Low Incomes
Tax Reform
Group
A voice for the unrepresented

OLDER PEOPLE ON LOW INCOMES

THE CASE FOR TAX REFORM

A report by the Low Incomes Tax Reform Group of
The Chartered Institute of Taxation

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Executive summary

The Low Incomes Tax Reform Group (LITRG) was set up in 1998 by the Chartered Institute of Taxation, the main professional body in the UK for tax advisers, to give a voice to the unrepresented in the tax system.

TaxHelp for Older People, or TOP, was initiated by LITRG to harness the skills of professional tax advisers to give free face-to-face tax help to older people on low incomes, in partnership with local charities such as Age Concern.

LITRG research has shown that pensioners on low incomes have particular difficulties in coping with their tax: no longer having the support of a payroll department; the gradual onset of disabilities associated with increasing age; the need to deal with both HMRC and the DWP on closely related issues.

Low-income pensioners represent an ever-growing proportion of the community, and should therefore be a priority for HMRC.

Yet, since we published our report *Older people on low incomes: the case for a friendlier tax system* in December 1998, the standard of service HMRC offers to the low-income pensioner has not improved but has deteriorated. There have been reductions in the face-to-face help offered in local tax offices and enquiry centres and in the availability of home visits to older and disabled HMRC customers. Paper leaflets have been withdrawn in favour of greater emphasis on the telephone and online services which older people often find difficult to use. Inadequate knowledge on the part of both HMRC and DWP means that tax-exempt disability benefits are often taxed by mistake.

Life events

Certain life events – becoming a pensioner, bereavement, going into care – bring significant changes to pensioners' lives. We argue that with very little or no additional overall cost to HMRC, considerable improvements could be made to the lives of pensioners facing these life events.

Despite a Cabinet Office report focusing on the poor service Government departments give to *bereaved people*, HMRC has withdrawn its only leaflet on bereavement available to the taxpayer, while mistakes and maladministration proliferate. We recommend that HMRC bring their policies and practices on bereavement into line with Cabinet Office recommendations.

As older people face physical and mental deterioration towards the end of their lives, they may either receive *direct payments* to help them remain independent, or they may go into *residential care*.

Where direct payments are used to employ a 'personal assistant', the older person has to assume all the legal responsibilities of being an employer, including the operation of PAYE. We recommend that HMRC should provide information and contact points for help when things go wrong with the PAYE and NIC side of being an employer.

Going into residential care is sometimes financed through family arrangements which in recent years are more prone to be trapped by sweeping anti-avoidance legislation, even though no tax avoidance is intended. We recommend that every new policy should be 'care-proofed' – ie fully examined for its possible effect on those in need of care.

Representatives

We also recommend that for those who represent pensioners or help them with their tax affairs HMRC should work with the DWP to develop a consistent and customer-friendly policy that works across both departments.

Getting the tax right

The big problem that low-income pensioners have with their tax is that most do not know what they are entitled to or what they have to do to comply. They assume – or hope – that everything is in order, that HMRC know what they are doing and get things right. But that is not always the case.

We consider a range of typical pensioner-type tax problems. These include wrong PAYE codings where two or more small occupational pensions are combined with the basic state retirement pension; failure to give the higher age allowance; and the excessive numbers of low-income pensioners in self-assessment because the PAYE system cannot take them.

PAYE. If the tax offices have difficulty in getting the tax right, even more so will the taxpayers. Underpayments or overpayments resulting from official error can go undetected for years. In our view, such problems can be alleviated if HMRC better matched their records with automated data they receive from the DWP. Some rudimentary training of Pensions Service staff in tax matters would also help.

We also recommend that the DWP should provide an annual statement clearly identifying the different benefits they pay out, and whether or not they are taxable, and should be prepared to operate PAYE on the state retirement pension.

Pension credit. The fact that state pension credit is based on net income, not gross, often escapes those in the DWP responsible for computing entitlement, with the result that most computations ignore the tax on income brought into account and many lose out on their entitlement.

Tax deducted from building society or bank interest. Pensioners who do not pay tax, or who pay tax at low rates, often overpay through not claiming back tax deducted automatically from their interest, or not realising that they can register to receive interest gross. Alternatively they may underpay because they do not know that if interest is paid gross they have to account for tax. Banks and building societies could do more to assist their customers in making these judgments; and while HMRC have done much themselves through Taxback projects, they could do more by encouraging the banks and building societies (effectively their agents) to be more proactive.

Gift Aid. The many pensioners on low incomes who give generously to charity do not always realise that if they make a Gift Aid declaration, they may have to repay to HMRC any tax reclaimed by the charity.

We recommend that a mechanism should be established whereby a non-taxpayer can give to charity under Gift Aid, that charities should take greater responsibility for warning their donors to notify them if they stop paying tax (eg on retirement), and that where a non-taxpaying donor mistakenly uses Gift Aid, any liability to repay the tax should attach to the charity rather than to the donor.

Blind person's allowance (BPA). We recommend that HMRC, the DWP and the RNIB work together to increase awareness of the BPA among older people, where loss of sight is more prevalent than in other age groups, so that as many as possible claim their entitlement.

Official error. If arrears of tax arise through official error, and the taxpayer could reasonably think their tax affairs were in order, the arrears may be remitted by administrative discretion (extra-statutory concession A19). However, HMRC often impute an impossibly high standard of tax expertise to unrepresented taxpayers in applying the 'reasonableness test', with the result that such taxpayers too often find themselves paying the price of official incompetence. Because there is no independent right of appeal against the grant or refusal of A19 relief, HMRC are free to act as judge and jury in their own cause. The effect is that official errors, which abound, are all too often blamed on the taxpayer.

Conclusion

In conclusion, with pensioners forming an ever-increasing proportion of the population, and the incidence of poverty among pensioners being greater than elsewhere in the community, we suggest that if HMRC are serious about their customer commitment, their actions must start to follow their rhetoric. We urge them to take seriously the recommendations of this report.

Pensioners in trouble or worried that they do not understand their tax affairs are recommended to contact TaxHelp for Older People on 0845 601 3321.

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Chapter 1 Introduction

1.1 Who we are

1.1.1 The Chartered Institute of Taxation (CIOT) is an educational charity and the leading professional body in the United Kingdom for tax advisers. In early 1998 the CIOT established the Low Incomes Tax Reform Group (LITRG) with the objective of giving a voice to the unrepresented (those who cannot afford to pay for professional advice).

1.1.2 The majority of people involved in LITRG are volunteers.

1.2 Our reports of 1998 and 1999

1.2.1 In December 1998 we published our first report into tax-related issues affecting older people - *Older people on low incomes. The case for a friendlier tax system*. It concluded that the tax regime affecting older taxpayers was unacceptably complex and had grown up in a piecemeal fashion. We argued that it could be made much more suited to pensioners' needs at little or no extra cost.

1.2.2 The report identified reforms in terms of law and policy, which we believed could be carried out in the short or medium term to address pressing problems or injustices, or materially simplify the regime current at that time.

1.2.3 It also contained 21 recommendations for improving particular tax administration issues. And lastly it recommended that the time had come for the Government to consider seriously the introduction of a publicly supported tax volunteer scheme in the UK addressed to serving older taxpayers on low incomes.

1.2.4 In July 1999 we published *Older people on low incomes – The Taxman's Response* to show how the recommendations made in our first report had been received by Government and the Inland Revenue.

1.2.5 We concluded that, although the original report had been well received, there still remained much to do in persuading the Treasury and the Inland Revenue of the merits of all the recommendations put forward.

1.2.6 A copy of both reports can be downloaded from the LITRG website.[1]

1.2.7 More than eight years have passed since the 1998 report. Legislative change has continued apace with the introduction of tax credits and pension simplification. The Inland Revenue and HM Customs & Excise have merged into a single revenue-raising department, HM Revenue & Customs (HMRC), while overall staffing levels have continued to decline. Meanwhile The Department for Social Security became the Department for Work and Pensions (DWP) and took responsibility for the new state pension credit.

1.2.8 To some extent this report is an admission of failure on our part in not being sufficiently persuasive with politicians and civil servants in getting all our past

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[1] See www.litrg.org.uk/reports/reports.cfm?id-67 and www.litrg.org.uk/reports/reports.cfm?id-68

recommendations implemented. In most cases, the recommendations have been accepted, but the perceived short-term cost has prevented implementation. However, we believe that we have been influential in bringing about beneficial change in a significant number of areas.

1.2.9 One major change we have brought about has enabled thousands of low income pensioners to receive their just entitlements through face-to-face help with volunteer professional tax advisers. The establishment and spread of TaxHelp for Older People, or TOP, has been one of LITRG's clear success stories and more detail of the project is contained in Appendix A. TOP has provided many of the examples quoted in this report.

1.2.10 Unfortunately, quite a number of the tax and benefit measures introduced by the Government in the intervening years (and generally with the best of intentions) have only served to add to the burden of complexity that is faced by a pensioner day by day. This fact, coupled with the low priority given to operational reform for pensioners by HMRC, has meant that many of the problems we highlighted in our earlier reports remain.

1.2.11 This report addresses some of the recurring issues facing pensioners where we believe there is an urgent need for reform. We do not believe that these changes would, in the medium term, add to the costs of government. We are however certain that our recommendations would significantly enhance the lives of countless pensioners.

1.2.12 We have only chosen a few topics for the purposes of this report in order to keep it to manageable proportions.

1.2.13 In the remainder of this report, we explain why we believe older people deserve special consideration from the tax system, and assess whether the standard of service that HMRC offers matches up to what older people have a right to expect. We go on to look at how particular life events can affect older people's tax position, and consider a variety of tax issues that low-income pensioners face.

Chapter 2 Why do older people require special consideration?

2.1 Demographic changes

2.1.1 In our 1998 report we mentioned that older taxpayers, including many on low incomes, were a significant proportion of the population, one that was expected to grow rapidly in the future.

2.1.2 In 1950, just over one in ten of the population was over 65. Now it is one in six. In another 30 years, over one in four of the population will be 65 and over, which is an increase of some 50 percent from the current level. During this same period the number of 20 to 64 year olds will increase negligibly.[2]

2.1.3 The latest statistics show that there are around 1.8 million pensioners[3] who are living in poverty in the United Kingdom (using the Government's own measure of poverty). Yet it is still possible for a woman pensioner to start to pay tax after receiving income of only around £100 a week in 2007-08, which is about the same as the official poverty measure for a single person with no dependent children in 2004-05[4]. This same pensioner is entitled to receive the means-tested pension credit, but will still be required by HMRC to complete a self-assessment form. We discuss this interaction issue further in Chapter 3.

2.1.4 As people grow older, mental and physical disabilities increase and advisers, whether they are relatives, friends, neighbours or from the voluntary sector, see in them a growing reluctance to fight their own battles, accompanied by a weariness that just wants problems to be solved for them.

2.2 Practical difficulties facing older people

2.2.1 The particular practical difficulties experienced by older people on low incomes remain much as they were at the time of our earlier reports, namely:

- no longer being in the workplace removes a level of support;
- increasing lack of physical mobility;
- the onset of visual and hearing disabilities;
- the onset of reduced mental faculties;
- the need to deal with two Government departments (HMRC and the DWP) on closely related issues.

2.2.2 When they become pensioners, the vast majority of people are no longer employed and therefore lose access to a payroll department which may well have helped them with PAYE issues during their working lives.

2.2.3 Most of those who receive an occupational pension are unlikely to live near their pension administrator. For many, becoming a pensioner and having, for the first time, several sources of income brings their first experience of complexity in their tax

[2] Source: DWP website
[3] Source: DWP 2006 – number with less than 60% median income after housing costs from households with below average income 2004-05
[4] Source: New Policy Institute, Monitoring Poverty and Social Exclusion in the UK, 2006.

lives. Not only that, it means dealing with two bureaucracies in the form of HMRC and the DWP.

2.2.4 Some older taxpayers may have no contact with HMRC until after the death of a husband, wife or partner who may have handled totally the couple's financial affairs. Coping with HMRC-related issues at the same time as bereavement can be a particularly traumatic experience.

2.2.5 Many others may have little or no contact with HMRC until they move from their own homes into a care home, or arrange support for independent living from family or from social services while remaining in their own homes or sheltered accommodation.

2.2.6 During all of these life events the pensioner is likely to interact also with the DWP. This interaction ought to be a coordinated experience (with HMRC). Regrettably, this is rarely so.

2.2.7 We consider all these issues in greater depth in Chapter 4. Some of them we have already raised our December 2003 report *Disability in tax and related benefits: the case for a modern and coherent approach*[5]. There, we urged HMRC to:

- improve its delivery of support and assistance to those with disabilities;
- remove inappropriate wording from tax legislation such as 'lunatic' and 'insane';
- establish a central disability unit to help eliminate inconsistencies and inadequacies, and move positively to promote equality of opportunity for disabled people;
- appoint a disability champion in order to focus efforts.

