30 Monck Street
London SW1P 2AP
T: +44 (0)20 7340 0550
E: post@ciot.org.uk

Tax incentives for occupational health

Response by the Chartered Institute of Taxation

1 Executive Summary

1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.

1.2 The CIOT's response to the consultation on how the tax system can support employers to increase provision of Occupational Health services (OH) for their employees is set out below.

1.3 Our response is predicated on the basis that the government's stated objective for this consultation is: '*The government's objective is to further incentivise employers to provide access to OH services for their employees. This consultation explores the case for using the tax system to do so*'.

1.4 We think that if the government is looking for employers to do more than they are currently doing by way of OH services then increasing and expanding the scope of existing tax incentives (such as the benefits-in-kind (BIK) tax/NIC exemptions) and introducing new tax incentives would help in this respect. This said, aside from the tax angle, it will be key to develop a framework which sets out what OH support services employers should be encouraged to provide to their employees – and we welcome the fact that the Department for Work & Pensions (DWP) issued a parallel consultation[1] to this end.

1.5 While the existing BIK exemptions (recommended medical treatment, health screening/medical check-ups, welfare counselling and eye tests/glasses) are generally effective they could be improved on. The £500 limit for recommended medical treatment is too low, and the differences in tax treatment between reimbursement of treatment costs and directly provided treatment presents practical difficulties for many employers, especially smaller employers that do not have access to the OH programmes large employers do.

1.6 The proposals to expand the scope of the health-screenings/medical check-ups exemption, review the scope of the recommended medical treatment exemption and introduce a dedicated exemption for flu vaccinations

[1] Occupational Health: Working Better - GOV.UK (www.gov.uk)

are also welcome. Both the existing exemptions and the proposed new exemptions lay down a marker for what might be expected from a 'good' employer, although the government should recognise that not all employers will have the financial resources to provide these benefits even though they may wish to.

1.7 The suggestion of a 'super deduction' for occupational health expenditure would benefit taxable businesses. However, not all employers are 'in business': other forms of alternative tax incentives should also be considered to help all employers to maximise their occupational health provision.

1.8 Where the tax system is used to incentivise employers to expand the OH support they provide to employees, clearly it is important to assess the cost of any additional tax incentives that may be provided. However, this needs to be looked at in the round – and based on the figures noted in the consultation document – it seems to us that helping employees to remain in work, and getting them back to work quicker, would significantly boost UK employment/productivity and so be mutually beneficial for employees, employers and the Exchequer alike.

2 About us

2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

2.4 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3 Introduction

3.1 The consultation discusses the case for tax incentives for employer-led OH services to address the impacts of an employee's health conditions in the workplace, and to support employees to remain healthy and happy in work. It specifically seeks views on providing further support through expanding the existing Benefits-in-Kind (BIK) exemptions for medical benefits, to encourage greater employer provision of OH services.

3.2 Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.

- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

3.3 Given these objectives for the tax system, the CIOT's general position in relation to tax reliefs is one of caution. Done badly, tax reliefs litter the tax system and create new boundaries to it. These boundaries may create the wrong, sometimes perverse, incentives and can encourage individual or marketed avoidance. Tax reliefs inevitably make the system more complex rather than simpler – and can represent unmonitored government expenditure by another name. They are often the result of lobbying from special interest groups or created for reasons of political expediency. As such, the CIOT's general presumption is that governments should always first look to non-tax solutions before considering new or amended tax reliefs.

3.4 Having expressed that general reservation about tax reliefs, the CIOT does accept that this case may be one where our general presumption can be put aside, as there are a number of features here which mean that tax relief may be an appropriate means of delivering the particular objectives. These include (a) that the reforms build on existing tax reliefs rather than creating new ones, (b) the amounts at stake are relatively low and therefore give less incentive for marketed avoidance schemes, (c) the reliefs are widely targeted, and (d) alternatives (such as using the benefit system) would require a much more costly and complex mechanism to be put in place, whereas the tax system already provides a ready-made route to implementation.

