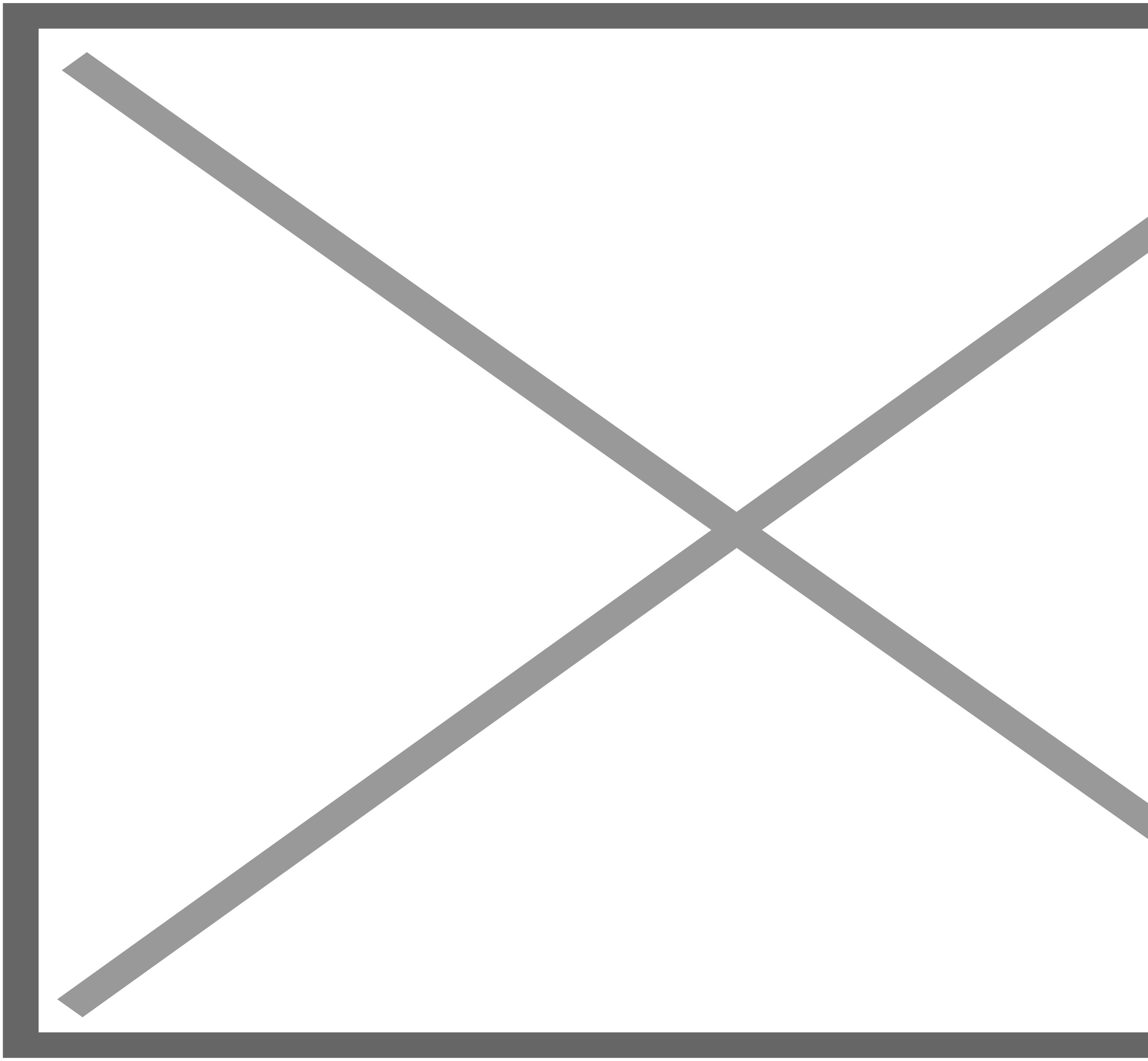
The problem with platforms

Employment Tax Personal tax



30 June 2021

Bill Dodwell considers the impact that the gig economy is having on employment and asks how we can tax it more fairly

The topic for discussion at the latest CIOT/IFS debate on 23 June was 'How should platforms and gig economy workers be taxed?' The speakers were Stuart Adam (IFS), Neil Ross (Tech?UK), Meredith McCammond (LITRG) and me.

