

Opportunities to Extend Uncertain Tax Treatment

Comments from Saffery LLP

1. Executive summary

1.1 We welcome the chance to comment on the proposals to extend the Notification of Uncertain Tax Treatment (UTT) by Large Business regime.

1.2 In summary, our key points are as follows:

- While we support the objective of increasing transparency and earlier engagement with HM Revenue & Customs (HMRC), we do not consider that extending the current UTT regime is the most effective way to achieve this.
- The existing regime has generated relatively few notifications, and HMRC should assess its effectiveness and operation further before extending its scope.
- Extending UTT to individuals and trusts is unlikely to be workable in practice. The current regime for large business operates within a framework of consistent and structured engagement with HMRC, through Customer Compliance Managers (CCMs), which is not available to individuals and trustees in a consistent way.
- The proposed extension risks placing disproportionate compliance burdens on taxpayers who already engage advisers, rather than targeting the behaviours driving the tax gap.
- Expanding the regime to additional taxes will increase both the volume and complexity of notifications, requiring significant HMRC resource without clear evidence of proportionate benefit.
- Many taxpayers do not have an effective route to obtain certainty in advance. A more accessible and responsive advance clearance process would provide greater certainty and better support investment and economic activity.
- Where HMRC has concerns about specific areas of legal uncertainty, targeted disclosures within existing returns would be a more proportionate and transparent approach than a broad additional trigger.
- Any extension of the regime should ensure that disclosures can be made through existing tax returns where possible, to minimise additional administrative burden and avoid duplication.
- Where taxpayers make full and transparent disclosure, there should be appropriate protection from penalties if the position is later found to be incorrect. Providing a clear incentive for disclosure would support early engagement and improve compliance outcomes.

1.3 Section 2 provides information about us and the basis on which we are responding, section 3 makes some general comments on the proposals, and section 4 covers our responses to the specific questions raised in the consultation document.

1.4 We would be happy to discuss the points raised here in further detail. If you have any questions, or would like any further information, please contact: Sean McGinness, National Tax Partner, on +44 (0)131 221 3217 or email sean.mcginness@saffery.com or Ami Jack, Partner, National Tax, on +44 (0)330 094 3079 or email ami.jack@saffery.com.

2. About us and our response

2.1 **Question 1:** We are responding to this consultation as chartered accountants and tax and business advisers.

2.2 **Question 2:** The views offered in our responses are our own.

2.3 **Question 3:** Our industry sector is accounting.

2.4 **Question 4:** Saffery has over 1,300 people and an annual turnover of £163 million (2024-25).

2.5 **Question 5:** We have experience of dealing with both corporate groups and private clients and understand the different challenges these taxpayers experience when dealing with HMRC and getting certainty across their tax affairs.

3. **General points**

3.1 We support the objective of improving early engagement with HMRC and increasing transparency where there are areas of legal uncertainty. However, we have significant concerns about the proposed extension of the regime.

3.2 The number of notifications under the existing regime has been relatively low. We note that HMRC published an evaluation of the regime in July 2025, which found that it was meeting its primary objectives of increasing transparency and bringing uncertainties to HMRC's attention earlier. However, the evaluation was based on a relatively short period and noted that evidence on longer-term impacts, such as whether fewer uncertain tax treatments are being adopted was unknown. We therefore consider that further assessment is needed before extending the scope of the regime.

3.3 Extending the regime to additional taxes is likely to increase both the number and complexity of disclosures. This would require substantial HMRC resource, and it is not clear that this additional cost would deliver a proportionate benefit.

3.4 More broadly, the current regime operates within a collaborative framework between large businesses and HMRC through the use of CCMs. This level of engagement is not available to individuals and trusts. Extending the regime without addressing this risks disproportionate and inconsistent outcomes.

3.5 Before extending the regime, we consider that HMRC should first ensure that the regime is working effectively for large businesses. It should then consider whether any additional information could be obtained more proportionately through targeted disclosures within existing returns, including self-assessment and inheritance tax returns.

3.6 Consideration should also be given to improving existing routes to obtain certainty, for example through a more effective advance clearance system.

3.7 Finally, if it is decided to widen the scope of the UTT regime, where taxpayers make full and transparent disclosure, there should be appropriate protection in relation to penalties. Providing a clear incentive for early engagement would support the policy objectives and improve compliance outcomes.

