

Draft Finance Bill 2025-26
Requirement for tax advisers to register with HMRC and meet minimum standards
Response from the Low Incomes Tax Reform Group (LITRG)

1 Executive Summary

- 1.1 We have previously supported a requirement for agent registration and have also suggested that something like fit and proper checks be carried out on agents. The existing position means there are gaps in HMRC’s knowledge of tax advisers and their behaviour, with inevitable risks for taxpayers.
- 1.2 While the current measure goes some way to addressing the issues, we have concerns about certain aspects. In this regard, we endorse the comments made by the Chartered Institute of Taxation (CIOT) in their submission, in particular that measures must be well-targeted and not impose unreasonable or disproportionate financial or other burdens on reputable, competent agents, who make up the vast majority and perform an important role in helping some taxpayers navigate a highly complex system and get their tax right.
- 1.3 Those who register and comply with these rules are probably not their main target. It is those who will seek to circumvent these rules in some way that HMRC should be most concerned with and therefore unless there is real-time monitoring and effective enforcement for those who do not comply, the changes will fail to meet their objective. Our submission focuses on points of relevance to low-income unrepresented taxpayers who may be targeted by certain unscrupulous agents for one-off claims.
- 1.4 This policy and draft legislation do not tackle agents who operate in a purely advisory capacity or outside of official processes, for example, by utilising their clients’ Government Gateway accounts to interact with HMRC. These agents cause LITRG serious concerns, and this policy unfortunately might encourage unscrupulous agents to adopt this approach to remain outside the rules. At the same time, we are conscious that the onerous requirements around “senior managers” may mean some

good agents leave the marketplace and we urge HMRC to consider changing them in line with the CIOT's comments.

- 1.5 Due to the use of the word "agent" – given its pure legal meaning – and other incompatibilities, we are concerned that the legislation as drafted may not cover unscrupulous/other bad actors who submit tax refund claims without the explicit knowledge and/or consent of the taxpayer. We have suggested some wording (in paragraph 5.2 below) that may ensure such agents are caught by this legislation.
- 1.6 Assuming that HMRC have some way of policing access to their systems by non-compliant agents, taxpayers may find that their experience of dealing with HMRC is negatively affected by this policy, if their agent is suspended or indeed cannot register in the first place. There is a time lag before suspended agents have to notify their clients that they are no longer able to interact with HMRC/send communications/make submissions on their behalf etc. This could prevent taxpayers from complying with their tax obligations and they might be unaware of the reason for the failure. HMRC must be willing to accept appeals on the basis of reasonable excuse and also be prepared to assist taxpayers who find themselves without a tax agent at a crucial time.
- 1.7 In addition to publishing guidance for agents, HMRC must publish guidance for taxpayers, covering the purpose of agent registration – in particular, that it is not an endorsement of that agent by HMRC. It must also cover what suspension means, and what taxpayers need to do if their agent is suspended or prohibited.
- 1.8 While we acknowledge HMRC concerns in relation to making their database of registered agents public, we think that for the sake of transparency, accountability and safeguarding, there should be a publicly available database of registered agents that taxpayers can check.

2 About Us

- 2.1 The Low Incomes Tax Reform Group (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 who are least able to pay for professional advice. We also produce free information, primarily via our website www.litrg.org.uk, to help make a difference to people's understanding of the tax system.
- 2.2 LITRG works extensively with key stakeholders such as HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the tax system. LITRG also considers the welfare benefits system, and other related systems, to the extent that they interact with tax.
- 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 We welcome the opportunity to submit comments on the draft Finance Bill 2025-26 legislation that provides for a requirement on tax advisers who interact with HMRC on behalf of clients to register with HMRC and meet minimum standards from 1 April 2026.¹ We have a longstanding interest in this area. We have been raising the issue of unscrupulous agents, including high volume repayment agents, with HMRC for over 10 years. These types of agents' behaviour can result in significant distress, as illustrated by a recent article in HMRC Enquiries Investigations & Powers, an e-magazine aimed at professionals involved in HMRC enquiry and investigation work.²
- 3.2 We do not provide advice directly to individuals. Instead, LITRG provides free guidance about the UK tax system to the public via our websites and social media channels. Despite this, we are often contacted by members of the public who need tax advice. Some cannot afford to pay for it; others can afford to pay for it, but don't know where to find it, or think it is not for them. Some have already had contact with a tax adviser but still request help from us. In many cases, people have been caught out by an unscrupulous tax refund agent or have had their pay and taxes affected by an umbrella company running their payroll.
- 3.3 In our response to the 2024 HMRC consultation "Raising standards in the tax advice market – strengthening the regulatory framework and improving registration"³ we noted our support for the requirement for registration (although across the board, not just for those agents that interact with HMRC). We recommended that this should include something like fit and proper tests. We also suggested that there needed to be a clear strategy, including a public register, to ensure that the requirement works. The existing position means there are gaps in HMRC's knowledge of tax advisers and their behaviour, with inevitable risks for taxpayers.
- 3.4 While the current measure goes some way to addressing these gaps, we have some concerns about certain aspects. We are also not clear on the application of the measure to some of the entities mentioned in paragraphs 3.1 and 3.2 above. Currently income tax/PAYE repayment agents who wish to receive tax refunds on behalf of their clients must **already** be registered with HMRC but with only

