**Women's Budget Group**
**Commission on a Gender-Equal Economy: Call for evidence - Taxation**
**Response from the Low Incomes Tax Reform Group (LITRG)**

## 1 Executive Summary

1.1 Whenever changes are made to the tax system it is important that careful consideration is given to possible consequences and problems that might arise as a result of the new policy. Moreover, interactions with other aspects of the tax system and with non-tax systems also need to be considered and analysed.

1.2 LITRG has seven principles for the tax system that it believes always need to be borne in mind whenever changes are made: clear and up-to-date, simple, equitable, just, accessible and responsive, joined-up and inclusive.

1.3 Possible policy and operational changes that may have a positive impact on gender equality relate to the high income child benefit charge (HICBC), tax relief for pension contributions made under net pay arrangements (NPA), VAT on women's sanitary protection, bereavement support payment, carer's allowance and the interactions between universal credit (UC) and real time information (RTI).

## 2 About Us

2.1 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

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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 Introduction

3.1 We welcome the opportunity to respond to the call for evidence on taxation issued by the Women's Budget Group's Commission on a Gender-Equal Economy. We are not making a separate submission in response to the parallel call for evidence on social security. However, some of the points and recommendations we make cross over into that area.

3.2 We have previously published a Manifesto and an Agenda setting out the recommendations we would like the government to pursue for taxpayers on low incomes.[1] We will shortly be publishing a new paper on our website.[2]

## 4 General Comments

4.1 Regardless of the actual tax policies in place, it is of the utmost importance that the taxation system is operated in a manner which takes account of the *needs* of taxpayers, particularly those who are on low incomes and/or unrepresented. LITRG has seven principles that it believes always need to be borne in mind in relation to the taxation system, including when changes are made to it. We think that the tax system should be:

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[1] *A manifesto for low income taxpayers* – Low Incomes Tax Reform Group (March 2015): https://www.litrg.org.uk/latest-news/reports/150325-litrg-manifesto; *A future for the low-income taxpayer* – Low Incomes Tax reform Group (March 2017): https://www.litrg.org.uk/latest-news/reports/170330-future-low-income-taxpayer

[2] https://www.litrg.org.uk/

1. Clear and up-to-date – the tax system requires clear law that keeps pace with the times, a clear division of responsibility between the state and the taxpayer, and accurate, accessible guidance;

2. Simple – government and tax authorities need to aim for simplicity when writing the law, and even if the law is complex, make it as easy as possible to be compliant;

3. Equitable – the tax system should, where possible, aim to treat taxpayers in similar situations comparably and avoid injustices and traps for the unwary;

4. Just – the tax system should feature a careful balance between the powers of tax collectors and the rights of taxpayers, appropriate safeguards and oversight, and availability of justice to all;

5. Accessible and responsive – to deliver this it is necessary to capitalise on technological advances appropriately, and ensure resources are available to allow for flexibility and responsiveness to individuals with particular needs;

6. Joined-up – different government departments and devolved administrations should work closely together, data should be shared appropriately, and the tax and benefits systems should interact effectively and coherently; and

7. Inclusive – policy and legislation are consulted on in a wide and meaningful way, everyone has a voice, and the full impact of proposed changes is considered, including the interaction with non-tax systems such as welfare benefits.

4.2 When making policy changes, consequences, interactions and problems need to be identified and analysed at the outset. In particular, all changes to the taxation system should be properly considered in the context of inter-related systems, such as those for social security, welfare benefits, the National Minimum Wage (NMW) and student loans. This point is a key principle that should apply in any case, but is particularly salient in the context of this call for evidence, given that women are more likely to be in low-paid, part-time work[3] and/or have dependent children/be carers,[4] so they are disproportionately affected by interactions between the tax and related systems.

