

**Taxation of self-funded work-related training**  
**Response from the Low Incomes Tax Reform Group (LITRG)**

**1 Executive Summary**

- 1.1 We are pleased to have the opportunity to respond to the consultation document exploring the possibility of extending tax relief for training by employees and the self-employed published in March 2018.
- 1.2 This is under consideration as part of the Government's focus on creating an environment for individuals to develop their skills to boost productivity. In particular, we note there is a specific interest in establishing whether the tax system is a suitable mechanism for supporting those needing to upskill and retrain in order to change career, either out of choice or necessity.
- 1.3 For low-paid workers, the biggest hurdle for most wishing to retrain or upskill is finding the funds to meet the upfront costs of any training, and therefore claiming tax relief after the training has been purchased will not help with this cost. Consequently, it is questionable whether tax relief in itself will be a sufficient incentive to encourage individuals on low incomes to invest in their own training.
- 1.4 It should also be acknowledged that any low paying industries paying minimum wage cannot afford to offer much of a pay differential to recognise any extra qualifications and so there may be little financial incentive for some to retrain.
- 1.5 In our view, it will largely be those who are self-motivated to retrain or upskill for their own benefit or those who need to retrain or upskill to be able to stay in work (whether

employment or self-employment) who are likely to be potential claimants of the proposed new tax relief.

- 1.6 For those who do choose to self-fund some low cost training (for example, someone who wants to do a low-cost health and safety course to get work on a construction site), many will not benefit from tax breaks associated with costs of self-funded training as they will not be earning enough to pay tax. Many will be in receipt of tax credits or universal credit to supplement their income, and therefore it would be better to provide more immediate assistance with costs of training for this group via the welfare benefits system rather than via the tax system as this will get the funds to them more quickly and more directly.
- 1.7 There are also other aspects of taking up work related training which may influence someone's decision regarding retraining or upskilling. For example, if a low-paid worker is not given paid time off to attend training by his employer, will they be able to afford to take time out from earning money to train? Would there be a knock-on effect on eligibility for in-work benefits if they do? Reforms to tax relief are unlikely to change behaviour in cases where these issues are pertinent.
- 1.8 For any new measure which extends tax relief for self-funded training to be successful it must be very clear what training qualifies for tax relief under any new rules. It needs to encompass a broad spectrum to meet the variety of training needs of the individuals, but must be easily identifiable so it does not create ambiguity and scope for abuse. The Government will also need to consider how the tax relief interacts with other more direct funding initiatives, if at all.

## **2 About Us**

- 2.1 The LITRG is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.
- 2.2 LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

### 3 General comments

- 3.1 We are pleased to have the opportunity to respond to the consultation document exploring the possibility of extending tax relief for training by employees and the self-employed published in March 2018.
- 3.2 In particular, we welcome the principle of trying to better equalise the treatment between reimbursed and non-reimbursed expenses for employees. The current system creates complexity and unfairness and regardless of our reservations about how these proposals will benefit the low-paid in practice, we recognise that permitting tax relief in both scenarios helps address these issues (although differential treatment will remain, given a cap for non-reimbursed expenditure is being proposed and remembering that there will still be no National Insurance contribution (NIC) deduction allowed for the expense).
- 3.3 It is worth noting that there have been major changes in the labour market in recent years which have tended to drive down levels of remuneration at the lower end of the market and have resulted in some employees being provided with the cheapest terms possible. The Government should be aware that there may be unscrupulous employers who will try to find a way of exploiting any new rules, for example by hiding behind tax relief as justification for charging for in-house training.

### 4 Consultation Questions

#### 4.1 ***Q1: Do you agree with the lessons that need to be learned from experiences in the UK and overseas?***

4.1.1 Yes. In our view, priority needs to be given to making support:

- (a) easy to understand and to claim;
- (b) properly targeted at those who genuinely wish to invest in their own development to improve their marketability in the jobs market, whether on an employed or self-employed basis, and therefore who are contributing to improved productivity for the country as a whole;
- (c) available for any appropriate and relevant training an individual decides they need.

