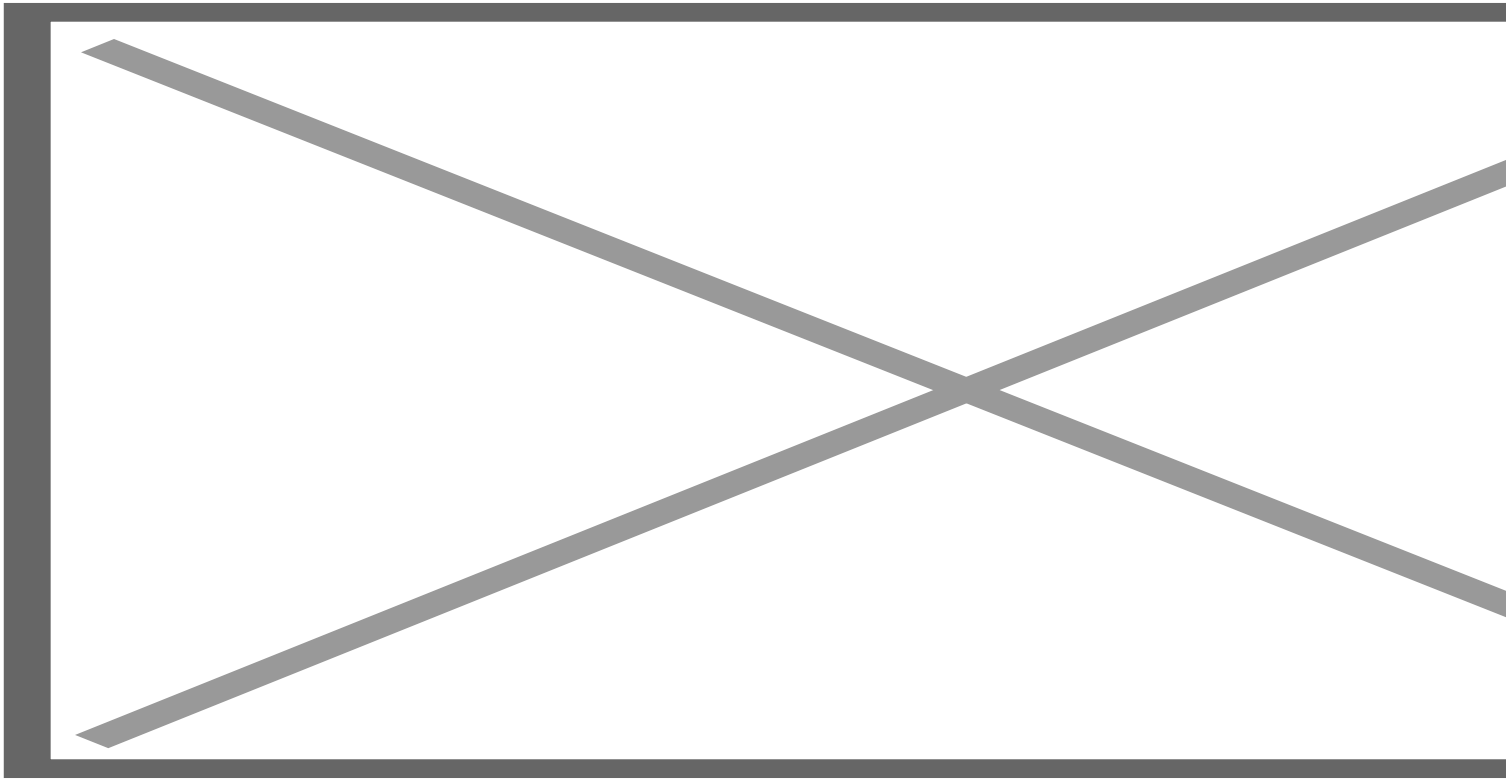


Taking our share of responsibility

General Features



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Glyn Fullelove shares his views on the crucial role of the tax charities and what we can all do to support them

The complexity of the tax system was brought home to me (again) when completing my own tax return recently. I now earn rather less than I did a few years ago, but last year I had two sources of current employment income, some deferred income from a previous employment and some self-employed income.

