

Simple assessment for non- Self Assessment cases
Consultation on draft clause 71 and accompanying schedule for Finance Bill 2016
Response from the Low Incomes Tax Reform Group (LITRG)

1 Executive Summary

- 1.1 We welcome the opportunity to comment on the draft legislation to introduce a new simpler procedure to collect outstanding tax from individual taxpayers and trustees who would no longer be required to complete a Self Assessment tax return to confirm the liability, should they fail to make a 'voluntary' payment in accordance with a form P800.
- 1.2 Nevertheless we do have concerns as to how HM Revenue & Customs (HMRC) would propose to use this power. It would be very useful to understand the precise circumstances when this power might be used.
- 1.3 We are also concerned that taxpayers might accept the figures provided by HMRC without question and, in particular, without claiming any additional expenses or reliefs to which they might be entitled.
- 1.4 It is not clear how this simple assessment will interact with the new digital tax accounts. It is crucial that taxpayers understand this and that non-digital options remain.

2 About Us

- 2.1 The 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 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 General comments

- 3.1 We broadly welcome the introduction of this simpler assessing power.
- 3.2 We are concerned, however, that no public statement has been made as to how the legislation might be used in practice. The precise practice needs to be made very clear to taxpayers and agents, including those in the voluntary sector, especially since Self Assessment was intended to remove the need for such assessments.
- 3.3 At the moment it would appear that any and all differences in tax liabilities might be assessed in this way. We assume this is not the intention and that such simple assessments will be restricted to collection of sums exceeding certain thresholds in order to minimise HMRC's costs.
- 3.4 For example, assume a taxpayer underpays tax by £20 in year 1. What notification will the taxpayer receive? If we assume the taxpayer continues to underpay tax by £20 each year, then at the end of year 4 they will have built up a debt of £80 due to HMRC. If, at that stage HMRC issue a simple assessment to collect the £80 the taxpayer might feel aggrieved if they had either not realised that the debt existed or they understood that no action would be taken to recover the debt because nothing had happened in any of the first three years. Good guidance and communications will be essential.
- 3.5 When a simple assessment is issued, the taxpayer does not have to complete a tax return unless there are other income and gains not included in the assessment. In order to do this, taxpayers will need to be given detailed information. For example, providing a composite figure for interest received would require the taxpayer to undertake considerable work to substantiate the figure if they held more than one interest-bearing account. HMRC will be provided that information by the relevant banks and other financial institutions and it makes sense, therefore, for the assessment to contain details both of the institution (s) involved and the relevant account number(s) as well as interest paid.
- 3.6 Another concern is the readiness of the financial institutions to provide this information. Are HMRC certain that accounts held in joint names will be reported correctly, especially where

HMRC hold an existing instruction that interest is not owned equally by the account holders? And those held in trust or operated by a power of attorney, for example?

- 3.7 While most taxpayers may be able to check the entries on the simple assessment, they may be less able to identify reliefs or claims they may make to reduce their liability. We suggest that such simple assessments should identify the main reliefs and claims that might be considered – for example claims for mileage allowance, professional subscriptions and the marriage allowance. In addition, taxpayers need to be made aware where any claims might be made in relation to employer error or HMRC error. We emphasise that placing this information solely on a website is unsuitable for many people.
- 3.8 We appreciate why digital tax accounts are being introduced: the saving to the public purse might be substantial. However, we remain concerned that many taxpayers are digitally excluded and some will become digitally excluded after managing their digital account for some time. It is against this background that we seek to understand how the simple assessing power will be used in conjunction with the digital tax accounts. For example, is it the intention that such assessments will be issued in ‘hard copy’ or ‘soft copy’? What would happen if a soft copy was not viewed? These are practical questions that could affect a large number of vulnerable taxpayers.
- 3.9 Given the points made above clear guidance and good communications are essential. In particular, we would reiterate that a large section of the public is digitally excluded and guidance provided on GOV.UK is of no use to them. We call on HMRC to ensure that clear guidance is made available and also that there is sufficient publicity to draw people’s attention to the changes.

4 Comments on draft legislation

4.1 *Ability to withdraw tax returns*

- 4.1.1 Notices requiring a taxpayer to complete a tax return may be withdrawn within two years of the end of the relevant year of assessment. In other words, for the tax year 2015/16, the notice may be withdrawn up to and including 5 April 2018, a date that is after the normal filing date of 31 January 2018. (If this withdrawal takes place we note that any penalties for late filing are also withdrawn.)
- 4.1.2 We are unclear why this two year limit is imposed. Simple assessments may be made up to four years after the end of the relevant year of assessment and it would seem to us that it would be helpful to be able to withdraw notices for the same period. We are aware that many of the cases that are currently placed within Self Assessment are to collect the tax debt relating to tax due on state benefits that was not collected during the tax year. Enabling the withdrawal of notices to file tax returns for the longer period would save HMRC ‘chasing’ tax returns for earlier periods and seeking to collect late filing penalties that would be totally disproportionate. (We say this on the basis that if a simple assessment were to be issued, it

would likely be in a case where the outstanding tax amount was relatively small; otherwise HMRC would surely pursue the outstanding tax return?)

4.2 ***Issuing more than one simple assessment for a tax year***

- 4.2.1 Where more than one simple assessment was made for a tax year, it is not clear which would take precedence. This could cause serious confusion for taxpayers. We recommend that the wording on the assessments be made very clear if amendments are made at later dates so that taxpayers understand what is being presented to them. We would be pleased to work with HMRC on this wording.

4.3 ***'Appeals'***

- 4.3.1 If the taxpayer does not believe the information on the simple assessment to be correct, he 'may notify HMRC of that belief and the reasons for it.' No method of notification is given. We assume this may allow the taxpayer to object by telephone or, in the future, electronically. The objection must be made within 30 days. He also has a formal right of appeal under S31 Taxes Management Act 1970.
- 4.3.2 As there is currently no right of appeal against a form P800 we welcome this right of appeal.
- 4.3.3 We note that if an appeal is made, no time limit is placed on HMRC to agree to suspend the collection of any tax nor to notify the taxpayer of their final decision. We suggest that HMRC be given 30 days to agree to any request by the taxpayer to suspend collection of any tax and a further 30 days to respond to the matters raised by the taxpayer.

LITRG
3 February 2016