#### 4.2 ***Q2: Do you agree with the high-level objectives? Are there any others you think are as or more important?***

- 4.2.1 Yes, we agree with the high level objectives on page 18 of the consultation, although we think that it should be necessary for the training to be relevant to current or future work, whether on an employed or self-employed basis. To achieve this, the system would probably need to be self-certifying in the first instance otherwise it will be too resource intensive, but there would need to be checks made, perhaps through HMRC enquiries, to police the system.
- 4.2.2 Defining approved providers and qualifications could be challenging. With regard to providers, if it is not possible to use an existing 'approved providers' list, a digital self-serve

accreditation process could be put in place, whereby prospective providers complete an online application to become an 'approved provider' so there is minimal involvement from the Government at this stage. Any administration costs are likely to be passed on to the consumer and we feel these costs must be minimised or any tax relief will be swallowed up by the increased cost of the training. Again, policing this via compliance checks will be necessary to maintain integrity in the process.

4.2.3 Defining qualifications is key to making any new scheme successful. For example, will migrant workers who come to the UK and pay to attend an English language course qualify as self-funded relevant training expenditure, as improving their command of English will undoubtedly improve their chances of getting work and contributing to the country's productivity? There is a suggestion in the consultation that list 3 for professional subscriptions approved for tax relief could be used. This could be used as a starting point, but then developed a bit further to help define the qualifications allowed.<sup>1</sup>

4.3 ***Q3: Do you agree with the high level design principles? Are there any others you think are as or more important?***

4.3.1 Yes, we endorse these high level principles. However we fear it may prove too difficult to ensure expenditure does not have a personal purpose at all; any kind of training will almost certainly lead to a personal as well as a professional benefit. It may be necessary to accept that incidental personal benefit is inevitable (as with some employee expenses rules under the benefits code, and claims for some expenses deductions for the self-employed) but that provided it is not the primary purpose of the training and the personal benefit is only incidental, it will qualify for relief as self-funded training.

4.4 ***Q4: How could the rules be reformed to allow a tax deduction for self-funded retraining subsequently used in a new employment or self-employment? Do you think a time limited carry forward would be the best approach and how could this work in practice?***

4.4.1 Those investing in self-funded training with a view to changing career and using new skills on either an employed or self-employed basis should only be entitled to tax relief once the use of the new skills in an employed or self-employed capacity can be evidenced in some way.

4.4.2 Even if this was time limited (presumably by reference to the end of the training course), this would still mean that the tax relief would be received quite a long time after the investment is made by the taxpayer. The effect of this could be that tax relief in itself will not drive taxpayers to take up self-funded training in relation to a potential change of career who would not otherwise consider doing so and therefore the Government could find itself contributing to investments that would have been made anyway, as the OECD research concluded.

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<sup>1</sup> <https://www.gov.uk/government/publications/professional-bodies-approved-for-tax-relief-list-3>

- 4.4.3 However, this approach does mean that if the taxpayer is using the new skills in an employment or self-employment, they may well be in a position to benefit from the tax relief which may not otherwise have been the case.
- 4.4.4 To be consistent with other parts of the tax system where carry forward claims are allowed, we would like to see training costs being available for carry forward indefinitely if this model or something similar is adopted.
- 4.5 ***Q5: How could the rules be reformed to allow a tax deduction when the self-employed fund training on upskilling for their existing business?***
- 4.5.1 While we acknowledge the capital nature of training expenditure where new skills are being acquired as opposed to maintaining existing ones, it does not follow logically that no tax relief should be allowed. This could be changed, for example, by extending the Annual Investment Allowance to include expenditure specifically for education or training too.
- 4.5.2 For those using the cash basis, the current legislation at s33A (3) ITTOIA 2005 could be amended to remove the prohibition on a deduction for education or training.<sup>1</sup>
- 4.5.3 Alternatively, a specific clause could be written to allow for any training expenditure to be tax deductible provided it is for the purposes of the trade and any private benefit is incidental, regardless of whether it is capital or revenue in nature. The definition of training expenditure could then be linked back to the relevant definitions in this new legislation.
- 4.6 ***Q6: How could the rules be reformed to allow a tax deduction when an employee funds training on upskilling for their current employment?***
- 4.6.1 It does not seem possible simply to extend the scope of section 250 ITEPA 2003 to cover unreimbursed expenses, because this can be invoked where the cost of training is likely to prove 'useful' when performing duties, etc. This may be considered too subjective and could open the flood gates to spurious claims.
- 4.6.2 Therefore a specific clause could be written to allow for any training expenditure incurred by employees to be tax deductible provided it is for the purpose of their employment and any private benefit is incidental. The definition of training expenditure could then be linked back to the relevant definitions in this new legislation.
- 4.7 ***Q7: To what extent would reforms to tax relief change behaviour so individuals are incentivised to undertake more work-related training?***
- 4.7.1 As most low-paid workers pay little, if any, tax it is unlikely most will be incentivised by tax relief. The biggest hurdle for most wishing to retrain or upskill is finding the funds to meet the upfront costs of any training, and therefore claiming tax relief after the training has been purchased will not help with this cost.

