



## REVIEW OF THE FUTURE OF WORK

Issued 20 May 2022

Text of a letter sent on 20 May by ICAEW Tax Faculty to Matt Warman MP who has been asked by the Prime Minister to lead a Review into the Future of Work, the terms of reference for which were published by the Prime Minister's Office and the Cabinet Office on 12 May 2022, available from [this link](#)

For questions on this response please contact our Tax Faculty at [taxfac@icaew.com](mailto:taxfac@icaew.com) quoting REP 42/22.

We recommend that the review:

- considers how income tax and NIC might be changed
  - to reduce the disincentive to classify workers as employees, and
  - to make the expenses regime fit in with new ways of working,
- simplifies the definition of employment status, and
- covers all four nations of the UK.

This response of 20 May 2022 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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## TEXT OF LETTER SENT ON 20 MAY 2022 BY ICAEW TAX FACULTY TO MARK WARMAN MP AND THE CABINET OFFICE

May I congratulate you on being asked by the Prime Minister to lead the **review** announced on 12 May into how the government can best support a thriving future UK labour market.

We note that the terms of reference require the review to “Build on existing government commitments (including those made in response to the Matthew Taylor Review) to assess the key questions on the future of work as the UK looks to build back better from the pandemic” and “make recommendations to guide long-term, strategic policy making on the labour market.”. We note that tax rates are out of scope for this review, although we would expect the structure of the tax system to be within scope given its critical impact on the labour market.

It is now nearly five years since Matthew Taylor published his **Good Work** report in July 2017, to which we contributed. Two of his recommendations were that the level of NIC paid in respect of employees and by self-employed people should be moved closer to parity and that the government needs to legislate a clearer definition of employment status.

The structure of income tax and NIC system results in a fiscal disincentive to classifying workers as employees. The main problem is the cost of employer NIC where workers are employees or deemed employees.

Since the Good Work reports, determining employment status has become more difficult. The move to greater home working has blurred the boundaries, and recent court cases, for example **Atholl House (Kaye Adams) [2022] EWCA Civ 501**, have highlighted the complexity, albeit without providing the clarity needed.

In addition, having multiple employment status classifications for employment law, including employee, worker and self employed, but only two for tax and NIC, i.e., employed and self employed, is not in our view a long-term sustainable position.

Furthermore, the growth of home working has called into question whether the tax and NIC rules for expenses are now fit for purpose.

After the government **responded** to the Taylor report in February 2018 and published its **Good Work Plan** in December 2018, it introduced wider reforms to employment law including to workers' rights. We welcome these changes but, to date, we are not aware that detailed consideration has been given to reforms of either the income tax and NIC rules or to the definition of employment status for these purposes. Such consideration, which needs to cover all four nations of the UK, is now more important than ever.

We believe that these are the fundamental problems underlying the taxation of work that need to be addressed as part of developing a long-term strategic policy to support a thriving labour market.

We would be very happy to meet you to discuss our ideas and we look forward to hearing from you.

## APPENDIX 1

### ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. **Certain:** in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
4. **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. **Properly targeted:** when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. **Constant:** Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. **Subject to proper consultation:** other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. **Regularly reviewed:** the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. **Fair and reasonable:** the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. **Competitive:** tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).