Little progress was made between 2003 and 2006 but the recent appointment at HMRC Board level of a disability champion and the publication of a Disability Equality Scheme[6] offers a much better prospect for active progress.

[5] The full report is available at http://www.litrg.org.uk/reports/reports.cfm?id=72
[6] See HMRC website http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageVAT_ShowContent&propertyType=document&columns=1&id=HMCE_PROD1_026406

Chapter 3 How HMRC communicates with its older low-income customers

3.1 Introduction

3.1.1 The tax administration issues that are significant to the pensioner population may have changed little since our earlier reports, but the Government department charged with administering the national tax system has changed considerably over the intervening years.

3.1.2 The former Inland Revenue put some effort into encouraging voluntary compliance with the law and instilling the culture of customer service among its staff. It did so largely in the spirit of the Taxpayer's Charter, while at the same time being required to be businesslike, operating within the resources provided by successive governments.

3.1.3 HM Revenue & Customs (HMRC) was formed on 18 April 2005, following the merger of the two departments Inland Revenue and HM Customs and Excise. References to any Taxpayer's Charter[7] have since disappeared and we are left with a range of HMRC Customer Service commitments which vary in what they offer. Each new version seems to offer less.

3.1.4 The millions of older people on low incomes are just as much in need of support and guidance when attempting to handle their tax affairs as they were before the formation of the new department, perhaps even more so now.

3.1.5 LITRG believes that a taxpayer or tax credit claimant has a *right* to receive information from HMRC in an accessible format which will enable the taxpayer or claimant to comprehend the basis upon which an assessment or claim has been determined. At the very least 'customers' should be provided with the tools by HMRC to enable them to check the calculations of liability or award provided by HMRC.

3.1.6 For the vast majority of low income pensioners, as for most taxpayers, HMRC sends out requests for information, then analyses the information it receives and checks it against other sources. HMRC also performs calculations, advises the customer of the results, invites the customer to check those calculations, and then, to a large extent, stands as judge and jury in respect of any objections that the customer may wish to make.

3.1.7 Many low-income customers will not have the knowledge or the courage to challenge HMRC. Government studies have shown that this is a problem across government departments. Yet if the pensioner realised the true prevalence of HMRC error[8] (see service standards at paragraph 3.2.4) they might more often ask HMRC for supporting evidence of its conclusions.

3.1.8 Those customers with greater financial means can turn to professional tax advisers, but that is unlikely to be an option for those on very low incomes. In general, the independent voluntary free advice sector, including Citizens Advice and

[7] See HMRC website http://www.hmrc.gov.uk/manuals/psimanual/part02/psi2appendix1.htm
[8] The P2 coding notice is the most frequent form of HMRC contact. TaxHelp for Older People (see Appendix A) receives more queries about the P2 than anything and around 50% of them are found to be incorrect

TaxAid, has limited ability to cope with pensioner tax queries. TaxHelp for Older People (see Appendix A) has made great strides in recent years with over 420 volunteer advisers from the tax profession and may be the best option for the pensioner population in the future.

3.1.9 There will always be a need for independent advice so that people can get a second opinion from a non-government source. This is needed where there is a disagreement over matters of principle with HMRC. But independent support is needed even more whilst HMRC error rates remain unacceptably high.

3.1.10 On 6 December 2006 Sir David Varney, former head of HMRC, published his report *Service transformation; A better service for citizens and businesses, a better deal for the taxpayer*[9]. Many of the service delivery issues of concern to LITRG over the years are raised in the report, which makes good reading although, as ever, the proof will be in the delivery. The report recommends improvements across government to face-to-face services, improvements to contact centre performance and to website material, concentrating on making Directgov the primary information channel for the citizen.

3.1.11 But, studies[10] have shown that the vulnerable among the pensioner population would choose to have more face-to-face interaction with a sympathetic and patient adviser. Many are not comfortable embracing technology. But the face-to-face and correspondence options cost HMRC much more than the telephone and online. If those options are what is required to serve the customer's needs best, how can that be reconciled with HMRC's need to drive down costs?

3.1.12 Objectively, it is hard to see how HMRC will be able to offer the ever-increasing pensioner population the level of customer service they will need in order to cope with their tax affairs in the future. Given that HMRC has many more responsibilities than the former Inland Revenue alone, there is a danger that low-income pensioners (as a compliant population with low individual liabilities) will end up near the bottom of the new department's priorities.

3.2 Service standards

3.2.1 There is little evidence that HMRC has a more sympathetic or specific customer service for its pensioner customers, despite the particular difficulties that this group suffers (see Chapter 2).

3.2.2 In 1999 we asked for improved standards and customer service for this group of customers. The Revenue response from a senior official was:

> 'A key aim [for the Revenue] was to raise our customer service standards across the board rather than to focus available resources on any particular group. Older people should, of course, see the benefit of general improvements which we are able to make.'

Eight years on these aspirations can be seen to have been misplaced.

[9] See http://www.hm-treasury.gov.uk/media/53D/F2/pbr06_varney_review.pdf
[10] See TPS research document http://www.dwp.gov.uk/asd/asd5/rports2005-2006/rrep263.pdf

3.2.3 As we noted at 3.1.3 we have seen the Taxpayer's Charter silently slip from view followed by the introduction of a variety of Customer Service Commitments. The version that is most widely referred to, that on the HMRC website, promises that the HMRC service standards will be published annually. The last time that customer service standards were actually published was in 2003-04.

3.2.4 We no longer know what standards are being set by HMRC, even less do we know how (or even, if) HMRC is measuring itself against the standards that matter for the low-income population. The leaflet CSS1 published every year used to set out the standards expected and the achievements of the prior year. This was abolished as a cost-saving measure.

3.2.5 The reality seems to be that despite successive Charters, Service Commitments, Enabling Initiatives and the O'Donnell Review, HMRC in 2007 tells the general public less; is less accountable than only a few years ago; and expects those on low incomes to incur more cost whilst doing more for themselves.

3.2.6 Performance standards should be published annually before the start of the tax year and performance against those standards should be announced within three months of the end of the tax year. **We recommend that consultation should take place with low-income customers (and those who represent them) to establish meaningful service standards for those people who rely totally upon HMRC for information and service.**

3.3 Decline in face-to-face advice, home visits and written contact

Face-to-face advice

3.3.1 Studies carried out by the DWP have demonstrated that a vulnerable pensioner's preferred method of solving problems is face to face with a knowledgeable and sympathetic adviser. This appreciation has driven the latest Pension Service strategy of providing a local service:

> We offer face-to-face information and support to those customers who need it through our Local Service staff, who can visit you in your home or arrange to see you at a convenient place close to your home.[11]

As these customers are also HMRC customers a co-ordinated approach is required.

3.3.2 Since early in 2006, many of the HMRC enquiry centres have introduced floorwalkers and have moved to an appointments system rather than providing immediate help. Individuals wishing to contact an enquiry centre can no longer do so directly, but only via a contact centre. Thus HMRC has become less accessible to many older people for whom the new arrangements are almost certainly less suitable. At the time of writing, HMRC is commencing another rationalisation of its property holdings and we can expect to see a further decline in its local delivery capability.

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[11] See TPS Customer Charter http://www.thepensionservice.gov.uk/pdf/pscust/pscust1apr06.pdf and the value of face-to-face contact for getting across complex messages is reinforced in DWP evidence to the PAC on 13/12/06

3.3.3 Pensioners tend to be more reliant on public transport than younger people. The time factor in getting to their local office by bus or train and the possibility of being turned away and asked to come back another day are discouraging. And even with an appointment the meeting is not always successful.

> Mrs C took the trouble to make an appointment with her nearest enquiry centre and travelled in from a village about 10 miles away. When she arrived the person with whom she had the appointment was unavailable and the officer she did see failed to spot all the errors with her coding. The problems were only fully resolved after Mrs C saw an independent voluntary sector adviser.

Home visits

3.3.4 A number of pensioners have to complete a self-assessment tax return because their state retirement pension is more than their personal allowance and there is no other way of taxing the income. In 1999 when we brought this issue to the attention of the Revenue they emphasised that as much support as possible would be provided to help pensioners through the procedure by face-to-face assistance and home visits, where appropriate.

3.3.5 Judging by the increasing number of pensioners referred to TaxHelp for Older People by HMRC for home visits, it would appear that HMRC is finding its resources too stretched to provide this type of service. Moreover, publicity for this customer option has been progressively curtailed.

3.3.6 When HMRC refuses a home visit to a pensioner who needs help with filling in their tax return, it may make it all but impossible for that person to comply.

> Mrs J, a 75 year-old unable to attend her local office because of a stroke, sought independent help from the voluntary sector when she could not persuade HMRC to call on her at home. For her, face-to-face help was essential because she could not hold a telephone and write at the same time.

Written communication

3.3.7 In our earlier reports we pointed out that many older taxpayers had good reasons for preferring communication in writing. Even if we accept that many older people are happy to deal with their tax affairs over the telephone, we know that they only remain happy if they get through to the right person quickly and get the high quality of response they reasonably expect.

3.3.8 The tax allowance rules remain particularly complex for those aged 65 and over with multiple sources of income. Thus, written communication is indispensable. This is two-way communication. HMRC needs to provide information in written form and older people sometimes need to be able to set their issues out on paper, just because it is too difficult to discuss some points over the telephone.[12]

[12] Having an effective conversation about how the Married Couple's Allowance works over the telephone is particularly challenging

3.3.9 At the start of a tax year HMRC thinks it knows, for most pensioners, how the PAYE system will collect tax for the year ahead from various sources of income. This is 'explained' through the issue of one or more coding notices. This explanation is constrained by the idiosyncrasies of the HMRC computer. Unless personal tax allowances are radically increased for pensioners over the next few years the PAYE complexity flowing from multiple sources is set to increase.

3.3.10 If HMRC issued a statement to each pensioner before the start of a tax year setting out the total allowances due, any income estimates that they have used, and how they proposed to allocate allowances and the different tax bands to various sources of income, the situation might be clearer.

3.3.11 We recommend that HMRC should consider the introduction of such a statement as part of the redesign of the upgraded PAYE system which is under development.

3.4 The move towards telephone and online services

Contact centres

3.4.1 HMRC contact centres are designed to be able to deal effectively with at least 80% of the most common queries raised by callers on the telephone. Where the calls are of a more complex nature the query is passed on to those with the appropriate technical expertise and a callback service operates, although this is not immediate.

3.4.2 Despite HMRC's obvious preference for contact by telephone, it is not always easy for pensioners, even those with access to the Internet, to find the right contact number.[13]

3.4.3 And using the appropriate 0845 number, once found, to reach a contact centre may not always prove as low-cost an option as HMRC may originally have expected.[14] Indeed using an 0845 number from a mobile phone can be very expensive. **We recommend that there should always be a geographic number on offer (for example, 0207 or 0208) as an alternative in order to give the pensioner the opportunity to reduce costs**.

Online services

3.4.4 In 2005 the Paymaster General appointed Lord Carter of Coles to review the needs of HMRC and its customers for online services. We were asked to give evidence of the problems that exist for the low-income user, as many of them would be affected by the outcome of the review. We were particularly concerned about the probable impact of the review on low-income taxpayers in self-assessment (SA), and responded that one way to alleviate the impact would be to take more taxpayers out of SA. Many low-income pensioners would come out of SA completely if the DWP were, selectively, to operate PAYE on their state retirement pension.[15].

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[13] See our press release http://www.litrg.org.uk/news/index.cfm?id=322 and our mystery shopping confirms that telephone books & Yellow Pages remain hard to navigate, as is the HMRC website
[14] See our press release http://www.litrg.org.uk/news/index.cfm?id=362
[15] For more detail about our evidence see our press release http://www.litrg.org.uk/reports/submissions.cfm?id=367

3.4.5 Expecting older people to rely on the HMRC website as a source of information does not provide an effective alternative to paper leaflets.[16] There is plenty of evidence that pensioners are the sector of the population least likely to be able to afford a PC in the home or have the Internet skills and the confidence to use it.[17]

3.4.6 For the minority of pensioners with access to the web HMRC does provide considerably more information. However, the site is not particularly user-friendly, it has a poor search facility and there is much information which ought to be archived. It is not at all obvious where to find the pensioner section on the site and this remains a major barrier to accessibility. HMRC made further improvements to the content of the pensioner section of its website in January 2007, but much remains to be done.

An experienced voluntary sector adviser was helping a pensioner get some money back by filling in an R40 repayment claim form. The pensioner’s only income had been the state retirement pension and a one-off interest payment with tax deducted. The adviser found it a real challenge to identify to which office the claim form should be sent. She eventually found the information on the HMRC website by using the link to *Taxback* and her comment was ‘but not many people would know they could do that’.

