

Umbrella company market: Call for Evidence

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 We set out below our views on the role that umbrella companies play in the labour market, and how they interact with the tax system. Our response focuses on Chapter 4 of the call for evidence ('Tax non-compliance in the umbrella company market').
- 1.3 A number of our previous suggestions for raising awareness and tackling disguised remuneration avoidance schemes through umbrella companies have already been acted on and this is to be welcomed. But the addition of further signposting to help workers identify such schemes (for example through the Key Information Document and including health warnings on payslips), and HMRC guidance to workers on how to extract themselves from such schemes would certainly also help. As would real time information on earnings and tax deducted being included in a worker's Personal Tax Account.
- 1.4 As the call for evidence confirms (at paragraph 4.6), only a very small proportion of workers get caught up in disguised remuneration avoidance schemes, albeit clearly the concern is that numbers could increase with the recent proliferation of workers engaged by umbrella companies. By listening to and understanding the experiences of those workers that have been affected, government can form a targeted, robust, and proportionate response to combat such schemes and we believe that this is key.
- 1.5 Government should adequately resource HMRC so that it can tackle the promoters and facilitators of tax avoidance schemes and levy appropriate sanctions against them (as already provided for in legislation). By accompanying this with appropriate publicity illustrating how HMRC is tackling promoters etc, a 'hostile'

environment can be created towards those peddling falsehoods in relation to the PAYE and NIC due on the employment income of often lower-paid workers.

- 1.6 Similarly, by resourcing HMRC's Fraud Investigation Service, the tax frauds being perpetrated through umbrella companies can be investigated and prosecuted. And, again, with publicity, HMRC can make it very difficult for these criminals to operate.
- 1.7 HMRC could also help end clients and temporary work agencies to engage with known and tax compliant umbrella companies by introducing a verification scheme similar to that used under the Construction Industry Scheme. This would allow the end client to check that any worker being paid through an umbrella company is employed by an entity known to HMRC. It would also allow HMRC to risk assess the umbrella company and take early action against any apparent tax non-compliance.
- 1.8 If considered appropriate and necessary, an extension of the PAYE transfer of debt provisions could be considered (subject to further consultation). This could be targeted at those who knowingly facilitate an umbrella company's failure to properly account for PAYE and NIC on worker's pay.

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 call for evidence invites views on the role that umbrella companies play in the labour market, and how they interact with the tax system and employment rights. It also sets out the concerns that have been raised by some non-governmental bodies, as well as government action already taken to tackle tax non-compliance and improve protection for workers.
- 3.2 The CIOT's stated objectives for the tax system include:
 - 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.
- Responsive and competent tax administration, with a minimum of bureaucracy.

Our response to the call for evidence reflects these objectives.

- 3.3 It is apparent that umbrella companies play an increasingly important role in the labour market. They allow employment businesses (temporary work agencies) to outsource their pay, employment rights and tax functions to them (albeit at a cost to the agency and, often, the worker too). There is a place for well-run, tax compliant, umbrella companies. It does, however, appear that with the recent rapid expansion in umbrella companies there are a concerning number of non-compliant operators. As such, we believe it is right for the government to take appropriate action to protect the rights of workers and protect exchequer revenues.
- 3.4 We note from paragraph 1.11 of the call for evidence that HMRC is already aware of two forms of tax non-compliance:
- Tax evasion, through the use of mini-umbrella companies¹; and
 - Tax avoidance, through the use of disguised remuneration schemes.

Chapter 4 of the call for evidence discusses these arrangements (and others) in detail and this response focuses mainly on that Chapter, albeit we also comment briefly below on the role of umbrella companies and workers' employment rights.

- 3.5 One other general observation we would make is the scope of the call for evidence. Paragraph 1.15 of the introduction says: *'Through this Call for Evidence, the government is therefore seeking views from umbrella companies, their workers, employment businesses, end-hirers, and representative groups and bodies about umbrella company use and practices.'* However, we note that none of the thirty-eight questions in the call for evidence are actually addressed to umbrella companies. We think that government should also seek to gather evidence from compliant umbrella companies.

