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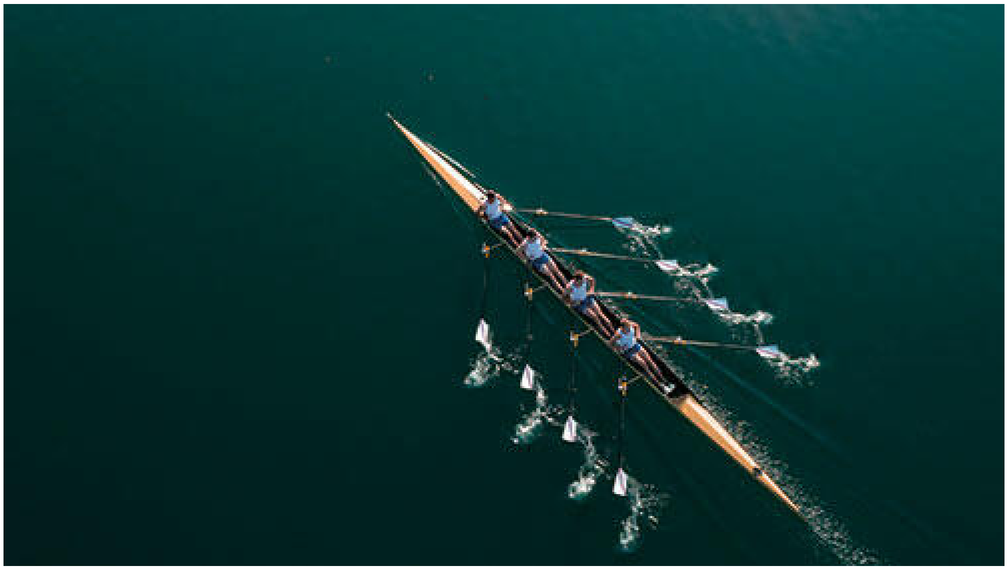

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Peter Jelfs believes that tax practitioners can work with academics to make a vital contribution in tax policy development

Tax practitioners have a very important role to play in the development of UK tax policy. Their hands-on experience of the tax system and regular interactions with their taxpayer clients give them a depth of tax technical knowledge that tax policymakers in government simply
do not have. Given the vast amount of accumulated knowledge and experience within the profession, they are well placed to offer valuable opinions on what would make good (or bad) tax policy. Many already do so, either directly through their firm, or indirectly through bodies such as the CIOT.

However, from a personal viewpoint, the flow of ideas and contributions could be much more effective. While there are many possible reasons behind this observation, one example appears to be where practitioners seem reluctant to get involved too deeply in tax policy which appears to be unfavourable to their clients. This may be the case in a recent report issued covering the UK’s R&D tax credit scheme, an area of tax in which many practitioners advise. In this article, I discuss the particular case, and then suggest some areas where practitioners and academics could combine to improve the wider policy development process.

Case study: R&D tax credits

R&D tax credits are a topical issue at the moment in the tax profession. HM Treasury (HMT) recently published a wide-ranging consultation on the scheme, which has been picked up and commented on in the professional tax press. Numerous professional services firms, including accountancy practices and R&D tax credit boutique firms, are likely to have responded. This is good to see, and such contributions will play a role in informing HMT's innovation policy advisers and determining the future of the scheme.

In May 2021, however, the Centre for Business Research, part of the Judge Business School at the University of Cambridge published a report entitled 'Is the UK's flagship industrial policy a costly failure?' In this context, 'flagship industrial policy' is defined as R&D
tax credits and the Patent Box, so the report's content could hardly be less relevant for tax practitioners who interact in some way with these innovation tax incentives. The report contained a foreword by Greg Clark MP, Chair of the Parliamentary Committee for Science and Technology, demonstrating that its findings will be considered and discussed by people in government who have significant input into tax policy formulation.

While an analysis of the report's contents and conclusions is not the purpose of this article, it does make some extremely important claims and should certainly be read by anyone with an interest in the field:

- R&D tax credits cost £7.3 billion per annum, 14 times more than annual Innovate UK grants, and are the UK's de facto 'flagship industrial policy'.
- Office for National Statistics (ONS) data on aggregate business expenditure on R&D in the UK (BERD) show that the cost of R&D tax credits is about a quarter of all UK business R&D.
- However, as a percentage of national income, self-funded BERD (net of government subsidy) is 10% to 15%lower than before R&D tax credits were introduced.
- £1 billion to £2 billion of R&D tax credits now fund R&D performed outside the UK and other non-BERD compliant expenditure.