I had a wealth of resources and my own professional experience, as well as some very good software, to help me navigate the preparation of my return. However, at various points I found myself wondering which box to tick and spent some time working out why my HMRC Personal Tax Account didn't match with my own records.

This was a clear lesson that you do not have to be an additional rate taxpayer to have relatively complicated tax affairs, and that it does not take much to create a mismatch between HMRC's view and that of a taxpayer.

The tax charities are dealing with people who earn a lot less than I do, have no access to resources, and are often vulnerable and going through life-changing events, such as a bereavement or mental or physical illness. For them, the complexity of the regime is overwhelming.

A time of increasing complexity

We should reflect on why that complexity arises. It is easy to assume it is all the fault of the government drafting complicated legislation. But we live in an ever-changing world and tax rules, which were adequate and once

appeared relatively straightforward, may not meet the needs of today. I am thinking particularly of the boundary between self-employment and employment, which has become increasingly blurred over the last couple of decades. Attempts to 'patch-up' the system, such as IR35, have created more complexity.

Moreover, in this area we have seen the rise of unscrupulous promoters of schemes – whilst the official term may be 'disguised remuneration', the way many lower-paid workers have been manipulated into using such schemes in recent years suggests a better description would be 'disguised tax avoidance schemes'.

A sobering statistic from TaxAid is that 60% of people recently contacting them about the loan charge had incomes less than £20,000 a year, but their average debt was £56,000.

As well as tax rules not meeting the requirements of today, complexity can also arise from new tax legislation. How often have we, as tax professionals, pointed out that a new tax measure appears to affect a particular group of taxpayers unfairly, or that taxes a particular set of transactions in a way we do not see as sensible? This can often lead to a series of exceptions, then to anti-avoidance measures to stop the exceptions being abused, and much expanded and often difficult to interpret law.

This is not to say we should not seek to make tax law as equitable as it can be. However, we should recognise that there is often a choice between simplicity and fairness. I am reminded of the story of the virtuous tax practitioner, who, on dying and finding himself at the gates of Heaven was told by St Peter that God would see them shortly; and, having lived a virtuous life, did they have anything they would like to ask of God? The tax practitioner said, 'Give my country a simple and fair tax system!' – to which St Peter replied, 'Not even God can grant you that.'

As practitioners, we should acknowledge that some of the complexity in the system results directly from attempts by some of our predecessors, including members of well-known accountancy and law firms, to devise arrangements for their clients which gave rise to tax outcomes contrary to what Parliament intended (and often contrary to what the man in the street would expect). The current Professional Conduct in relation to Taxation (PCRT) rules have moved us away from that type of advice, but it would be disingenuous of us to ignore what has gone before.

Our share of the responsibility

It is increasingly common to hear talk of the 'tax ecosystem' – made up of tax authorities, tax advisers and taxpayers. No part of the system is truly independent of the others and all must work well together if the system is to thrive. If I am right in my contention that complexity is inevitable in this ecosystem, then everyone in the system needs the right resources to help them to be compliant. By the way, in saying complexity is inevitable, I am not criticising the existence of the Office of Tax Simplification or its work – it simply means that the OTS will be an enduring part of the ecosystem.

In his interview in the September issue of Tax Adviser, Sir Edward Troup explained the work of the two tax charities, TaxAid and Tax Help for Older People. He also covered why we can't expect HMRC to sort out all the tax problems faced by vulnerable people and noted that the inherent complexities of the tax system provide challenges to many who turn to the charities for help.

As advisers we should recognise our share of responsibility for the complexity of the system, and that this leads to a share in the responsibility of ensuring those who cannot afford paid-for advice are provided with assistance. Currently, this need is best met through the tax charities.

By supporting the charities, we as practitioners can help the most vulnerable in our society and meet the objective of all who need advice being provided with it.

This is a time of year when many of us make charitable gifts. Can I ask you to add the tax charities to your gift list this December? Especially helpful are regular monthly donations to the charities (gift-aided, of course). You can give via the Charities Aid Foundation at: cafdonate.cafonline.org/18211

I know that many of you will have already supported the charities in some way this year, so, to all readers of Tax Adviser, thank you for your support and please continue to support the tax charities!

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