4. **Specific consultation questions**

4.1 **Question 6: Do you agree that we should focus solely on the 'tax advantage' amount to identify legal interpretation uncertainties of interest?**

- 4.1.1 We agree that a threshold based on tax advantage is a more appropriate test than attempting to define a population based on wealth. Wealth does not necessarily correlate with complexity, and it would not be proportionate to require disclosure of relatively small uncertain positions simply because a taxpayer is otherwise wealthy.
- 4.1.2 However, unlike the current regime for large businesses, where scope is limited and clearly defined, every individual taxpayer would in principle be within scope and required to consider whether a notifiable tax advantage arises.
- 4.1.3 There is also a clear difference in how the regime would operate in practice for different groups of taxpayers. Large businesses in scope of the existing regime will typically have an established relationship with HMRC, through a CCM. By contrast, individuals are more likely to rely on general HMRC channels, including call centres, when seeking to resolve uncertainty.
- 4.1.4 This difference in engagement is likely to lead to inconsistent outcomes. Whether a position is identified and reported may depend to a significant extent on the experience and judgement of the taxpayer's adviser, rather than the underlying level of risk. In our experience, taxpayers who engage professional advisers are seeking to comply; there is a risk that the proposal would place additional obligations on those who are unlikely to be primary drivers of the tax gap.

4.2 Question 7: Do you agree with how we propose to determine the tax advantage for individuals?

- 4.2.1 There is currently insufficient clarity on how the £5 million threshold is to be calculated in practice. In particular, it is not clear whether the test is intended to apply on a per-year basis or cumulatively.
- 4.2.2 A simple annual test may create opportunities to structure transactions so that the threshold is not exceeded in any one year, while a cumulative test could lead to relatively small transactions being brought into scope many years later. A rolling cumulative approach may be more appropriate, for example considering the current year and four previous years.
- 4.2.3 We also note that, in practice, the £5 million threshold may not be particularly high when applied to certain individuals. For example, a UK resident individual who owns a foreign trading company may fall within scope because the tax advantage exceeds the threshold, even where the company itself would not be within the UTT regime if considered on a standalone basis. This creates a mismatch with the existing framework for large businesses. It could also bring into scope a range of subjective tests, such as the transfer of assets abroad motive-based test or whether an individual is a transferor.

4.3 Question 8: Do you agree with including all trusts within scope?

- 4.3.1 We do not support the inclusion of all trusts within scope.
- 4.3.2 At a minimum, any extension should be limited to cases where the trustees themselves are the taxpayers. It would not be appropriate for trustees of bare trusts, or certain interest in possession trusts where income is mandated to the life tenant, to be subject to reporting obligations where the underlying taxpayer is separately required to report.

4.4 Question 9: Can you foresee any practical issues with including trusts within scope of UTT?

4.4.1 If the regime is limited to trusts that are taxable and already within the tax system, there may be fewer concerns in principle. However, there remain practical issues.

4.4.2 In particular, there is likely to be a lack of awareness among overseas trustees, as has been seen with other regimes such as the Annual Tax on Enveloped Dwellings (ATED) and Non-Resident Capital Gains Tax (NRCGT). Consideration should be given to education, and potentially a period of reduced penalties while the regime is embedded.

4.4.3 More broadly, the same concerns arise as for individuals. Large businesses benefit from a consistent and collaborative relationship with HMRC. For individuals and trusts, that infrastructure is inconsistent or absent. This creates a risk that reporting will be uneven and dependent on the quality of advice obtained, rather than reflecting underlying risk.

4.5 Question 10: Can you foresee any practical issues with including NICs within UTT?

4.5.1 No comment.

4.6 Question 11: Do you agree with proposed due date to notify a NICs legal interpretation uncertainty, or do you prefer a single due date for all UTT notifications (refer section 4.4)?

4.6.1 No comment.

4.7 Question 12: Do you agree with the due date for notification involving CIS deductions to be the last CIS return due in an accounting period, or do you prefer a single due date for all UTT notifications (refer to section 4.4)?

4.7.1 No comment.

4.8 Question 13: Can you foresee any practical issues with including CIS within UTT?

4.8.1 For large businesses, uncertainties can often be discussed with HMRC through their CCM. However, smaller businesses with significant construction expenditure do not have access to equivalent routes to obtain certainty.

4.8.2 Instead, smaller businesses rely on non-statutory clearances which are slow, and HMRC may decline to provide a view. In cases where guidance is unclear and uncertainties arise from questions of fact, there may be no effective route to obtain certainty. As a result, if CIS is brought within scope of UTT, the only practical route in many cases would be to make a UTT notification.

4.9 Question 14: Do you agree with the due date for notification involving SDLT to be when a return covering that transaction would otherwise be due, or do you prefer a single due date for all UTT notifications (refer section 4.4)?