3.5 However, we continue to think that it is important that any proposals for new or expanded tax reliefs are assessed carefully, particularly in terms of what extra OH support employers are to be encouraged by government to provide to their employees. In this respect we note, and welcome, the fact that the DWP issued a parallel consultation[2] to this end alongside the consultation on OH and tax incentives. This will ensure that there is a strategic response to this issue, rather than a tactical/piecemeal response on the tax side alone.

4 Chapter 2 – The case for action – Evidence and efficacy of existing support

4.1 The consultation recognises that there are a range of existing programmes available for businesses in relation to OH. The existing support through the tax system for employer funded OH provision includes whole or partial exemptions from Income Tax and Class 1A National Insurance contributions including:

- Recommended medical treatment funded by an employer to help employees return to work
- Cost of annual health screening and medical check-ups
- Welfare counselling
- Eye tests and glasses or contact lenses

4.2 Additionally, any expenses incurred by an employer on OH services will normally be eligible for a deduction when the business is calculating its taxable profits, provided that (i) those expenses are of a revenue, not capital nature, and (ii) the sole purpose is for the employer's trade.

[2] Occupational Health: Working Better - GOV.UK (www.gov.uk)

4.3 ***Question 1: Why do employers provide OH services to their employees? For example, it could be to increase workplace participation, increase workplace performance, or for the health and wellbeing of the employee.***

4.4 An employer is likely to provide OH services to ensure the workforce remains fit and healthy, to minimise the days lost to sickness. OH services also signal to employees that their physical/mental health is a priority and that the employer cares/is taking tangible steps so that any issues can be detected and treated sooner rather than later so they do not linger/worsen. Additionally, employers have legal obligations towards the health and safety of their employees.

4.5 ***Question 2: What OH treatments are most commonly provided to employees? Have you observed any changes to this since the COVID-19 pandemic?***

4.6 The range of OH services an employer decides to offer will depend on the nature of their business, but typical services include annual medical check-ups and flu jabs, welfare counselling (including Employee Assistance Programs (EAP)) and fitness to work assessments (such as where an employee is on long-term sick leave). In addition, many employers see a positive response to offering private medical insurance as a taxable benefit-in-kind. And, of course, employers have legal obligations in respect of, for example, health and safety training and supporting employees with health conditions to remain in work.

4.7 Changes to OH services in recent years include a move to telephone/online counselling and check-ups, and an enhanced focus on employees' mental health (accentuated by the effects of the COVID-19 pandemic lockdowns).

4.8 ***Question 3: What OH treatments are most effective for improving workplace participation, or effective at achieving other objectives (eg performance or health outcomes)?***

4.9 This question is somewhat beyond the remit of the CIOT. This said, we recognise that OH needs will differ – different people need different things at different times. Our personal view is that some of the most effective services an employer can provide are (a) private medical insurance (as this often expedites the time required for employees to obtain treatment), (b) flu jabs (for example, to mitigate against potentially lengthy absences), and (c) employee welfare/assistance programmes (for example, to address stress or mental health related issues). The latter two examples also demonstrate an employer's commitment to staff welfare.

4.10 ***Question 4: How much do employers typically spend on OH services? Does the existence of the £500 cap on recommended medical treatment influence the amount that employers are likely to spend on OH services?***

4.11 It is important to recognise that there is vast difference between employers. At one end of the scale there are accidental employers (for example, those paying for care in their own homes), small organisations (for example, clubs, societies and charities), and small businesses – all of whom are unlikely to be able to pay for OH services. At the other end are large multi-national businesses – who will have a dedicated Human Resources department with expertise in handling OH issues and who are able to provide a full suite of OH services either in-house or outsourced.

4.12 The £500 cap on tax-free recommended medical treatment does, we believe, inhibit OH treatments. We suggest that the cap is revisited. For example, research should be conducted into the most typical OH issues, and the typical costs of treating those issues. While econometrics is not our specialism, we would suggest that the £500 cap is increased to a more meaningful figure, possibly £1,000.

4.13 ***Question 5: To what extent does the tax treatment of OH services affect the decisions employers make on whether to provide OH services and what to provide as a part of them? For example, would an employer***

be more likely to offer a treatment that is exempt than one that is not, and to what extent is that decision influenced by the tax treatment?

