

**Raising standards in the tax advice market: call for evidence
Response from the Low Incomes Tax Reform Group (LITRG)**

1. Executive Summary

- 1.1. As an initiative of the Chartered Institute of Taxation (CIOT), we endorse the comments made in the CIOT's response to this call for evidence.¹ We also welcome the opportunity to provide a supplementary response which focuses on some of the points relevant to unrepresented taxpayers.
- 1.2. LITRG itself is not an advice-giving organisation. Instead, we provide free information about the UK tax system to the public via our websites, which are accessed by over 5.5 million people a year. Despite this, we are frequently contacted by members of the public who clearly need tax advice – some cannot afford it (or do not think they can), others can afford it but don't know where to find it or seem to think it is not for them. Some already seem to have had contact with an adviser, but still ask for our help. From these enquiries and through working with other stakeholders, we have specialist insight into the tax issues affecting those on low incomes and where the current provision may be failing them.
- 1.3. The CIOT broadly argues in favour of Option E – making it a legal requirement for tax advisers to be a member of a recognised professional body. But it cautions against the cost implications of such a government intervention, as well as the downsides of a 'one size fits all' approach. It also points to the need for more evidence to be assembled on the population of advisers outside the professional bodies.

¹ www.tax.org.uk/ref661

- 1.4. Given our mission to focus on the needs of those who already cannot afford high-quality tax advice, we are especially concerned about the costs of increased regulation falling on the consumers of those regulated services. Whilst this should not prevent any changes from being made, it needs to be considered in any plans and relevant mitigations considered. For those on lower incomes, the cost of accessing high-quality tax advice may already be prohibitive. It is therefore especially important that proper consideration is given to this group. The quality agenda is vital but needs to be supplemented by a structured initiative to expand and enhance the provision of non-profit tax advice – the lack of which, given the complexity of our tax system, is already a significant problem for many taxpayers.
- 1.5. In addition, we would encourage HM Revenue & Customs (HMRC) to consider how they can monitor or improve the other sources of advice and support relied upon by lower income taxpayers, outside of traditional accountants and tax advisers. This includes looking at how HMRC assure themselves that the organisations they fund to provide tax advice have the technical skills and qualifications to do this to the required standard. HMRC could implement aspects of Options A to C (better use of HMRC's existing powers, improve rights of recourse for consumers, help consumers make better choices) – or indeed pursue other ideas, particularly directed at the problem of people not being able to afford the advice they need (such as improved official information and guidance).
- 1.6. Work is also required to ensure that the resulting tax advice on offer in the market can be easily accessed by taxpayers. Currently, it can be remarkably difficult to find good quality support. We encourage the government to consider ways in which they can help taxpayers find a qualified tax adviser or accountant as part of any intervention in the market, such as through a centralised tool on GOV.UK.
- 1.7. Alongside the above, increased (or at least more targeted) funding to those charities doing good work for the taxpayers that simply cannot afford tax advice, such as TaxAid and Tax Help for Older People, should also be provided. HMRC are providing valuable support through the extra support service, and we welcome this, but this team are not independent and therefore cannot properly support people on matters such as disputes or appeals.
- 1.8. If Option E is pursued, it may help clamp down on the problem of some High Volume Repayment Agents (HVRAs) acting unscrupulously – something that LITRG would welcome, as many of these agents are not accredited and seem to have little awareness of HMRC's Standards for Agents.
- 1.9. However, the factors which drive taxpayers to using HVRAs also need to be addressed. These include the complexity of the claims process, the reluctance some taxpayers have to engage directly with HMRC, and the fact that an individual does not understand what is claimable or even that they need to make a claim in the first place. In addition, HMRC could and should do more around excessive HVRA fees and also make it easier for taxpayers to view, amend or remove deeds of assignment.

- 1.10. We would like to stress that even if significant intervention is not pursued, we think that many of these smaller steps should still be taken to make the tax advice market work better for lower paid, unrepresented taxpayers.