4 The Role of Umbrella Companies in the Labour Market

- 4.1 While umbrella companies are not currently defined in legislation, their place in the temporary work supply chain is well defined – they are a labour market intermediary within a supply chain that sits below the end client (the ultimate recipient of the worker's services) and the temporary work agency (or agencies) supplying the worker to the end client, and just above the worker that is performing the services for the end client. Similarly, their role is also well defined – they take on the obligations relating to employment rights and employment taxes that either the end client (as an employer) or the temporary work agency (as an employment business) would be responsible for had the worker been engaged by either of those parties directly.
- 4.2 As stated in paragraph 2.7 of the call for evidence the government has already committed to expanding *'state enforcement to umbrella companies by bringing these companies within scope of the new enforcement body [the Employment Agency Standards Inspectorate]'*. This is to be expected given the increasing role umbrella companies play in the temporary labour market. What we think will be important is that this body not just

¹ [Mini umbrella company fraud - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

regulates employment rights for workers engaged by umbrella companies but also assists HMRC in tackling tax non-compliance by such businesses.

- 4.3 Questions 1 to 16 of the call for evidence are *'for employment businesses and end clients about their use of umbrella companies'*. As such, it is not appropriate for us to directly respond to these questions.
- 4.4 This said, we would add that we think that there should have been an additional question raised in this section of the call for evidence around whether employment businesses and end clients have been influenced to use umbrella companies by the introduction of the IR35/Off-Payroll Working (OPW) rules. These rules first applied in April 2017 for the public sector and were extended to medium/larger businesses in the private and third sectors in April 2021.
- 4.5 Anecdotal evidence would suggest that there was increasing use of umbrella companies in labour supply chains after the April 2017 OPW changes and that there was a further, and significant, increase in the use of such companies after the April 2021 changes. This increase is acknowledged in the recent House of Lords Economic Affairs' Finance Sub-Committee report² at page 26 and the National Audit Office's Investigation into the implementation of IR35 tax reforms in the public sector at page 33 of their report³. Furthermore, we think that it is these changes that have significantly contributed to the increased use of mini-umbrella companies and umbrella company disguised remuneration avoidance schemes. We therefore suggest that the government undertakes research around whether pressures to keep down amounts paid to temporary work agencies for the labour they provide has led to an increased use of non-compliant umbrella companies, ie to maintain market rates of pay to workers (and, especially, lower paid workers).
- 4.6 More broadly, and in considering why there has been an increasing use of umbrella companies in the marketplace, we think the underlying challenges that businesses face in determining employment status has played a key part. This being particularly so where workers have multiple roles for one/other business and no set hours of work – something which is commonplace in today's world of work. 'The Taylor Report'⁴ discussed these difficulties and suggested the delineation between employment and self-employment be clarified. The then government's response⁵ indicated, with particular reference to gig economy workers, that *'we should make it easier for individuals and businesses to distinguish workers from those who are legitimately self-employed'*. It also indicated that it would consult *'to explore the best way to improve clarity for those on the boundary between employment and self-employment, including options for legislative reform'*. Unfortunately, in many situations whether an individual is employed or self-employed for the purposes of either employment law or tax law is not clear and we believe this should now be addressed as a priority.
- 4.7 In regard to Question 5 (*What factors do you take into account when deciding how to engage staff?*), we understand from members that typical factors are whether specialist expertise is needed and the length of time a worker will be needed. For example, a particular project might last a matter of weeks, but require someone with knowledge of a 30-year-old software language. It would be too much of a diversion of in-house resources to advertise, screen, short-list, and interview candidates. Consequently, it makes sense to use a temporary work agency for resourcing and for them to subcontract specialist roles to specialist agencies.
- 4.8 In regard to Question 6 (*If you use umbrella companies, why do you work with them?*), we understand from members that a common reason for engaging workers through an umbrella company is that the end client is

² [Off-payroll working rules have resulted in an increased use of umbrella companies - Committees - UK Parliament](#)

³ [Investigation into the implementation of IR35 tax reforms - National Audit Office \(NAO\) Report](#)

⁴ [Independent report overview: Good work: the Taylor review of modern working practices - GOV.UK \(www.gov.uk\)](#)

⁵ [Government response to the Taylor review of modern working practices - GOV.UK \(www.gov.uk\)](#)

not prepared to take the risk of getting a Status Determination Statement incorrect, nor do end clients wish to put in place processes to make such determinations under the OPW rules.