4.14 Businesses will have an eye on costs generally and this will include the cost of OH services and treatments. Employers will want to see net benefits to them arising from their outlay. For example, the willingness of an employer to support an OH treatment may be influenced by both the cost of that treatment and the employee's job role. Employers will also consider what is the 'norm' in the sector in which they are operating and the need to compete for staff and react accordingly to remain competitive. This is one of the reasons why many employers offer private medical insurance even though it is a taxable BIK.

4.15 This said, in terms of incentivising employers to do more in terms of providing employees with OH support, clearly any added tax cost needs to be factored into an employer's calculations for budgeting purposes. The bottom line being that an employer can provide significantly more support if it does not have to factor in tax cost as, for example, part of a PAYE Settlement Agreement (PSA). Furthermore, in a situation where instead employees had to pay tax on an employer spend on such OH support, for example, the costs of recommended medical treatment to enable a return to work, there may well be a reluctance on the employee's part to take up that treatment. Accordingly, if the government is looking for employers to do more than they are currently doing then imposing a tax/NIC penalty (in effect) is likely to be counterproductive.

4.16 ***Question 6: Small and Medium Enterprises (SMEs) are significantly less likely to offer OH services. Why is this? Are there other characteristics of employers that tend them towards offering less or more OH services?***

4.17 SMEs are less likely to have dedicated HR departments, so this may be one reason why they tend to offer lees by way of OH support. Cost, employee demand and too few cases to justify the expense may be other barriers to take-up.

5 Chapter 3 – Scope – Expanding Occupational Health (OH) costs exemptions/deductions

5.1 The consultation seeks views on whether there is a case for expanding the existing exemptions to provide relief for a greater range of costs – as outlined in the consultation document – and seeks views on the merits of each cost in turn.

5.2 The consultation proposes that the following should remain in scope of the existing relief, and not result in a taxable benefit:

- Recommended medical treatment funded by an employer to help employees return to work
- Cost of annual health screening and medical check-ups
- Welfare counselling
- Eye tests and glasses or contact lenses

5.3 The consultation also explores whether the following types of cost should receive additional tax relief:

- Health screenings for employees, within a specific pre-defined limit
- Medical check-ups for employees, within a specific pre-defined limit
- Treatments that aim to reduce workplace absence or enable employees to perform better, including preventative treatments
- Flu vaccinations, where paid for by the employee and later reimbursed by the employer

5.4 ***Question 7: How would any of the proposed additional treatments listed above enable you to support increased OH provision and improve workforce participation? Do you have any other comments on these proposals? If so, please comment on each in turn.***

5.5 Clearly additional OH support comes at a cost, and employers will have an eye on this and balance it against increased employee productivity and staff morale/goodwill. However, where a tax/NIC charge is removed/reduced this will mean that employers can do more for less, which should boost employer OH provision.

5.6 *Treatments that aim to reduce workplace absence or enable employees to perform better, including preventative treatments*

It is not clear what the government intends in this respect, but we assume that the intention is to build on the existing £500 exemption for recommended medical treatment for getting employees back to work. We believe that increasing the £500 limit to, say, a minimum of £1,000 would be helpful (see paragraph 4.12), as would an exemption for preventative treatments that might otherwise cause employees to be absent from work. For example, we note that '*According to the HSE, stress, depression or anxiety and musculoskeletal disorders accounted for the majority of days lost due to work-related ill health in 2021/22, 17.0 million and 7.3 million respectively.*'[3] We would therefore suggest an exemption focused on treatments, including preventative treatments, in these two areas might be a good starting point. Similarly, mental health issues are becoming an increasing problem in the UK, with more than 50% of all absences now attributed to anxiety, depression and social anxiety. Tax incentives for treatments, including preventive treatments, in this area would, again, be helpful. We refer to flu vaccinations below.

5.7 *Flu vaccinations*

We agree that permitting employers to reimburse the cost of flu jabs, rather than the current requirement for employer provision of the jabs (or a voucher), would be helpful. The existing policy rationale for this is unclear to us and we believe it potentially disadvantages smaller employers, who do not have the HR resource to organise something in-house.