2. About Us

- 2.1. LITRG is an initiative of the CIOT to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low-income workers, pensioners, migrants, students, disabled people and carers.
- 2.2. LITRG works extensively with HMRC and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3. The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

3. Introduction

- 3.1. It is often thought that people on low incomes do not have complex tax affairs. This is incorrect. Whether it is because of self-employment, overseas connections, the inheritance or splitting of assets on death or divorce, or a debt issue that has several strands or has 'snowballed', low-paid taxpayers need access to good quality, yet affordable, tax advice and assistance (even if they do not recognise themselves as being in need of it).
- 3.2. In the Appendix to this submission we have included a selection of queries that we have received to the LITRG website recently that demonstrate the extent and breadth of this need. In some cases, the people who contact us often need 'advice' because even if publicly available guidance answers their questions, they struggle to connect it to their own circumstances or otherwise they simply want reassurance.
- 3.3. However, low-income taxpayers often cannot afford (or think they cannot afford) professional tax advice. Even if they can (or rather, they have accepted that it is just something they need to find the money for), they often do not know how to find a reputable and professional adviser. And then, even if they know how to find such an adviser, there may be a perception that accountants or tax advisers only deal with business services or those who have more complicated tax affairs and are in need of tax planning services.

- 3.4. Of note are the various queries¹ we have received from people who already seem to have had access to a tax adviser or accountant but still nevertheless have approached us for help:

*'Since last June i have been performing [work] as a limited company i have a separate business account and i pay myself from that account. I am not paye as my money is in bonuses and dividends arranged by my on line accountants. I haven't paid any tax yet am i entitled to any help as i don't have any work.'*²

*'I have received a letter telling me I owe more than £600 for the year ending 5 April 2017, I wasn't working then, I have told my accountant and he said I cant owe anything as I wasn't even registered, he has all my details which need to be in for April next year, I cant find any work at present and cant earn anything and you are chasing me for £600, I am chasing people myself and they just don't want to pay, how is anyone meant to survive when you cant get the money you are owed and are being told you owe £600, I cant figure it out, think it was just a bad idea, please tell me what this is all about?'*³

*'Have fixed deposits in [an overseas] bank of money earned before I became a Uk citizen . I pay tax [there] on the interest earned. I do not bring any of this money into the Uk . I have had a letter from the Harv about disclosure and cannot find guidance on the web. I have spoken on the phone to the Harv but they have not been able to guide me. Through an accountant I have sent the disclosure form and filled the online form . But I'm worried that I will have to pay a lot of tax. I became a Uk citizen in 2006 . Would like some guidance please . Thank you'*⁴

- 3.5. The fact they need to contact us for help, clarification or reassurance suggests that their relationships with their accountants are not deep or longstanding – perhaps indicative of their choice having been driven by budget. While having a limited scope of engagement is not, of itself, contrary to ethical standards – we note that members of professional bodies have a duty of care towards their clients, and to serve their best interests, for work within the engagement terms. A breakdown of communication may indicate these standards are not being met and/or that the adviser or accountant is potentially within the 30% who are not members of professional bodies.
- 3.6. Without repeating the detail, we would highlight that the CIOT response broadly favours Option E – making it a legal requirement for tax advisers to be a member of a recognised professional body, at least after a perhaps lengthy transition, with initial requirements such

¹ Throughout this response, we have quoted these verbatim where possible, but in some cases have removed or changed any words that may identify the individual. Those changes do not alter the nature of the query and are indicated in square brackets.

² Received 20 April 2020

³ Received 1 November 2019

⁴ Received 9 March 2020

as for mandatory professional indemnity insurance. But it cautions against the cost implications of government intervention and the downsides of a 'one size fits all' approach to the different segments of the market. It also points to the need for more evidence to be assembled on the population of advisers outside the professions. From the point of view of the section of the population who *already* struggle to afford to pay for tax advice, we would like to particularly stress the concerns of the CIOT regarding the fact that the costs of increased regulation can generally be expected to fall on the consumers of those regulated services.

- 3.7. Without proper consideration and provision for those who already struggle to afford to pay, if regulation makes tax advice more expensive it will simply make it more exclusive. For example, we see this already in the regulated financial advice sector, where many of those we represent are unable to get proper advice on their pension pots, which are very valuable to them. Such exclusivity could potentially be very undesirable: the population who cannot afford to access will increase, more strain would be placed on the tax charities and the problems which result from 'bad' advice from unregulated sources will become more widespread.
- 3.8. The comments and evidence that we provide in the rest of our submission are in support of our view that while something needs to be done, HMRC need to consider any negative consequences of such intervention on low-income taxpayers and take steps to mitigate them.
- 3.9. Alongside any type of intervention, we would encourage HMRC to consider how they improve the inner workings of those parts of the tax advice market that will fall outside of the intervention. Perhaps they can implement aspects of Options A to C (better use of HMRC's existing powers, improve rights of recourse for consumers, help consumers make better choices) – or indeed pursue other ideas, particularly directed at the problem of people not being able to afford the advice they need (such as improved official information and guidance), with a view to ensuring that unrepresented taxpayers also benefit from any reform. Indeed, in respect of Option A, if HMRC think there is scope for better use of their existing powers, they should surely do so irrespective of this call for evidence.
- 3.10. Even if the idea of a significant intervention such as Option E is not pursued, we think that many steps could and should still be taken to make the tax advice market work better for the lower paid.
- 3.11. We would like to use our submission to make some general comments and suggestions, relevant to both potential outcomes and framed under the following headings:
 - How unrepresented taxpayers get tax advice
 - Accessibility
 - Funding
 - High Volume Repayment Agents