5 Employment Rights Issues in the Umbrella Company Market

- 5.1 As noted above, the government has committed to bring umbrella companies within the scope of the new single enforcement body for agency workers. The government has also already introduced the 'Key Information Document' (KID) which requires any employment business to provide every worker registered with them a range of pay-related information. In addition, HMRC has provided guidance⁶ to umbrella company workers on how to check their payslip and understand whether the umbrella company is meeting its PAYE and NIC obligations. While welcoming both the KID and the guidance HMRC is producing for workers working through an umbrella company, it will be important that this guidance, and the requirement to provide a KID, is well publicised. In addition, the employment business might also be required to either direct workers to HMRC's net pay calculator⁷ to check the umbrella company's payslip or illustrate typical gross and net pay based on certain assumptions to enable workers to compare their actual gross to net pay with these examples.
- 5.2 Questions 17 to 33 of the call for evidence are '*for work-seekers*'. As such, it is not appropriate for us to respond to these questions.
- 5.3 This said, one observation we would make is that when developing policy to better protect umbrella company workers the government should recognise the differences between umbrella companies and service companies within a group of companies. It is a relatively common practice for groups of companies to 'own' a service company that directly engages the employees of that group of companies. These service companies are not umbrella companies.

6 Tax Non-Compliance in the Umbrella Company Market

- 6.1 Paragraph 4.1 of the call for evidence notes that concerns have already been raised that umbrella companies are being used to '*facilitate tax non-compliance*' with the key concerns being the promotion and marketing of tax avoidance schemes (disguised remuneration avoidance schemes) and '*fraudulent attacks exploiting generous employer tax reliefs*' (using mini-umbrella companies (MUCs) to claim the National Insurance Employment Allowance and to avoid VAT registration).
- 6.2 Paragraphs 4.4 to 4.19 discuss disguised remuneration avoidance schemes and HMRC action to tackle such schemes. In responding⁸ to the 2020 call for evidence into disguised remuneration the CIOT raised its concerns with the misuse of umbrella companies that use disguised remuneration avoidance schemes. In particular, we noted that: '*taking on board the Finance Act 2011 legislation on DR, the GAAR and the attitude of the courts to tax avoidance, DR schemes of the sort described in the call for evidence, it is difficult to see how such schemes can succeed*'.

⁶ [Check your payslip if you work through an umbrella company - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/check-your-payslip-if-you-work-through-an-umbrella-company)

⁷ [How much do you get paid? - Estimate your take-home pay - GOV.UK \(tax.service.gov.uk\)](https://www.gov.uk/guidance/how-much-do-you-get-paid-estimate-your-take-home-pay)

⁸ See our 2020 response to the '[Call for evidence: tackling disguised remuneration tax avoidance](#)'

- 6.3 We would re-iterate our concluding summary of key points in response to the 2020 call for evidence that *'HMRC should be targeting the promoters of DR schemes by:*
- (a) making it clear that DR schemes do not work,*
 - (b) making it clear that these schemes often involve sham arrangements, evasion, and fraud,*
 - (c) using existing powers to pursue sanctions and penalties, and, in appropriate cases, criminal prosecutions against promoters and enablers and associated parties,*
 - (d) requiring onshore engagers to do more due diligence on the party with whom they are contracting,*
 - (e) introducing more rigorous compliance activity as regards umbrella companies,*
 - (f) introducing financial incentives for taxpayers to contact HMRC with information about DR schemes,*
 - (g) discussing with the Bar Council the circumstances in which DR schemes are promoted by reference to 'Counsels' Opinion' (and how DOTAS is being addressed), and*
 - (h) considering directing workers to appropriate HMRC guidance through messages on umbrella company payslips or other communications from engagers and agencies.'*
- 6.4 We note that a number of our suggestions (for example, making clear that tax avoidance doesn't work⁹¹⁰¹¹, strengthening existing anti-avoidance measures and new measures to clamp down on promoters and those who facilitate avoidance, new guidance for umbrella company workers enabling them to check payslips¹²) have been acted on and we welcome this.
- 6.5 We also note, from paragraph 4.6 of the call for evidence, that 99.8% of taxpayers *'have never used a disguised remuneration avoidance scheme'*. This suggests that the use of such schemes is not widespread and that there are only a relatively few 'rogue operators'. We would suggest that HMRC undertake research with the 0.2% of taxpayers that have used such schemes to ascertain why they used the scheme, how they came to be involved with the scheme, their knowledge of the scheme, and whether they would be involved in such an arrangement in the future now that they know the consequences of being involved with such schemes. And indeed what would have persuaded them to think again if it had been mentioned at the time. We think that it is the experiences of this 0.2% that should inform a targeted, robust, and proportionate response to the problem of umbrella companies using disguised remuneration avoidance schemes (that, in our opinion, are almost certain to fail).
- 6.6 One suggestion for improving awareness of umbrella company disguised remuneration avoidance schemes would be to require appropriate messaging (for example, on checking PAYE and NIC deductions) in both (i) the KID temporary work agencies are obliged to give temporary workers and (ii) on the payslips that umbrella companies should issue to workers (similar to the messaging employers are being asked to include on payslips in respect of the new Health and Social Care Levy).
- 6.7 Paragraph 4.10 of the call for evidence suggests that umbrella companies may be 'favoured' as a tax avoidance vehicle *'because of the relative ease with which these companies can be established and subsequently*