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2017/32/schedule/2/2018-01-01?view=plain>

- 4.7.2 It should also be acknowledged that many low-paying industries paying minimum wage cannot afford to offer much of a pay differential to recognise any extra qualifications, and therefore, for many there may be little incentive to undertake more work-related training. The prospect of some tax relief (in the form of a reduced tax bill or relief given by PAYE spread over the whole tax year) is unlikely to make a real difference to whether or not the training is undertaken. The longer the deferral period between undertaking the training and receiving the benefit, the less pronounced any incentive effect, and markedly so.
- 4.7.3 In addition, for the lowest paid a reduction in their tax bill would mean an increase in take-home pay and thus a reduction in some state benefits, notably universal credit. Thus the lowest paid may not, in fact, achieve the full benefit of tax relief.
- 4.7.4 There are also other aspects of taking up work related training which may influence someone's decision regarding retraining or upskilling. For example, if a low-paid worker is not given paid time off to attend training by his employer, will they be able to afford to take time out from earning money to train? Would there be a knock on effect on eligibility for in-work benefits if they do? Reforms to tax relief are unlikely to change behaviour in cases where these issues are pertinent.
- 4.8 ***Q8: Do you think the tax system would be the most effective lever to support employees and the self-employed who want or need to upskill, retrain or take part in career learning?***
- 4.8.1 The tax system could be an effective way to support those who are in a position to self-fund learning provided the administration is straightforward and the tax relief is obtained in a timely manner. It may be worth noting at this point that the self-employed are used to obtaining tax relief for expenditure quite some time after they incur the cost as generally this is done through their annual self assessment.
- 4.8.2 But for those on the lowest income and, arguably, likely to be most in need of upskilling or reskilling in due course, support through the tax system is not likely to be effective at all, for reasons explained above.
- 4.8.3 As many such workers will be in receipt of tax credits or universal credit to supplement their income, it would be better to provide more immediate assistance with costs of training for this group via the welfare benefits system rather than the tax system as this will get the funds to them more quickly and more directly. We acknowledge that welfare reform along these lines is outside the scope of this consultation.
- 4.8.4 Alternatively, consideration could also be given to providing support in a similar manner to the Tax Free Childcare system, where for every £8 paid into the account, the Government pays in £2 (regardless of whether the claimant is a taxpayer or not) to help people build the capital in the first place?
- 4.9 ***Q9: How could the government target work related training leading to valued qualifications through approved providers and professional organisations?***
- 4.9.1 See our comments to Q2 above.

- 4.10 ***Q10: How can the scope for misuse be minimised, particularly claims related to recreational activities, and the rules made enforceable in practice without being resource intensive for individuals or HMRC?***
- 4.10.1 In order to avoid spurious claims for relief for recreational activities it may be necessary to draw up objective criteria against which the training must be measured in order to qualify for tax relief, in addition to it being a qualification in its own right. This could perhaps include some kind of 'commerciality' test for those claiming to utilise training in a self-employed capacity – that is there could be a requirement to explain how the training has enabled a commercially viable business to develop from it. For those utilising the training as employees, there could be a 'relevance' requirement so that it has to be shown that the training is objectively relevant to the employment.
- 4.10.2 We consider that spurious claims will be less likely if the taxpayer (as opposed to the training provider, as under vocational training tax relief) is required to make such an active declaration to the authorities that the statutory conditions relating to commerciality and job relevance are met. There may be some role for the employer (who provides the employment to which the training is relevant) to provide a declaration, though we would caution against any undue additional administrative burden. Also, it must not be forgotten that some employees may be paying for training so that they may better their prospects, potentially with a new employer or self-employment.
- 4.10.3 There is no reason why the enforcement of any new rules in this area should be any different to enforcing other areas of the tax system, and so a combination of penalties for false claims and enquiries by HMRC to check claims should safeguard the majority of claims.
- 4.11 ***Q11: If it is necessary, at what level would any cap on expenditure eligible for tax relief need to be set to make a meaningful difference to the choices made by individuals?***
- 4.11.1 We do not have a firm view on the level of any cap, but we would anticipate the need for specific research to be conducted to establish typical costs of retraining/upskilling courses across a spectrum of professions and vocations and potential level of demand from claimants before such a cap is decided upon. It will clearly be necessary to strike a balance between the cost to the Exchequer and the likely level of demand from the target claimant groups.
- 4.11.2 One could argue that courses at the lower end of the market which are applicable to the groups for whom most benefit is gained by upskilling are likely to be less costly. For example, the cost of a Site Safety Plus Health and Safety Awareness Course (which is usually the first step towards getting the CSCS labourer card and being able to work on a construction site) is around £145. A prospective labourer would also need to sit the Operatives CITB Health Safety and Environment test, which examines knowledge across a wide range of topics and costs £19.50 (the purchase of the necessary revision material to help with your preparation