4. General comments

4.1. *How unrepresented taxpayers get tax advice*

- 4.1.1. In the first instance, unrepresented taxpayers might turn to publicly available information and guidance (such as GOV.UK and our own websites¹).
- 4.1.2. One key point here is that there is a difference between ‘advice’ and ‘guidance’. Public information and guidance generally falls short of ‘advice’. But nevertheless, the importance of such sources being clear and accurate cannot be understated: ambiguity can lead to confusion and taxpayers making mistakes, each on a potentially large scale, leading to unnecessary costs for either the individual taxpayer or the public purse.² If personal tax advice is to become regulated and thus potentially more exclusive, more taxpayers may be forced to rely on such publicly available information and the need for it to be reliable will increase. It is equally important that the information is well-publicised and accessible.³
- 4.1.3. In addition, unrepresented taxpayers may receive unpaid personal ‘advice’ from a number of sources. These sources include friends and family, the ‘man in the pub’, robo-advice or advice from internet forums (where the ‘adviser’ may be anonymous and therefore unaccountable) and can even encompass situations where either or both parties do not see themselves as giving or receiving tax advice (e.g. employment agencies ‘telling’ contractors to work through a particular intermediary).⁴ Though much of it may be honest and well-intentioned – in some cases, perhaps, perfectly good advice – these advice routes vary greatly in their reliability.
- 4.1.4. Although the call for evidence document recognises the wider tax advice market includes the above sources, it does not proceed to address them in any meaningful way. Indeed, it appears that they would be outside of scope of any of the suggested interventions.
- 4.1.5. We are not suggesting that they necessarily need to be in scope – for example, an individual who makes a mistake while assisting a family member with their tax return cannot be expected to have acted to the same professional standards as a paid agent. LITRG would not consider it appropriate if the family member who is trying to be helpful is prevented from doing so because of regulation designed to combat promotion of tax avoidance arrangements or prevent commercial exploitation of customers based on the imbalance of

¹ <https://www.litrg.org.uk>, <https://www.taxguideforstudents.org.uk>, <https://disabilitytaxguide.org.uk>

² See example of incorrect GOV.UK advice here: <https://www.litrg.org.uk/getting-help/how-do-i-use-govuk>

³ For further discussion on what makes high-quality guidance, see The Office of Tax Simplification report, *Guidance for taxpayers: a vision for the future (October 2018)*: <https://www.gov.uk/government/publications/guidance-for-taxpayers>

⁴ See paragraphs 25, 26 and 31 of the call for evidence.

knowledge between provider and customer. However, we do think that HMRC should get better oversight of this segment and consider it as part of the wider objective of ensuring tax compliance and the good health of the tax system.

4.1.6. One notable omission from the illustration of the diversity of the tax advice market seems to be HMRC themselves.¹ It is not clear whether this is deliberate, but we suggest that HMRC consider the advice which they give to taxpayers themselves as part of this debate. Advice which is given by HMRC is particularly relevant for the lower paid. We appreciate that HMRC may consider that they are not part of the problem which has been identified in the tax advice market, but in our view any review of the tax advice market would be incomplete if HMRC is disregarded as an advice-giving body. Furthermore, it is not clear why HMRC (and other government departments, such as the Department for Work and Pensions) should be exempt from any commitment to raising standards or regulation on the advice they give.

4.1.7. There is a principled and pressing need why HMRC should improve their own provision in terms of taxpayer information, guidance and advice as part of raising standards, as demonstrated in this query:

*'I'm looking at tax on lump sum state pension and saw your article <https://www.litr.org.uk/tax-guides/pensioners/what-tax-do-i-pay-my-state-pension-lump-sum>. [Relatives] deferred their state pension and have no other income in the year, so from your article I believe they should be able to claim the lump sum tax free? But whenever we call HMRC or DWP or Pension Advisory - each of them say that normal income tax rules apply and that it will be taxed at normal tax bandings irrespective that no other income was received in the year ... I was wondering do you have anything concrete or a contact at HMRC that can confirm that this can be received tax free as we don't want to claim lump sum & incur lots of tax (as they've deferred for a number of years).'*²

4.1.8. In summary, the 'advice' which is given in this space (i.e. outside of commercial agents) will subsist, and indeed risks becoming more prevalent, if the market for paid advice is restricted as a result of additional regulation.

