snapshot of the way in which firms charge fees is particularly illuminating. On the surface it would appear that the traditional basis of fees based on hours work is declining in favour of fixed or capped fees or value billing. This is certainly the case but if you go behind the figures you can see that in setting all of these various different types of fees hourly rates still drive the level at which these fees are pitched. That is hardly surprising. Tax is still largely a people-based business and firms need to ensure that they get sufficient value out of each hour which proprietors and their staff actually spend on client work. Not surprisingly most firms report that a high percentage of their staff are fee earners. It is only a minority of, mainly larger, firms who have the capacity to absorb significant number of non-fee earners. We don't see this changing any time soon.

The measures of success

When it comes to evaluating the commercial success of your business, how important are each of the following attributes?



	Top priority	Very Important	Quite Important	Less Important	Don't know / no option
Quality of life	22.12%	46.15%	21.15%	7.69%	2.88%
Work satisfaction	15.38%	60.58%	17.31%	4.81%	1.92%
Profitability	16.35%	47.12%	26.92%	6.73%	2.88%
Client satisfaction	43.27%	47.12%	6.73%	0.96%	1.92%
The reputation of your business	47.12%	42.31%	8.65%	0.00%	1.92%

It's significant to see that advisers and businesses care about the quality of life and work satisfaction of themselves and their employees – both are rated 'Very important' by the survey respondents. Stress, anxiety and depression are increasing problems within the professions (for more on this issue see page xii).

Diversification

We asked respondents whether they have had to diversify their practice to remain competitive. A large majority (72%) said 'No', but comments from respondents gave conflicting views. Some practices are actively looking to expand into other areas. Those might be more specialist areas of tax, such as capital allowances, investigations, research and development tax credits and SDLT. Many practices plan to continue as they are, but some are increasingly referring specialist work to experts (for details of a specialist provider in capital allowances, see page vii of this report, and for a specialist in investigations see the page opposite). Other practices have told us that they have taken the decision to work only in specialist areas. One respondent summed it up this way: 'I find I have to specialise as the burdens of keeping up with changes in law mean I cannot provide the full service to what I consider to be acceptable standards.'

What is clear is that everybody in the tax business is having to look critically at their operating model. For many people the traditional multi-service tax and accounting practice is still the right option, but in an increasingly competitive world – particularly with new cloud-based business coming into the market – even these businesses need to look at the fundamentals of the way in which the operate in order to remain competitive. Specialist boutiques and consulting firms are cropping up all of the time and some of these have now established a real foothold in the market place. Our survey suggests that the demand for tax services is broad enough to accommodate all shapes and sizes of businesses, but the market is increasingly competitive and those whose business models fail to adapt could be facing a very difficult future.

Comments from respondents included:

- 'Find niche markets and become specialists in them'
- 'Offering partnering advice with other professionals has proved mutually beneficial'
- 'Recruited specialist staff to identify increasing specialist needs and keep up with competition'
- 'Open departments offering specific services like payroll, statutory work etc. Make them independent cost centres'
- 'Quite the opposite – I find I have to specialise as the burdens of keeping up with changes in law mean I cannot provide the full service to what I consider to be acceptable standards'
- 'Deal with fees in a different way due to the diversity of clients' own needs, to which we need to adapt quickly'
- 'Offering levels of service, I can't service myself due to the need for high volume but I can't compete with big firms without providing everything the client needs'.

And finally...

What single change would you like to see happen to the tax system?

The wishlist for changes to the tax system covered everything from the integration of income tax and NICs to the halting of MTD, the closing of 'loopholes' for large corporates to the (we assume, humourous) suggestion for the total abolition of HMRC. But by far the most common request was for simplification, simplification, simplification. Other comments included:

- 'More interaction between the professions and the tax authority, with a more open system of communication'
- 'Simplification for clients with multiple tax scenarios and a more streamlined HMRC system so they can actually understand it all and find information they need'
- 'A more sensible time scale for the introduction of MTD and more leadership from HMRC in rolling MTD out to the business community instead of expecting tax agents to explain it all to their clients'
- 'Simplification, especially for personal taxes … There are far too many allowances and rules, different taxes being applied to different income types, cliff edges, illogical outcomes and so on'
- 'Free MTD software for rental clients and traders with less than £20,000 turnover'.