4.3 By way of example, governments often increase the personal allowance, indicating that this is helping those on the lowest incomes. However, as LITRG frequently points out, when the

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[3] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/articles/howdothejobsmenandwomendoaffectthegenderpaygap/2017-10-06 and https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/genderpaygapintheuk/2019

[4] https://www.carersuk.org/news-and-campaigns/press-releases/facts-and-figures and https://www.bbc.co.uk/news/education-50465922

income tax personal allowance is increased, it often does not make those on the lowest incomes any better off, or not as better off as it may appear. Those already earning under the personal allowance will gain nothing from increasing it. Others earning above the personal allowance may benefit from an increase, but by how much depends on whether they receive means-tested benefits such as UC.[5]

4.4 UC is based on net income (after tax and National Insurance (NIC) deductions). As the amount of tax the claimant pays reduces, their UC award also reduces. Due to the UC taper, claimants earning above the personal allowance only gain 37% of the benefit of any increase in the personal allowance. To help those on the very lowest incomes, another option would be to increase work allowances in UC (the amount that claimants can earn before their benefits start to be withdrawn). Such an increase could also provide an additional work incentive.

4.5 There are two key interactions related to the NMW, which disproportionately affect women, since more women are on the NMW than men. Firstly, when the NMW rates are increased, there are inevitably consequences for the NMW worker in relation to income tax, NIC and welfare benefits. Secondly, there are particular interactions with tax and tax credits for paid care workers who do not receive payment for their travel time and expenses. We set these issues out in detail on our response to the Low Pay Commission consultation on the April 2020 NMW rates.[6] By way of example, increases in the NMW make it more difficult to meet the eligibility for carer's allowance (see paragraph 5.5 below). Moreover, carers with a lot of unpaid travel time may struggle to meet the tax credits criteria for 'qualifying remunerative work' as well as being at risk of being paid less than the NMW.

4.6 Another example that illustrates the importance of considering consequences of new policy fully relates to the change to tax relief on interest costs for residential landlords. This was described as being targeted at higher-rate taxpayers, but it also affects those with lower incomes, both in terms of taxation and in terms of interactions with non-tax systems. Before 6 April 2017, all interest costs were deducted from rental income before tax was calculated. From 6 April 2017, in stages, we are moving to a system in which tax relief on interest costs is given as a basic-rate tax reduction against an individual's tax bill. The result of the change is that an individual's taxable income is higher (although actual income in hand is no higher), which has consequences for basic-rate taxpayers – for example, where other liabilities, such

[5] Similar points apply when a lower rate of tax is created, as happened in Scotland for 2018/19 onwards, and also in respect of increases to the NIC primary threshold, that is, the point at which an individual starts to pay NIC.

[6] Paragraphs 5.4 ff.: https://www.litrg.org.uk/latest-news/submissions/190610-low-pay-commission-april-2020-national-minimum-wage-rates

as student loan repayments and student funding applications, are based on this figure. We explained these in more detail in an article on our website.[7/8]

4.7 It is important to recognise that a tax policy may not be the most effective means of achieving a particular aim, and in addition, to understand the reasons for a particular problem, such as a higher proportion of low-paid workers being female than male, before implementing any policy changes.

4.8 We also think that HMRC should produce meaningful Equality Impact Assessments (EQIA) before a decision is made in respect of a policy and, importantly, while it is still possible to influence the outcome. We discussed this point in detail in our submission in response to HMRC's consultation on a Draft Northern Ireland Equality Scheme for HMRC.[9] Although we made the points with reference to disability, they also apply in respect of gender.

4.9 Meaningful EQIA work may help to identify less obvious gender-bias that a policy may cause. For example, the marriage allowance could potentially be gender-biased, in that it is more common for the man to be the recipient of the transfer of the personal allowance.[10] The original decision to claim the marriage allowance may be consensual, but if the woman subsequently finds herself in the position where she requires her full personal allowance, she may face opposition to ending the claim.

## 5 Specific Recommendations

### 5.1 *High Income Child Benefit Charge*

5.1.1 Generally, we think that fixed amounts in tax legislation (such as fixed thresholds, bands and allowances) should undergo regular review, in order to ensure that they remain appropriate and relevant, as well as ensuring the policy meets its original objectives. Ideally, automatic uprating should be put in place, unless there is a clear rationale for not doing so.[11]

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[7] LITRG article of 10 June 2019: https://www.litrg.org.uk/latest-news/news/190610-think-you-aren%E2%80%99t-impacted-landlord-finance-changes-think-again

[8] The rules were subsequently amended for tax credit claimants so they were not worse off, but they have not been amended for other areas such as student funding applications or student loan repayment.