4.1.9. Indeed, if additional regulation has the effect to close down certain advice routes, what is to say that in that adviser's absence, individuals would instead turn to tax advice from a qualified professional instead of other, unregulated, sources such as 'the man in the pub', or friends and family, or try and do things themselves – all of which come with inherent risks.

4.1.10. These risks are demonstrated in a recent example among Construction Industry Scheme (CIS) subcontractors. LITRG is aware of a number of cases where such individuals filed their tax returns incorrectly, completing employment pages instead of self-employment pages. Given the unique way CIS subcontractors have tax deducted at source, such a mistake is

¹ Page 12 of the call for evidence

² Received 4 March 2020

understandable. However, as a result, these individuals have been denied access to support under the Self-Employment Income Support Scheme. They may also be faced with a bill for backdated Class 2/4 National Insurance contributions once the position is corrected, or otherwise have gaps in their National Insurance record which could affect their state pension.

- 4.1.11. There is no obvious solution, but part of it may lie in HMRC educating taxpayers better about the tax system and promoting the value of using a trusted adviser. Indeed, taxpayers might be strongly encouraged to seek out professional assistance with their tax affairs by default in certain circumstances (for example, if you are self-employed). A parallel can be made with the expectation that you need to engage a conveyancing solicitor for assistance when buying or selling a property. Such an approach could, in turn, encourage the standard tax compliance service market to shift and open up to meet this demand.

4.2. Accessibility

- 4.2.1. Having a better tax advice market, consisting solely of 'good' agents, is of no use if taxpayers do not know how to access it effectively. There is already a problem with accessibility to the professional market for lower-income taxpayers. This is not simply a question of cost, but also of perception and the practicalities of accessing advice. If the government are to take a more active role in the tax advice market, this should include providing information and guidance on how an individual can access it.
- 4.2.2. LITRG already publish information on getting paid help.¹ This explains that not all advisers are affiliated and encourages those who can afford to pay for their taxes to find professional assistance using the 'Find a CTA' tool on the CIOT's website or the 'Find an ATT' tool on the ATT's website. The guidance urges those seeking help to ask about the adviser's charges and whether they will have to pay anything for an initial discussion about their requirements.
- 4.2.3. We have also tried to encourage qualified tax professionals to appeal to this population in a price-sensitive way,² but we think there is still a problem with people finding their way to professional tax advice, as demonstrated by these queries we have received:

*'Dear Sir / Madame I am looking at a job as a cross border worker. I live in [the UK] with my family and we do not want to change our residency so I would commute and rent a B&B for three nights a week. Please can you let me know where I can get advice on my UK [and overseas] tax position and double tax relief? Many thanks'*³

¹ <https://www.litrg.org.uk/getting-help/who-else-can-help-me-my-tax-or-benefits#toc--where-can-i-get-help-on-a-paid-basis->

² <https://www.taxadvisermagazine.com/article/how-advisers-can-appeal-lower-income-taxpayers>

³ Received 6 June 2019

*'Dear LITRG Team, [my job takes me around different European countries]. I have recently taken to stock investing and have started to look for advice on my capital gains liability as a temporary non resident of the UK (shares were acquired while I was overseas). I asked [an accountant] for advice on the matter but they suggested that I look for more specialist advice. I noticed the great article on your website about CGT liability for temporary non residents and was wondering if you could recommend or suggest where to find someone who specialises in this area. (with regard to shares would be an extra bonus!). I'd be grateful for any advice you may have to offer!'*¹

4.2.4. We think it would be very helpful if there could be a centralised page on GOV.UK which explains not only the tax advice landscape but about how you can access 'good' tax advice – both paid and unpaid. This could include an easy-to-use tool which brings together all members of the PCRT bodies, much like what has been done for an individual who wishes to find a legal advice,² or software supplier for Making Tax Digital.³

4.2.5. The existing guidance on finding tax advice is woefully insufficient.⁴ For example, the page on GOV.UK 'How to get help' says:

If you need help with Self Assessment, you can:

- [*appoint someone*](#) to fill in and send your tax return, for example an accountant, friend or relative - you can [*find an accountant accredited in the UK*](#)
- [*watch videos and join webinars*](#)
- [*contact HM Revenue and Customs \(HMRC\) for general Self Assessment enquiries*](#)
- [*get help with your online account*](#)

4.2.6. If you click on the link 'find an accountant accredited in the UK', it does not take you to a list of all the professional bodies, as one might expect. Rather, it takes you to a page which merely contains the following words and a link to information about completing a form 64-8:

*An accountant or tax adviser may be able to help you with your tax. You'll need to [*authorise an accountant or tax adviser*](#) to deal with HMRC for you.*⁵

¹ Received 25 June 2020

² <https://www.gov.uk/find-a-legal-adviser>

³ <https://www.gov.uk/government/collections/commercial-software-developers>

⁴ <https://www.gov.uk/self-assessment-tax-returns/get-help>.

⁵ <https://www.gov.uk/tax-help>

4.3. Funding

- 4.3.1. LITRG works closely with the two main tax charities in the UK, TaxAid and Tax Help for Older People.¹ These charities, whose funding is precarious, support unrepresented taxpayers on low incomes. However, their remit needs to be restricted to those on incomes of less than £20,000 a year in order to ensure their resources are directed to support those in greatest need. They do not have the resources to assist with areas of tax such as Corporation Tax or VAT.
- 4.3.2. The tax charities do valuable and essential work supporting some of the most vulnerable taxpayers, for whom there can be no substitute for having a professional liaison with HMRC on their behalf.
- 4.3.3. We are encouraged to read that HMRC are interested in exploring how members of professional bodies might undertake more pro bono work.² On this point, we support the CIOT's comments and echo the fact that without an increase in generosity, increased financial support from the state would be a necessary prerequisite. However, there are nevertheless issues around quality control.
- 4.3.4. It is also essential that HMRC is clear about the purpose of grant-in-aid funding and, where it is intended to help provide tax advice to those that cannot afford it, HMRC ensure that the organisations funded have sufficient technical tax skills to deliver such advice.
- 4.3.5. Increasingly, LITRG are asked to provide training and technical support, on a free basis to other organisations who are funded through HMRC's grant-in-aid programme. The tax charities also provide a similar second-tier service to other, non-specialist organisations – but this is not widely recognised or understood by HMRC in the existing funding model. This increases the burden on the tax charities.
- 4.3.6. We are also concerned that there are charitable organisations offering free advice about complex tax matters to individuals without having any qualified tax advisers on their own staff. This is something to which HMRC should give further thought as part of raising standards in the tax advice market for all.
- 4.3.7. We therefore encourage HMRC to ensure they undertake some degree of quality assurance when they are providing funding for charitable organisations which purport to provide 'tax advice', to ensure that they do actually have the expertise to do so.
- 4.3.8. We also encourage HMRC to think about the second-tier services that the tax charities provide to other organisations and ensure such support is adequately funded. We do, however, recognise that HMRC may wish to provide grant-in-aid funding to organisations

¹ <https://taxaid.org.uk>, <https://taxvol.org.uk>

² Paragraph 45

which simply provide information or guidance or signpost to other sources of advice, leveraging their understanding of how best to communicate with the groups they represent.

- 4.3.9. However, in such cases we would encourage HMRC to consider instead increasing the funding given to the tax charities, as they would be able to increase their remit to cater for more taxpayers who require professional tax advice and support – including those that have been referred to them from other organisations.
- 4.3.10. Finally, it is important that HMRC recognise the limits of their own support to taxpayers who need extra help. We are very supportive of the work that the extra support team do. However, many individuals are in dispute with HMRC about the tax that they owe. Some may not even realise there is a potential challenge/dispute and only know there is a problem because they have a debt demand. What is needed is independent advice that helps people understand and exercise their various dispute and appeal rights. Similar independent support is also needed through compliance interventions. It is not appropriate for HMRC to provide this support.