5.8 ***Question 8: For each of the categories of treatments that are currently available, is the existing definition appropriate and does it support OH provision or does it create issues?***

5.9 *Cost of annual health screening and medical check-ups*

The exemption contained in section 320B, ITEPA 2003 states that no income tax liability arises on provision of '*a health-screening assessment or a medical check-up*' (section 320B(1)). We think the wording is unclear as to whether an employee can have both a health-screening and a medical check-up, or is limited to either the one or the other? Also, it is unclear whether or not the screening/check-up has to take place in one appointment – for example, it may not be possible to complete the assessment in just one visit. If a follow-up visit is required is this taxable? Similarly, does the exemption continue to apply where a provider offers supplementary appointments to address specific issues arising from the screening/check-up, for example, to undertake/discuss test results or to address further a particular matter (eg the menopause). In this respect we think that (a) it would be helpful for HMRC to issue guidance as to what the existing exemption covers and (b) if HMRC interpret the exemption narrowly then we suggest it is extended to cover the various points that we have noted.

[3] Reducing Absenteeism in the Workplace | Affects & causes (cpdonline.co.uk)

5.10 We think that the definition at section 320B(3) of '*health-screening assessment*', which refers to 'ill-health' could be clearer. For example, does 'ill-health' include conditions such as infertility? In this respect, we note that HMRC's guidance at EIM21765[4] is silent on this point.

5.11 *Welfare counselling*

The exemption for welfare counselling[5] (ITEPA 2003, section 210 and SI 2000/2080) is relatively tightly drawn. Whilst it includes, for example, stress and debt problems, it does not extend to include general financial and money advice and coaching, even though money management can itself be a significant stress factor, a pre-cursor to debt problems and a contributory factor to mental anxiety/employee absence. We think that the limitations on the exemption can create uncertainties in practice and would suggest that consideration is given to including money management as an exempt OH service.

5.12 *Eye tests and glasses or contact lenses*

The exemption contained in section 320A, ITEPA 2003 refers to no income tax liability arising '*in respect of the provision…*' of an eye test etc. HMRC interpretation of 'provision' at EIM21765[6] is such that '*Where the cost of an eyesight test, spectacles or contact lenses is reimbursed to the employee, a taxable benefit arises*.' However, for NIC purposes HMRC state at NIM02145[7] that '*If it is the employee who arranges the test and the employer reimburses them, then by virtue of Regulation 25 and paragraph 9 of Part VIII of Schedule 3 to the Social Security (Contributions) Regulations 2001 you can disregard the payment, as Health and Safety legislation considers an eye test to be an expense incurred in relation to the employment.*' The position for income tax and NIC therefore appears inconsistent.

5.13 We believe that HMRC's interpretation of 'provision' in respect of the income tax exemption creates problems and does not support the ethos of the Health and Safety at Work legislation that requires employers to provide eye tests etc in certain situations. We think that the dictionary definition of 'provision' can be interpreted as including the case where there is prior agreement from the employer to reimburse the employer and the employee then makes the arrangements etc. But, to put the matter beyond doubt, the government could exercise the powers afforded by section 301, Finance Act 2014 (Power to update indexes of defined terms)[8] – which allows a definition included in any Act to be amended by secondary legislation – to define 'provision' so as to include pre-agreed reimbursement.

5.14 ***Question 9: Are there are other costs that should be in scope, and how would they help achieve our goal of improved OH provision and greater labour market participation?***

5.15 We are aware that some larger employers will provide in-house sick bays, which employees can visit if they feel unwell. Such OH services are not normally exempt from income tax/NICs. However, we believe such provision should be exempt – sick bays are convenient for employers because they save time as the employee does not need to go elsewhere to seek an initial assessment, and exempting their provision would encourage other employers to provide similar services.