⁹ [Tax avoidance facts - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

¹⁰ [Umbrella companies offering to increase your take home pay \(Spotlight 45\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

¹¹ [Comparison and broker websites marketing umbrella companies are not always what they seem \(Spotlight 55\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

¹² [Check your payslip if you work through an umbrella company - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

liquidated'. This suggests that part of the response to tackling such arrangements may be to (a) impose a regulatory framework on umbrella companies and (b) make the directors/shadow directors of those companies, their promoters and associates personally liable for breach of those regulatory obligations (including in relation to unpaid taxes). Indeed, since much non-compliance in this area essentially relies on misrepresentation and concealment, we think that targeting those responsible, rather than penalising often lower paid workers for being placed into non-compliant umbrella companies by temporary work agencies, is an appropriate response.

- 6.8 Paragraph 4.13 of the call for evidence describes a typical disguised remuneration avoidance scheme. Where non-taxable loans are routed via an offshore trust or other intermediary, we would expect the disguised remuneration anti-avoidance provisions to apply. But where these payments are *'paid directly from the umbrella company to the worker'* the disguised remuneration provisions do not apply. Instead, 'normal' employment taxes rules apply and, unless there is an expectation that the 'loan' will be repaid (in which case the usual loan benefit rules apply), then it would be expected that the 'loan' is not a loan but pay for PAYE and NIC purposes (because there is no intention to seek repayment). Failure to deduct PAYE and NIC in such circumstances would be an automatic failure on the part of the umbrella company employer and HMRC can use existing provisions to issue assessments on the umbrella company (and transfer liability in appropriate cases). There is of course an evidential issue here in that HMRC has to demonstrate that 'loans' are not in fact intended to be repaid. This difficulty is what led to the enactment of the FA 2011 disguised remuneration rules and the requirement to apply PAYE and NIC to loans from third parties unless the loans fell within certain exceptions. We believe this point may need further consideration.
- 6.9 In the more typical disguised remuneration avoidance scheme scenario, it is common for there to be an offshore promoter. As noted in paragraph 4.15 of the call for evidence, the government has already clamped down on UK promoters and introduced an additional penalty for UK entities who facilitate avoidance schemes using offshore promoters. While we think that this will make UK-based umbrella companies and temporary work agencies that facilitate disguised remuneration avoidance schemes promoted by offshore promoters more wary, we also think the government could go further. In cases where PAYE and NIC is not accounted for by the 'deemed employer', the OPW rules place liability on the end client or first temporary work agency in the supply chain. Similarly, the agency worker rules (and section 688 of the Income Tax (Earnings and Pensions) Act (ITEPA) 2003) place liability on temporary work agencies to account for PAYE and NIC, but in certain cases (for example, where the intermediary is offshore) that liability can be transferred to another party in the supply chain. If it is considered that a temporary work agency, or indeed the end client, has facilitated the use of an umbrella company disguised remuneration avoidance scheme, why not make that entity liable for the unpaid PAYE and NIC, in a similar way as currently applies under the OPW and agency worker rules? Certainly, the extension of the transfer of debt provisions to Managed Service Company providers effectively ended that market (see section 688A, ITEPA 2003).
- 6.10 Paragraphs 4.20 to 4.31 of the call for evidence discuss mini umbrella company (MUC) fraud. It identifies that MUCs are used to facilitate NIC Employment Allowance and VAT fraud by seeking to disaggregate larger umbrella companies into a series of smaller MUCs that would qualify for the NIC Employment allowance and fall below the VAT registration turnover threshold. Paragraph 4.23 explains that this fraud is perpetrated by organised criminals and paragraph 4.29 adds that HMRC's Fraud Investigation Service is investigating and prosecuting those involved, and that HMRC is using its civil and criminal powers to challenge this fraud (and at paragraph 4.30 it is noted that recently a number of arrests have been made). While HMRC has published guidance¹³ on MUC fraud (and how to report it), we think HMRC could do more to publicise the robust action