3.4.7 There is a trend within HMRC to publish information exclusively on their website, regardless of the level of Internet skills prevalent among the customer group for which the information is intended. **We recommend that information useful to pensioners should always be available in hard copy as well as on the HMRC website.**

3.5 Leaflets

3.5.1 Government departments traditionally provide information in the form of paper leaflets, supplemented nowadays by online means.

3.5.2 In 1998 the Revenue provided a selection of leaflets which LITRG criticised for being out of date, incoherent, poorly targeted and failing to provide sufficiently comprehensive information for low-income older taxpayers on the topics that were likely to concern them. LITRG can no longer level this criticism at HMRC. Not because the leaflets are much improved but because they have nearly all been withdrawn, apart from IR121 *Approaching retirement. A guide to tax and National Insurance contributions* and IR111 *Bank and building society interest. Are you paying tax when you don’t need to?*

3.5.3 HMRC has said that it has reacted to customer demand in withdrawing leaflets. But customers do not ask for a leaflet:

(a) if they have no means of knowing it exists; or
(b) if it is not stocked by the HMRC orderline; or
(c) if it is very difficult to find someone in HMRC who knows it exists.

[16] Probably only one in five pensioners is Internet literate: source National Statistics 2004
[17] See www.dwp.gov.uk/asd/asd5/ih2003-2004/IH117.pdf

3.5.4 Also, some HMRC leaflets have not been well received because they were written from the angle of a tax gatherer and in a technical and inaccessible manner. Leaflets need to be attractive to the eye, written in plain English and cover the most important issues for the particular audience being addressed.

3.5.5 We do not pretend that it is easy to communicate difficult tax concepts. However, the legislators must take a fair share of the blame. They have created a complex edifice in their drive to ensure, at various points in time, that there were no losers on tax change, or in their desire to close any loopholes before they occurred.

3.5.6 We also accept that keeping material in paper format is expensive as it quickly goes out of date, given that tax allowances for older people change at least annually and other changes to tax-related information may happen at any time.

3.5.7 But even the surviving leaflets, IR111 & IR121, have become a little elusive. The online catalogue lists them under *Income Tax* but on the site they are housed somewhat confusingly under *General*. The only leaflet housed on the site under *Income Tax* is *Married Couple's Allowance Restrictions*, information on an important topic but hopelessly out of date as it refers to 2002.

3.5.8 The Pension Service (part of the Department for Work and Pensions (DWP)) seems to manage to maintain paper leaflets (but is reviewing its leaflets and intends to reduce numbers). Pension credit, for example, is not the easiest of benefits to understand. So currently the Pension Service provides several leaflets on the topic ranging in depth and complexity depending on the needs of the reader.[18]

3.5.9 The needs of different groups of HMRC customers are varied - for example, we discuss the needs of those whose first language is not English in the next section. But in our experience there are various 'life events' which cause pensioners particular difficulty and **we recommend that new leaflets/helpsheets are produced around those events/themes. We also suggest that they are produced in partnership with the DWP, as the interaction with welfare benefits is critical**. These leaflets might include:

- becoming a pensioner
- understanding allowances, reliefs and PAYE for pensioners
- savings in retirement
- bereavement
- tax aspects of disability
- independent living and living in care.

[18] Pension Credit leaflet PC1L , Pension Credit leaflet PC09S, A Guide to Pension Credit PC10S

3.6 Vulnerable and minority groups

Introduction

3.6.1 Most HMRC systems are designed to meet the needs of 80% of taxpayers. So if you are in a minority group because you have a very low income, or are an older person, or sick or disabled, or your English language skills are poor, HMRC is unlikely to provide much support specifically tailored for you. Some other Government departments seem to do it better.

Customers with disabilities

3.6.2 Customers with disabilities often struggle. Below are some of the difficulties that they experience:

- textphone numbers are often forgotten on the website and in leaflets;
- RNID Typetalk is not often promoted and our mystery shopping has shown that staff training is deficient in this respect;
- blind person's allowance (BPA) is not promoted. In fact the main leaflet on the subject has been withdrawn;
- home visits are being withdrawn or are removed from publicity;
- exempt disability income (such as attendance allowance) is taxed by mistake due to a combined lack of explanations by both the DWP and HMRC;
- special tax reliefs for those with disabilities receive minimal publicity.

> Mrs D, a widow of 89 with extremely poor eyesight received a tax return for the first time. She knew nothing about HMRC home visits or about the BPA. By chance she heard about TaxHelp for Older People (TOP) from the radio. On contacting TOP she was assigned an adviser, who spoke to her tax office, corrected a mistake in the amount of her state retirement pension, and had her removed from self-assessment. Arrangements were made for her to have an eye test and obtain her certificate so that she could claim the BPA. Were it not for the intervention of the voluntary sector, she may have been completing SA forms unnecessarily and still overpaying tax through not receiving the BPA.

3.6.3 We recommend that a specific helpsheet is produced for those with disabilities and a specific part of the HMRC website is designed to cover all disability-related issues.

Customers whose first language is not English

3.6.4 In terms of the availability of paper leaflets, HMRC does not support low-income pensioners whose first language is not English. In contrast, The Pension Service produces a range of important leaflets for pensioners in several languages[19].

[19] See http://www.thepensionservice.gov.uk/resourcecentre/other-languages/home.asp

3.6.5 Similarly the HMRC website does not cater for users for whom English is not their first language and there is no obvious guidance under *Help* to point people in the right direction. Presumably this is deliberate, as there is in fact no help available.

3.6.6 HMRC does however offer to arrange for the services of an interpreter. It is not obvious that such a service exists. There is no entry under 'I' in the A-Z on the website and it requires determination to discover that you need to go to an enquiry centre to make the appropriate arrangements.[20]

3.6.7 Although the HMRC website does contain a significant amount of information explaining residence/domicile and employment status, it is not available in understandable terms to those without an excellent grasp of English. And there is no obvious guidance on where and how to get help.

3.6.8 **We recommend that HMRC produce more and better information for those whose first language is not English and then publicise it appropriately.**

3.7 Disputes with HMRC

3.7.1 LITRG has been critical of HMRC's complaints and disputes procedures[21] because the scales are tipped against the unrepresented taxpayer generally. Low-income pensioners, particularly those in the upper age ranges, often find it difficult to complain to authorities. Frequently HMRC does not recognise that its customer has made a complaint and it does not therefore get into the complaints process.

3.7.2 However the pensioner who enters the complaints process will find it is:

- multi-layered and unnecessarily complex;
- not operated consistently across HMRC;
- hard to find out about and to access easily;
- governed by Code of Practice (COP) 1 which is in need of updating;
- often unresponsive and protracted;
- sometimes dismissive of appropriate complaints.

3.7.3 We recommend:

(a) a choice between a central complaints contact point or speaking to the person who last dealt with you;

(b) a simpler, shorter, more visible complaints process (including by e-mail) which provides an immediate acknowledgment by a named individual and deals with the whole complaint, even if more than one part of HMRC is involved;

(c) better training for HMRC staff in recognising and handling complaints;

(d) that service standards be clear so that the *customer* can know what it is reasonable to expect from HMRC;

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[20] See http://www.hmrc.gov.uk/enq/index.htm
[21] See our press release http://www.litrg.org.uk/news/latest.cfm?id=187

(e) that compensation for distress and worry should be offered by HMRC without waiting to be asked.

Appeals

3.7.4 Although it is unusual for pensioners to get so far as appearing before a tax appeal tribunal, this is not because pensioners have fewer causes for dissatisfaction than others.

3.7.5 As our report *Tax appeals: a low income perspective*[22] shows, there are many reasons why people do not use rights of appeal available to them. They may be unaware that they have a right of appeal; or they may know that they can appeal, but are reluctant to do so because of cost, stress, perception that the Government must be right, or other factors such as fear of being 'blacklisted' by HMRC. Or they may simply be unaware that anything is wrong because they do not understand the technical basis of HMRC's decision.

3.7.6 While pensioners are not alone in needing a fair and accessible system of tax appeals, they are probably in greater need of help and support throughout the process than those of working age. That is because, as shown earlier in this report, they are less likely to have the means of support that were available to them during their working lives, and they may lack the appetite for prolonged disputes with government departments.

3.7.7 Our *tax appeals* report cited above[23] showed also that those with representatives or advisers stood a far better chance of getting a favourable result from an appeal than those without. This imbalance is exacerbated by the lack of any formal case management facilities in the present system, or any opportunity for securing advice on their rights. With that in mind, the two recommendations in our report on tax appeals which seem to be the most significant from the point of view of pensioners on low incomes are:

(a) *Case management*. The Tribunals Service must provide a good case management service from the moment when the appeal is lodged right through to the hearing. Also, the process should be subject to the overall supervision of a tribunal member, to the extent that the papers in each case would cross the desk of a panel member at least once.

(b) *Support for advice and representation*. Consideration should be given to incorporating in the early preparatory stages of an appeal an opportunity for an unrepresented appellant to receive independent professional advice on the merits of their appeal.

3.7.8 Those two recommendations, if implemented as part of the projected reforms of the tribunal system[24], would probably reduce the number of cases going forward to a full hearing because they would increase the chances of an early settlement on terms fair to both parties.

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[22] September 2006, see http://www.litrg.org.uk/reports/reports.cfm?id=384
[23] September 2006; http://www.litrg.org.uk/reports/reports.cfm?id=384
[24] See Tribunals, Courts and Enforcement Bill to be enacted in the current (2006-07) Session of Parliament

3.7.9 But more importantly from the point of view of the low-income pensioner, the availability of support will help more potential appellants to take the first step towards appealing.

Chapter 4 Life events for the pensioner

4.1 Introduction

4.1.1 In a report such as this concerning the tax problems of pensioners there is a vast array of issues that could be covered. We have chosen to address three 'life events' which, in our experience, cause more than their fair share of problems for low-income pensioners. We believe that with very little or no additional HMRC overall cost, significant improvements to the lives of hundreds of thousands could be made. These are:

- becoming a pensioner
- bereavement
- going into care.

4.2 Becoming a pensioner

4.2.1 For many people becoming a pensioner brings significant changes to their lives which also affect their tax and related financial affairs. These can include the following:

a. a loss of support from an employer (for example in being able to resolve PAYE queries);
b. deciding whether to enhance their state retirement pension (SRP) through the payment of voluntary contributions;
c. deciding whether to defer the SRP in exchange for a later lump sum and pension;
d. claiming their SRP;
e. changes to the nature of a wife's SRP on the husband getting his SRP at age 65;
f. an increase in the number of income sources, including multiple pensions;
g. changes to and increases in the number of tax offices to deal with;
h. deciding whether to take a lump sum pension commutation;
i. investing a lump sum pension commutation and the tax/benefit consequences;
j. understanding pension credit (PC); understanding whether a claim is valid and how tax on the SRP is dealt with for PC purposes;
k. changing financial circumstances potentially bringing the pensioner within the scope of housing benefit and council tax benefit;
l. for those with health/disability issues the changes around cessation of incapacity benefit and entitlement to attendance allowance;
m. assessing the possibility of having bank interest paid tax free;
n. understanding the higher age-related personal tax allowances and how these reduce as income increases;
o. understanding how personal tax allowances and reduced rates of tax are spread over multiple income sources;
p. coping with completing tax returns, sometimes for the first time in their lives;
q. ensuring past work-related matters are not carried forward inappropriately in coding notices;

r. considering which partner in a couple should hold investments (such as bank deposits) in retirement and the tax/benefit ramifications;
s. understanding that a pensioner may have a marginal tax rate of 0%, 10%, 20%, 22%, 32.5%, 33% or 40%[25];
t. understanding the tax consequences of the new ‘pensions simplification’ option of cashing in ‘small’ pensions.

4.2.2 For very few people do these changes fall neatly at the commencement of a new tax year on 6th April. So for most pensioners the ‘becoming a pensioner’ lasts over two tax years:

- the *Transition Year* when the closing employment/self employment situation is married with the new pensioner situation;
- the *first Pensioner Year* when the normal pattern of ‘being a pensioner’ is established.

4.2.3 The Transition Year is the year when things go wrong most often, but sometimes with knock-on effects into later years.

> Mr P started to draw his state retirement pension when he was 65 but continued to work because he could not afford to retire. Although HMRC said it had sent a notice of coding to his employer the code was not operated because the employer said he never received the instruction. The fact that Mr P did not receive any form P2 made this situation worse. He remained unaware that his employer was not taxing his state retirement pension until he heard from HMRC the following year asking him to repay more than £1,200.

4.2.4 With the plethora of issues listed at 4.2.1, most of which have tax consequences, it is no wonder that the new pensioner needs guidance. Some of HMRC processes and systems are not up to the job of providing that clear guidance.