Taxing Times With HMRC

Jeremy Johnson
Director

Jacqui Fleming
Partner

Jacqui and Jeremy are both former HMRC inspectors and have the support of an experienced team of tax investigations specialists. The majority of the team have also worked within HMRC at senior levels and understand in detail HMRC's processes and powers.

No one would describe a tax investigation as fun. But the award-winning team at inTAX just love helping people.

Investigations are stressful, time consuming and often contentious - not just for taxpayers but for practitioners too, the reasons for which are primarily two-fold.

Firstly, HMRC is targeted with generating more tax yield with fewer staff. This translates into obstinate inspectors, who adopt an aggressive approach with little or no consideration given to the actual cost effectiveness of the enquiry. Further, few inspectors look at the enquiry as a whole, instead pursuing a policy of cherry picking favourable facts or documentary evidence to suit the cause, whilst ignoring those that don't.

Secondly, true behaviours are ignored not just for penalty leverage, but to widen the number of historical years available for potential discovery assessments. There has been a noticeable loss of subjectivity when HMRC considers a taxpayer's abilities and circumstances, and it is common for inspectors to assume a default position of deliberate behaviour with little more than an unsubstantiated insinuation. Here at inTAX we have seen this frequently.

We represented a client recently where these HMRC traits came to the fore; the contractual disclosure facility (serious fraud) had been offered and declined twice. In an email to us, expressing his thanks for the support we had provided, he said:

"I was an HMRC target. They thought I had done something wrong and even tried to prosecute. Twice they asked me to admit to deliberately not paying tax, and although it was untrue, I was left facing a bill in excess of £160,000, of which £45,000 was penalties.

I asked Jacqui at inTAX to fight the penalties; after two sets of solicitors I had accepted that I would probably have to sell my house to pay some tax.

Jacqui took a different view. It took some time and some really good letters and negotiation for HMRC to eventually accept there was nothing due; they were acting outside the rules. I can't recommend inTAX and the team highly enough."

We deal with investigations and disclosures all day every day. We specialise in the Contractual Disclosure Facility (CoP9), CoP8, voluntary disclosures, offshore matters and anything else that is troublesome. We pride ourselves on a thorough knowledge of the rules and good negotiation skills.

Our work often comes via referrals from practitioners who rarely handle enquiries and want an independent firm to represent their client, typically because a long standing but unknown tax problem has come to light, despite acting for the client for many years. A fresh set of eyes helps them feel comfortable and they know we will fight for the best result, whilst preserving their relationship with the client. We are not accountants; we do not poach.

We also represent practitioners themselves, especially if HMRC has targeted them as a High Volume Agent (HVA). HMRC believes these agents submit tax returns, predominantly on behalf of subcontractors, containing inflated repayment claims. HMRC inspectors seek a meeting with the HVA to understand their working practices and their application of 'professional cynicism' when examining the subcontractors' business records. These meetings can be very uncomfortable.

Another area where HMRC has become particularly active is when a business is classified as a high risk non-payer. Notices of Requirement are issued and a financial security payment is sought.

Failure to comply with a Notice of Requirement can cause severe cash flow problems, stop a business from trading or if it continues, result in hefty fines and sometimes prosecution.

We work closely with practitioners and lawyers and we are proud to have been voted Best Tax Investigations Team at the Taxation Awards in 2017.

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We shoulder the burden so you don't have to.

OCAID wellbeing

OCAID resilience

RESILIENT PEOPLE IN RESILIENT ORGANISATIONS

Announcing StressFactor™

OCAID Wellbeing Limited and RyderMarsh OCAID Limited are delighted to announce the availability of **StressFactor™**

A powerful psychometric tool that:

- **finds the stressors in your organisation**
- **predicts potential loss of productivity**
- **pinpoints any hotspots of depression and anxiety**
- **shows stress intensity by organisational profile**

By using StressFactor™ and working with OCAID you can:

- **develop an effective Wellbeing Strategy**
- **ensure compliance with managing stress**
- **eliminate risk to productivity**
- **reduce staff turnover and associated costs**

StressFactor™ **is a trademark of** APeopleBusiness

For more information about **StressFactor™**

email us at StressFactor@OCAID.COM

or contact us on 0333 456 7233 or visit WWW.OCAIDWB.COM/StressFactor