Supporting unrepresented taxpayers

Employment Tax | Personal tax



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Victoria Todd discusses how the coronavirus pandemic has highlighted some problems in the tax system

Key Points

What is the issue?

LITRG’s work helping people to navigate the tax system and working with government to make improvements to the system has become even more important during the coronavirus pandemic.

What does it mean to me?

LITRG’s websites are primarily aimed at low income users, but they are also used by taxpayers and contain a wealth of free, detailed guidance, news articles and information about tax and related benefits, including coronavirus support measures.

What can I take away?

You can contribute to LITRG’s future work by sending them examples of issues affecting low income taxpayers.

The coronavirus pandemic has had, and continues to have, a far-reaching impact on all aspects of daily life, including a significant effect on the UK economy. Since March, the Low Incomes Tax Reform Group (LITRG), an initiative of the Chartered Institute of Taxation, has focused its attention on helping low income, unrepresented taxpayers to navigate and understand the financial support available to them during the pandemic. It has also been working with HMRC on the various support schemes and changes to the tax system needed as a result of coronavirus.

LITRG’s guidance on tax and related benefits is primarily delivered through www.litrg.org.uk. HMRC fund LITRG to deliver www.revenuebenefits.org.uk – a website primarily aimed at advisers covering tax credits (and the transition to universal credit), child benefit and tax-free childcare.

Coronavirus support

The coronavirus pandemic has reinforced the need for detailed, joined-up guidance. As the extent of the pandemic on the economy became apparent, LITRG quickly reorganised to help people understand the various methods of financial support available to them. A coronavirus guidance section on the LITRG website had been viewed around 560,000 times by 10 October 2020. HMRC was tasked with designing and delivering both the Job Retention Scheme and the Self-Employment Income Support Scheme (SEISS), and our guidance on the two schemes has consistently featured in our top five pages over the last six months.

LITRG's website saw a significant increase in contact from website users who were struggling to find answers to questions about the HMRC schemes and their interactions with benefits. Although GOV.UK published guidance about each individual coronavirus payment or scheme, very little was published about how these schemes worked together.

We have also received queries from individuals, and organisations representing individuals, in non-standard employment arrangements about how the various financial support schemes applied to them. Articles on our website examine the Job Retention Scheme from the perspective of an agency worker or someone working through an umbrella company or limited company, addressing questions that were not covered in the main GOV.UK guidance.

The increased contact from website users allowed us to quickly identify trends and issues in relation to the Job Retention Scheme and the SEISS and feed those back to HMRC. HMRC has been able to clarify some areas of confusion. For example, a number of people who were self-employed and then incorporated their businesses believed they were entitled to a SEISS grant because they were 'trading'. The GOV.UK guidance at that time didn't specify that you had to be trading on a self-employed basis during 2019/20; nor did it mention people who had incorporated their business.

Following our feedback, further guidance was added on GOV.UK to clarify this point.

The cracks appear

The pandemic has highlighted several weaknesses in the tax system that were already in need of reform, and on which we have commented previously. The coronavirus support schemes have been built based on a tax system that treats people who are doing the same type of work differently, depending on how they have been engaged and paid. Two construction workers, working for the same end client through intermediaries, could have had completely different outcomes under coronavirus support schemes, depending on whether they were self-employed and paid under the Construction Industry Scheme (CIS) or employed and paid under PAYE. The self-employed person would have been able to continue working at a lower level than normal and get the SEISS payment. However the CJRS payment for employees required that they did not work at all – until the scheme changed from 1 July to permit part-time working.

The pressures created by changes in the labour market have existed for some time, but the pandemic has strengthened the case for a wholesale review of how the labour market is taxed with a view to smoothing out the opportunities for distortive hiring practices. The Chancellor said he would be looking at the tax differentials when he introduced the SEISS scheme in March.

Following on from this, we have seen a number of difficult cases where CIS workers have been excluded from SEISS support because they declared their income and CIS deductions on the employment pages rather than self-employment pages of their tax return. Given that, for the purposes of SEISS, no amendments could be made to returns after 6pm on 26 March 2020, these individuals could not correct their mistake and claim the grants, even though they were in fact self-employed and within the group of people for whom the SEISS grants were intended.