¹ The policy paper, draft legislation and explanatory notes are available on GOV.UK at: <https://www.gov.uk/government/publications/modernising-and-mandating-tax-adviser-registration-with-hmrc>

² Apostle Accounting: notes on a scandal: <https://taxinvestigation.co/new/apostle-accounting-notes-on-a-scandal/>. This article was a contribution from Lee Osborne, a former client of Apostle Accounting.

³ See GOV.UK (<https://www.gov.uk/government/consultations/raising-standards-in-the-tax-advice-market-strengthening-the-regulatory-framework-and-improving-registration>) for the consultation and summary of responses, and the LITRG website (<https://www.litrg.org.uk/submissions/raising-standards-tax-advice-market-litrg-response>) for our response.

cursory checks.⁴ It is imperative that these agents fall within these new rules and more robust checks. We understand that external payroll providers will fall under the definition in the legislation but what about umbrella companies? Although they operate payroll, they operate it in the capacity of an employer, not an external payroll provider. They may also sometimes offer advice to their ‘employees’, for example around disguised remuneration.⁵ Will they somehow fall outside the new rules, despite potentially posing a risk to taxpayers and the tax system? We would appreciate HMRC’s confirmation of these points as soon as possible. HMRC must also be mindful that if umbrella companies are to register, the implementation date coincides with the commencement of joint and several liability – a major reform that umbrella companies will also be contending with.⁶

4 Comments on the policy paper

- 4.1 The stated policy objective is to ensure that “all tax advisers interacting with HMRC on behalf of their clients meet minimum standards.” It also aims to “improve HMRC’s ability to monitor and exclude tax advisers who are objectively unable to meet HMRC’s Standards for Agents or cannot lawfully act as a tax adviser.”⁷ However, this policy and draft legislation does not tackle agents who operate in a purely advisory capacity or under the radar, by utilising their clients’ Government Gateway accounts to interact with HMRC for example. We would welcome further consultation with HMRC as and when thinking develops on how they will identify and tackle agents not captured by the current proposals.
- 4.2 In addition, the minimum standards as set out in the draft legislation, particularly in respect of “senior managers” (which as defined comprise a potentially wide category) and the conditions placed on them (some of which are personal and not necessarily easy to monitor), may mean that some competent tax advisers leave the market, because of the risk imposed on their business if they cannot interact with HMRC. If trusted advisers leave the market because of this legislation, taxpayers may be unable to access a good tax agent. This could lead to greater pressure on the tax charities and other voluntary sector organisations. Moreover, it is also likely to lead to greater pressure on HMRC customer services. It may also leave the market open to bad actors, who can continue to operate by obtaining clients’ login details. This places more taxpayers at risk of receiving poor advice, inadequate compliance support and in a worst-case scenario, of being defrauded. It is vital HMRC find an appropriate balance to prevent good agents exiting the market.

