



Law Society
of Scotland

Consultation response

Raising standards in tax advice: protecting customers
claiming tax repayments

September 2022



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Tax Law Sub-committee welcomes the opportunity to respond to HMRC's consultation on *Raising standards in tax advice: protecting customers claiming tax repayments*¹. We have previously responded² to HMRC's consultations on *Raising standards in the tax advice market: call for evidence* (August 2020) and *Raising standards in the tax advice market: professional indemnity insurance and defining tax advice* (June 2021).

We do not seek to answer the consultation questions but have the following general comments to make.

General comments

We understand from Part 2 of the Consultation document that the target of HMRC's proposed measures are "businesses that specialise in helping taxpayers and businesses make claims to HMRC that result in a tax repayment as their main service, without providing wider tax or accountancy services...which can be described as repayment agents".

We note that many of our members will be involved in claiming repayments of tax from HMRC on behalf of their clients, but we do not consider that our members can be described as repayment agents as set out in the definition noted above. Our members, as well as members of other professional bodies, already require to adhere to high professional standards and our statutory regulatory regime is underpinned by strict professional service and conduct rules which are aimed at ensuring a robust level of consumer protection.

Our rules require solicitors to issue terms of business letters to clients in all transactions subject to certain limited exceptions³, and information must be provided to clients about the fees to be charged for work. In addition, all Scottish solicitors working in private practice are required to have professional indemnity insurance in place, which provides a route of redress should clients suffer pecuniary loss due to the negligence on the part of a Scottish solicitor⁴ and also the Society's Client Protection Fund⁵, the purpose of

¹ <https://www.gov.uk/government/consultations/raising-standards-in-tax-advice-protecting-customers-claiming-tax-repayments>

² <https://www.lawscot.org.uk/media/369382/20-08-28-tax-reg-aml-raising-standards-in-the-tax-advice-market.pdf> and <https://www.lawscot.org.uk/media/372029/21-06-15-reg-tax-ins-raising-standards-in-the-tax-advice-market-professional-indemnity.pdf>

³ Rule B4 and associated guidance - <https://www.lawscot.org.uk/members/rules-and-guidance/rules-and-guidance/section-b/rule-b4/>

⁴ <https://www.lawscot.org.uk/members/regulation-and-compliance/professional-indemnity-insurance/>

⁵ <https://www.lawscot.org.uk/for-the-public/client-protection/client-protection-fund/>

which is to compensate consumers who suffer pecuniary loss by reason of dishonesty' on the part of a solicitor or employee of a solicitor. Scottish solicitors are required to maintain their technical competence via CPD requirements. Scottish solicitors are subject to strict accounting rules for handling client money. These and other protections prevent the types of poor behaviour as set out in the consultation. We are strongly of the view that additional requirements should not be imposed on members of existing professional bodies.

We consider it crucial that it remains an option for taxpayers to use a repayment agent in order to claim tax repayments. As highlighted in the consultation, repayment agents can provide a useful service to taxpayers to support them to make claims for repayment of tax, particularly in light of the complexity of the tax system, reliefs and complexities in administration. The result of this is that many individuals (and indeed some businesses) struggle to understand their tax obligations and entitlements. It is, of course, important that consumers are protected from unscrupulous agents and in this regard, we are supportive of the introduction of measures to require repayment agents to register with HMRC and to be authorised by their clients in the same way as other agents. We also support greater enforcement of the Standard for Agents by HMRC.

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