4.4. *High Volume Repayment Agents*

- 4.4.1. Claiming tax relief on employment expenses is not something that you would necessarily think of as a task requiring professional tax advice. However, the complexity of the rules and lack of awareness around expenses means this process can be out of reach for some.
- 4.4.2. At the outset we should make it clear that not all High Volume Repayment Agents (HVRAs) act in an unscrupulous way – some offer a transparent service for a fee. We are certainly not suggesting that people should not be able to exercise freedom of choice to use someone else to deal with their tax relief claim. That said, we do see examples of some unscrupulous HVRAs who target lower income taxpayers and the practices of these particular companies concern us.
- 4.4.3. In our experience, these HVRAs are usually not members of a professional body, often pairing friendly websites with aggressive advertising (especially on social media platforms or otherwise by partnering with employers/unions who will recommend the HVRA's services to their members) to become very successful in attracting a never-ending stream of customers. With no real, visible opposition from HMRC, their pricing structure can sometimes incentivise poor practice.¹
- 4.4.4. If Option E is pursued, it may help clamp down on the problem of certain HVRAs acting unscrupulously – something that LITRG would welcome, as prevention of problems from the outset is better than letting them occur and then dealing with the fall out afterwards. However, organising and submitting high volume, low value tax refund claims is not work that highly skilled, accredited agents necessarily want to do. As there are many barriers to low income taxpayers being able to organise and submit their tax refund claims themselves,

¹ See Example 1 of paragraph 48

they may be left without being able to find help other than from the HVRA. This means ultimately they may not get the refund to which they are entitled (even one that has a very high fee deducted from it).

- 4.4.5. The factors which drive taxpayers to their use therefore need to be addressed. These include the complexity of the claims process through GOV.UK, the reluctance some taxpayers have to engage directly with HMRC, and even the simple fact that an individual does not understand what is claimable. For example, the claims process is now fronted by a decision tool which suggests incorrectly that the only employment expenses which can be claimed are fuel costs or work clothing.¹
- 4.4.6. One could also make the point that if the tax system provided for the correct amount of tax to be deducted at source in the first place, there would be no need to claim a refund and HVRA's would cease to have a reason to exist.
- 4.4.7. There are still problems with the taxpayers not being able to access a paper version of the P87 and with accessing the form through the Government Gateway. In order to create an account, there are a number of steps required including selecting the type of account that you want (this can be an Individual, Organisation, Agent or Pensions account), creating a username and password, undertaking a two-step verification and answering security questions about your payslips/P60 or passport – meaning it could still be a daunting (or even impossible) prospect for many, particularly if they are not IT-savvy or do not have easy internet access (or indeed rely on a fiddly smartphone for internet access).²
- 4.4.8. For those that can manage the online process, it is also confusing and unclear why HMRC have removed the ability to claim expenses from within the Personal Tax Account (PTA) – surely a natural place to go in order to make the claim.
- 4.4.9. In addition, there may be people who think that they are due a refund and know how to do it, but who lack confidence or knowledge of the tax system to initiate a claim themselves or who worry they might get it wrong. This may include young people, or migrant workers who have English as a second language or due to cultural differences do not feel comfortable approaching HMRC directly. There is certainly more work to be done on HMRC's part in order to change the perception, so that they are seen as helpful rather than frightening.
- 4.4.10. On an urgent basis, and separate to the outcome of this call for evidence as they are pressing consumer protection issues, we think HMRC could and should do more around excessive HVRA fees. An HVRA's fee, which is usually deducted from the taxpayer's refund,

¹ <https://www.gov.uk/claim-tax-refund>

² We discuss these issues further in our response to HM Treasury's *Call for evidence on the taxation of employee expenses*, at section 5.3:
<https://www.litrg.org.uk/sites/default/files/files/170705-LITRG-response-Call-for-evidence-employee-expenses-FINAL.pdf>

can sometimes be far in excess of what is commercially reasonable and often is not made clear to the taxpayers as shown in the following enquiry we received:

'At a very vulnerable time i was contacted by a tax rebate company called [HVRA]. I now have had a tax rebate and HMRC tell me that they have sent the money to this company without letting me know and said that i authorised it I have asked for a copy of the letter i have supposed to have signed. [HVRA] do not have a phone number for me to discuss this with them as they are stating in form that will charge me 40% of the amount which is £1875.80 which comes to £750.32...'

- 4.4.11. At the other end, a taxpayer can find that almost all of their refund has been swallowed up because of a minimum fee. One only needs to peruse the 28,000+ Trustpilot reviews of one refund agent in order to see the impact of this, for example:

'So I received a tax return for £50.40 however [HVRA] took £35 off that plus £7 and I was left with £8.40 which is less than I earn in one hour. To take that money away at times of hardship aswell i.e corona virus is just a disgrace. Never will I recommend this company and I will never be using again'¹

- 4.4.12. HMRC should acknowledge that they are in a position to enable consumers make better choices in relation to HVRA's. For example, could they publish the data they hold on the kind of fees which are typically charged, so that a taxpayer can at least do some basic benchmarking?