LITRG has written to HMRC, asking it to allow claims in this situation as we think it is understandable why CIS workers filled in their returns incorrectly. The pay and deduction statement template by HMRC refers to the ‘employer’s tax reference’, thus giving the impression that the CIS worker is an employee.

Another problem area has been the link between the coronavirus support schemes and the benefits system. Government communications in the early stages of the pandemic, prior to SEISS being announced, encouraged self-employed individuals to claim financial support from universal credit. There was an erroneous suggestion that universal credit would provide the self-employed with the equivalent of statutory sick pay for employees.

However, these communications neglected to explain that universal credit is a means-tested benefit and takes into account earnings of any partner. It also has an upper capital limit of £16,000. Above that amount, there is no entitlement to universal credit. The communications also failed to mention one other crucial point.

Self-employed claimants already in receipt of tax credits would have their tax credits terminated immediately upon making a universal credit claim, even if they were subsequently found to be not entitled (due to capital or their partner’s earnings). Several organisations, including LITRG, raised this issue and there is now a warning on the universal credit claim form, but GOV.UK continues to mislead on various pages by mentioning universal credit as the only option for financial support for those who cannot access the various schemes.

The future

The coronavirus situation is far from over and LITRG will continue to provide up to date guidance to help those unable to pay for advice to navigate the tax system. It seems inevitable that the tax system will see changes in the near future. HMRC recently published its strategy for the next 10 years, 'Building a trusted, modern tax administration system', which sets out its plans for a fully digital tax system.

LITRG will continue to be a voice for the unrepresented; for example, encouraging HMRC to cater adequately for those who cannot transact digitally. Our evidence is far more powerful when it is based on real case studies and examples. We encourage everyone, including tax professionals, to continue to highlight issues to us via: www.litrg.org.uk/contact-us.

Image

THE NEED FOR TAILORED LOW INCOME GUIDANCE

It is a common misconception that people on lower incomes have simple tax affairs. A low income migrant, for example, has to grapple with the same complex residence and domicile rules as a migrant who is a multi-millionaire – the difference being that the former cannot afford to pay someone to explain the rules and ensure they comply with them. Those on the lowest incomes must also deal with complex interactions between tax and other systems. Primarily, this will be the benefits system, but we also see interactions with National Minimum Wage, student loans and child maintenance.

The LITRG website is the most comprehensive source of free tax guidance online for those unable to pay for advice. In 2019, 5.5 million people visited LITRG's websites with 9.3 million page views. GOV.UK's approach is to provide simple guidance for the majority of people. However, most of the people we deal with need more detailed guidance and often find it difficult to apply GOV.UK's simplified guidance to their situation.

LITRG has been raising concerns about the standard of guidance provided by HMRC via GOV.UK for some time. For example, one of the LITRG website's most popular pages in 2019 was: 'Do I need to file a tax return?', with around 120,000 page views. GOV.UK has replaced its guidance on this topic with an interactive tool (www.gov.uk/check-if-you-need-tax-return) which asks a series of questions to determine whether you need to file a return. However, the tool can lead people to incorrect results.

Most of the questions don't include any guidance to help people understand their meaning and how to answer them accurately. One question asks: 'Did you earn more than £1,000 from working for yourself?' We think that many of our website enquirers would assume the word 'earn' means profit, when in fact this is asking about turnover in relation to the trading allowance. This potential misunderstanding could lead to a result that says they don't need to file a tax return when in fact they do.

The labour market has changed dramatically over the last decade and far more of the people visiting LITRG's websites are in 'gig economy' jobs or working via umbrella companies, agencies or limited companies. Despite the fact that the majority of agency workers are now told by agencies to work through umbrella companies, umbrella companies are not mentioned in the GOV.UK guidance for agency workers, and its guidance is largely based on the concept of the old 'tripartite' arrangement. We have published specific articles and factsheets that explain how umbrella companies work.