[9] Paragraphs 5.1 ff.: https://www.litrg.org.uk/latest-news/submissions/180820-draft-northern-ireland-equality-scheme-hmrc

[10] https://www.gov.uk/marriage-allowance

[11] We acknowledge the fact that having a threshold set as a round figure makes it clearer for taxpayers and easier for HMRC to raise awareness.

5.1.2 One example where we think there is a need for uprating is in relation to the HICBC.[12] This has always been an odd provision, as even if it worked perfectly as designed, it would (and does) create an extremely high effective marginal tax rate at levels of family income which are not top end (moreover it is not even consistent between families with the same number of children and the same overall levels of income). It also adds complexity (conceptual and administrative) and compliance cost. However we recognise it was the clear intention of the then government to design it that way.

5.1.3 The HICBC was introduced with effect from 7 January 2013, affecting those with an adjusted net income of £50,000 pa, with child benefit being clawed back in full from £60,000 pa.[13] Despite the name, the HICBC can have an impact on the lower-earning partner (and the child) in a household it affects. Had the HICBC rules kept pace with inflation, these figures would now be some £56,000 and £67,500.[14] Uprating the thresholds connected with the HICBC would ensure it only affects the proportion of families it was originally intended to affect.

5.1.4 In addition, there are improvements that should be made in the operation of the HICBC, in order to deal with other issues related to it, some of which appear to affect women disproportionately.[15] These issues arise largely because the options available to those affected can be confusing and the fact that the consequences of each option are not transparent.

5.1.5 Those eligible for child benefit who live in a household that would fall within the HICBC can choose to not claim child benefit at all; claim child benefit, but not to receive payment; receive child benefit and pay some or all of it back through the mechanism of the HICBC.

5.1.6 Claiming child benefit means that the child concerned will be issued with a National Insurance Number (NINO) automatically when they turn 16. If there is no claim for child benefit in respect of a child, that child will have to take an additional step to prove their identity in order to obtain their NINO. In addition, claiming child benefit provides the claimant with National Insurance credits until the child is 12 – this can be important in filling

[12] https://www.litrg.org.uk/latest-news/news/191213-press-release-review-high-income-child-benefit-charge-say-campaigners

[13] https://www.gov.uk/guidance/adjusted-net-income

[14] Per Bank of England inflation calculator, using CPI averaging 2.4% a year.

[15] Some points were discussed in our 2015 Couples Report, section 4.1.5: *Couples in the tax and related welfare systems – a call for greater clarity* – Low Incomes Tax Reform Group (May 2015): https://www.litrg.org.uk/latest-news/reports/150511-couples-tax-and-related-welfare-systems-%E2%80%93-call-greater-clarity. Others are pulled together in a House of Commons Library Briefing Paper dated 17 October 2019 (CBP-8631), in particular at sections 4 and 5: *The High Income Child Benefit Charge* – House of Commons Library, Briefing Paper, Number 8631 (October 2019): https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8631.

gaps in their National Insurance record and ensuring the claimant maintains entitlement to a state pension if they are not working or receiving credits on some other basis.

5.1.7 In order to preserve National Insurance credit entitlements it is necessary to claim child benefit; so for a household subject to the full HICBC,[16] the best option may be to claim child benefit, but not receive payment of it. This avoids having to pay the HICBC and the related administration, such as submitting a Self Assessment tax return.

5.1.8 These issues are no doubt compounded by the fact that the HICBC essentially works against the principle of independent taxation, by making an outmoded assumption that finances are always pooled, which is contrary to the idea of partners having financial independence. Moreover, in relationships where the HICBC-liable partner exercises coercive financial control over the other, it is feasible that the former might instruct or prevent the latter from claiming child benefit, which would otherwise be very valuable to them.[17] Issues also arise in relation to determining changes in a couple's circumstances. For example, when a couple separates, the low-income partner who has perhaps previously not claimed child benefit in order that the household avoids the HICBC may miss out on child benefit unless they realise the need to make a claim immediately (or within three months).