- 4.4.13. We acknowledge that not all HVRA's are intrinsically 'bad' – in many cases HVRA's will operate to help taxpayers get a refund that they might not otherwise realise is due. But, as HMRC recognise, some go too far by submitting high numbers of erroneous claims on behalf of taxpayers, taking a large cut of the refund, and then 'disappearing' or refusing to interact with the client when HMRC attempt to claw back the money upon reviewing the claim.

- 4.4.14. The call for evidence says at paragraph 53(g) that:

'HMRC has identified a number of tax advisers who submit high levels of claims that have no merit. It is working closely with them to reduce the levels of these claims through education and the review of claim forms and advertising.'

- 4.4.15. The above approach is too light touch. The fact that HMRC's *Standards for Agents* are clearly not being met does not appear to be of much consequence. If HMRC have identified an agent who submits 'high levels of claims with no merit', HMRC could apply Option A and use its existing powers (e.g. refusing to deal with an agent, dishonest agent penalties or even public interest disclosures where appropriate) to help protect other taxpayers from falling into the same traps with the same agent or similar agents. Or, if HMRC are already using

¹ <https://uk.trustpilot.com/review/www.taxreturned.co.uk>

these powers in some cases, can they publicise that fact better in order to create a deterrent effect (Option B: helping consumers make better choices)?

- 4.4.16. The issue around taxpayers signing deeds of assignment without appreciating their scope, or even being aware that they have signed them, is a serious one.^{1,2} It often overlaps with problems with HVRA. One taxpayer wrote to us as follows:

'I have received my tax rebate from a company called [HVRA] and don't remember asking them to do it for me. Why would I when I get my rebate automatically from HMRC? They have taken 40% of my rebate i was so upset as I had received notice from HMRC that I would be getting nearly £700 and with their chunk taken off I got a cheque for less than £400! I cried as I don't remember giving anyone the go ahead to do this'

- 4.4.17. We appreciate that HMRC may have limited scope to prevent taxpayers entering into such arrangements with agents, but HMRC can and should do more to raise taxpayer awareness where such arrangements are 'live' and make it easier to change or remove them. For example, HMRC should make it possible for a taxpayer to view or amend their deeds of assignment through their PTA. Taxpayers would then be less likely to fall foul of the kind of situation exemplified above.

- 4.4.18. In many ways, if these pressing problems were tackled, the urgent need for reform for the rest of the market to some extent falls away, providing additional breathing space to get the detail right about how standards could be improved.

LITRG
25 August 2020

¹ <https://www.litrg.org.uk/latest-news/news/200707-tax-refund-company-deed-assignment-warning>

² Example 3, paragraph 48

Appendix: Queries received from individuals seeking tax advice

1. "Dear Agency, I am contacting you because I would like to ask for advice and support with tax returns and how it all works. As a young adult which is still partially studying, it is fairly new to me and the government's website provides useful information, however, it is sometimes confusing with all the different categories and forms provided. My first question is regarding claiming back tax when it has been overpaid. During the current situation, I have been working quite a bit of overtime and since the tax year has just began in April, the system has automatically estimated my earning for the entire year and deducted tax accordingly. Hopefully, everything goes back to normal soon and my earnings should decrease and my total earning for the entire year should be below the personal allowance. So, is there a way to claim back tax at the end of the tax year? What kind of form do I need to fill out or is this something that goes through the company directly? And my other question is regarding capital gains tax. If I understand correctly, it also comes with a tax free allowance up to a certain limit which is independent from your personal allowance, right? If I were to make a sale of shares and make a small gain which is within my tax free allowance, do I still need to report it? And if so, is there a form I need to fill out? I would greatly appreciate if you could get in contact with me and thank you in advance. Best regards"
2. "I bought a house [over 10 years ago] but had to move for work in [a few years ago]. I rented it out as i could not afford the selling fees and also could not have afforded to buy near where i work. I have now heard about the changes that the government will impose in April. i.e. that the £40,000 exemption is to be scrapped. This means i will never be able to sell and buy near my place of work. I am thinking of asking my tenants to vacate so that i can move back in and will have to travel to work quite a distance. I get that i have left it too late to sell now before April 2020 but if i move back in and make it my primary residence again for a year or so, will this help at all. I am distraught at this news as i have been trying really hard to save up to cover selling & buying fees for a future move to where i work. I would be grateful of some help. Thank you"
3. "Hi, I'm trying to fill out my tax residence remittance basis forms and I would like to talk to someone that is able to help me with this application. I am currently living [overseas] and have been so since 2016. Many thanks"
4. "In 2014/2015 I filled in a form.with [Accountant] for a rebate on washing uniform, now the HMRC have contacted me saying I have to pay £765 back as It shouldnt of been processed as they didn't have the man power to check it out,its my belief that the accountants filled in more than I was claiming for to get more money for themselves and I never received the money, I did get a payment but know where nere what HMRC are claiming. This accountant has gone now vanished HMRC are saying I should of checked the amount being claimed and I have to pay it back?"
5. "Hi guys, I basically need help with my accounts. I created my business in 08/2018 but didn't start trading until 12/2018. I ...[text deleted]... earn £100 a week from it. I can't afford an accountant and have tried doing it myself but would like someone profetional to look it over etc. Can you recommend anyone who can help. My yearly sales / income was only £8715."