A good place to start is to ask what we mean by the gig economy. BEIS and the Institute for Employment Studies conducted some valuable research in 2018 (see bit.ly/3vMXro1), where following definition was put forward:

'The gig economy involves the exchange of labour for money between individuals or companies via digital platforms that actively facilitate matching between providers and customers, on a short?term and payment?by?task basis.'

4.4% of the population in Great Britain had worked in the gig economy in 2017 – about 2.8 million people. Individuals working in the gig economy are on average younger than the general workforce, with over half under 34. There was much greater participation in London than elsewhere. Average income is low; 87% said they had earned less than £10,000 in the last 12 months and 65% earned less than 5% of their total income in the gig economy. 32% of survey respondents saw the income from the gig economy as an extra source of income on top of their regular income. Fewer than one in ten respondents (8%) saw the money earned in the gig economy as their main income.

Individuals interviewed as part of the research valued the flexibility of working in this way:

'…experiences of the gig economy were very much dependent on the respondents' circumstances. Although the perceived advantages of working in the gig economy varied, the ability to work flexibly and the control this afforded individuals was a commonly cited perception.

However, some might find themselves financially vulnerable when working in this way, due to fluctuations in the amount of work available and a limited ability to save. Despite this, many seemed unquestioning of this flexible and patchwork working life, in which income is derived from a variety of sources.'

Taxing the gig economy

How should we approach the tax issues of the gig economy? Surely the gig economy should be taxed in similar ways to the rest of the economy? There is no realistic way to define gig participants in a different way from other individuals and, given that most gig participants have other sources of income, different treatment would not be sensible.

This means that we have another attempt to consider the employment status question. Tax practitioners are aware of the challenges of defining whether someone is an employee. There continue to be an unhelpfully large number of cases going to the Tax Tribunal. Part of simplification must be helping engagers/employers and individuals to have a clear understanding of status. Despite the much?improved Check Employment Status for Tax (CEST) tool (see bit.ly/3gToDgF), too many uncertainties remain.

I wonder whether now is the time to design a new test of employment for tax purposes and put it in statute. The new test should not be the codification of the existing case law; rather, we should take the opportunity to ask in what circumstances an individual should be treated as employed. Perhaps a points?based test, such as is used for the statutory residence test, would be helpful, given that there are a range of factors to be weighed.

The point of defining employment is simply to help classify individuals and essentially determine who directly pays tax and national insurance to HMRC. It does not tackle the much bigger question, concerning the significantly lower levels of tax and national insurance borne by the self?employed. Whilst large differences remain, there will be an economic incentive to encourage a greater level of self?employment than might be the case if tax levels were similar.

A new approach

There are two general approaches to consider: a contractor levy, which would be payable by the engager; and a significantly higher level of national insurance paid by self?employed individuals. The advantage of a contractor levy is that it is paid by the engager, just as employer national insurance is paid by the employer. Optically, it may be easier to explain, and it would also operate in the most obvious areas of cross?over: freelancers. The challenge would be in defining exactly when the contractor levy might be payable.

There are several points to make in relation to platforms, where there is a wide variety of different operational approaches. Not all platforms have a physical presence in the UK. Not all platforms handle money. Possibly the most important point is that platforms – and other intermediaries – could be required to provide information both to tax authorities and to individuals using the intermediary to sell goods or services.

Reports from the OTS have highlighted that many individuals do not understand their tax responsibilities as a self?employed person – and this is corroborated by many case studies from LITRG. Engagers could have a valuable role in helping everyone by providing information to HMRC.

The gig economy is here to stay; the tax approach should be to support participants with help and advice leading to tax compliance.