Work and Pensions Committee inquiry: Self-employment and the gig economy

Employment Tax

01 March 2017

LITRG responded to the Committee’s inquiry highlighting concerns about the impact of the current structure of universal credit on the self-employed.

LITRG have responded to the Work and Pensions Committee (WPC) inquiry into self-employment and the gig economy. The Committee invited submissions that looked at several areas including the relative treatment of employees and self-employed people in universal credit (UC) and what support Jobcentre Plus (JCP) should offer to people who are self-employed and whether they are equipped to offer it.

Currently, low income self-employed workers may be able to claim working tax credit (administered by HMRC) to help top-up their income. They may also claim other benefits such as child tax credit, council tax support and housing benefit depending on their circumstances. Tax credits and some other benefits are gradually being replaced by UC which will be administered by the Department for Work and Pensions. UC is rolling out slowly by postcode area and will continue to do so until the end of 2018. Until then you can use a tool we developed to find out about the current situation for your postcode – www.universalcreditinfo.net

Our submission highlighted that if major changes are not made to the UC rules there is a risk that those who are already self-employed will be forced to give up their businesses in order to access adequate state support and others will be deterred from starting up in self-employment.

Two themes that featured throughout the response were the compliance burdens that are being placed on the self-employed and the fairness of the rules for the self-employed especially when compared to employees.

The UC system requires face to face interaction that is not seen in the tax credits system. When a UC claim is made, the claimant is invited to attend a face to face meeting where a JCP work coach will carry out a gateway interview during which they will decide if the claimant is ‘gainfully self-employed’. One part of this test is to determine whether someone is carrying on a trade, profession or vocation and the guidance uses the HMRC badges of trade tests. DWP are currently not bound by the HMRC decision around whether someone is carrying out a trade, profession or vocation and are free to make their own decision. This may lead to inconsistency and confusion for the claimant.

Once the claimant is found to be ‘gainfully self-employed’ and they are outside of their 12 month start-up period, which we have stated should be extended to at least two but preferably three years, they are subject to the harshest rule of all – the Minimum Income Floor (MIF). The MIF applies to claimants in the ‘all-work requirements’ group which means they have no restrictions on working. If the claimant’s self-employed earnings for that monthly assessment period fall below their MIF amount (calculated as ‘expected hours’ multiplied by the national minimum wage less a deduction for notional tax and NI) they will be treated as earning the MIF when calculating their UC payment rather than their lower, actual income.

In addition to the harshness created by the MIF, the rules for calculating income combined with monthly assessment periods penalise those who have fluctuating incomes and those who have big business expenses that fall in one month rather than spread over the year. This creates a disparity with employed claimants earning similar sums which we cannot believe was intended.

We look forward to seeing the Work and Pensions Committee report.