4.2.5 For example, the notifications flowing from the DWP to HMRC identifying the level of the SRP for the tax year to come are often not linked to the appropriate records by HMRC. On other occasions estimates are used by HMRC in coding notices. However, it is not clear to the customer when this has happened and most pensioners assume that HMRC will know the correct position.

4.2.6 Many pensioners believe that the SRP is not taxable and the DWP are not very good at ensuring that their customers are aware that it is taxable. The Pension Service (part of the DWP) are however proactive in contacting pensioners around the time of retirement and there are various pilot schemes (under the LinkAge Plus banner) exploring cross-service involvement.

> Mrs K is a 74 year old retired nurse who called into a volunteer bureau to have her coding checked in February 2007. It transpired that HMRC had failed to give her an age-related allowance for the past 9 years, despite knowing her date of birth and taxing her SRP. She will be due a repayment approaching £2,000.

[25] For more information about tax rates see LITRG website at http://www.litrg.org.uk/help/pensioners/taxbasics/working.cfm. 33% is the marginal rate of tax applied when there is a clawback of higher personal allowance for pensioners with incomes over £20,900 (2007/08).

4.2.7 No tax is withheld when the DWP pay the SRP to pensioners. Historically personal allowances have more than covered the basic SRP, so a pensioner with no other income should have no need to come within the tax system. Pensioners in receipt of additional SRP (state earnings related pension 'SERPS') and/or state second pension (S2P), or who have an increased pension due to a deferment, will receive a greater amount than the basic SRP – and this is also subject to tax.

4.2.8 Tax on the SRP may be collected through PAYE or self-assessment, depending on the pensioner's circumstances. Income from employment or a personal pension is taxed through PAYE while until April 2007 pensions from retirement annuity contracts were paid after the deduction of basic rate tax.

4.2.9 The HMRC form P161 *Pension enquiry process* (referred to at paragraph 4.2.5) is the trigger for the taxation of the SRP and is also the vehicle for granting age-related personal allowances.

4.2.10 DWP tells HMRC when SRP is about to come into payment, whereupon HMRC considers taxing the SRP under self-assessment where there is no PAYE income such as an occupational pension, or issues form P161 where there is a source of income which can be taxed under PAYE ('a PAYE source'). When the form is returned, HMRC looks at the total income figures and decides whether the pensioner is entitled to the higher age-related personal allowance, and if so how much.

4.2.11 While the age-related personal allowance is available for the whole of the tax year in which the person reaches age 65, HMRC will only include it in their coding notice once they have received the completed form P161. For anyone whose birthday falls near the end of a tax year this means a long delay in getting their additional allowances. This then puts the onus on the pensioner to pursue their entitlement to allowances from the start of the tax year, if indeed they know that they are entitled which usually they do not. Even when the age-related personal allowance has been given by HMRC, it is unsafe to assume that there will be no further problems.

4.2.12 We recommend that:

(a) a joint helpsheet be prepared by HMRC/DWP giving guidance about many of the issues listed in 4.2.1;

(b) HMRC should take responsibility for ensuring that the correct SRP is included in the PAYE coding for the Transition Year and subsequent years by better handling of the automated data transfers from the DWP;

(c) when HMRC use an estimated SRP figure in a coding notice they should identify that fact;

(d) HMRC should take all steps necessary during the Transition Year to produce the correct deduction of tax at source by the end of that year;

(e) The Pensions Service should give basic tax awareness advice as part of developing its LinkAge Plus approach.

4.3 Bereavement

4.3.1 One group of people who find tax complexities particularly hard to grapple with is recently bereaved partners. Just when they are trying to come to terms with the loss of a partner, they have to deal with issues, make decisions, answer questions and complete forms from HMRC. The poorer pensioner has the least support.

4.3.2 Maximum help from all parts of government is needed to supplement other forms of assistance at this difficult time. The bereaved pensioner may:

- struggle to obtain impartial information on bereavement services such as finding a suitable funeral director and arranging and paying for an affordable funeral;
- know little of the state benefits system and where to go to for information;
- receive unclear, conflicting and sometimes incorrect information and advice from benefits advisers;
- experience a slow response rate for changes in claims for state benefits (the length of time taken to process claims etc. is a very big issue for bereaved people);
- have additional tax problems from their family member dying without having made a will;
- experience lack of empathy or sympathy from staff and agencies in particular circumstances;
- perceive front-line staff as ‘going through the motions’ and seeming ‘hard’ in their approach to callers;
- see front-line staff as inflexible and uninformed in the help they can give;
- not be made to feel that he or she is being treated as an individual;
- have difficulties in establishing the right person to deal with a particular query, and find that subsequently calls are not returned;
- be given insufficient leave of absence from work, and have to deal with an unsympathetic employer on returning to work;
- be required to complete lengthy forms, which bereaved callers find difficult. These often increase their distress, as they will not receive the appropriate help until the forms are completed.

4.3.3 These are not the words of LITRG, they are taken from a Cabinet Office Report on Bereavement in March 2005 which set out to remove cross-governmental bureaucracy in the event of bereavement. That report also noted that:

- the information found on existing websites is often neither entirely focused on customer needs, nor is it written in a particularly customer-friendly way;
- there was a need to provide a single source of information for bereaved people regarding things to be done after a death;
- there was a need to involve the voluntary sector in providing input to this new single source of information.

4.3.4 Shortly after publication of that Report, and without external consultation, HMRC withdrew its only leaflet on bereavement available to the taxpayer (IR45).

HMRC now offers no written advice, while its website merely links to the (admittedly quite good) material on bereavement on DirectGov.

4.3.5 There is however a DWP leaflet, D49, which is handed to you when you register a death. Although it is a helpful leaflet it does not cover adequately the many issues that arise on bereavement from a tax perspective, and it refers to the now defunct HMRC IR45 leaflet.

4.3.6 HMRC has progressively offered less and less, and there have been astonishing cases of errors and maladministration.

> Mrs T, lately widowed, managed to retain her sense of humour on opening the letter from the tax office to "Mr T, deceased", asking him for the address of his current employer.

4.3.7 The consequence of this HMRC approach is that:

- bereaved pensioners are given little support and advice;
- co-ordination with the DWP is poor so that the chances of things going wrong in the year of death and the following year are increased;
- the chances that tax will be overpaid are considerably higher than they need to be;
- unnecessary stress and worry at a difficult time is likely.

4.3.8 We recommend that the suggestions of the Cabinet Office be carried through so that:

(a) the content of the DWP leaflet (D49) is expanded to include more key tax issues where bereaved pensioners are likely to lose out or make mistakes;

(b) there should be consultation with the voluntary sector;

(c) the enhanced guidance should be available from both the DWP and HMRC orderlines;

(d) the exchange of information between the DWP and HMRC in the event of bereavement is streamlined in order to avoid duplication and added burdens;

(e) a complete overhaul of HMRC's bereavement enquiry process (form P161W) takes place so the current 'hit or miss' approach is revised;

(f) HMRC puts internal structures in place to co-ordinate its multiple services across lines of activity in the event of bereavement;

(g) a single point of HMRC contact on bereavement issues (a 'bereavement helpline') is introduced.

4.4 Going into care

Introduction

4.4.1 Physical and mental deterioration is commonplace as pensioners reach the end of their lives, and provides new challenges for the pensioners themselves as well as for those who care for them. It is also a challenge for the taxing authorities and for those other government departments where good co-ordination enhances the overall service.

4.4.2 An inability to cope with one's own needs and the consequent loss of independence is also reflected in the individual's own ability to react to the demands of government agencies. The best government agencies have policies in place to mirror that life change.

4.4.3 At this point in a pensioner's life the tax system should react with sympathy, understanding and support. Regrettably in both the design and implementation such characteristics are sadly lacking.

4.4.4 This is not because individuals within the Treasury or HMRC are individually unsympathetic or unsupportive. It is because the needs of this group of people are not very often a priority so that policy changes and implementation schemes are not assessed in advance and have to be sorted out 'at the front line'.

4.4.5 Demographic changes will make this a growing issue.

4.4.6 Some of the issues which arise from the tax system are:

(a) How supportive are the policy, legislation and systems in place to enable the 'dependent pensioner' to remain within the community?
(b) How easy is it for a 'dependent pensioner' and the supporting family to release capital that may be locked up in the value of the pensioner's home in order to fund nursing home care?
(c) How sensitive are legislators to the needs of those with disabilities in later life?
(d) How easy is it for the 'dependent pensioner' to pass over responsibility for dealing with their tax and related affairs to a third party?

We deal with these issues in turn.

Remaining within the community

4.4.7 It is central to the current Government's policies that older people are given the opportunity to remain in their own homes or sheltered accommodation in the heart of the community. One of the main planks of this policy is the system of finance provided to the individual whereby they may choose the type of support that enables them to remain independent. This is known as 'direct payments'.

4.4.8 Older people prefer a reliable service provided by people they know. This is something Social Services cannot always guarantee to deliver. Direct payments give the older person flexibility to arrange for the same person to come at a particular time to suit the older person and this often takes the form of a personal assistant.

4.4.9 With such flexibility comes added responsibility because most personal assistants are employees and the older person has to assume all the legal responsibilities of being an employer. The majority of older people do not welcome the administrative burden associated with being an employer, including the operation of PAYE by means of the Simplified PAYE Scheme.

4.4.10 HMRC's role in the overall direct payments process requires clear definition, not only for older people but also for all users of direct payments. HMRC should publicise their role on their website, providing information and contact points for help when things go wrong with the PAYE and NIC side of being an employer.

4.4.11 We recommend that HMRC work with the Department of Health, DWP and voluntary sector organisations supporting direct payments to make sure that older people are given clear and consistent advice about their responsibilities for operating PAYE when they make the decision as to whether direct payments are appropriate for them.

Releasing capital

4.4.12 Whether it is to provide additional funds to assist in remaining in their own home or downsizing, or to help fund residential or nursing home care, older people may need to release capital from their home or sell their property. With the average weekly care home cost currently estimated at £406 a week [26] and in England the NHS only contributing to the costs of nursing care at rates currently set between £40 and £133 a week[27], significant shortfalls can arise which may only partially be met by local authority funding. The local authority when assessing the ability of a person to pay for their care costs will include both capital assets, including in some circumstances their home, and most income sources[28].

4.4.13 While the assessment guidelines clearly indicate that earnings should be included in the calculation net of income tax, no similar statements are made for other income sources such as pensions or taxable benefits. Where annuities are purchased to cover care home costs, the interest element of the annuity will be treated as income and taxed at source at 20% unless the income is paid directly to the care home. This annuity income may also affect means-tested benefits.

4.4.14 Many older people consider equity release schemes or home income plans in order to provide additional capital or income. Although the capital itself will not attract an income tax liability, where this is invested either into an annuity or other forms of non tax-free savings the income will give rise to a tax liability if total income exceeds personal allowances. The income may also affect means-tested benefits. For instance, when people over 60 take out equity release schemes, the regular

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[26] Help the Aged research 2006
[27] Registered Nursing Care Contribution £40 lower band; £83 middle band; £133 higher band
[28] For full details see Charging for Residential Accommodation Guide (CRAG guidelines) at www.dh.gov.uk

advances (loans) made by the lender are counted in full as income for the purposes of assessing entitlement to council tax benefit.

4.4.15 We recommend that this important area should be the subject of a working party between HMRC, the DWP and the voluntary sector to examine the relevant interactions between taxation and means-tested benefits. An important by-product would be a publication identifying all the issues to be considered by the pensioners and their families.

Policy sensitivity to those with care needs

4.4.16 Increasingly, legislation intended to counteract tax avoidance schemes is so widely drawn that it catches innocent transactions – transactions which can be entered into for entirely bona fide reasons by rich and poor alike. Some can afford professional advice in ordering their affairs so as to steer clear of the traps; but those without sufficient means to pay for advice are most at risk of being caught unawares by ill-targeted anti-avoidance rules. There follow two examples.

Pre-owned assets tax

4.4.17 In the Finance Act 2004, legislation was introduced to counter attempts to circumvent the inheritance tax rules on gifts with reservation (GWR), which themselves inhibit attempts to side-step inheritance tax by giving property away but retaining an interest in it. The 2004 legislation reinforced those rules by imposing an income tax charge (pre-owned assets tax, or POAT) in certain circumstances where a person continues to benefit from an asset which they once owned but have since disposed of.

4.4.18 The POAT rules were originally intended to affect only the very small number of people who deliberately sought to flout the gift with reservation laws, but the charging provisions are so widely drawn, and the exemptions so narrowly drawn, that innocent financial arrangements within families can also be caught even though there is no intention to avoid tax. Such innocent arrangements can include transactions entered into in order to provide care for an elderly or otherwise vulnerable relative.