⁴ <https://www.gov.uk/guidance/receive-income-tax-or-pay-repayments-on-behalf-of-others>

⁵ We explain more in a previous submission, see paragraph 4.1.4 onwards:
<https://www.litrg.org.uk/submissions/raising-standards-tax-advice-market>

⁶ <https://www.gov.uk/government/publications/umbrella-companies-tackling-non-compliance-in-the-umbrella-company-market/umbrella-companies-tackling-non-compliance-in-the-umbrella-company-market>

⁷ <https://www.gov.uk/government/publications/modernising-and-mandating-tax-adviser-registration-with-hmrc/requirement-for-tax-advisers-to-register-with-hmrc-and-meet-minimum-standards>

- 4.3 The policy paper indicates (in the Summary of Impacts) that the measure is not expected to have any effect on individual taxpayers' experience of dealing with HMRC.⁸ However, if the adviser is unable to register in time (and this may be through no fault of their own – see comments in paragraph 4.5 below) or fails to register / is sanctioned under this legislation (more comments in paragraphs 5.5 and 5.6 below), there is a potential time lag before the adviser informs the taxpayer that they cannot interact with HMRC (if indeed they do so). This time lag may fall across a key period, that includes a submission deadline. If the taxpayer appoints a new adviser, there may be difficulties transferring information from the old adviser to the new adviser.⁹ We acknowledge that handover difficulties can arise anyway, but given this new legislation, and HMRC's power in this situation, we think HMRC should be resourced and prepared to assist affected taxpayers who find themselves without an agent at a critical time through no fault of their own.
- 4.4 We hope that HMRC will consider appeals against penalties based on reasonable excuse where taxpayers have failed to meet a deadline because of situations like those described in the paragraph above. HMRC should also take steps to ensure that they inform taxpayers who find themselves in such situations that an appeal on the basis of a reasonable excuse would be considered.
- 4.5 Further to the point above, HMRC will need to be appropriately set up and resourced to deal with an influx of registration applications (along with supporting evidence). We note that the details of the application process have not yet been published although we recognise HMRC's commitment to invest in a registration system, including for the digitally excluded. Nevertheless, 1 April 2026 is not very far away and there are likely to be teething problems. Taxpayers should not lose out because HMRC fail to process a complete and accurate registration application that has been received in time.
- 4.6 We understand that HMRC will be publishing guidance for agents, as to arrangements for the transition to the new registration process, starting 1 April 2026. It is imperative that HMRC also publish clear guidance for taxpayers, so that they:
- Understand agent registration and what it means for them – in particular, this should emphasise that just because an agent is registered with HMRC, it does not mean that HMRC endorse them or their technical competence (more comments in paragraph 4.9 below).
 - Understand their position if their agent is suspended or prohibited from interacting with HMRC under the legislation.
 - Understand what action they need to take if their agent is suspended or prohibited from interacting with HMRC under the legislation.

We would be happy to comment on draft guidance to assist HMRC in this regard.

⁸ <https://www.gov.uk/government/publications/modernising-and-mandating-tax-adviser-registration-with-hmrc/requirement-for-tax-advisers-to-register-with-hmrc-and-meet-minimum-standards#summary-of-impacts>

⁹ This could arise if the agent in question struggles to cope as a result of the HMRC sanction, or if the agent is simply a bad actor.

- 4.7 We would like to understand more about how tax adviser registration and suspension will work in practice. How will HMRC monitor the market and enforce these new rules – in particular will there be mechanisms to prevent interactions from unregistered/suspended or prohibited advisers? While we recognise that the eligibility criteria in Conditions A and C are basically straightforward and objective to use and apply, we are not so sure about Condition B – “that the tax adviser and each senior manager ... meets any standards expected of tax advisers ...”¹⁰ that HMRC publish in a public notice. We assume these will be HMRC’s Standards for Agents¹¹ but we do not know at this stage. Historically breaches of these Standards have not always been recognised or acted upon in a timely manner. There is also perhaps some ambiguity and subjectivity in them. HMRC need to have a clear and robust plan here as it is not sufficient to rely on advisers self-reporting changes in circumstances/breaches of the Conditions. It is also essential that there are clear processes in place to ensure that advisers (and taxpayers) are made aware of any changes in the standards that fall under Condition B, and what those changes mean for them.
- 4.8 The legislation does not appear to deal with the issue of phoenixism satisfactorily. One option might be to include a condition such that HMRC will reject an application for registration where within a specified period, say ten years, there have been a series of three or more businesses that have liquidated or dissolved leaving debts unpaid. There would need to be a link between the series of businesses, through a controlling mind. This might involve the use of relatives as stooge directors, for example. This might help to ensure that bad actors are not able to deliberately circumvent the legislation.
- 4.9 With regards to concerns about unscrupulous agents using agent registration to entice taxpayers with the suggestion that registration means they are endorsed by HMRC, it is essential that HMRC monitor the market and agent tactics. It may be appropriate for HMRC to have some clear standards linked to agent registration, such as not using misleading advertising. A breach could then lead to suspension or prohibition. See our comments at paragraph 5.4 below.