[4] EIM21765 - Particular benefits: cost of periodic health screening and medical check-ups, and eye tests - HMRC internal manual - GOV.UK (www.gov.uk)
[5] EIM21845 - Particular benefits: exemption for welfare counselling - HMRC internal manual - GOV.UK (www.gov.uk)
[6] EIM21765 - Particular benefits: cost of periodic health screening and medical check-ups, and eye tests - HMRC internal manual - GOV.UK (www.gov.uk)
[7] NIM02145 - Class 1 NICs: Earnings of employees and office holders: Eye tests and the provision of glasses - HMRC internal manual - GOV.UK (www.gov.uk)
[8] Finance Act 2014 (legislation.gov.uk)

5.16 We are also aware that some larger employers will provide access to virtual GP services, as this allows for quick access to assistance. Depending on the service, this may or may not be an exempt trivial BIK. It may also be something exempt under the EAP exemption, but again it might not be. We think the provision of such services should be tax exempt (and encouraged, as it reduces demands on the NHS).

5.17 See also paragraph 5.11, which refers to the welfare counselling exemption and our suggestion that this is extended to include money management.

5.18 ***Question 10: Do you have any views on the drawbacks of expanding BiK reliefs?***

5.19 OH services/treatments cost employers money, so they will only be provided where commercially justified. Hence, we think that subjecting OH services and treatments to tax/NICs is counter-productive if the objective is to encourage employers to increase such provision. While we would expect the government to seek to prevent any increased tax breaks from being exploited, we think that any abuse of the regime could be mitigated by (a) targeting exemptions carefully to specific circumstances (as does the present legislation) and (b) requiring that exemptions are available only where the provision is available to all employees on similar terms.

5.20 The consultation also proposes that the tax treatment of the following costs would remain liable to income tax and NIC as BIKs:

- Private medical insurance for employees
- Non-clinical treatments, such as wellness retreats, fitness classes, or gym memberships
- Wages for OH staff employed by the business
- Consulting costs, for example relating to the development of a business' OH strategy
- Costs relating to family members of employees
- Costs relating to persons that are not employees

5.21 ***Question 11: Do you see a case for any of the above costs being in scope of additional tax relief under the BiK exemption? If so, please discuss why, and how this would help achieve the government's objective of increasing employer provision of OH services and labour market participation.***

5.22 *Non-clinical treatments, such as wellness retreats, fitness classes, or gym memberships*

We note that gym membership is taxable but in-house gym provision by employers is not. We do not see a policy rationale for this difference and it discriminates against smaller employers. We suggest further research into the health benefits of fitness classes, gym memberships, etc, and how this translates to productivity (reduced absences, increased staff morale, etc) and a levelling of the playing fields.

5.23 *Wages for OH staff employed by the business*

We believe that an exemption should apply for the costs of in-house OH staff who are employed to treat employees on site. Particularly given the government's objective to encourage employers to do more to help their employees. They are, in effect, part of an employer's HR staff. See also paragraph 5.15.

5.24 *Consulting costs, for example relating to the development of a business' OH strategy*

We would not expect that the costs relating to the development of a business' OH strategy would give rise to a BIK. If there is any doubt we recommend introducing an appropriate exemption.

5.25 *Costs relating to family members of employees*

Where exemptions apply to BIK it is generally the case that they do not extend to family members (not otherwise employed by the business). This said, in the context of employee wellbeing an exception to this is contained in section 261, ITEPA 2003 (Exemption of recreational benefits) which, where the relevant conditions are met, exempts '*the provision to an employee or a member of the employee's family or household…*' of sporting or other recreational facilities etc. But we think there is a broader point here in that ill-health of a family member can itself cause employees to be absent from work – for example, when a spouse or a child develops a condition requiring the employee to take time off work to care for them, when a check-up/screening could have detected the condition at an earlier stage to avoid this. We would therefore suggest further research is undertaken into time lost through employees being absent from work to care for a family member and the benefits – in terms of reduced employee absence – of extending OH exemptions to family members.

5.26 *Costs relating to persons that are not employees*

We would assume that it is relatively uncommon for a business to provide OH services/treatments to independent contractors. However, where a business is prepared to assist a non-employee in this way then we consider there is a case for the provision of an exemption to match the employee exemption.