4.4.19 Because of the POAT rules, older people must now exercise great care if they wish to enter into equity release schemes of the kind mentioned above (4.4.14). It is now only advisable to deal with a commercial provider, whereas previously older people could transact schemes with their family members without incurring a tax penalty.

Definition of disability in trusts

4.4.20 Sometimes, legislation intended to help a vulnerable group is drawn up restrictively in order to keep out possible abusers, but its narrowness of scope can exclude some of those for whose benefit it was introduced. Worse, policies are sometimes formed in a vacuum without regard for their interactions with other areas of the tax and benefits systems.

4.4.21 For example, the scope of the inheritance tax and capital gains tax reliefs for disabled people's trusts is restricted by a very narrow legislative definition of ‘disabled person’. The effect of that narrow definition is to create a sub-class of disabled people who do not qualify for the favourable treatment offered by the disabled person’s trust regime, and who are therefore perhaps better advised – from a tax angle – to retain their capital in their own ownership.

4.4.22 But this leads to a clash with the social security rules. A person in receipt of personal injury damages which are contained in a trust can ignore the trust capital when computing their entitlement to means-tested benefits; but if the person holds the damages in their own right, they lose that entitlement. For a person who falls outside the narrow definition in the tax legislation, therefore, there is a straight choice between paying the tax and keeping their means-tested benefits, or saving the tax but losing their benefits. Either way, the consequences for their long-term care needs are likely to be grave.

Recommendation

4.4.23 While every citizen should arguably support an elected government in its efforts to combat those who deliberately flout the intention behind the tax laws (or any other laws for that matter), such policing should be done as far as possible without risk to the innocent. The net should not be cast so wide that it catches people whom it was never Parliament’s intention to catch. In particular, those with no tax-avoidance motive, whose only or main object is to provide for the care of a vulnerable family member or other person, should never find themselves caught in the cross-fire between the government and the tax avoiders.

4.4.24 We accordingly recommend that every new policy designed to combat tax avoidance by individuals should be carefully examined for its possible effect on those in need of care (‘care-proofing’).

Having responsibility for others

4.4.25 Taking responsibility for helping pensioners with their tax affairs may take a variety of forms. Representatives are likely to range from family members and friends to advice or welfare rights organisations, or professional tax advisers or agents or appointees and attorneys. Such representatives may act informally, for example by helping a pensioner to fill in a form or in a formal capacity, for example by taking over responsibility for handling all the pensioner’s financial affairs.

4.4.26 DWP and HMRC have different approaches to dealing with representatives. DWP is used to dealing with customers who do not have formal representation but who need help with claiming their entitlements. HMRC is more accustomed to dealing with formal representation by agents and professional tax advisers. DWP publishes clear guidance for its staff about how to work with representatives and allows for forms to be signed on the behalf of claimants[29]. HMRC’s approach is less flexible. There is no clearly-stated policy about working with representatives and there is no consistency of approach to signing forms on someone else’s behalf.

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[29] See DWP Guide for staff on working with customer representatives: http://www.dwp.gov.uk/advisers/repsguide.pdf

4.4.27 We recommend that:

(a) HMRC adopts a customer-friendly approach to representatives and works with the DWP to develop a consistent policy that works across both departments;

(b) HMRC publishes clear guidance on how it will work with representatives;

(c) HMRC makes sure that declarations on its forms are consistent for anyone signing on someone else's behalf and that the declarations are equally suitable for use by telephone, on paper or online.

Chapter 5 Getting the tax right

5.1 Introduction

5.1.1 A pensioner's post-retirement financial and tax affairs have become increasingly complex over the years since the last LITRG report.[30] There has sadly been little corresponding evidence that the tax system has become more responsive to the needs of older taxpayers on low or modest incomes. To the extent that LITRG has had its successes, the general environment has added new problems at a faster rate than we have been able to solve them. Clearly we need to work harder!

5.1.2 Finance Acts have continued at record lengths, filled with complex legislation, rather than introducing significant simplification. The Tax Law Rewrite project has done nothing to improve the lot of the average taxpayer who would never normally be expected even to take a look at the underlying legislation that is being rewritten. New initiatives such as pension credit have improved the financial condition of many pensioners but at a cost of even greater complexity.

5.1.3 One of the most important factors is that pensioners are often unaware that they are likely to have problems with their tax. Because most people do not know what they are entitled to and what they have to do to comply with the tax system, they assume, or perhaps hope, that everything is in order and they do not have to do anything. They assume that HMRC knows what it is doing and gets things right.

5.1.4 If, for example, you do not know what your personal allowances should be, you cannot check whether you have been given them or not. If you do not understand a coding notice, you cannot tell HMRC if you think it is wrong. If HMRC says that you owe money, how do you know if that is right or not?

5.1.5 Many older people are unaware of how the tax system works because during their working life they had nothing to do with the tax office. Their employer took probably the right amount of tax off their wages and there was not much else to do. When they retire, they have no payroll office to do these things for them and so, for the first time for many years, they have to deal directly with the tax office.

5.1.6 So many older people tend to put on one side anything from the tax office, perhaps because they are a little frightened of a Government department, perhaps because they don't understand the letters, and sometimes they can be overpaying or underpaying tax for years before anyone notices.

5.1.7 HMRC does not necessarily know everything that it needs to know in order to arrange pensioners' tax affairs correctly. For example, it may not know

- your correct date of birth;
- whether your husband or wife has died;
- whether you have an untaxed source of income;
- whether you have changed address;
- whether you have an overseas domicile;

[30] Since 1998 Pension Credit & new Tax Credits have been introduced. MCA & some other allowances have been restricted to 10%. SRP deferment rules have changed & personal & stakeholder pensions have come into widespread use

- whether you have income from overseas;
- whether another pension has come into payment; and so on.

HMRC sent a cheque for more than £1,600 to Mrs H's old address in February 2005, which was 3 years after she had moved away. This only came to light when Mrs H made a repayment claim in July 2006 because no 10% band had been allowed against her salary. Mrs H eventually received a replacement cheque in November 2006.

5.1.8 It would greatly help older people on low incomes to be 99% confident that at the end of the tax year that they had received what they were entitled to and had paid the right amount of tax. People will accept a lack of understanding of detailed tax issues if they have confidence in what HMRC tells them.

5.1.9 Past HMRC satisfaction surveys carried out with pensioners have reportedly shown high levels of satisfaction with HMRC service. Yet the evidence of TOP surgeries (see Appendix A) for those on the lowest incomes demonstrates that their satisfaction only lasts until they realise that they have been overpaying tax for some time.

5.1.10 We have seen from paragraph 3.2.3 that HMRC has given up publishing their accuracy targets in advance of a new tax year or their performance against target during that tax year.

5.1.11 In earlier chapters we have provided some detailed examples of where things go wrong at particular times. Taking a more high level view, we can attribute the difficulty of getting things right to a number of factors:

(a) complexity of the legislation and unintended consequences, often due to hasty implementation and lack of consultation;
(b) a reluctance to tackle some of the complexity because fiscal neutrality is demanded and because it never seems politically the right time to make changes given that there will be losers as well as winners;
(c) out of date and uncoordinated computer systems within HMRC which makes matching pensioner data difficult;
(d) the fact that HMRC increasingly sees the pensioner population as low risk therefore invests more in competing priorities such as measures to reduce the tax gap;
(e) the continuing reduction in staff numbers at HMRC, which puts added pressure on those remaining;
(f) a lack of joint working between HMRC and the DWP;
(g) a lack of appropriate guidance for the pensioner either in forms, leaflets, face to face, by telephone or on the website.

5.1.12 With this background it is easy to see that there are many circumstances where pensioners may struggle. We have chosen to look at just seven examples where, in our experience, pensioners are often not able to make sense of their situation and are potentially at risk:

- coping with coding notices and PAYE;
- falling into self-assessment (SA);

- coping with the pension credit;
- tax deducted from bank or building society interest;
- Gift Aid;
- blind person's allowance;
- official error.

5.2 Coping with coding notices and PAYE

5.2.1 The PAYE system under which most pensioners are likely to be taxed was set up in 1944. At that time people moved jobs less, so would be more likely to be in just one job for life, subsequently becoming pensioners under their employer's pension scheme or simply being in receipt of a state retirement pension.

5.2.2 It was therefore understandable that the administrators of the day decided to establish an employer-centric system for taxpayers' records. Most businesses had their PAYE scheme registered locally and advice and explanations could readily be dealt with close to the workplace. Pensioner tax affairs were also likely to be relatively straightforward with possibly just the basic state retirement pension, one occupational pension and a small amount of savings income. Finally, for many years, if a pensioner did become liable to tax, just one tax rate would apply before reaching higher rates.

5.2.3 In contrast the current situation is more likely to be as follows.

- Taxpayers are likely to move jobs more frequently. When they retire there are therefore likely to be several tax locations holding 'employer' based PAYE records for them.

- Where an occupational pension is not available or they have been self-employed during their working life, many taxpayers will have taken out retirement annuities or personal pensions. And again the records for those could be held in a number of locations.

5.2.4 Although there should be a common element in all of the records held by tax offices, namely a national insurance number (NINO), the employer-centric system means that those records are spread around the country. To link them HMRC must rely on the taxpayer to provide the necessary details, as there is no single database for this information within HMRC.

5.2.5 Where there is an occupational pension or personal pension – or, less often, some income from employment – the PAYE system is used to collect the right amount of tax during the tax year from a pensioner's total income exceeding the tax-free thresholds.

5.2.6 In the above situations problems arise of which probably the most significant, as explained below, are correctly calculating coding notices and communication both within HMRC and between HMRC and pensioners.

5.2.7 If the occupational/personal pension is small, the use of a tax code also designed to collect tax on the state retirement pension will often give rise to an underpayment. Frequently the tax due cannot be subsequently coded out (recovered), as the law does not allow excessive deductions from a single source.[31]

5.2.8 If there are several pensions to be considered then careful thought needs to be given to how to deal with them to ensure that the SRP is taxed, and that allowances and the lower 10% tax rate are utilised in full. Unfortunately, within the 'tax office' these problems are not always fully appreciated and pensioners are disadvantaged by decisions made which result in the building up of both tax underpayments and overpayments of which they are unaware.

> Mrs C received a demand for an underpayment. Her income consisted of her state retirement pension, a pension of £550 a year from the Local Authority and a pension from the Fire Brigade of £3,800 a year. The voluntary sector adviser realised that Mrs C was being denied the benefit of the 10% band because of the way the PAYE code was operating on the smaller pension. The adviser demonstrated to the tax offices the most efficient way to tax the pensions and also pointed out that Mrs C had been born in 1928 and not 1929, so enabling her to claim the higher age allowance a year earlier.

5.2.9 If tax offices have difficulties with these issues then it is hardly likely that the pensioners themselves will be in a position to check that the codes are working properly, however much they are urged to check their coding notices. The new format for coding notices, now in use for most of the country[32], which gives more detailed explanations of how figures are arrived at and assumptions made, may assist pensioners in identifying problems but in many cases the complexity of the system will still defeat them.

> Mr A was correctly given his age-related personal allowance for the tax year but without any explanation it was withdrawn for the following year. When the voluntary sector adviser followed this up with HMRC the error was corrected and Mr A received a refund.

5.2.10 We recommend that HMRC should press ahead with all speed on their new computerisation for PAYE, which puts the customer at the centre of record-keeping. Compatibility with DWP systems should be maintained through the use of the common identifier of the national insurance number.

5.3 Falling into self-assessment (SA)

5.3.1 Where for some reason the PAYE system fails to cope with collecting the correct amount of tax, then the pensioner is likely to fall into the SA system.

5.3.2 Gathering information accurately about the amount of state retirement pension to put on the return is not always straightforward. Those pensioners with a Post Office card account to take their benefits cannot easily tell taxable payments like their SRP from non-taxable ones (like the Winter Fuel Allowance) because they are all described in the same terms, as being payments from the DWP.

[31] By law K code tax deductions are restricted to no more than 50% of income at each payment date
[32] Nationwide by April 2007

5.3.3 Since 1997, being in SA can entail completing a 10-page return with any appropriate supplementary pages such as income from land and property or foreign income. It also involves meeting filing deadlines and settling tax payments by the due dates.

5.3.4 Failure to complete any of those documents properly or at the right time could mean penalties, interest and surcharges arising. In our first report in December 1998, we argued both for the need to exempt from SA pensioners at lower levels of income and for more discretion over the issue of tax returns.

5.3.5 Following LITRG representations it was announced in1999 that people with income up to £2,500, which was not taxed at source, would no longer be asked to complete tax returns. Also, from 2002-03, a Short Tax Return was introduced and is generally seen as being easier and quicker to complete. However, the deadlines and penalty regime still apply.