¹³ [Mini umbrella company fraud - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/mini-umbrella-company-fraud)

they are taking against this type of fraud. This both in terms of the severe sanctions that can be imposed on any temporary work agencies that facilitate this type of fraud and encouraging compliant agencies to report others they come across who are, or appear to be, involved in such fraud.

- 6.11 The call for evidence also identifies other risks associated with umbrella companies (at paragraphs 4.32 to 4.37). One such risk is 'payroll fraud', whereby PAYE and NIC deductions (and other required payroll deductions) are 'correctly' calculated and deducted from gross wages, and the worker is correctly paid their net pay, but the deductions are not paid over to HMRC. Although not mentioned in the call for evidence, where the payroll company is an employer based overseas then we believe that section 689, ITEPA 2003 would apply to transfer liability for these payroll deductions to the client for whom they work in the UK or, where a UK agency is involved, then that agency (further to section 689(1B)(1C), ITEPA 2003). We believe that this provision needs to be given more publicity as it clearly represents a real risk to UK clients and UK agencies engaging with agencies where employees are sourced via a non-UK based payroll/employing company. And if the payroll company is UK based, then as it would appear that we are dealing with nothing less than fraud, surely it is appropriate then to target those responsible along similar lines as suggested at paragraph 6.7 above? By doing this the directors/shadow directors and officers of the payroll company would then be properly held to account for the fraud that had been perpetrated.
- 6.12 Paragraph 4.35 of the call for evidence identifies claims for travel and subsistence expenses by workers engaged by umbrella companies as an area of concern. The travel and expenses rules for such workers were amended in April 2016 and, in our opinion, umbrella companies (and other employment intermediaries) not applying these rules correctly may be more likely to arise from misunderstanding (of the rules at section 339A, ITEPA 2003) rather than fraud. This said, we would be interested in HMRC's view on this point. Clearly, the remedy in relation to misunderstanding is better education, but where fraud is involved it will be prosecution.
- 6.13 Questions 34 of the call for evidence is for '*an employment business or end client*'. As such, it is not appropriate for us to respond to this question.
- 6.14 **Question 35: How could employment businesses or end clients, who use umbrella companies, do more to ensure tax compliance in their supply chain?**
- 6.15 As noted in our response to the tackling disguised remuneration call for evidence (see paragraph 6.3 above), we think the key to stopping the disguised remuneration avoidance schemes is HMRC tackling the few remaining boutique firms that continue to promote and operate these types of scheme. Similarly, the key to tackling the MUC fraud is HMRC's Fraud Investigation Service investigating and prosecuting the criminals involved and publicising this widely.
- 6.16 Whilst we think that many end clients and temporary work agencies already take steps to ensure tax compliance in the supply chain, it would be helpful if HMRC publicise best practice in this respect. For example, (i) checking for any non-UK entities in the supply chain (noting the potential transfer of liability consequences that could then arise), (ii) seeking contractual warranties that the umbrella company is tax-compliant, UK resident, and properly accounts for all taxes and NIC, (iii) obtaining indemnities from the umbrella company in case the temporary work agency or end client is found to be liable for tax and NICs, and (iv) obtaining references from other companies that use that umbrella (and noting how long this has been for). Albeit the problem remains that clearly if the umbrella company is setting out to deceive (for example, commit payroll fraud, use a disguised remuneration avoidance scheme, etc) the likelihood is that they will not disclose this to the temporary work agency or end client. In this respect we think following-up on references is particularly important.

