Law Society of Scotland

Consultation Response

Opportunities to Extend Uncertain Tax Treatment

June 2026

Photo: Perth and the River Tay

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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Tax Law sub-committee welcomes the opportunity to consider and respond to the UK Government consultation: *Opportunities to Extend Uncertain Tax Treatment*.[1] The sub-committee has the following comments to put forward for consideration.

Questions

Question 1: Are you responding to this survey as: a business

a representative body
an organisation
an individual
other (please provide details)

Question 2: Are the views offered in your responses:

your own views
your organisation's views
your members' views

Question 3: What is your industry sector (such as accounting, finance, software, retail, construction, other)?

Legal.

[1] Opportunities to Extend Uncertain Tax Treatment - GOV.UK

Question 4: To help us determine business size, please provide details on:

number of employees in your business
annual turnover

N/A

Question 5: Please provide any further information about your organisation or business activities that you think might help us put your answers in context.

We have no comments.

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

We do not consider that the proposed threshold is appropriate. We have concerns that this new threshold will bring into scope many individuals for whom this would pose practical difficulties. We are strongly supportive of the aim of providing certainty in the tax code, and would welcome a more wide-ranging discussion with HMRC on how to achieve this.

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

We refer to our answer to question 6 and would welcome clarity on whether the proposed £5 million tax advantage is an accumulative advantage, tracked across multiple taxes within the same financial year. In the case of Inheritance Tax, where any tax advantage may not be expected for many years, it is impossible to quantify the potential advantage because of the potential for changes in asset values, Nil Rate Bands, rate of tax and changes to reliefs in the interim.

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

From a purely Scottish perspective, we understand the proposal to include all trusts within scope in principal as we consider that few trusts will come into scope as a consequence of this proposal. However, we recognise that for England-based trusts, the impact of this will be significantly higher and appreciate that this will represent a greater administrative burden for those trusts. As such, we consider it inappropriate to extend UTT to include all trusts.

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

We refer to our answer to question 8 and further consider that the specific trigger point of tax points are a key issue that will impact trusts. Where a tax point is triggered for a trust is the key concern, and we would welcome further information on this matter from HMRC.

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

We have no comments.

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)?

We have no comments.

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)?

We have no comments.

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

We have no comments.

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)?

We have no comments.

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

We have no comments.

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)?

We have no comments.

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

We have no comments.

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)?

We have no comments.

Question 19: Do you foresee any practical issues with including Inheritance Tax within the 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?

We foresee several practical issues with including Inheritance Tax (IHT) within the scope of UTT.

Principally, we consider that there are numerous timing issues with IHT being included within the scope of UTT. As identified in the consultation and in our answer to question 7, in many situations, the legal interpretation is formed at the tax planning stage, whereas. This can be over a much longer period of time than the other taxes discussed here, for example an individual may seek a legal interpretation at the tax planning stage earlier in their life, with the tax outcome only becoming apparent decades later.

We are unclear of the benefit of clarifying interpretation when it is not relevant. We consider that this would not close the tax gap and that it may be impracticable.

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?

We consider that, for individuals and trusts, imposing a notification requirement is unlikely to achieve the objective of reducing the tax gap and places an unacceptable administrative and compliance burden on taxpayers. Our members and their clients want certainty in their tax planning activities and would welcome a far more robust and accessible clearance regime to provide clarity at an early stage, promoting co-operation between taxpayers and HMRC over a more combative compliance obligation.

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?

We do not agree that the introduction of a "third trigger" for UTT is appropriate.

We do not consider this to be feasible as there are too many "unknown unknowns". Our members cannot be expected to know of every possible interpretation which might be posited by any other advisor or by HMRC, far less be in a position to assess those other interpretations' credibility.

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?

We have no comments.

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

We refer to our answer to question 21.

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?

We do not consider a notification system an appropriate or efficient proposal, and consider that this will place unnecessary burdens on taxpayers and agents.

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

We consider that there could be some issues concerning some corporate-style transactions. For example, if three individuals sell their collective business, is the £5 million threshold met cumulatively or individually? If cumulatively, all three parties would be required to know how the others will be reporting the transaction and what tax treatment they are applying. If individually, will all three be required to notify separately (causing duplication of work) or will two of the three need to approach HMRC for confirmation that the third has notified and that they therefore need not? Furthermore, we would welcome clarity on whether HMRC will have dedicated resources put towards implementing and administering these proposals.

For further information, please contact:

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