5.3.6 While LITRG's success in influencing these SA developments is gratifying, there are ongoing problems regarding the effect of SA on pensioners, and new ones are emerging.

5.3.7 There are still pensioners, particularly widows and single women under 65 who do not get the benefit of age-related allowances, whose only income is from the state retirement pension but still have to file SA returns.

> Mrs D was 60 on 10th April 2006. She had been a care worker for the last 20 years and retired at the end of March 2006. Her total income consists of her state retirement pension of £6,191 plus non-taxable pension credit of £2.22 a week. HMRC will put her into SA in order to collect tax of £115.60 a year, the equivalent of £2.22 a week. We therefore have two Government Departments creating enormous volumes of forms and processes so that she can pay the equivalent of the pension credit she receives from the DWP over to HMRC in the form of SA tax.

This problem is exacerbated because the DWP do not operate PAYE on Mrs D's state retirement pension.

5.3.8 A great many unrepresented pensioners who are within the SA system are quite daunted by its obligations regarding notification filing dates and payment dates. Very often these pensioners have either never been within the tax system or have been dealt with solely through the PAYE system. There is still a strong belief among pensioners in general that if HMRC needs to know anything, or if there is a problem with their tax affairs, the Department will contact them. The obligation on the pensioner to instigate matters is not appreciated.

5.3.9 HMRC now publishes the criteria for being in the SA system so that at least pensioners can check for themselves whether or not they need to fill in a return. These guidelines are not written expressly for pensioners and there still seem to be many pensioners who are left incorrectly within SA.

5.3.10 The highly automated SA process can be unforgiving, especially to the most vulnerable. The SA system cannot of course recognise underlying human errors. Two examples illustrate the point:

> Mr M received a demand for a four-figure underpayment. A brief glance at the statement of account would have showed that his state retirement pension had been recorded twice, one underneath the other. Naturally the machine wished to collect the tax on this extra £7,000 odd of income. No one had noticed.

> Mrs W, a widow with severe disabilities and in her eighties, had accidentally entered the £20,000 capital in her savings account on her SA return instead of the interest received. She was upset to receive a request for another £4,000 of tax. HMRC did not query this discrepancy as compared with earlier years. If the amount had been smaller it is likely that Mrs W would have paid the additional tax demanded.

5.3.11 We make the following recommendations.

(a) The DWP should send an annual statement to all state retirement pension recipients, perhaps at the same time as they make the final payment for the tax year. The statement should clearly identify all the different benefits paid out by the DWP and their taxability. This would help to prevent pensioners from including non-taxable income in any information they give to HMRC.

(b) The DWP should operate PAYE on selected state retirement pensions when requested to do so by the pensioner (the DWP do operate PAYE on selected other state benefits).

(c) Failing the DWP accepting the recommendation in (b), above then HMRC should operate a simple direct payment system similar to basic PAYE, rather than SA. The DWP should be directly notified of the tax assessed to enable them to take it into account in order to calculate the pension credit.

(d) HMRC should ensure when it takes pensioners out of SA that its procedures inform the pensioner of what is to follow, whether PAYE or an R40 repayment situation.

(e) HMRC should, before the introduction of shorter SA deadlines for those not capable of filing online, examine all its support services for low-income pensioners including:

- **home visit and other face-to-face services to assist with SA completion;**
- **taking more older people out of SA.**

Of those who remain in SA, the e-literate should be supported to file their returns – which means empowering the voluntary sector to provide such support and funding them adequately.

5.4 Coping with the pension credit

5.4.1 As we have already shown, the mere fact that a very low-income pensioner is classified by the government as being 'in poverty' and therefore entitled to means-tested benefits does not take them out of the tax system. The most common means-tested benefit for the pensioner is the pension credit[33], and housing benefit and council tax benefit are also important.

5.4.2 Pension credit now means that pensioners had an effective weekly minimum income guarantee of at least £114.05 (£174.05 for couples) in 2006-07. Where someone's only income is the full basic state retirement pension of £84.25 a week, pension credit tops this up by £29.80, assuming a single pensioner with no savings above £6,000. This is known as the guarantee element of the pension credit and is available to pensioners who are over 60. Those with a disability may, depending on their circumstances, qualify for severe disability premium, and those who are carers may get the carer premium in addition.

5.4.3 Because pension credit is means-tested, the level of guarantee credit a pensioner gets is restricted according to their income. 'Income' for this purpose includes deemed income from savings (see paragraph 5.4.4 below), net state retirement and personal pensions, carer's allowance and bereavement allowance, working tax credit and employment income. Not taken into account are benefits such as housing and council tax benefits, child tax credit, attendance allowance and disability living allowance. In addition, guarantee credit acts as a passport to many other benefits such as full housing benefit and council tax benefit.

5.4.4 For a pensioner with over £6,000 in assets, income of £1 a week (£52 a year) is deemed to be received for every £500 in savings. Most forms of savings are included in the definition of assets, but not the home where the pensioner lives[34].

5.4.5 Guarantee credit is the successor to the minimum income guarantee (MIG) for which the over-sixties were eligible before pension credit was introduced in October 2003. In response to the obvious criticism that MIG discouraged people from saving, pension credit includes a second element called savings credit, which amounted to a cash addition of up to £17.88 a week for single pensioners and £23.58 a week for couples in 2006-07. This is only available to the over 65s. It is relevant to pensioners with incomes above the level of the basic state retirement pension of £84.25 and below £158.75 a week for individual pensioners (£134.75 and £233 respectively for couples). People getting disability benefits or carer's allowance may get more. But the amount of savings credit varies depending on income.

5.4.6 The calculation of the savings credit involves the application of tapers, which first increase, and then decrease the amount of savings credit, as household income increases.

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[33] More than 2.7 million households claim the pension credit according to DWP figures at 13/12/06

[34] For 2004-05 37% of households with one or more adults over pension age had less than £1,500 saved, rising to 63% having less than £10,000. Source DWP

Calculation of pension credit on after-tax income

5.4.7 Some recipients of pension credit will also be liable for income tax. Because pension credit entitlement is computed on the basis of net income after tax, pension credit claimants who are also taxpayers need a computation of net (after-tax) state retirement pension (SRP) to make an accurate claim. This interaction between income tax and pension credit is barely understood within the DWP who generally provide a gross figure of state retirement pension.

5.4.8 As we have seen, PAYE is not operated on the SRP. Therefore it is not immediately apparent to the pensioner what tax is payable on his or her pension; indeed, in the absence of information from official sources, many assume the SRP to be free of tax and the fact that it is taxable often comes as an unwelcome surprise. Pensioners in self-assessment are not required to pay their tax bill until 10 months after the end of the tax year, so there is little chance of their correctly estimating what their tax liability on their SRP will be at the time it is paid.

5.4.9 In short, there is a general misconception among pensioners, and within the DWP, that the gross figure of SRP is the amount that should be taken into account in assessing pension credit entitlement. If it were better understood that the gross amount has to be reduced by the tax, estimated if need be, many more pensioners would be able to claim their entitlement to pension credit. As it is, those pensioners lose out – not only on the pension credit but also on the passported benefits to which pension credit gives access – through ignorance of the tax position of their SRP.

Pension credit and working tax credit interaction

5.4.10 The idea behind the savings element of pension credit, as we have seen, is to encourage pensioners to have a second pension, or some savings, or even to take up work following retirement, without losing all assistance from the state. However, the interaction between pension credit and that other alleged work-incentive, working tax credit, can only be described as bizarre.

5.4.11 Under tax credit regulations, receipt of pension credit automatically entitles the recipient to maximum working tax credit (WTC), without having to undergo a means test. But under pension credit regulations, receipt of WTC counts as income in computing entitlement to guarantee (but not savings) credit. Thus, if a pensioner takes a job for 16 or more hours a week, no sooner has pension credit entitled him to maximum WTC than his WTC entitlement reduces or eliminates his guarantee credit entitlement. If, with his income thus reduced, the pensioner can then re-establish an entitlement to means-tested WTC, he can also use that to re-establish a claim to pension credit – and so it goes on.

5.4.12 This circularity, though it sounds unlikely, does catch low-income pensioners who wish to work but cannot afford to lose out on their pension credit and sometimes deters them from seeking work. It is incomprehensible to us that Government, who have known of this anomaly for a number of years, still have not engineered the simple operation required to change the regulations so that they make sense.

Recommendations

5.4.13 We recommend the following.

- **(a) The Pension Service (TPS) should ensure that all pension credit assessments are based on net state retirement pension income, so that tax liabilities that have not been collected by PAYE are taken into account. TPS should address the implications for pension credit claim line scripts, and for staff training more generally.**
- **(b) Regulations should be changed to remove the circular interaction between pension credit and tax credits for those pensioners who do low-paid work.**

5.5 Tax deducted from bank or building society interest

5.5.1 While financial planning should not be solely led by tax considerations, there are traps and pitfalls that can affect post-retirement planning both for taxpayers and non-taxpayers.

5.5.2 There are many investment products available both generally to investors and also particularly aimed at pensioners. Some are tax-free, some pay interest gross, some pay net of 20% savings tax, while others allow the investor to withdraw tax free up to 5% of the amount invested but will give rise to a 'gain' chargeable to income tax when they are cashed in. While the tax implication of the investment being considered is usually detailed in accompanying literature, this information is often fairly limited and rarely suggests how or in what situations it might be necessary to contact tax offices.

5.5.3 Confusion can also arise where investments pay interest gross, with no tax taken off. Most notably these would be National Savings & Investment (NS&I) products but also Local Authorities and some Government stocks also pay gross. This is of assistance to non-taxpayers who do not have to get involved in claiming tax refunds. However, those who owe tax must notify HMRC of the source of income and pay the tax due[35].

5.5.4 Bank and building society interest is subject to withholding tax on the interest paid at the rate of 20%. Pensioners with income below their personal allowances may receive interest gross by completing a tax form R85. The bank account is then 'registered'. Under this process, it is not only possible for interest to be paid gross in future, but also to claim back tax that has previously been overpaid.

5.5.5 Where the pensioner's income is greater than the available tax allowances, but the tax withheld is greater than the pensioner's liability – for example, the pensioner falls into the 10% tax band – it is not possible to register the account. But it is possible to reclaim overpaid tax using the tax form R40.

5.5.6 In our 1998 report we showed that ignorance about the right to register for payment of savings interest gross and about claiming refunds of tax deducted at source was partly attributable to poor taxpayer education by the Revenue.

[35] No details are available about the number of older people affected, however NS&I products are known to be popular with this age group

5.5.7 We also observed that the sheer complexity of the tax system made it impossible to explain, in simple terms, the threshold below which an individual is a 'non-taxpayer'. This is still the case.

5.5.8 We were pleased to work with the Revenue on the Taxback 2000 and 2004 campaigns and to support the Pensioner Tax Back Project during 2004-05. But these were very limited initiatives.

5.5.9 There is little HMRC activity in promoting the Taxback message. Recently HMRC decided to withdraw the paper leaflet *IR111 Bank and building society interest – are you paying tax when you don't need to?* But following LITRG intervention they reversed the decision, so retaining access to information in this important area.

> Mrs M, a pensioner, commented that many people on low incomes probably do not know they can claim back tax on interest – or do not know how to – so the Government is making a nice little profit at the expense of those who can least afford it.

5.5.10 Banks and building societies could do much more to assist their customers in making judgments as to whether or not they qualify to register for tax-free interest payments. And people need to be reminded that they must review their registration, if their circumstances change.

> Mr & Mrs Y retired in 1991. She became a non-taxpayer with a small pension and a small amount of savings. 15 years later her husband died and she inherited his pension and savings, becoming a taxpayer again. But no-one, bank or HMRC, reminded her to de-register.

We recommend that the DWP leaflet D49 on bereavement should include this topic in a checklist of things to consider (see paragraph 4.3.8).

5.5.11 HMRC has done a little to remind the banks and building societies to keep their stocks of forms up to date. But exercises run by LITRG over several years have shown that the banks have been generally poor at publicising this issue to their customers and often their forms are out of date.

5.5.12 Every year hundreds of thousands of pensioners overpay tax through ignorance or the deterrent effect of cumbersome systems. The Pensioner Tax Back Project of 2004-05 was a limited but highly effective exercise which produced repayments to 50,000 pensioners totalling some £20 million. This is an example of what HMRC can achieve when it adopts a proactive approach.

5.5.13 It is much more efficient and less costly for HMRC to stop tax being over-deducted in the first place, instead of depriving the pensioner of the tax and then having to repay it some years later.

5.5.14 We recommend that HMRC should monitor the effectiveness of their 'agents' (the banks and building societies) in publicising the Taxback rules and administering the R85 processes accurately and efficiently.