- 6.17 But we think that more could be done by HMRC to assist end clients and temporary work agencies assess the bona fides of their labour supply chain where an umbrella company is involved. In particular, we think that umbrella companies could be required to register with HMRC so that HMRC is able to establish in more detail who they employ, the PAYE and NIC they collect, and whether they appear to be operating in a compliant fashion. End clients and temporary work agencies would then be able to approach HMRC to validate any umbrella company that is or may be involved in their labour supply chain. This could work along similar lines as the Construction Industry Scheme, which has operated since the 1970s and was established because of concerns over pervasive fraud in the construction industry. A validation scheme would certainly provide welcome assurances to end clients and employment businesses that workers are being paid by 'known' and tax compliant entities. It would also allow HMRC to proactively monitor the umbrella companies, to withdraw validation to non-compliant umbrellas and publicise this accordingly.
- 6.18 **Question 36: Do you have experience of umbrella companies engaging in any related schemes or models to those covered above, or any other tax non-compliance not covered in this paper? If so, what are they?**
- 6.19 We are not aware of any related schemes or models not otherwise covered in the call for evidence.
- 6.20 **Question 37: How could the government support or encourage employment businesses and end clients to do more to ensure tax compliance in their supply chain?**
- 6.21 As mentioned at paragraph 6.17 above, some form of Construction Industry Scheme style validation system to enable end clients to verify that umbrella companies are registered with HMRC would be worth considering.
- 6.22 Added to this we would recommend more rigorous policing of PAYE and NIC compliance by umbrella companies, and the temporary work sector, by HMRC and naming and shaming the bad apples and those facilitating fraudulent activity.
- 6.23 As mentioned at paragraph 6.11, section 689, ITEPA 2003 provides for the transfer of PAYE liability to a UK entity where an offshore entity is paying an employee. Greater awareness of this provision and how it might apply to a UK end client, or temporary work agency, where an offshore umbrella company is engaged would, we think, discourage the use of offshore entities.
- 6.24 Additionally, we believe that HMRC should include labour supply chain due diligence higher up its agenda in conducting 'business risk reviews', and its risk assessment ratings of large businesses. And it should publicise that it intends to do so.
- 6.25 As noted at paragraph 6.3(h), the government could also require umbrella companies (and other employers) to include suitable messaging on payslips urging employees to check their PAYE, NIC and other deductions against HMRC's net pay calculator. Furthermore, real time pay and tax information could be included in an individual's Personal Tax Account (PTA) by HMRC through a feed from the Real Time Information PAYE reporting system. This would allow workers to check that their payslips match the information being reported to HMRC by umbrella companies (and other employers). The PTA could include signposting on what to do if the worker believes that the umbrella company is not accounting for PAYE and NIC on the full amount of pay they receive.
- 6.26 **Question 38: What further steps, if any, do you think HMRC and government should take to prevent or tackle non-compliant models outlined in this section?**
- 6.27 As discussed above, and in our response to the 2020 Tackling disguised remuneration call for evidence, we believe that tackling the 'rogues' head on through active identification, targeting, investigation, and

prosecution of promoters of tax avoidance schemes and criminals engaged in tax fraud, and naming and shaming is the best way to prevent and tackle the non-compliant models outlined in the call for evidence.

- 6.28 By using the legislation to tackle tax abuses promptly, and with publicity, and by providing adequate resources for HMRC to continue to do so, we believe there will be a clear deterrent effect to stop ‘new entrants’ entering into non-compliant or fraudulent payroll activity. As evidenced by the old IR35 rules, if the rules are not adequately policed, they do not act as a deterrent and compliance becomes voluntary.
- 6.29 The issue that would then remain is tackling those criminals who will ignore any legislation, however tough or onerous, and the few remaining promoters of tax avoidance schemes. This can only be tackled through having adequate resources to investigate and prosecute such persons.
- 6.30 As noted at paragraphs 1.8, 6.7 and 6.11 above, we would suggest the government considers making these people, and those that knowingly facilitate tax evasion and tax avoidance, jointly and severally liable for the PAYE and NIC unaccounted.

7 Acknowledgement of submission

- 7.1 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

22 February 2022