

Finance (No. 2) Bill 2021 – Clause 121; Schedule 32
Licensing authorities: requirements to give or obtain tax information
Briefing from the Low Incomes Tax Reform Group (LITRG)

1 Executive summary

- 1.1 This measure, aimed at tackling the ‘hidden economy’, makes renewing certain licences conditional on completing a tax check with HMRC. The measure applies from April 2022 to taxi and private hire vehicle (PHV) drivers, and scrap metal dealers, in England and Wales.
- 1.2 We are pleased that some of the concerns we have raised previously on these new requirements have been addressed. However, we think that the legislation still needs amending regarding various time limits to provide greater clarity and protection for the taxpayer. This includes imposing a time limit on HMRC to complete the tax check.
- 1.3 We also consider that a requirement should be placed upon HMRC to provide a non-digital means for taxpayers to complete the tax check.

2 About Us

- 2.1 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 Overview of the measure

- 3.1 Clause 121 and Schedule 32 of the Bill introduce new requirements for licensing authorities for certain public sector licences in England and Wales, as well as for HMRC and the licensee, in connection with the application for and renewal of these licences.
- 3.2 Licensing authorities will be obliged to give first-time licence applicants certain information relating to their tax obligations. Licensees wishing to renew their licence must undergo a 'tax check' with HMRC in order to demonstrate they are properly registered for tax, and the licensing authority must verify that such a check has been completed before they can proceed with the renewal. The intention is to make it more difficult for these businesses to operate in the hidden economy.
- 3.3 We are pleased that some of the concerns we have raised previously on these new requirements have been addressed.¹ For example, we note that the 'tax check' no longer extends to whether or not an individual has filed a complete and correct tax return. Paragraph 5 of the draft Schedule now makes clear that any check of the tax return is limited to whether or not it includes information relating to the relevant authorised activity income.

4 Suggested amendments

- 4.1 Our principal remaining concern is that the draft Schedule does not provide sufficient protection to licence holders who are unable to get the tax check completed in time because of HMRC delay. Although there is some provision in the event that HMRC's systems are not available for a 5-day period (under paragraph 6), there does not appear to be any time limit within which HMRC must complete the tax check.
- 4.2 Under paragraph 5(3)(b) of the draft Schedule, the tax check is completed on the day on which HMRC indicate to the taxpayer that they are satisfied that they have received the information requested of them. We suggest that a time-limit is placed on HMRC to provide such a confirmation: 30 days after the tax check has been 'initiated' by the taxpayer providing the relevant information to HMRC would seem reasonable.

¹ For further background, see our submission on the July 2020 draft legislation:

<https://www.litr.org.uk/sites/default/files/files/150920-LITRG-response-New-tax-checks-on-licence-renewal-applications-draft-legislation.pdf>

- 4.3 The draft legislation published in July 2020 required HMRC to confirm to the licensing authority that a tax check had been completed within three days of the licensing authority asking the question. For some reason, this time limit has been removed. We appreciate that HMRC may intend to provide an instant response via an online system in most cases, but for occasions where the information is requested by post or otherwise HMRC do not provide an immediate response, there needs to be a time limitation on HMRC. We suggest a time limit at this stage is re-introduced (seven days would seem reasonable).
- 4.4 Under paragraph 3 of the draft Schedule, a licence holder has to complete the tax check within the period of 120 days *ending* with the day on which the licence authority requests confirmation from HMRC that a tax check has been completed. This leaves licence holders and HMRC unable to determine in advance the day from which this period begins. We see no reason for this awkward definition – if the 120-day period were defined to end with the day of the expiry of the existing licence, this would be much clearer and easier for all concerned.
- 4.5 There is still no requirement for HMRC to provide a non-digital means for digitally excluded taxpayers to complete a tax check. This is a particular concern given that older taxpayers and ethnic minority groups, who may find it more difficult to understand and navigate online systems to comply with their legal obligations, are disproportionately represented among taxi and private hire vehicle driver population.¹ Paragraph 4(1) of the draft Schedule refers to HMRC needing to make arrangements ‘by website *or* otherwise’ both for taxpayers to carry out the check and for licensing authorities to confirm it has been done. Thus, HMRC can fulfil their statutory duty under this paragraph by means of a website alone – leaving digitally excluded taxpayers unable to comply without support from a third party.
- 4.6 Finally, we note that HMRC continue to have what seems quite a broad power under paragraph 5(1)(c) to collect information ‘as HMRC may reasonably request in order to assess the effectiveness of this Schedule in improving the tax compliance of *persons* carrying on authorised activities’ (our emphasis). The intention of this is unclear – will HMRC be asking for information in respect of third parties? We suggest paragraph 5(1)(c) is removed.

LITRG
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¹ See the *Equalities impacts* at <https://www.gov.uk/government/publications/new-tax-checks-on-licence-renewal-applications/new-tax-checks-on-licence-renewal-applications#detailed-proposal>, which also suggests that the scrap-metal collector population includes a relatively high proportion of certain other ethnic minority groups.