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New tax checks on licence renewal applications – draft Finance Bill legislation

Comments by the Chartered Institute of Taxation (CIOT)

1 Introduction

1.1 The draft legislation¹ introduces measures to help tackle the hidden economy by bringing in a check on tax registration ('conditionality') for applications made by individuals, companies and partnerships (including LLPs) for licences to drive taxis and / or private hire vehicles (PHVs), operate a PHV business or deal in scrap metal from 4 April 2022. This includes the following new measures:

- Licensing bodies will have to signpost first-time applicants to HMRC guidance about their potential tax obligations.
- An applicant who is not a first-time applicant will have to carry out a tax check, and
- The licensing body will have to obtain information from HMRC that the applicant has completed the check before being able to consider their application.

1.2 As an educational charity, our primary purpose is to promote education in taxation. One of the key aims of the CIOT 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.

1.3 Our stated objectives for the tax system which are relevant to this draft legislation include:

- A legislative process which 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).

¹ <https://www.gov.uk/government/publications/new-tax-checks-on-licence-renewal-applications>

- Responsive and competent tax administration, with a minimum of bureaucracy.

2 Comments on the draft legislation

- 2.1 Para 2(a) of the new schedule compels the licensing authority to draw a first time applicant's attention to various guidance relating to tax compliance that HMRC specifies. How will this be done to ensure that it reaches the applicant and that the licensing authority can obtain confirmation from the applicant that they are aware of and understand the contents of that guidance? What provision will be made for an applicant who may be digitally excluded? Similarly, will HMRC accommodate digitally excluded people in the tax check process set out in para 5?
- 2.2 Given the list of information that the licensing authority will tell the person about (see para 2(a)), will HMRC then automatically treat any subsequent failure to notify HMRC of their chargeability under s7 TMA 1970 (para 2 Schedule 18 FA 1998 for companies) as deliberate for the purposes of penalties? If so, a warning to that effect should be given to the person alongside all the other information that the licensing authority is drawing to their attention. The warning should also set out the consequences eg level of penalties.
- 2.3 With respect to renewal applications (para 3), it will clearly be essential that applicants are aware in plenty of time of the requirement to complete a tax check to ensure that their financial livelihoods are not put at risk. It needs to be made clear who is responsible for making sure applicants have the required information in good time so they know what they need to do. Please can the guidance contain some examples showing how this will work in practice along with how the 120 day period operates.
- 2.4 It will also be crucial that people can rely on the information HMRC holds on its systems, and that there are safeguards in place in the event that HMRC's records are not accurate or up-to-date which lead to the refusal of a licence. Para 7 covers instances where HMRC failures prevent the licensing body from meeting its requirement to obtain confirmation of the completion of a tax check. It should include failures arising from inaccurate or out-of-date data held on HMRC's systems.
- 2.5 Para 5(2) of the new schedule deals with the information that a person must give HMRC as part of the tax check process. The last item on the list is effectively confirmation that their tax affairs are up to date. There may be some people who get the information from the licensing authority about what they need to do to renew their licence and then realise they need to get their tax affairs up to date. If they then ask to make a disclosure to HMRC (eg under one of the disclosure facilities) then is that sufficient for them to be able to provide the confirmation at 5(2)(e)? Disclosures often take months (sometimes years) to resolve and it would not be good for the economy if people are denied a licence to trade despite trying to get their tax affairs up to date. In addition, the drop in income may impede their ability to pay the historic taxes and penalties as part of any settlement following the disclosure process.
- 2.6 Similarly, how does HMRC consider a person can reply to 5(2)(e) if there is an ongoing compliance check of some kind in relation to their income regarding which they seek to renew their licence?
- 2.7 This list at para 5(2) is not exhaustive. What is the safeguard to stop the process effectively turning into an enquiry / compliance check by the back door? Will HMRC provide a full list of what they will ask for in guidance etc.

- 2.8 Clause 1(2) refers to the Schedule having effect for applications on or after 4 April 2022. We are not sure of the significance of this date.
- 2.9 The impact assessment refers to a ‘new digital service’ (or an alternative route for the digitally excluded) which businesses will need to use to apply to renew their licences. This will need to be adequately tested before it goes live on 4 April 2022 and, if there is a risk of it not working properly (and hence having a potentially detrimental impact on peoples’ livelihoods) then its implementation should be deferred.

3 Acknowledgement of submission

- 3.1 We should be grateful if you would acknowledge safe receipt of this submission.

4 The Chartered Institute of Taxation

- 4.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. 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. 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.

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. The CIOT’s comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT’s 19,000 members have the practising title of ‘Chartered Tax Adviser’ and the designatory letters ‘CTA’, to represent the leading tax qualification.

The Chartered Institute of Taxation

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