

**Written evidence submitted by the Low Incomes Tax Reform Group (LITRG)  
(FGCB07)**

**Financial Guidance & Claims Bill briefing**

**Executive Summary**

**We welcome the aim and provisions of this Bill but have some suggestion for improvements:**

- **The two frontline tax charities, Tax Help for Older People and TaxAid, should be given the same status in the provision of tax advice as regulated financial and pension advisers are in their fields;**
- **It should be made explicit that controlled claims management activity includes tax refund companies;**
- **A change to how the cap on charges by claims management companies is calculated.**

**1 General comments**

- 1.1 Tax is an essential ingredient in making financial decisions, and there are few such decisions with a greater impact on future welfare than making the right one on your pensions. The introduction of pension freedoms has made that decision far more complicated for the average layman.
- 1.2 Overall we welcome the aim and provisions of this Bill which condenses concisely the outcome of extensive consultations by the Financial Conduct Authority (FCA) with a wide range of relevant bodies. We took part in these discussions not only as a charity which represents the unrepresented and champions their cause, but also as a partner of the two sister tax charities, Tax Help for Older People and TaxAid, which provide practical hands-on help in the front line to vulnerable and baffled people on low incomes in relation to tax and the tax system.<sup>1</sup> Our comments are therefore based on a close contact with the provision of advice to those who struggle to understand complex issues.
- 1.3 The most important theme which is not spelt out in this Bill is the need for seamless cross-disciplinary co-operation and transfer of clients. For example, a pensions adviser, however broad his knowledge of all matters in his field, will nevertheless have to take into account the current and potential tax situation of his client in order to provide sound advice or guidance on the pension possibilities. Likewise a financial adviser must consider not only possible capital gains tax or crossing a tax threshold at one end of the scale but also the

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<sup>1</sup> Full details can be found on [www.litrg.org.uk](http://www.litrg.org.uk), [www.taxvol.org.uk](http://www.taxvol.org.uk) and [www.taxaid.org.uk](http://www.taxaid.org.uk).

effect on tax credits and similar benefits at the other end when recommending a course of action. The first task of the debt adviser is to check that the debt is rightly due. Many alleged tax debts are in fact withdrawn by HMRC on closer examination by advisers of the tax charities. The otherwise well-qualified debt advisers of Citizens Advice often require this expert professional help.

- 1.4 It would therefore be desirable for the possibilities of handovers of both clients and personal data between delivery agents to be authorised by the Single Financial Guidance Body (SFGB), a step already pioneered by the Tax Help for Older People and Age UK helplines and also with HMRC's fast track helpline and Needs Extra Support (NES) service and the frontline tax charities. There is no point whatsoever in laboriously wasting time when one delivery agent has already undertaken a factfind with a client, only for another co-operating agent to repeat it. It would be helpful if an amendment enabling the SFGB to adapt the data protection laws to this end could be included.

## **2 Specific comments**

### **2.1 *Part 1 Financial Guidance***

- 2.1.1 Schedule 2 Clause 2 subsection (7) makes it clear that the FCA must include the voluntary sector in exercising its strategic function. It should, however, make it clear in Clause 4 that the delegation of functions for service delivery also includes the voluntary sector and that this is the intention of Parliament.
- 2.1.2 Clause 6 & 7 on setting and monitoring standards should perhaps also make it clear that this can apply to all suitably-qualified organisations and their members, whether regulated by FCA or not. Anyone can call themselves a tax adviser, but the three tax charities and their volunteers adhere to a professional code of conduct and are regulated by their various professional institutes.
- 2.1.3 Specifically, therefore, we would like to see incorporated in statute that the two frontline tax charities, Tax Help for Older People and TaxAid (now both allied under one CEO), are given the same status in the provision of tax advice as regulated financial and pension advisers are in their fields. Part 1 Section 6 would ideally spell out that such charities from a professional background should be included as "secondary delivery partners". They would be perfectly willing to be inspected and approved by the FCA in their activities, just as they are already by HMRC and quality control bodies. Importantly they are already widely-known and respected through their frontline work with Age UK and CAB and in direct contact with those who cannot afford to pay for professional advice.
- 2.1.4 This is especially important since IFAs have effectively priced themselves out of the market for those with typically small pension pots. As auto-enrolment advances, there will be increasing numbers of people with multiple small pots and the need for free professional advice will be even more necessary.

## 2.2 **Part 2 Claims management**

- 2.3 Clause 16 Subsection (9) needs to make absolutely sure that the tax refund companies which prey on the vulnerable and unwitting are firmly included in “controlled claims management activity” under FCA supervision. They make their money (quite legally) by submitting claims for tax repayments to HMRC on behalf of individuals. They do not make it clear to their customers that the process is quite simple and totally free if you do it yourself and that HMRC are not going to argue if the claim is correct. Were these companies to be regulated by the FCA who could ensure that they were controlled by fit and proper persons, then fewer people frightened by paperwork and maybe HMRC, would be separated from their money.
- 2.4 At Section 25 subsections (3) & (4) we feel section 137FD subsection (3) needs reinforcing. It seeks an “appropriate” degree of protection against excessive charges for the provision of a service, etc. The note above does not mention that the minimum these tax refund companies charge is 20% commission on the repayment for a 10-minute job. The most extreme case we have seen charged 40%. (The client signs a contract authoring the refund to be paid to the company, so that they ensure they deduct their commission before passing on the remains to the customer.) The clause could perhaps require the FCA to relate the maximum charges permissible to the amount it would cost the customer to do it themselves, in this instance nothing. Obviously in other cases such as a small claims court or an insurance case, costs would be incurred anyway, so it would be desirable for the FCA to establish, say, a cost +10% figure or some such.

## 3 **About Us**

- 3.1 The Low Incomes Tax Reform Group (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.
- 3.2 LITRG works extensively with 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.
- 3.3 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.

LITRG

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