6 Chapter 4 – Alternative tax incentives

6.1 The consultation seeks views on whether there are alternative tax incentives that would be more effective in incentivising businesses to invest in OH and includes the example of a '*super deduction on certain OH costs*'.

6.2 ***Question 12: Are there alternative tax incentives that you think would be more effective in incentivising employers to invest in OH services for employees? If so, please explain why.***

6.3 We note that the government introduced a time-limited 'super deduction' for certain capital expenses and that there are enhanced reliefs available for qualifying Research and Development (R&D) costs. We think that there could be benefits, in terms of boosting employer OH provision, in adopting a similar approach here, albeit it would come at a cost to the Exchequer in respect of the dead-weight effect from offering additional reliefs on existing expenditure. We would suggest conducting research as to whether additional tax incentives would boost OH provision and whether, for example, there is a case for either incentives for increased spending or a targeted incentive aimed at employer groups (such as SMEs) that are not currently providing significant OH services. This said, not all organisations are required to pay tax on their activities and so a super-deduction would not incentivise them in the same way as it would taxable businesses.

6.4 ***Question 13: Are there particular tax incentives that would be better suited to helping small and/or medium sized businesses (SMEs) invest in OH services?***

6.5 SMEs often find it more difficult to directly provide BIKs (see, for example, paragraph 5.7 in respect of flu jabs). We suggest reviewing all BIK exemptions and ensuring that they apply equally to the reimbursement of employees prior-approved costs as to the direct provision of a benefit by the employer.

6.6 We would also suggest considering some form of enhanced repayable tax credit for SMEs on their OH costs. This could help to demonstrate to SMEs the long-term productivity benefits of boosting their OH provisions.

6.7 ***Question 14: To what extent would tax incentives be more effective in increasing employer investment in OH, compared to legal measures to provide OH, which could vary by the size of the business?***

6.8 Tax incentives provide a 'carrot' to increasing OH services but also allow good employers that care for their employees to tailor their provision to their needs. Legal measures are a 'stick' that effectively imposes additional costs and administrative burdens on employers without regard to the individual circumstances of the employer and their employees.

6.9 We consider that, aside from legislation relating to health and safety at work, the government should not intervene to require employers to provide this or that OH support. This is not least because each employer's circumstances are different and whilst some may be able to afford incremental OH spend others may not (particularly in the current climate). But by providing additional tax incentives the government could nevertheless influence the decisions taken by employers in a positive way, by reducing the cost of provision (where the employer would pay the tax/NIC under a PSA) – and that of course would represent a win for employees, employers and the economy as a whole.

7 Chapter 5 – Impacts

7.1 The consultation sets out a preliminary view of different impacts that could arise if changes were made to the existing BIK exemptions for medical benefits and seeks information on the potential behavioural impacts of expanding these exemptions.

7.2 ***Question 15: Do you have any comments on the government's expectations regarding Exchequer impacts?***

7.3 We note that the government's expectation is that the proposed BIK exemption changes might cost tens of £m over the next 5 years. However, the question is how the government is measuring this cost, ie is it simply looking at income tax/NIC foregone, or is it balancing this against the increased productivity of the UK workforce, itself resulting in growth of the economy?

7.4 ***Question 16: Would businesses seek to increase their overall investment into OH, if the exemptions from BiK rules were expanded in line with the suggestions in the chapter 3 on 'Scope'? If so, to what extent?***

7.5 We think that employers would increase their overall investment into OH provision if the BIK exemptions were expanded as suggested, not least on the basis that existing budgets would go further because of the reduced employer NIC liability.

7.6 ***Question 17: Do you have any comments on the government's assessment that tax incentives would positively impact the health of employees and lead to both fewer employees leaving the workforce and encouraging those currently employed to return to the workforce?***

7.7 We agree with the government's assessment that tax incentives, such as expanded BIK exemptions, would positively impact the health of employees. Expanded exemptions would not only make it easier for employers to provide increased OH services, they are likely to also increase take-up by employees, as the employees will not have to consider whether to opt out of a particular service/treatment because they have to pay tax on a non-exempt benefit. This then is likely to have a positive knock-on effect both in terms of general health and ability to remain in employment.