4.9.1 If the regime is extended to SDLT, we consider that notification should be aligned with the SDLT return and therefore due at the same time as the return is submitted.

4.10 Question 15: Can you foresee any practical issues with including SDLT within scope of UTT?

4.10.1 If SDLT is brought within scope, there will need to be clear communication and guidance for conveyancing solicitors, who are often responsible for preparing and submitting SDLT returns.

4.11 Question 16: Do you agree with the due date for notification involving CGT to be when a return covering that transaction would otherwise be due, or do you prefer a single due date for all UTT notifications (refer section 4.4)?

4.11.1 If the regime is extended to CGT, we consider that notification should be aligned with the self-assessment return where one is needed.

4.11.2 Where a self-assessment return isn't needed, for example, for certain non-resident disposals further consideration will be needed as to how this interacts with the 60-day reporting regime (see below).

4.12 Question 17: Can you foresee any practical issues with including CGT within scope of UTT?

4.12.1 If CGT is included within scope of UTT there are significant practical concerns with the interaction with the 60-day reporting regime.

4.12.2 In particular:

- a. It may not be possible within the 60-day timeframe to obtain the information needed to determine whether the £5 million UTT reporting threshold is met and assess whether a UTT notification is needed, particularly where information is historic or not readily available. In practice, it can already be difficult to obtain the information needed to complete CGT returns within 60 days, and in some cases even by the self-assessment deadline, and
- b. There is a risk of duplication where the same disposal is reported both within the 60-day regime and self-assessment.

4.13 Question 18: Do you agree with the due date for notification involving IHT to be when the IHT return is due, or do you prefer a single due date for all UTT notifications (refer section 4.4)?

4.13.1 If the regime is extended to IHT, we agree that notification should be aligned with the relevant IHT return.

4.14 Question 19: Do you foresee any practical issues with including IHT within scope of UTT, particularly regarding the timing difference between when a legal interpretation is made and when notification would be required? If so, how do you think these issues could be overcome?

4.14.1 If it is decided to extend the UTT regime to IHT, there are significant practical challenges, particularly due to the timing and nature of when uncertainties arise.

- 4.14.2 In some cases, an individual may not need to submit an IHT return or apply for probate in the UK. This is particularly relevant where an individual is not long-term resident. In these circumstances, it may not be clear that there is any obligation to engage with HMRC, making it difficult to see how the individual would be aware of the need to report an uncertain tax treatment.
- 4.14.3 For example, uncertainty may arise in areas such as domicile or long-term residence status, including whether transitional provisions apply, or in relation to an individual's residence status in the ten years prior to death. This may mean there is no clear point at which a reporting obligation arises.
- 4.15 Question 20: Are there specific scenarios where applying UTT would be inappropriate, duplicative or unnecessary? If so, how could an approach be designed to avoid unnecessary notifications while still capturing relevant legal uncertainties?**
- 4.15.1 No comment.
- 4.16 Question 21: Do you agree that requiring taxpayers to tell us about legal interpretations where there is more than one credible interpretation and HMRC's view is not known, will capture the uncertain tax treatments that it is intended to identify?**
- 4.16.1 We have significant concerns about how the proposed additional trigger would operate in practice.
- 4.16.2 A key issue is how taxpayers are expected to determine what HMRC's view of the law is. In some cases this is clear from published guidance, but in others it may be less certain. There may be situations where a view is implied by how guidance is framed, rather than being stated explicitly. In some cases, a view may be understood in practice but not reflected in published guidance or formal correspondence. Greater clarity is needed on what sources taxpayers are expected to rely on for these purposes.
- 4.16.3 There is also a wider issue that published guidance is not always complete or correct. There are a number of areas where HMRC guidance has been revised or found to be deficient, sometimes after a long period. This makes it difficult to determine whether a position is genuinely contrary to a 'known' HMRC view. While it may be reasonable in some cases to notify where a different interpretation is taken, the proposed trigger risks creating uncertainty as to whether a notification is required.
- 4.16.4 Further, it is not clear how the trigger is intended to apply to inherently subjective areas, including motive-based tests. These arise frequently in the affairs of many individual taxpayers and are uncertain by their nature. If such areas are within scope, the number of potential notifications could increase significantly. If they are not intended to be included, this should be made clear.
- 4.16.5 Overall, without clearer guidance on what constitutes HMRC's view and how inherently subjective areas are to be treated, there is a risk that the trigger may create additional uncertainty rather than providing clarity on when notification is required.

4.17 Question 22: Are there additional triggers that would identify uncertain tax treatments that would not be identified by the proposed trigger, or the existing 2 triggers?