6. "I will return to the UK next year and I own a property [overseas] which I am unlikely to sell. I wish to know my CGT liability should I sell the property after my return. Additionally, what affect does renting the property out until any potential sale have on the CGT exposure? I have tried MANY sources to find an answer but unable to get any conclusive result. I would really appreciate your advice or suggestions as to where to look for answers on this subject. Many thanks in advance."
7. "I am currently resident [overseas] and am expecting a large employment settlement from [another overseas country] this year which will experience a 25% withhold [text deleted]. My wife and I are planning to move to the UK in the second half of the year. Will the UK tax my settlement as foreign source income?"
8. "I have been married [for over 20 years], I own the house we lived in, husband moved out in [many years ago], he bought a house [a year later] and has lived in it since then, if you sells his house does he pay capital gains as we have not become lawfully separated?"
9. "Hi there. I have just become a self employed driver sub contracting to a logistics company who work with [Company] (so basically i am an [Company] delivery driver). My question is re VAT [Company] pay the logistics company a daily driving fee which is what i am supposed to earn and its £102 including VAT. I am not VAT registered as there is no way I will meet the VAT threshold. My question is, can i keep the full amount [removed] as that is the daily rate? Or can I only invoice for the amount minus 20%? Or should i look into becoming at something like the flat rate VAT scheme? Ive tried to find answers to these questions on the GOV website but to be honest, its difficult to understand. Estimated earnings from this will be approx £12-15000 per year. Hoping you can shed some light :-)"
10. "Hi, I currently use my own car for travelling to and from work (business use) which i get paid a certain amount per year for. I also get milage at 15ppm for the first 10,000 then 25ppm thereafter. I have been told i should be collecting 45ppm not 15ppm so am entitled to claim either the full amount and/or the VAT/Tax for the remaining 30p.. Is there any truth to this? Thank you."
11. "I employ somebody 1 hour a week I pay them £10 by bank transfer they have requested a payslip but i was told i don't need to provide one as i am not Vat registered should i be taking tax off or do they need to do that at the end of the tax year"
12. "Completing the on-line Self Assessment Tax return by 31/01/19, PAYE [Pension provider] pension details already entered onto Assessment, which started 05/17. Set up [a company] but only earned £5,159 from 10/17 to 04/18 with outgoings £5,094. What do I show on the tax Assessment Return as there is only £65 balance?"
13. "Hello. I've been working for [Company] since September 2017, meaning I have been technically self-employed and therefore responsible for my own taxes. I had been (foolishly) under the impression that since I made less than the minimum limit for paying income tax I didn't have to file taxes with HMRC. I now release my mistake and would like to amend this. Using the calculator tool for late-filed taxes on the GOV.UK estimates I would be fined around 1300 pounds

for retrospectively filling taxes with them, which is a terrifying prospect for someone in my financial situation. I understand you can't comment on exact numerical figures for specific cases but have I misunderstood something here? Is there a way to file my taxes for the previous year in good faith without being near-bankrupted by HMRC? I appreciate any guidance or resources you can offer me."

14. "hi I need some help with regard to self employed with universal credit. I understand the cash basis as far as receipts. My problem is with buying or renting a van - Can i use a credit card to buy a commercial vehicle and spread the payments monthly? If not can I get a loan to do that? I want to avoid paying for a vehicle and all the tax being discounted on one month to zero. then having no expenses the following months. Is lease the best option? If a used van then what are the options to spread the cost , similar for large work equipment ? I do not want to use the simplified pence per mile. With the cash basis there is a year to spread the cost of the van I think but on a monthly basis for universal credit I dont understand how you buy a van for tax purposes. Sorry a bit confused I cant see how I can buy a van - its seems the only way is to discount the purchase for tax and count other expenses like fuel and insurance? Thanks"