5.5.15 If HMRC is unwilling to invest the time in ensuring that this aspect of the system works appropriately, then **we recommend that HMRC be required to match bank and building society interest details with customer records. HMRC should do this on an annual basis so that tax overpaid can be quickly identified and promptly repaid without the taxpayers having to ask for it.**

5.6 Gift Aid

5.6.1 Pensioners on low incomes are among the most generous of citizens in proportion to their means. Where a taxpayer makes a gift to charity, then the charity may reclaim the basic rate tax which the donor paid on the income out of which the gift was notionally made. For example, at current tax rates, if a donor makes a gift of £78, the charity may claim repayment of £22 (that is tax at 22% on £78 + £22 = £100). If however the donor is not a taxpayer, then the charity may not claim Gift Aid relief as the income out of which the gift is made will not have borne tax and therefore there is nothing which can be repaid.

5.6.2 Accordingly one of the conditions which has to be met if the charity is to claim Gift Aid on any gift is that the donor must say that (s)he wants the gift to be treated as a Gift Aid donation. Another condition is that there must be a warning on the declaration reminding donors that they must be paying sufficient tax to cover the tax which will be repaid. It can be difficult for low-income taxpaying pensioners to calculate how much they can donate under Gift Aid and accurate advice is not always available, as an example from TOP demonstrates.

> Mrs H wanted to check exactly how much the Gift Aid rules would allow her to donate. She visited her local Enquiry Centre in Hertford and was told by two people, one a senior officer, that there would be no limit to the amount she could give under the Gift Aid scheme. Mrs H was not confident about this advice and wanted a second opinion from an independent source. A voluntary sector adviser checked that she was a taxpayer and calculated how much in donations would be covered by the tax she had paid for the year.

5.6.3 Gift Aid was introduced in April 2000. Accordingly it has been running for over six years. It is quite possible therefore that people who were in work and paying tax some years ago will now be pensioners and not paying tax. They may quite properly have made an open ended Gift Aid declaration to a charity when they were in work, and now continue to give, for example under a standing order, even though they have retired. In such a case, if they are no longer paying tax, the Gift Aid declaration ought to be withdrawn. However, the donor may not remember that (s)he made a declaration several years previously. As a result that charity will continue to reclaim the tax even though it will not be due.

5.6.4 In order to meet this point, the HMRC guidance says ‘Where a donor provides a long term or open-ended Gift Aid declaration, it would be considerate of a charity to provide regular reminders of this requirement – perhaps in ‘thank you’ correspondence or simply in a newsletter. There is, however, no obligation on a charity to do this.’

5.6.5 In our experience very few charities send personal letters of thanks and very many charities do not include regular reminders in newsletters. Although we have no evidence of this, we suspect that charities may frequently be claiming repayment of tax on gifts which have been made by pensioners who once, but no longer, pay tax.

5.6.6 If a charity is found to have claimed Gift Aid on a gift by a non-taxpayer, then as a matter of law the liability to repay the tax claimed falls on the donor and not on the charity. However, in 2002 the then Economic Secretary to the Treasury said that the Revenue would look first to the charity to repay and turn to the donor only if it did not.[36] However we do not know how widely this assurance is known. Moreover, the failure is more likely to come to light during processing of a self-assessment return claiming repayment of all tax paid at source, rather than on an audit of a charity. In these circumstances an adjustment would normally be made restricting the repayment of tax due. In that case the donor would pay the tax which the charity had reclaimed.

5.6.7 From the outset of Gift Aid, the LITRG has argued that the underlying position is unsatisfactory and that gifts by non-taxpaying pensioners should be treated in the same way as gifts by taxpayers. When Gordon Brown initially announced the scheme he said that it would apply to gifts to charity by British *citizens*, ie taxpayers and non-taxpayers alike, and we believe that it would have been right if it had. It is quite wrong that non-taxpayers should see that their gifts are worth less to charities than gifts by others.

5.6.8 If however the Government is to continue to set its face against introducing this element of justice, as a minimum the law should state that where a charity receives a tax repayment on a gift by a non-taxpayer, the liability to pay the tax back should be that of the charity and not of the donor. At present, as shown at 5.6.6, that is simply a matter of recommended practice which may or may not be followed in particular cases.

5.6.9 When an individual gives money to a registered Community Amateur Sports Club (CASC) under Gift Aid, the CASC can reclaim the tax paid on that money. It is a popular way for club members and others to support financially the substantial number of clubs, covering a large variety of sports, which qualify to register.[37]

5.6.10 From the club's point of view there is copious help with understanding the Gift Aid rules and registration requirements from HMRC's online guidance notes. But from the individual donor's perspective the information is poor. It is minimal, not set out in plain English, not reader-friendly and is located at the end of the guidance notes with no clear indication that it is meant for donors rather than the club.

5.6.11 **We recommend that a formal consultation should take place about simplifying the Gift Aid scheme and establishing a mechanism whereby a non-taxpayer can give to charity under Gift Aid; and in the meantime**

> **(a) charities should be required to warn donors regularly that donors should advise charities if they cease to pay tax, for example on retirement; and**
> **(b) where a donor who does not pay tax makes a gift to charity on which the charity claims and receives Gift Aid, the liability to repay the tax**

[36] Hansard 13 June 2002, col 402
[37] On 10 January 2007 the HMRC website showed 4,141 registered CASCs

should be that of the charity and not of the donor, whatever the circumstances which led to the relief being wrongly claimed.

5.6.12 We also recommend that HMRC should provide better information for donors to CASCs.

5.7 Blind Person's Allowance

5.7.1 There are some 378,000 people in the UK registered as blind or partially sighted, although the number who self-define as having sight problems is considerably higher at around 2 million. Most people with visual impairment are older people, some 85% of them are aged over 65 and started to experience loss of eyesight later in life[38].

5.7.2 According to the Royal National Institute of the Blind (RNIB), without action the number of people in the UK with sight problems is expected to double in the next 25 years, partly because of the ageing population but also because of an increase in underlying causes such as diabetes.

5.7.3 It is therefore likely that a growing number of older people will become entitled to claim the Blind Person's Allowance (BPA) which would allow them to receive an additional amount of income without having to pay tax, currently £1,730 for the 2007-08 tax year. The amount of the BPA is the same for all individual claimants and does not depend on age or income[39].

5.7.4 It is arguable that the BPA is an outdated and inappropriate way to deliver benefits to the community with significant sight impairment and we considered alternatives in our 2003 report on disability (see paragraph 2.3.1). However, while it exists, it is incumbent upon HMRC to make efforts to ensure that its customers who might benefit are made aware of the relief.

5.7.5 Although HMRC provides a priority contact number for anyone claiming the BPA, its existence is not widely publicised and is not even mentioned in the BPA paragraph in leaflet IR121 on approaching retirement. We have already noted in this report (paragraph 3.6.2) that the only leaflet targeted at the BPA was withdrawn in 2005 on cost-cutting grounds. The main leaflet produced for pensioners by the DWP, the Pensioner's Guide, does not mention the BPA at all.

5.7.6 Unsurprisingly, given the above, Inland Revenue sources have estimated the value of the BPA at between £10m and £15m per annum[40], from which we can infer that less than 50,000 – out of the 378,000 registered as blind or partially sighted – actually claim the BPA.

5.7.7 We recommend that HMRC, the DWP and the voluntary sector work together to reach out to older people to raise awareness of the existence of the BPA and how to claim it, so that as many people as possible claim their entitlement.

[38] Source: RNIB http://www.rnib.org/xpedio/groups/public/documents/code/InternetHome.hcsp
[39] But there are qualification rules. See HMRC website http://www.hmrc.gov.uk/taxback/info50.htm
[40] See Disability in Tax and Related Benefits: the Case for a Modern and Coherent System (LITRG, December 2003), para 2.4.9 (available at http://www.litrg.org.uk/reports/reports.cfm?id=72) .

5.8 Official error

5.8.1 Tucked away in a corner of HMRC's website is a little-known extra-statutory concession, classified as A19, the operative part of which states as follows:

> 'Arrears of income tax or capital gains tax may be given up if they result from the
> Inland Revenue's failure to make proper and timely use of information supplied by:
> • a taxpayer about his or her own income, gains or personal circumstances
> • an employer, where the information affects a taxpayer's coding; or
> • the Department for Work and Pensions, about a taxpayer's State retirement, disability or widow's pension.'
>
> 'Tax will normally be given up only where the taxpayer:
> • *could reasonably have believed that his or her tax affairs were in order* . . . '
> [italics supplied for emphasis]

5.8.2 That HMRC routinely construes the 'reasonableness test' against the taxpayer is attested by many individual cases that have come to both LITRG and TOP staff and volunteers. The distortion of language and concepts which HMRC sometimes finds necessary in order to escape responsibility for its own errors can beggar belief.

5.8.3 To give just one example, a UK taxpayer – a pensioner on a low income – who lived overseas was presented with a tax bill of over £2,000 because a series of mistakes perpetrated by HMRC year by year in his PAYE coding notices had resulted in an underpayment of tax. The errors were failure to apply the 10% coding restriction to children's tax credit two years running, and failure to apply the special computational rules for state retirement pension payable to non-residents three times in succession. The office responsible for those errors, the Centre for Non-Residents (who might have been expected to show some expertise in dealing with the affairs of non-residents) refused to apply extra-statutory concession A19 on the grounds that the taxpayer, having been supplied with forms P2 for each year, should have known that the coding notices were wrong.

5.8.4 To the proverbial reasonable person on the Clapham omnibus, we suggest it would usually seem unreasonable to expect a low-income pensioner, untutored in the tax system, to show the same acumen in deciphering and analysing notices of coding as might be expected of (but apparently not always achieved by) officials of the specialist non-residents office within HMRC. But as the granting or refusal of relief under A19 is purely administrative and discretionary, there is no associated independent right of appeal apart from judicial review, so that HMRC can act as judge and jury in its own cause.

5.8.5 We recommend that HMRC review the operation of ESC A19 having regard to the circumstances and capacity of the individual taxpayer, and what it would be reasonable to expect of that individual, rather than setting an objective standard of reasonableness which most unrepresented taxpayers have no hope of achieving.

6 Conclusion

6.1 HMRC's declared aim is[41]:

> 'to administer [its business] fairly and efficiently and to make it as easy as possible for individuals and businesses to understand and comply with their obligations and receive their tax credit and other entitlements'.

6.2 In this report we have assessed the quality of HMRC customer service for low-income pensioners, and considered the kinds of tax problems which an older taxpayer on a low income is expected to deal with unaided. We have shown that the complexity of the tax system is not confined to those with sufficient wealth to pay for advisers, while those without advisers are experiencing worse customer service than ever before from the one source on which they might be expected to rely for information and help – HMRC itself.

6.3 The combination of a state retirement pension and two or more small occupational pensions is apparently complicated enough to defeat even those within HMRC who are responsible for issuing notices of coding. The DWP routinely miscalculates pension credit entitlement for those who pay tax on their state retirement pension. Little help is given to those who should receive blind person's allowance to claim their entitlement, and (occasional Taxback campaigns aside) those who are eligible to reclaim tax deducted at source from bank and building society interest are mostly left to find their own way of getting their money back.

6.4 Pensioners on low incomes are largely a compliant sector of HMRC's customer base, therefore low-risk. But if HMRC is serious about 'making it as easy as possible for individuals and businesses to understand and comply with their obligations and receive their . . . entitlements', they must invest in customer service and customer education. Instead, the first few years of HMRC's existence have seen retrenchment in both those areas. Low-income pensioners, often encountering the tax system for the first time when they are least able to cope with it (eg on retirement, bereavement), are too often cast adrift and left to fend for themselves.

6.5 If low-income older taxpayers get something wrong in all innocence, they must pay the penalty. Worse, if HMRC gets something wrong, and the pensioner fails to spot it, it is the pensioner – not HMRC – who bears the burden of failure.

6.6 With pensioners forming an ever-increasing proportion of the population, and the incidence of poverty among pensioners being greater than elsewhere in the community, we suggest that if HMRC is serious about its customer commitment, its actions must start to follow its rhetoric. We urge HMRC to take seriously the recommendations of this report.

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[41] Para 2.2 of Modernising Powers, Deterrents and Safeguards (Consultative document published 30 March 2006).

Appendix A

TaxHelp for Older People (TOP)

A1 In the first LITRG report on pensioners we recommended that it was time for the Government to consider seriously the introduction of a publicly supported tax volunteer scheme in the UK. In the absence of any positive response LITRG set up a pilot programme to run for one year starting in April 2001 in two locations – in Wolverhampton, West Midlands and in rural areas of the South West of England.

A2 These pilots, named TaxHelp for Older People or TOP, were conceived and organised by LITRG. The Chartered Institute of Taxation and the Nuffield Foundation generously funded the programme, which has been a great success. TOP is now a charity in its own right separate from the LITRG but many of its trustees and the Chief Executive Officer are also members of the LITRG.