5 Comments on the draft legislation

- 5.1 Section 1 sets out the meaning of “tax adviser” for the purpose of the registration requirement. Although there are some exclusions, the definition is broad. We understand that the intent is for the legislation not to catch volunteers or staff of charitable organisations that provide free tax services to those who cannot afford to pay for a professional tax adviser or agent, some of whom are funded by HMRC to provide tax advice. We do not agree that such organisations should be exempt. Low-income, unrepresented taxpayers are likely to rely heavily on pro bono help. We think they should be able to expect the same standards as those paying for tax services. Moreover, HMRC should assure themselves that the organisations they fund to provide tax services have the technical skills

¹⁰ Section 5(3) of the draft legislation: <https://www.gov.uk/government/publications/modernising-and-mandating-tax-adviser-registration-with-hmrc/draft-legislation-accessible-version>

¹¹ <https://www.gov.uk/government/publications/hmrc-the-standard-for-agents/the-hmrc-standard-for-agents>

and qualifications to do this to the required standard. If HMRC do not wish to bring such organisations fully within the remit of this legislation, perhaps consideration could be given as to whether Conditions B and C should apply to them.

- 5.2 A close reading of Section 1(1) and 1(2) does beg the question as to whether the legislation catches high volume repayment agents, who arguably do not meet any of the definitions set out in section 1(2).¹² The definitions all seem to assume that the tax adviser is acting in the best interests of the client. This legislation needs to catch those unscrupulous agents who are not acting in the best interests of their client or HMRC. In general, high volume repayment agents do not advise the client, they often do not act as an agent (in the legal sense) in that the client may not be aware the agent is acting at all, and they do not provide ‘assistance’ with tax documents. Rather some act to the client’s detriment, including acting fraudulently on occasion, by making false claims on their behalf. In some cases they act without the client’s knowledge or consent. Perhaps the definition of tax adviser could be expanded to include “complete and submit documents (with or without the client’s knowledge and/or consent) that are likely to be relied on by HMRC to determine the other person’s tax position.”
- 5.3 As we noted in our response to the 2024 HMRC consultation, we think it is essential that agents receive a registration number. Unfortunately, since some unscrupulous agents might be tempted to invent a registration number, for transparency and accountability it is essential that there is a public register of agents that taxpayers can check. Ideally, this register would be dynamic and show the agent’s registration number, their status – in particular if they have registered but are now suspended – and whether they have received a permanent prohibition.
- 5.4 We acknowledge HMRC concerns that a database or register that is publicly accessible might result in some agents suggesting that they are somehow endorsed by HMRC. We think this can be addressed through guidance and public awareness raising. In addition, the type of agents that might be tempted to suggest that agent registration amounts to HMRC endorsement are arguably the type of agents that might find themselves suspended as a result of failing to comply with this legislation. Perhaps that could even be taken care of by amending the legislation such that holding out that the registered business is endorsed by HMRC is an offence under section 6 of the draft legislation.
- 5.5 Sections 9 – 14 of the draft legislation deal with the suspension of registration and prohibitions against registering. Section 15 deals with the requirement to notify clients of sanctions. There does not appear to be a requirement to notify clients where the suspension is for a period of 30 days or less. Where the period of suspension is more than 30 days, the agent must notify clients within 61 days of the start of period of suspension. This notice must be given in the form and manner specified by HMRC and failure to do so will result in a fixed penalty.

¹² They are: advising another person in relation to tax; acting or purporting to act as an agent for a person in relation to tax; or providing assistance with any document that is likely to be relied upon by HMRC to determine the other person’s tax position.

- 5.6 However, it is not clear how HMRC will monitor that advisers are doing this. Moreover, this means that in all cases, the adviser is not required to notify clients for a considerable period. This could cause significant problems for their clients, particularly if this period straddles key deadlines, whether universal or related specifically to that client's affairs. If a client misses a deadline because their agent has been suspended and the client is unaware of the suspension, we think HMRC should allow the client to appeal any connected penalties on the basis of having a reasonable excuse.

LITRG
12 September 2025