

**Finance (No 2) Bill (2022-23) Public Bill Committee  
Clause 332: Right to repayment of income tax to be inalienable  
Representation from the Low Incomes Tax Reform Group (LITRG)**

**1 Executive Summary**

- 1.1 We broadly welcome that clause 332 introduces a new provision, effective 15 March 2023, which renders void assignments of income tax repayments<sup>1</sup>. This means that taxpayers will no longer be able to assign their rights to an income tax repayment to a third-party repayment agent – including those who have been tricked or misled into doing so by an unscrupulous agent.
- 1.2 However, issues remain around the nomination process – an alternative way of enabling an agent to receive a repayment. This provision will not stop taxpayers being tricked or misled into *nominating* an agent to receive an income tax repayment. Additionally responsible repayment agents, who were not misusing assignments, may exit the market given the risk of non-payment for their work if they have to rely on the way the current nomination process rules are operated by HMRC in practice..

- 2** We propose an amendment that will require HMRC to carefully monitor the impact of this provision on taxpayers and their ability to obtain refunds. Certain metrics, such as the total number of refund claims made and the total number made via third party companies, should be part of this monitoring. More generally, we seek HMRC’s commitment that they will pay more attention to the repayment agent-taxpayer relationship, with more of a consumer protection focus than previously.

**3 About Us**

- 3.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (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.
- 3.2 LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often

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<sup>1</sup> <https://publications.parliament.uk/pa/bills/cbill/58-03/0276/220276v2.pdf>

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.

- 3.3 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.

#### **4 Background**

- 4.1 Tax repayment agents help taxpayers organise and submit claims for tax refunds from HMRC – for a fee (normally a percentage of the refund).<sup>1</sup>
- 4.2 When using a tax repayment agent's services, the taxpayer will usually have to nominate the tax agent to receive the refund in the first instance, so that their fee can be taken. But these simple or bare nominations are sometimes overlooked by HMRC or can be altered or withdrawn by the taxpayer after the event. In recent years, we have seen many refund companies use 'assignments' - a more formal and binding way of the taxpayer telling HMRC to send the agent their refund – as these cannot be changed or revoked unilaterally. Assignments can only be withdrawn with the agreement of the tax refund agent.
- 4.3 This provision to prohibit assignments seems to have been largely driven by the practices of Tax Credits Ltd.<sup>2</sup> In the case of many customers of this firm, an electronic signature collected as part of the sign-up process was applied to a wide assignment document that the taxpayer had not understood, seen or approved. As the relevant legal authority had not been given by taxpayers, this meant the assignments were not valid, and HMRC should not have followed them.
- 4.4 Initially at least, HMRC continued to process the assignments. However in September 2022, HMRC said they would take action in relation to Tax Credits Ltd by issuing tax refunds directly to 60,000 affected taxpayers.<sup>3</sup> More recently, HMRC have said that Tax Credits Ltd can no longer trade as a repayment agent after they found the company had committed serious anti-money laundering breaches.

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<sup>1</sup> For more information see our guidance: <https://www.litrg.org.uk/tax-guides/tax-basics/how-do-i-claim-tax-back/should-i-use-tax-refund-company>

<sup>2</sup> Tax Credits Ltd operated an online process for making tax refund claims for taxpayers, including a 'fast track' option which collected an electronic rather than a 'wet' signature. LITRG received a number of distressed contacts from people who thought they were simply applying for a working from home refund via the company, only to find that as a result of the online sign up processes used, they had unwittingly entered into an assignment for an entire tax year (or tax years), meaning other unconnected tax refunds were also paid directly to the company, allowing them to take a significant slice of these extra refunds too.

<sup>3</sup> <https://www.gov.uk/government/publications/information-for-customers-of-tax-credits-ltd>

- 4.5 The proposal to prohibit assignments is, in many ways, understandable given the Tax Credits Ltd debacle and wider concerns about the use of assignments by some other refund companies. However it is important to remember that tax refund companies are responding to a genuine need in the market and that some at least do operate according to appropriate standards. And assistance with a tax refund claim from a good, transparent tax refund company may be more affordable and accessible for taxpayers than assistance from a traditional adviser. Tax refund companies invest significant amounts of money in advertising and social media campaigns to publicise tax refunds and to find customers. They also have a quick, easy application process – usually requiring someone to spend no more than a few minutes on a smartphone. Without these companies, some taxpayers would not be aware of their eligibility for a tax refund, or would not apply for one and so would simply get no refund at all.

## 5 Comments

- 5.1 We support HMRC taking action on assignments. However, we think that changes are needed to the nomination process too, in the interests of both taxpayers and responsible refund companies.
- 5.2 For taxpayers, HMRC must be alive to the fact that nominations, as well as assignments, can be open to abuse by unscrupulous agents. For example, electronic signatures can be easily recycled – refund forms like the P87 or R40 all contain nomination sections that signatures can be applied to. There are also worrying issues with unscrupulous agents using various strategies to get taxpayers into the Self Assessment system so online tax returns can be filed.
- 5.3 For refund companies we understand (see 4.2, above) that the current nominations system can present problems for the companies in collecting their fees. Unless HMRC make improvements to the nomination process so that responsible tax refund companies are able to take their fee, we understand that some of these tax refund companies could cease to trade – a double whammy for taxpayers.
- 5.4 It would be helpful if ministers could say whether the government are looking at changes to the nominations process as well as the assignment process.
- 5.5 We propose an amendment to clause 332 to insert the following sub-clause on page 252, after line 8, —:

*(6) The Commissioners must review the impact of this section of the Act and lay a report of that review within twelve months of the passing of this Act. A review under this section must consider— (a) the impact of this section on levels of tax refund claims in total, (b) the impact of this section on levels of tax refund claims made by agents and (c) the impact of this section on the numbers and nature of complaints made about tax refund agents by taxpayers and about HMRC’s handling of nominations by tax refund agents.*

Explanatory statement: This amendment requires HMRC to review the impact of the removal of the right to assign an income tax repayment to a third party on levels of tax refund claims and levels of complaints about tax refund agents.

5.6 This will help HMRC and stakeholders understand whether the objectives are being met and whether any further changes are needed to ensure good outcomes for taxpayers<sup>1</sup>. More generally, we seek HMRC's commitment that they will pay much more attention to the tax refund agent landscape, with more of a consumer protection focus than previously. This should include:

- continually assessing the market and gathering data about potential new issues and changes in behaviour (checking in-house complaints and working closely with other bodies such as Action Fraud where necessary);
- setting higher and clearer standards for repayment agents and – importantly - enforcing those standards;
- ensuring that improvements are made to the nomination process so that 1) only assured nominations are processed ('assured' meaning that HMRC have checked that an agent's end-to-end process results in informed authority being freely given) and 2) where assured nominations *are* given by taxpayers, HMRC make every effort to follow the instructions given (unless there are reasonable grounds for not doing so) so that the agent is guaranteed payment;
- doing more to understand taxpayer behaviour and characteristics, to be more effective in communicating about eligibility for tax refunds and identifying the barriers that are preventing people claiming from HMRC directly.

LITRG  
20 April 2023

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<sup>1</sup> Good outcomes include that taxpayers can access the services that they require, at fair value for money and receive good treatment.