4.17.1 We do not suggest any further triggers.

4.17.2 If HMRC is concerned about particular areas of uncertainty, a more proportionate and effective approach may be to identify those areas directly through the tax return, rather than introducing a broader and more subjective trigger. In some cases, information is already collected in this way. For example, certain motive exemptions already require disclosure through the tax return, and additional reporting for close company transactions has been introduced in the personal self-assessment tax return from 2025-26.

4.17.3 This type of targeted approach has the advantage of making it objectively clear what information HMRC is seeking. By contrast, a broader trigger based on whether there is more than one credible interpretation may create uncertainty about the reporting obligation itself.

4.17.4 A similar approach has been taken in transfer pricing, where the International Controlled Transactions Schedule has been introduced to gather additional information. While that approach has its own compliance burden, it at least provides clarity over what must be reported. If HMRC has concerns about specific areas, it would be preferable to identify those areas clearly and seek the relevant information through targeted reporting requirements or changes to the law, rather than relying on a broad additional trigger.

4.18 Question 23: In addition to transfer pricing calculations, are there any other uncertainties that should be excluded from the proposed trigger?

4.18.1 Yes. If the proposed trigger is introduced, we consider that other inherently judgemental areas should also be excluded.

4.18.2 In particular, this should include motive-based tests and similar provisions, which are uncertain by their nature. Other examples may include transactions in land, the salaried member rules, the mixed member partnership rules, domicile and treaty residence.

4.18.3 The decision to exclude transfer pricing appears to recognise that some areas involve an unavoidable degree of judgement. The same point applies to these areas. If they are not excluded, there is a risk that the trigger will apply very widely to questions that are inherently fact-sensitive and uncertain, particularly in the affairs of individual taxpayers.

4.18.4 More broadly, this points to a concern with the design of the new trigger itself. If HMRC is seeking information about specific areas of uncertainty, it may be better to request that information directly through more targeted reporting, rather than through a broad trigger that depends on difficult judgements about credibility and uncertainty.

4.19 Question 24: Do you think that having a single annual notification due date would make it easier for taxpayers to comply with the UTT obligation? If so, what date or timing would you consider most appropriate?

4.19.1 If it is decided to extend the notification of UTT, we do not consider that a separate annual notification deadline would improve compliance.

4.19.2 Where possible, disclosures should be made through existing tax returns. Introducing a separate obligation would increase administrative burden and complexity. A separate deadline also raises the question of whether taxpayers may be required to file a notification in circumstances where no return would otherwise be needed, which would represent a significant change in approach.

4.19.3 However, consideration will need to be given to situations where no return is otherwise needed, for example where a taxpayer takes a position that no liability arises. In such cases, a mechanism will be needed to allow disclosure without creating disproportionate obligations.

4.20 Question 25: Can you foresee any problems with taxpayers obtaining confirmation from HMRC that the notification has been brought to its attention?

4.20.1 Yes. We have significant concerns with this proposal.

4.20.2 In practice, HMRC response times can be lengthy, and disclosures are not always acknowledged, for example private residence relief elections. It would be unreasonable for additional compliance obligations to arise purely because HMRC has not responded or confirmed receipt, as this would place further burden on taxpayers because of HMRC processes.

4.20.3 It is also unclear what constitutes HMRC being 'aware' of an uncertainty. HMRC may hold all relevant information but not recognise that an uncertainty exists. HMRC records are not always complete or consistently maintained, and it would not be appropriate to place the burden on the taxpayer to demonstrate that HMRC has retained and recognised information that has been provided.

4.20.4 In some cases, uncertainties may already have been brought to HMRC's attention more broadly, for example through industry or representative body engagement. Consideration should be given to how such 'endemic' uncertainties are treated, and whether HMRC should make its awareness of these issues more visible to ensure consistent treatment across taxpayers.

4.20.5 Furthermore, the existing regime works in part because large businesses have a clear point of contact within HMRC. This level of engagement is not available in a consistent way for individuals and trusts.

5. About Saffery LLP

5.1 At Saffery, we're more than just chartered accountants and tax and business advisers. We're a partner-led and people-focused firm, committed to our clients and honouring our heritage.

5.2 Since 1855, we've evolved in size and scope, but our unwavering dedication to exceptional client service remains the same.

5.3 As a proud member of Nexia, a worldwide network of trusted member firms, we've got access to local insight on a global scale.

5.4 In the UK, Saffery LLP is the 15th largest accountancy firm by fee income, with 90+ partners and 1,300+ staff across nine offices. Saffery also has an office in Dublin, Ireland.