- The level of business R&D needed to enable the UK government's target of 2.4% of national income to be spent on R&D by 2027 to be met will never be achieved (based on the above).
- Most of the best role models for UK policy, such as Germany, make little or no use of R&D tax credits.
- By 2017/18, only France spent more than the UK on R&D tax incentives as a percentage of GDP, and with subsequent changes the UK is probably now ahead.

The tax profession's response

By any yardstick, these are severe criticisms of the UK's R&D tax credit scheme, and some opposing viewpoints would be welcome. On first principles, one would expect a number of responses from R&D tax incentive practitioners and a good debate to be had. Yet precisely the opposite is true; only a tiny number of articles have been written, none of which make any significant contribution to the topic.

What could some of the reasons be for this apparent lack of interest? A few options are suggested below:

1. Practitioners are too busy to write articles about R&D tax credits: This is unlikely as there are plenty of firms working in this field who are keen for anything newsworthy to put on their websites. When HMRC publishes its annual R&D tax credit statistics, the results are discussed in detail. The recent R&D tax credit consultation is likely to generate a wide range of responses from practitioners based on previous experience.
2. The report is purely academic/too difficult to understand: The report is not an academic journal paper, the author is not a traditional university academic and his writing style is easy to read.
3. The report is not relevant to tax practitioners' clients: As stated above, the report could hardly be more relevant to current policy debates in this field, which will ultimately directly impact claimant companies.
4. The report concludes unfavourably on R&D tax credits and contains debatable assumptions: Even if true, perhaps this would make a great topic for an article rebutting the conclusion and demonstrating the practitioner's expertise?
5. The report concludes unfavourably on R&D tax credits and is therefore an indirect attack on companies (and their advisers) who claim them.

The answer is likely to vary between individual cases, but if answer 5 is the closest to the truth, then that should give pause for thought. It may be possible to justify on the basis that a tax practitioner is simply advising on policy that someone else in government sets, but if contributions to policy are only made where they will benefit a practitioner’s clients, they are not likely to be given priority by the actual policymakers.

This is not the first critical report on UK R&D tax credits in recent times. The Institute for Public Policy Research (IPPR) published a report in 2017 claiming that up to 80% of R&D tax credits are ‘deadweight’, subsidising expenditure that would have happened anyway.
As recently as the 2019 General Election, the Labour Party’s manifesto policy was to phase out tax credits under the RDEC scheme. Both reports met with a similar response as that just published.

An ethical dimension?

It may be necessary to consider whether there is any ethical dimension in the above scenario for practitioners. If there is clear evidence from a study such as the above that R&D tax credits are an ineffective policy measure and are not increasing the amount or quality of R&D undertaken in the UK, does that matter for the practitioner? No, because they are just implementing the policy and aren’t responsible for its creation? Or yes, because they should have the wider picture at stake and want the best for the UK?

Ethics have formed part of the recent discussions over R&D tax credits. In recent times, there have been plenty of articles about unregulated advisers and suggestions of fraudulent claims of increasing number and size. The CIOT has recently issued guidance concerning the application of professional standards to the provision of R&D tax credit services.

Final discussions

The above discussion may appear rather pessimistic, but is simply intended to encourage a response. My firm belief is that tax practitioners have an absolutely vital contribution to make in tax policy development. Some thought just needs to be given as to how this can be done more effectively.

One suggestion is for the tax profession and academia to work more closely to develop evidence-based tax policy research and present it jointly to government. This could benefit both parties: academics are being increasingly assessed on the ‘impact’ their research has, rather than simply publishing in academic journals, and have plenty of experience in putting together the kind of research reports that go down well in government.

The tax profession has access to the companies impacted by tax policy and budgets to support research that would turn academics green with envy, while the presence of the academic in the team helps to remove any hint of perceived problems such as the R&D case noted above.

While a recent CIOT president called for closer relationships between the profession and academia, progress to date on this front is rather modest. In reality, most tax practitioners probably couldn’t name a UK tax academic, for example. And while many professionals may never wish to undertake further study after obtaining their professional qualifications, think what benefit could be reaped if it became commonplace for them to sign up for a Masters programme with a significant dissertation on an area of current government tax policy interest, funded by their firm? Wishful thinking maybe, but even a small number would be a step in the right direction.

I will gladly supervise any recent CTA qualified who is interested in such a programme!