Tax conditionality in public sector licensing: LITRG responds to consultation

Employment Tax | OMB | Personal tax

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The government has consulted further on the principle of tax conditionality as a means of tackling the hidden economy by requiring those who require licenses to operate to demonstrate they are properly registered for tax.

The latest consultation considers the mechanics of such a proposal in relation to certain public sector licenses, namely those in the private security, taxis and private hire vehicles, waste management, scrap metal, housing and retail sectors.

It is proposed that those individuals and businesses who operate in these sectors will need to provide proof of their registration for tax when they come to renew their licence. Tax registration will not be checked upon the initial application of the licence, because it is recognised that the licence applicant may, legitimately, have not yet registered for the appropriate tax(es) at that point.

In its response, LITRG highlights its concerns over how such tax registration checks would fall short of eliminating hidden economy activity in the sectors concerned and more widely. For example, the proposals will not affect those who operate illegally without a licence or ensure that those who are registered are actually compliant. Furthermore, there is no proposal on how HMRC (or, indeed, the licensing authorities) assess which tax registrations are relevant depending on the business structure. Indeed, the person or entity with the responsibility to register for tax may not be the same as the individual being licensed (as in the case of an employer having the responsibility to register its employees for PAYE). These issues will need to be ironed out if tax conditionality is to be fair and effective.

The consequences of an individual losing their license to operate because they are unable to demonstrate what is required are significant. These would not just extend to that person’s ability to trade, but would also impact innocent third parties, for example their financial dependants, those they employ and those who engage their services. In the case of licences issued under the Housing Act 2004, certain tenants may find themselves homeless. Therefore, the process must be robust and allow fair opportunity for appeal. At the same time, licensing authorities must not have an undue burden placed upon them to make assessments on an applicant’s tax position.

In terms of how tax conditionality would work in practice, LITRG has argued that the process should be as streamlined as possible for it to be effective. For example, instead of providing paper evidence containing sensitive financial information, licence applicants should simply be able to assert the relevant tax registration reference for the licensing authority to verify this directly with HMRC.

Finally, while LITRG supports the principle of tax conditionality, we have made clear that for this to be successful the government needs to ensure that it also focuses on improving levels of tax morality in society through education. In addition, it needs to educate the public around the importance of using licensed operators. Otherwise, tax conditionality risks backfiring by driving business underground even further.