A3 Thanks to major funding from the Big Lottery in 2005 TOP has a substantial and expanding presence in England, Wales, Scotland and Northern Ireland, with more than 420 professional tax advisers providing free local services for poorer pensioners.

A4 TOP continues to demonstrate on a daily basis that poorer pensioners need help with coping with their tax affairs. During the 1970s and early 1980s personal tax allowances and thresholds did not keep pace with inflation, and although allowances have since been increased for older people, liability to income tax still starts at a low level. This means that low-income pensioners are caught up in a tax system which they find complex and confusing.

A5 Many pensioners are nervous of approaching HMRC, and in any case are largely ignorant of the services offered. Many TOP clients are dealing with their own tax for the first time following a life event such as retirement or bereavement, and are often at a loss where to go for advice.

> Mrs B became a widow for the second time at age 91 and a taxpayer for the first time on inheriting some income from her second husband. She went to her local Age Concern looking for help with her tax. Age Concern promptly referred her to TOP and provided an escort to get her there safely. Since then she has returned each year for the past 5 years for help with her annual repayment claim. Her annual tax liability is around £80.

A6 HMRC itself, in local tax offices and latterly at Head Office level, has supported the TOP project because of what it sees as the project's ability to build bridges between HMRC and its pensioner customers, and to offer a choice of service. Initial scepticism at Head Office has given way, over time, to endorsement, and this has contributed in no small way to the success of the scheme.

> TOP operates a password and PIN system with HMRC so that client/taxpayer confidentiality is fully protected for both organisations.

A7 Pensioners are often unaware that they are likely to have problems with their tax. Because most people do not know what they are entitled to and what they have to do to comply with the tax system, they assume that everything is in order and they do not have to do anything. They assume that HMRC knows what it is doing and is getting things right.

> Mr L retired before his 60^{th} birthday through ill health. He came to TOP because he seemed to be paying an enormous amount of tax on his occupational pension and had not heard anything from HMRC. The TOP adviser spoke to HMRC for Mr L and was told that basic rate tax was being deducted from the occupational pension and had been since the pension came into payment, so Mr L was not getting the benefit of his personal allowance or the 10% tax band. HMRC agreed to review the tax years since Mr L stopped working and to refund any tax overpaid.

A8 The TOP experience is that, in practice, things do go wrong and it is not safe to assume that HMRC will always be able to spot errors and put them right. Pensioners need to be able to check that everything is in order and this is more difficult for people without some tax knowledge. As a minimum, pensioners need to be able to keep an eye on:

- their allowances,
- what income is taxable and what is not,
- how tax is being deducted from different sources of income,
- how to reclaim tax overpaid,
- how to stop tax from being deducted,
- how to appeal against HMRC decisions, and
- whether they should be filling in a tax return.

> Mrs S came to TOP because she was concerned that she might be paying too much tax. Her total income for 2005-06 was less than £7,000 but she had paid nearly £250 in tax. When the adviser checked it became obvious that Mrs S was only receiving the personal allowance of someone less than 65 years of age, whereas she was now 74. Mrs S was able to make a claim for a repayment of tax for the previous 6 years.

A9 TOP will try to assist pensioners with their tax problems but it is not always an issue of something actually being wrong. TOP advisers explain, simply, how a pensioner is being taxed and why. Then the pensioner can have peace of mind knowing that everything is in order. Often people come to TOP purely because they have not heard from HMRC for 10 years and worry that something might be going wrong.

> Mrs H came to TOP because she was concerned that she had not heard from HMRC about how much SA tax she would have to pay on 31 January 2007 and needed to budget for the sum. TOP reassured her that as she had sent her tax return to HMRC in plenty of time they would be in touch before 31 January but in the meantime, based on the figures Mrs H had provided to HMRC, she should set aside £106.60 to meet the bill.

A10 Who is eligible for help from TOP? On age TOP will usually say 60 upwards but are not averse whenever feasible to helping those who are a bit younger, perhaps 55. More importantly, it is a service for those who cannot afford to pay for help, so household income should not exceed £15,000 a year. If a pensioner qualifies, they can get an appointment simply by telephoning the helpline on 0845 601 3321.

Appendix B

Summary of recommendations in this report

	Topic	Recommendation
3.2.6	Customer services standards	Consultation should take place with low-income customers (and those who represent them) to establish meaningful service standards for those people who rely totally upon HMRC for information and service.
3.3.11	PAYE and annual statements	HMRC should consider introducing a statement to each pensioner before the start of a tax year setting out the total allowances due, any income estimates that they have used, and how they proposed to allocate allowances and the different tax bands to various sources of income. This could be done as part of the redesign of the upgraded PAYE system which is under development.
3.4.3	HMRC telephone services	There should always be a geographic number on offer (for example, 0207 or 0208) as an alternative in order to give the pensioner the opportunity to reduce costs.
3.4.7	Availability of hard copy information as well as on the HMRC website	Information useful to pensioners should always be available in hard copy as well as on the HMRC website.
3.5.9	Joined-up HMRC & DWP leaflets based on life events	New leaflets/helpsheets should be produced around particular life events or themes, such as retirement, bereavement, becoming disabled, etc. We also suggest that they are produced in partnership with the DWP, as the interaction with welfare benefits is critical.
3.6.3	Disability related issues	A specific helpsheet should be produced for those with disabilities and a specific part of the HMRC website should be designed to cover all disability related issues.
3.6.8	HMRC support for those without English as first language	HMRC should produce more and better information for those whose first language is not English and then publicise it appropriately.

3.7.3	Complaints	There should be: (a) a choice between a central complaints contact point or speaking to the person who last dealt with you; (b) a simpler, shorter, more visible complaints process (including by e-mail) which provides an immediate acknowledgment by a named individual and deals with the whole complaint, even if more than one part of HMRC is involved; (c) better training for HMRC staff in recognising and handling complaints; (d) clear service standards so that the *customer* can know what it is reasonable to expect from HMRC; (e) offers of compensation from HMRC without waiting to be asked.
3.7.7	Tribunals Service	(a) *Case management*. The Tribunals Service must provide a good case management service from the moment when the appeal is lodged right through to the hearing. Also, the process should be subject to the overall supervision of a tribunal member, to the extent that the papers in each case would cross the desk of a panel member at least once. (b) *Support for advice and representation*. Consideration should be given to incorporating in the early preparatory stages of an appeal an opportunity for an unrepresented appellant to receive independent professional advice on the merits of their appeal.
4.2.12	Help to new pensioners	(a) A joint helpsheet should be prepared by HMRC/DWP giving guidance about issues on becoming a pensioner. (b) HMRC should take responsibility for ensuring that the correct SRP is included in the PAYE coding for the Transition Year and subsequent years by better handling of the automated data transfers from the DWP. (c) when HMRC uses an estimated SRP figure in a coding notice it should identify that fact. (d) HMRC should take all steps necessary during the Transition Year to produce the correct deduction of tax at source by the end of that year. (e) The Pensions Service should give basic tax awareness advice as part of developing its LinkAge Plus approach.

4.3.8	Bereavement	We recommend that the suggestions of the Cabinet Office be carried through so that: (a) the content of the DWP leaflet (D49) is expanded to include more key tax issues where bereaved pensioners are likely to lose out or make mistakes; (b) there should be consultation with the voluntary sector; (c) the enhanced guidance should be available from both the DWP and HMRC orderlines; (d) the exchange of information between the DWP and HMRC in the event of bereavement is streamlined in order to avoid duplication and added burdens; (e) a complete overhaul of HMRC's bereavement enquiry process (form P161W) takes place so the current 'hit or miss' approach is revised; (f) HMRC puts internal structures in place to co-ordinate its multiple services across lines of activity in the event of bereavement; (g) a single point of HMRC contact on bereavement issues (a 'bereavement helpline') is introduced.
4.4.11	Direct Payments	HMRC should work with the Department of Health, DWP and voluntary sector organisations supporting direct payments to make sure that older people are given clear and consistent advice about their responsibilities for operating PAYE when they make their decision as to whether direct payments are appropriate for them.
4.4.15	Releasing capital for going into care	This important area should be the subject of a working party between HMRC, the DWP and the voluntary sector to examine the relevant interactions between taxation and means-tested benefits. An important by-product would be a publication identifying all the issues to be considered by the pensioners and their families.
4.4.24	'Care proofing'	Every new policy designed to combat tax avoidance should be carefully examined for its possible effect on those in need of care ('care-proofing').
4.4.27	HMRC approach to dealing with representatives	(a) HMRC adopts a customer-friendly approach to representatives and works with the DWP to develop a consistent policy that works across both departments; (b) HMRC publishes clear guidance on how it will work with representatives; (c) HMRC makes sure that declarations on its forms are consistent for anyone signing on someone else's behalf and that the declarations are equally suitable for use by telephone, on paper or online.

5.2.10	PAYE & coding notices issues	HMRC should press ahead with all speed on their new computerisation for PAYE, which puts the customer at the centre of record-keeping. Compatibility with DWP systems should be maintained through the use of the common identifier of the national insurance number.
5.3.11	SA issues	(a) The DWP should send an annual statement to all state retirement pension recipients, perhaps at the same time as they make the final payment for the tax year. The statement should clearly identify all the different benefits paid out by the DWP and their taxability. This would help to prevent pensioners from including non-taxable income in any information they give to HMRC. (b) The DWP should operate PAYE on selected state retirement pensions when requested to do so by the pensioner (the DWP do operate PAYE on selected other state benefits). (c) Failing the DWP accepting the recommendation in (b) above then HMRC should operate a simple direct payment system similar to basic PAYE, rather than SA. DWP should be directly notified of the tax assessed to enable them to take it into account in order to calculate the pension credit. (d) HMRC should ensure when it takes pensioners out of SA that its procedures inform the pensioner of what is to follow, either PAYE or an R40 repayment situation. (e) HMRC should, before the introduction of shorter SA deadlines for those not capable of filing online, examine all their support services for low-income pensioners including: • home visit and other face to face services to assist with SA completion; • taking some older people out of SA.. Of those who remain in SA, the e-literate should be supported to file their returns – which means empowering the voluntary and public sector to provide such support and funding them adequately so to do.
5.4.13	Pension Credit issues	(a) The Pension Service (TPS) should ensure that all pension credit assessments are based on net state retirement pension income, so that tax liabilities that have not been collected by PAYE are taken into account. TPS should address the implications for pension credit claim line scripts, and for staff training more generally. (b) Regulations should be changed to remove the circular interaction between pension credit and tax credits for those pensioners who do low-paid work.

5.5.10	DWP leaflet D49 on bereavement	DWP leaflet D49 on bereavement should include a reminder to review form R85 registration in a checklist of things to consider.
5.5.14	Taxback	HMRC should monitor the effectiveness of its ‘agents’ (the banks and building societies) in publicising the Taxback rules and administering the R85 processes accurately and efficiently.
5.5.15	Taxback	HMRC should be required to match bank and building society interest details with customer records. HMRC should do this on an annual basis so that tax overpaid can be quickly identified and promptly repaid without the taxpayers having to ask for it.
5.6.11	Gift Aid	A formal consultation should take place about simplifying the Gift Aid scheme and establishing a mechanism whereby a non-taxpayer can give to charity under Gift Aid; and in the meantime (a) charities should be required to warn donors regularly that donors should advise charities if they cease to pay tax, for example on retirement; and (b) where a donor who does not pay tax makes a gift to charity on which the charity claims and receives Gift Aid, the liability to repay the tax should be that of the charity and not of the donor, whatever the circumstances which led to the relief being wrongly claimed.
5.6.12	Community amateur sports clubs (CASCs)	HMRC should provide better information for donors to CASCs.
5.7.7	Blind person’s allowance	HMRC, the DWP and the RNIB should work together to reach out to older people to raise awareness of the existence of the BPA and how to claim it, so that as many people as possible claim their entitlement.
5.8.5	Official error	HMRC should review the operation of ESC A19 having regard to the circumstances and capacity of the individual taxpayer, and what it would be reasonable to expect of that individual, rather than setting an objective standard of reasonableness which most unrepresented taxpayers have no hope of achieving.

Appendix C

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Appendix D

Abbreviations

BPA	blind person's allowance
CASC	community amateur sports club
CIOT	Chartered Institute of Taxation
DWP	Department for Work & Pensions
GWR	gift with reservation
HMRC	Her Majesty's Revenue & Customs
LITRG	Low Incomes Tax Reform Group
MCA	married couple's allowance
NHS	National Health Service
NIC	National Insurance contributions
PAYE	Pay As You Earn
PC	pension credit
POAT	pre-owned assets tax
RNIB	Royal National Institute of the Blind
SA	self-assessment
SRP	state retirement pension
TOP	TaxHelp for Older People
TPS	The Pension Service
WTC	Working Tax Credit