

HM Treasury consultation

Supporting the employee-ownership sector

Response from the Low Incomes Tax Reform Group ('LITRG')

1 Summary

- 1.1 We welcome the opportunity to contribute to this consultation, albeit from a narrow perspective – that of the low-income, unrepresented employee and any impacts the proposals might have on them.
- 1.2 The employee-ownership sector could encompass a wide range of businesses with an equally broad spread of employees in terms of age, background, income level and ability to understand the tax and National Insurance consequences of their employers' arrangements.
- 1.3 In incentivising employee share ownership, in indirect form such as an employee benefit trust in the case of the current consultation proposals, the Government must ensure that the possible impacts on low-income, unrepresented employees are fully considered.
- 1.4 We make no comment regarding the Capital Gains Tax relief outlined in Chapter 3 of the consultation as this is not relevant to those we are seeking to represent. But we do wish to raise three specific issues on the proposed Income Tax and National Insurance exemptions outlined in Chapter 4, namely:
 - 1.4.1 There needs to be adequate guidance, in plain English, for all employees to understand employee-ownership arrangements and the Income Tax and National Insurance exemptions which result. It is incumbent upon Government and HM Revenue & Customs (HMRC) to

work together with employers to ensure that such guidance is available, easily understood and passed on to employees.

- 1.4.2 The Government needs to be very clear on the wider impacts of the proposed scheme. Low-income workers benefiting from the Income Tax and National Insurance exemptions on payments out of an Employee Benefit Trust need to fully understand and appreciate the impact on their state benefits entitlement. For example, will it follow that the exemption also applies to Universal Credit and other benefits such as Pension Credit and Council Tax Support schemes, so that the payments are not counted as income? If so, this needs to be made clear in any guidance produced so people can really understand their overall position and impact on them.
- 1.4.3 In order to protect low-income workers, we strongly recommend that any such payments should be an addition to the National Minimum Wage, rather than a partial or total replacement.
- 1.5 Section 3 of this response expands on the above points.
- 1.6 We recommend that the above matters are fully considered before the Income Tax and National Insurance exemptions are introduced, in liaison with other parts of government such as the Department for Work and Pensions (DWP) and local authorities. Once the treatment of the amounts for benefits purposes is clear, the guidance and information for both employees and staff handling benefits claims will need to be similarly clear. We are willing to meet to discuss and explore these points further.

2 About Us

- 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. 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 HM Revenue & Customs (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 State benefits interaction of the proposed Income Tax and National Insurance Exemption

- 3.1 The consultation proposes a capped (amount to be confirmed) Income Tax and National Insurance exemption for payments made to employees out of a qualifying arrangement. We are not commenting here on the definition of qualifying arrangements of indirect employee ownership as this is not within LITRG's particular area of interest. We are simply concerned that if low-income, unrepresented employees are working for such a company and involved in the scheme that they fully understand and appreciate the exemptions and any knock-on impact such treatment of payments out of the arrangements may have for state benefits.
- 3.2 The consultation (para 4.13) says:
- ‘Once a business has established that it meets the qualifying criteria then it will be able to apply the exemptions. The Government envisages that this will work in a very simple way – there will be no requirement to deduct tax or NICs from the qualifying payments made to employees and **there will be no reporting requirements for the exempt amount. The employee will not need to declare the exempt amount as taxable earnings.**’ [emphasis added]
- 3.3 The consultation document is silent on whether or not the payments will be treated as income for the purposes of calculating the employee's state benefits. Although the consultation document does not specify as such, for tax credits purposes, it would not be unreasonable to assume that the treatment would follow the Income Tax exemption and therefore not be treated as income of the claimant to the extent the exemption applies. Depending on how the exemption is structured in the Income Tax legislation (presumably by amendment to the Income Tax (Earnings and Pensions) Act 2003), this may or may not require a corresponding adjustment to tax credits regulations.
- 3.4 As tax credits are moving to Universal Credit over the next few years, we also need to be clear on the treatment for that benefit. Given that there are to be ‘no reporting requirements [by the employer] for the exempt amount’ and as the fundamental principle is that Universal Credit claims for employees are to be based on earnings reported under PAYE's Real Time Information [RTI] processes, we conclude that the exempt amount will in turn **not** be treated as earnings for the purposes of Universal Credit.
- 3.5 In the consultation document it is highlighted that ‘The employee will not need to declare the amount as taxable earnings’; so presumably it follows from this that if the employee is self-reporting earnings income to the DWP for a Universal Credit claim, they will not need to include the tax-exempt amount in their declaration of earned income to the DWP? Again, this needs to be clear.
- 3.6 If income under Universal Credit is not earned income then it can still be taken into account as unearned income. Given the importance of this we seek confirmation that such payments will not be taken into account as unearned income.
- 3.7 Similarly, the treatment for other state benefits purposes must also be clear. For example, an employee benefiting from the exemption could be working beyond normal retirement

age and in receipt of Pension Credit. Such a person would need to know how the income is treated for that purpose; or they might be for example a claimant of Council Tax Support from their local authority.

3.8 The document is unclear as to whether this 'exempt amount' may be taken into account for the purposes of National Minimum Wage. We would strongly recommend that it is not taken into account for these purposes so that low-income workers are protected and will always have the certainty of receiving at least the National Minimum Wage.

3.9 Matters are likely to be confused further if information that the employee receives is not clear as to the treatment of the sums. The consultation document (4.13) goes on to say:

'It will be a matter for the individual **employer to decide whether the amount** that is paid, but is exempt from income tax and from NICs, **is shown on the payslip or not.**'
[emphasis added]

3.10 It would be helpful to know how an employee reporting income details to the DWP or their local authority would understand this item on their payslip, if shown, and any consequent need to declare it to their benefits provider? Further, would a member of staff at the DWP or local authority reviewing a benefits claim and evidence provided be able to understand the payslip entries and their consequent treatment as income (or not as the case may be) for the purposes of the claim? There is an educational issue and therefore appropriate guidance also needs to be available for them as well.

3.11 In all instances in the above paragraphs where reporting of the payments may affect the amount to be reported to DWP, to any other organisation, or require explanation to the employee, the PAYE RTI system should be suitably able to deal with this. We would also hope no additional RTI reporting burdens would be placed on the employer.

3.12 We recommend that these points are considered at this early stage of proposing the new reliefs and are willing to meet to discuss them further.

LITRG

17 September 2013