for the test, is likely to cost a bit more on top). Once both these elements are in place, a worker can apply for a CSCS labourer card, which costs around £30.<sup>1</sup>

4.11.3 Therefore, a cap on the level of relief, if offset by making the relief broader in scope and accessible to a greater number of people on lower levels of income, could have the effect of making the proposals better targeted. However, the example above raises interesting questions about what exactly will be counted for the purposes of the relief? Would it be just the £145 amount, or all of it?

4.11.4 If any cap is kept to below £2,500 per annum, this would mean that claims for relief can still be made using a form P87 by those not already in self assessment, which would be preferable to increasing the self assessment population for this.

4.12 ***Q12: Are there complementary or alternative approaches that could ensure any extension is affordable but would still meet its objectives?***

4.12.1 If it is desirable to limit the scope of the relief to meet funding set aside for this policy, then being very prescriptive about what 'qualifying training' is could achieve this. Alternatively, limiting relief to the basic rate of tax only can help target the funding available at specific claimants, if this is the desired policy objective.

4.13 ***Q13: How could any changes be administered so that take-up is maximized, errors are minimized, and the system is not resource intensive for either individuals or HMRC? Is the existing system involving submitting a paper or online form via the Personal Tax Account and self assessment appropriate?***

4.13.1 Making claims via the Personal Tax Account (PTA) may be the optimum digital option in the medium term but these are not currently widely used for claims, and so alternative claims procedures will be necessary. The recent announcement by HMRC that further development work on the PTA has been put on hold for the time being due to resource constraints within the department means this might not be a feasible way forward in the short term. Free standing online claims should be made possible, and non-digital channels must be retained for the time being for those who are digitally excluded. However a claim is made, it is vital it is processed promptly by HMRC. Please also see our comments below.

4.14 ***Q14: Are there any issues with the current rules or administration of the existing tax relief for work-related training by employees and the self-employed that need to be resolved?***

4.14.1 In our view, the current distinction between allowable and disallowable training costs for the self-employed is not widely understood.

4.14.2 For employees, there is the ongoing issue of the role of tax refund companies in claiming employee expenses and the Government should consider what more could be done to support taxpayers to make claims themselves.

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<sup>1</sup> <https://www.cscs.uk.com/applying-for-cards/>



- 4.14.3 We recognise that there will always be taxpayers who prefer to use agents for peace of mind and many agents are bona fide, affiliated to a professional body, and charge proportionate fees for the service they provide. However our report on tax refund companies<sup>1</sup> identified a range of consumer protection issues with some of the more exploitative agents, and made pages of recommendations. While some of these were taken up, many were not (or were overtaken by other changes to the tax system) meaning that several years on, we know that low-paid people are still losing much-needed funds by falling into the hands of certain tax refund companies.
- 4.14.4 We acknowledge that HMRC have invested in improvements in certain areas, e.g. offering online channels to apply for refunds, restricting agent access to taxpayer pay and tax details and dealing with refund agents who were giving the impression they were in some way affiliated to or approved by HMRC. However tax refund companies continue to proliferate, particularly in the area of employment expenses, which suggests that things are still too complex or that taxpayers are still being swayed because of things like over inflated promises or tax refund companies alluding that they have an inside track with HMRC.
- 4.14.5 These proposals may increase the ability of tax refund companies to secure work and so we suggest that the Government re-visit the recommendations in our refund company report on easing the tax refund system, as this may help check the activities of less scrupulous tax refund companies in time. Other 'quick fixes', like resuming work with internet service providers to ensure that paid for adverts stop turning up at the top of search engine results, might mean that more taxpayers will make their own claims for tax relief on their training at little or no cost.

LITRG  
7 June 2018

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<sup>1</sup> <http://www.litrg.org.uk/latest-news/reports/131015-tax-repayment-system-and-tax-refundorganisations-call-action>