7.8 ***Question 18: Do you agree that tax incentives for providing access to occupation health services will promote a stronger culture in the UK of employers taking good care of employee health?***

7.9 Yes, we agree. Tax incentives also underscore the government's messaging on what OH support it thinks 'good' employers should be providing to their employees.

7.10 ***Question 19: How significant could the economic benefits of greater OH provision in the UK be?***

7.11 The statistics quoted on pages 7[9] and 8[10] of the consultation document would suggest that the net benefits of greater OH provision could be very significant.

7.12 ***Question 20: Do you have suggestions on how the effectiveness of these changes could be monitored?***

7.13 At a macro level the effectiveness of these changes could be monitored by revisiting the statistics on long term sickness quoted in the consultation document. This could be supplemented by (a) more detailed analysis of figures included in the monthly published Labour Market Statistics and (b) periodic surveys conducted with employers on employee sickness/approach to OH.

7.14 ***Question 21: If you are an employer, what are the formal processes around spending on OH? For example, do you have an annual budget that you must work within, or is this flexible and dependent on the needs of the business and employees in that time period?***

7.15 The CIOT is responding as a professional body. As such, this question is not appropriate to us.

7.16 ***Question 22: Do you have views on how best to minimise the administrative burdens for businesses, as a result of new OH tax incentives?***

7.17 We recommend consulting closely with employers and other stakeholders, making the legislation both as concise and simple to understand as possible (not leaving rough edges to be legislated via guidance), communicating the new (and existing) OH tax incentives and exemptions to employers, and publishing clear guidance (with examples) on how any new exemptions are to work in practice. As and where appropriate, existing guidance should be rewritten so it is as clear as possible.

7.18 ***Question 23: Do you have views on how best to minimise the complexity associated with new OH tax incentives?***

7.19 Generally speaking, the existing BIK exemptions for OH support are relatively clear and concise (see above regarding a few areas where greater clarity would be welcomed). Assuming any new exemptions are framed similarly (eg not leaving rough edges to be legislated via guidance) then any complexity should be minimised – but in any event good guidance/examples will also be helpful.

7.20 ***Question 24: Do you have any views on the implications of the proposal in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how.***

[9] '*The number of people not working in the UK due to long-term sickness specifically has reached a record high. Typically, for every 13 people currently working, one person is long-term sick.*'

[10] '*Economic inactivity as a result of poor health has risen in recent years; the number of people who are economically inactive due to long-term sickness stands at 2.6 million, up 23% over the last decade.*'

7.21 Each proposal will need to be consulted on further on a case-by-case basis. It will be important to ensure, for example, that the exemptions do not disadvantage based on a protected characteristic. For example, further exemption for health screenings/medical check-ups should take account of any gender specific/age-related issues which may require more than one session in a tax year.

7.22 It will also be important for the government to recognise that not all employers are taxable businesses. As noted at paragraph 4.11, there is a vast difference between, say, a large multi-national conglomerate and an individual employer (such as a 'care and support' employer). And incentives such as a 'super deduction' would not benefit a non-taxable employer (see paragraph 6.3), whereas ensuring no employer NIC liabilities fall on such an employer who might want to do the right thing/has a vested interest in keeping their carer/PA fit and heathy and at work would.

7.23 We suggest before introducing any changes that the government undertakes research into trends in terms of demographics etc of those workers who are absent from work the most to determine the root causes. For example, are they typically on lower incomes? Or working in particular industries/service sectors or geographical areas?

7.24 ***Question 25: Do you have any comments on the territorial impacts?***

7.25 As noted in the consultation the government will need to consult with the devolved administrations.

7.26 ***Question 26: Do you have any comments on the impacts on HMRC and other public sector delivery organisations?***

7.27 We would not expect there to be material impacts to HMRC or other public sector delivery bodies in introducing new OH tax incentives beyond the need for HMRC/HMT to consult on and frame the legislation and publish associated guidance. Of course, there will be a cost impact to public bodies generally if they are expected to provide enhanced OH services.

8 Acknowledgement of submission

8.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

17 October 2023