



**Implementing employee owner status
Department for Business, Innovation and Skills consultation**

Response by the Low Incomes Tax Reform Group

1. Our response

- 1.1. We are responding to this consultation with the specific interests of low-income workers in mind. The law entitles all employees to certain rights and imposes obligations on employers. Whilst it is important to strike the right balance between protection of employees and burdens on employers, we are very concerned that proposals to introduce a new 'employee owner status' introduces further complexity and unnecessary burdens into a tax system which many already find totally bemusing and confusing.
- 1.2. This is particularly from the viewpoint of low-income workers, for whom there are huge risks of signing up to a scheme offered by potential employers without understanding the full ramifications. One of the objectives of the 'employee owner status' is greater flexibility and choice (both for employers and employees). In reality, prospective employers do not present such schemes as a choice and people are very often forced either to accept a contract with terms they do not understand or would have preferred not to have imposed on them, or very worryingly to have no work at all. One example of this is so-called 'travel and subsistence schemes' – a subject of continuing public interest.
- 1.3. The only 'benefit' we can see from the consultation of taking up 'employee owner status' is that a limited value of shares offered in the employing company will be free from capital gains tax. For the vast majority of employees, the trade off of certain rights for exemption from capital gains tax will not be worthwhile. It is a fact that most people never use their CGT annual exemption in any event. Making the shares exempt from income tax and national insurance contributions would be a far more attractive benefit and incentive.

- 1.4. The consultation acknowledges (page 11) that employees would need to understand the implications of their decision and that there would need to be information, guidance and advice for employees considering taking up the status. We fear that this understates the potential for confusion. ‘Employee owner status’ would be hugely challenging to explain, especially in view of the fact that the prospective employee might surrender certain rights on the basis they are not presently of value, but the employee cannot foresee the future. Their circumstances could change, for example by taking on care responsibilities for a family member who develops a disability, which could not possibly have been known at the time of the surrender. This example shows a potential, albeit indirect, impact on people with disabilities, if it means that family members who otherwise might have been able to care for them have foregone certain rights relating to flexible working requests (and even risk dismissal for making such a request¹). This impact does not appear to be noted in the Equality Impact Assessment.
- 1.5. The consultation also acknowledges the need for safeguards and avoiding abuse of this new status. As with the above example of travel schemes, we very much fear that abusive schemes would be developed which would catch the low paid. Even if this were not the case, the consultation suggests that employee-owner status would be most relevant for ‘fast-growing companies’. Those companies also have the potential to be the highest risk businesses, so it seems somewhat illogical that employees should surrender certain rights, especially their right to statutory redundancy pay, when working for a high-risk start-up company in exchange for shares which will become totally worthless should that company fail.
- 1.6. In summary, firstly we feel the consultation period from 18 October to 8 November 2012 is far too short to consider all the detail of these proposals. Secondly, from our initial reading, we conclude that the risks to employees and the additional complexity this would introduce in an already over complex system make these proposals untenable. Whilst employee share ownership may well be an important tool for some employers, there are already schemes in place to facilitate this which do not require employees to surrender important key employment rights. Furthermore, the Office of Tax Simplification (OTS) has reviewed and set out proposals for employee share schemes² with the aim of making them easier to understand and more usable. It therefore appears wholly unnecessary to introduce a separate ‘employee owner status’ – in effect creating a two tier system.

2. About LITRG

- 2.1. 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.

¹ Per page 13 of the consultation document, paras 28-30, it would no longer be ‘automatically unfair’ for an employer to dismiss an employee who makes a flexible working request in such circumstances. The employee would then have to rely on making a case for unfair dismissal under anti-discrimination legislation.

² See http://www.hm-treasury.gov.uk/ots_essreview.htm

- 2.2. 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.

LITRG

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