5.1.9 As a result, we endorse the recommendations made by the Office of Tax Simplification (OTS) in its report *Taxation and Life Events*.[18]

### 5.2 ***Tax Relief on Pension Contributions***

5.2.1 Tax relief on pension contributions is given to individuals in two different ways: relief at source (RAS) and net pay arrangements (NPA). The difference in operation between the two methods means that an estimated 1.75 million people in NPA schemes are not getting tax relief where others in RAS schemes are.[19] Over 75% of those affected are female,[20] thus raising equality and discrimination issues.

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[16] That is, where the higher earner's adjusted net income exceeds £60,000.

[17] These issues were raised during a debate in the House of Commons: https://hansard.parliament.uk/Commons/2019-09-03/debates/CEE5563C-B89E-4849-BE95-ABA947935179/High-IncomeChildBenefitCharge

[18] Recommendations 1 to 3 in Chapter 1 of *Taxation and Life Events: Simplifying tax for individuals* – Office of Tax Simplification (October 2019): https://www.gov.uk/government/publications/ots-life-events-review-simplifying-tax-for-individuals

[19] As reported, for example by Money Marketing on 8 April 2019, see https://tinyurl.com/y2hwsatj

[20] Parliament written questions and answers, HL15963, June 2019 (using 2016/17 data): https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2019-06-04/HL15963/

5.2.2 The individual has no control over which form of tax relief is used – the employer chooses the scheme. For non-taxpayers or those earning just above the personal income tax allowance in NPA schemes, pension saving is up to 25% more expensive for them as compared to a worker contributing to a RAS arrangement.

**Example**

Penny's salary is £11,130pa. Her employer scheme bases pension contributions on 'qualifying earnings' – the auto-enrolment minimum. Her 2019/20 contribution under each type of scheme would be:

| Scheme type | Calculation of contribution | Amount Penny pays in | Tax relief added | Amount invested in pension |
|---|---|---|---|---|
| NPA | (£11,130 – £6,136) x 5% | £250 | - | £250 |
| RAS | (£11,130 – £6,136) x 4% | £200 | £50 | £250 |

The amount going into Penny's pension for the year is the same in both cases, but the cost to her of paying into the NPA scheme is £50 more than the RAS scheme.

5.2.3 HMRC collect details of employees' pension contributions made under NPA schemes,[21] so they should be able to identify individuals that have missed out on tax relief and make an equivalent payment to them.[22]

### 5.3 *VAT on Women's Sanitary Products*

5.3.1 VAT has been charged on sanitary products at the reduced rate of 5% since 1 January 2001. Prior to that date it was charged at the standard rate (currently 20%). VAT is subject to European VAT law and this currently only allows Member States to charge a reduced rate of VAT (5% - 15%) on sanitary protection – a zero rate of VAT would break this rule. Finance Act 2016 contains provision for the UK to zero-rate sanitary protection, once the UK has the discretion to do so. This has not yet been implemented, and there is uncertainty in relation to when it might become possible for it to take effect, given EU VAT rules have yet to change and the UK's future relationship with the EU has not been finalised. But in the light of the recent election, it is unlikely that unilateral action by the UK government could take place before 1 January 2021.

5.3.2 On the assumption that at some point the UK gains the ability to exercise discretion over the rate of VAT on sanitary protection, this would be a policy that would be of benefit to women and help to reduce gender inequality.[23] We note however, that zero-rating would not necessarily be the most targeted option, in terms of assisting those most in need – it does

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[21] Via PAYE/RTI, see data item 61: https://tinyurl.com/yy7kudzg

[22] https://www.litrg.org.uk/latest-news/submissions/180927-budget-2018-representation-net-pay-arrangements-lower-paid-workers

[23] *VAT on sanitary protection* – House of Commons Library, Briefing Paper, Number 1128 (July 2019): https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN01128

however avoid complex administration and the cost of means-testing if instead financial support were to be targeted at women on low incomes, for example.

### 5.4 *Bereavement Support Payment*

5.4.1 Our 2015 Couples Report[24] illustrated the difficulties of different definitions being used of what is a couple for tax, tax credits and benefits purposes. One blatant unfairness we highlighted was the non-availability of bereavement support for unmarried or non-civil partner couples on the death of their partner. In a judicial review case concerning bereavement payment and widowed parent's allowance, it was ruled in August 2018[25] that it was incompatible with the Human Rights Act 1998 to deny widowed parent's allowance to an unmarried partner. Although the claim was denied in respect of bereavement payment, we nevertheless think that bereavement support payment should be extended to unmarried couples.

5.4.2 Given women tend to have a longer life expectancy than men, this might be of particular benefit to women.[26]

### 5.5 *Carer's Allowance*

5.5.1 Our response to the Low Pay Commission consultation on April 2020 NMW rates highlighted the problematic interaction of the NMW and carer's allowance with working tax credit (WTC).[27] We think the carer's allowance earnings threshold for the national living wage (NLW) should be uprated each year. This is because one of the conditions for carer's allowance (£66.15 per week in 2019/20) is that you must not earn more than £123 a week. Therefore, if you are working 16 hours at the NLW of £8.21 per hour (which you may need to do to claim WTC) you could lose all of your carer's allowance as your earnings would be £131.36.

5.5.2 Carer's allowance is a taxable benefit, but it is paid to claimants gross, that is, tax is not deducted at source under Pay As You Earn (PAYE). This can lead to claimants mistakenly thinking it is not taxable, facing confusion in relation to complex tax codes if they have a PAYE source of income, and can also mean they need to submit a Self Assessment tax return. Ideally, we think the Department for Work and Pensions (DWP) should operate PAYE on

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[24] *Couples in the tax and related welfare systems – a call for greater clarity* – Low Incomes Tax Reform Group (May 2015): https://www.litrg.org.uk/latest-news/reports/150511-couples-tax-and-related-welfare-systems-%E2%80%93-call-greater-clarity

[25] *Siobhan McLaughlin for Judicial Review (Northern Ireland)* [2018] UKSC 48

[26] https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/bulletins/healthstatelifeexpectanciesuk/2016to2018

[27] Paragraphs 5.7 and 5.8: https://www.litrg.org.uk/latest-news/submissions/190610-low-pay-commission-april-2020-national-minimum-wage-rates

carer's allowance. In any case, DWP should at least provide claimants with a P60 type statement of the taxable amount at the year-end – this would be especially helpful to claimants within Self Assessment.[28] In addition, HMRC need to amend the wording on the starter checklist to make it clear that carer's allowance is a taxable benefit.[29]

### 5.6 *Real Time Information for PAYE and Universal Credit*

5.6.1 HMRC collect PAYE data via RTI and pass it to DWP for UC calculations. However, this data sometimes does not tie in with UC assessment periods.[30/31] An obvious reaction to this might be that the claimant should not be any worse off overall because when looked at together they will receive a much higher than usual UC payment in the earlier assessment period and a much lower than usual UC payment in the following assessment period. However, other UC rules mean that the claimant could actually lose out financially. For example, including extra pay might end the UC claim, meaning that the claimant will have to claim again. It may also mean that they could lose out on work allowances and are subject to other UC rules, such as the benefit cap and surplus earnings. To help address this issue, HMRC have put in place 'easements' to the requirement for employers to report RTI 'on or before' the date the employee is paid. However, our understanding is that these are non-statutory and informal, so neither HMRC nor the employee can require the employer to implement them. Therefore, we think that HMRC should consult on formalising the on or before 'easement' with a view to having the ability to enforce the easement.

LITRG
15 January 2020

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[28] We have made similar arguments in respect of the operation of PAYE and year-end statements for the state pension.

[29] Paragraphs 4.1 ff.: https://www.litrg.org.uk/latest-news/submissions/160729-unpaid-carers

[30] https://www.litrg.org.uk/latest-news/news/190225-universal-credit-payment-problems-%E2%80%93-could-hmrc-hold-key

[31] We receive many queries to our websites about this issue – mainly from women.