



TAXREP 52/13

(ICAEW REP 137/13)

ICAEW TAX REPRESENTATION

APPRENTICESHIP FUNDING

Comments submitted on 1 October 2013 by ICAEW Tax Faculty in response to the Department for Business Innovation & Skills and Department for Education consultation document *A Consultation on Funding Reform for Apprenticeships in England* published on 24 July 2013

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the consultation document [*A Consultation on Funding Reform for Apprenticeships in England*](#) published by the Department for Business Innovation & Skills (BIS) and Department for Education (DfE) on 24 July 2013.
2. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area. [*ICAEW responded on 22 May 2013*](#) to the consultation *Future of Apprenticeships in England: Next Steps from the Richard Review* published in March 2013.
3. Information about the Tax Faculty and ICAEW is given below. We have also set out, in Appendix 1, the Tax Faculty's Ten Tenets for a Better Tax System by which we benchmark proposals to change the tax system.

WHO WE ARE

4. ICAEW is a professional membership organisation, supporting over 140,000 chartered accountants around the world. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession.
5. Our members provide financial knowledge and guidance based on the highest professional, technical and ethical standards. We develop and support individuals, organisations and communities to help them achieve long-term, sustainable economic value.
6. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.

KEY POINT SUMMARY

7. We would have grave concerns about the amount of extra work created for HMRC, BIS, training providers and the employer population if apprenticeship funding were to be routed via HMRC's PAYE account (Model 2). A choice of Models 1 and 3 should suit most employers and keep the system simple, minimising the risk of fraud, error and confusion.

MAJOR POINTS

8. We support the principle that the funding system should be simple and accessible, thereby helping to expand high quality apprenticeships by encouraging employers and individuals to participate.
9. In the interests of simplicity and accessibility, businesses should either be paid grants to incentivise them to take on apprentices by applying for and receiving such grants directly from the Department responsible for apprentices (Model 1) or the current tried and tested system of the relevant Department paying training providers should be continued (Model 3).
10. HMRC's PAYE accounting system should not be used as a means of transferring funding for apprenticeships to employers (Model 2).
11. This is because including non-PAYE amounts in HMRC's PAYE account would make it even more difficult and confusing than at present for employers and HMRC to keep track of movements on that account and correctly to calculate PAYE-related amounts due from and

repayable to employers, thereby imposing unwelcome additional burdens and costs on employers at a time when they are having to get to grips not only with PAYE real time information (RTI) but also (depending on staging date) workplace pension auto-enrolment.

12. If HMRC's PAYE account were to be used for this purpose, then employers face the prospect of PAYE entries becoming mixed up with apprenticeship funding entries. The PAYE accounting system is already overstretched, and employers tell us of numerous problems with reconciling pay details reported and amounts paid with the numbers that appear on HMRC's 'dashboard'. If apprenticeship funding is added to the mix with PAYE, NIC and student loan deductions, plus statutory sick pay (SSP), statutory maternity pay (SMP), statutory paternity pay (SPP), statutory adoption pay (SAP) and construction industry scheme (CIS) offsets, there is a greater risk of HMRC consequently charging penalties incorrectly for apparent non-payment of PAYE, or withdrawing CIS gross status incorrectly, or refusing to pass apprenticeship funding onto employers, on the grounds that there is an unexplained PAYE underpayment. As a result, they are likely to be deterred from taking on any apprentices.

RESPONSES TO CONSULTATION QUESTIONS

Section 2: The Case for Funding Reform

Question 1: Would businesses be prepared to pay more for Apprenticeship training in return for greater influence over its content and delivery?

Question 2: What would be the impact of greater co-investment on businesses' decisions to recruit and train Apprentices? And on how businesses deliver Apprenticeship training and deal with training providers?

Question 3: What are the advantages and disadvantages of placing government funding in the hands of employers, rather than paying it directly to training providers?

Question 4: Would businesses be willing to negotiate the price of training with providers, and what would help them to do this?

Question 5: Would the funding principles outlined here raise the quality of training, and its relevance and responsiveness to businesses' needs? Why? Why not?

Question 6: What would be the impact of these funding principles on the experience for Apprentices themselves?

13. We are not answering Questions 1 to 6 in this response, save to say that the best outcome is a process that is simple for all participants and not open to fraud, under which sufficient incentive is provided to encourage businesses to take on apprentices.

Section 3: Three options to deliver a reformed funding system

Model 1: Direct payment model

Question 7: What are the advantages and disadvantages of providing government support for Apprenticeships in this way?

14. The advantage of providing government support in this way is that it is simple – the money that government considers that business should receive goes directly to the business employing an apprentice and the relevant part of the business would deal directly with the government department responsible for apprenticeships, rather than (eg under Model 2) via intermediaries, including the business's own payroll staff and HMRC's PAYE accounting function.

Question 8: How should this system be designed to ensure it is easy to engage with – for employers and training providers?

15. It is important that training providers, employers and other stakeholders are involved throughout the system design, to ensure that it is fit for purpose.

Model 2: PAYE payment model

Question 9: What are the advantages and disadvantages of providing government support for Apprenticeships in this way?

16. Whichever funding route is selected, either employer-routed or provider-routed, using HMRC's PAYE accounting system to fund apprenticeships (Model 2) should most definitely not be adopted. We can see only disadvantages and no advantages in using HMRC's PAYE accounting system for this purpose.
17. There are various reasons why the PAYE payment model would not be appropriate for apprenticeship funding.
18. The part of the business which is responsible for apprenticeship funding will be able to exercise proper control over funding if it deals directly with the appropriate government department or the relevant providers over funding, as in Models 1 and 3, rather than via the payroll department. Also having both the apprenticeship funding section of a business and its payroll section dealing with HMRC's payroll accounting function will undermine the control that that business has over its accounting to HMRC for PAYE and to government for apprenticeship funding, which will increase the likelihood of errors.
19. Including non-PAYE amounts in HMRC's PAYE payments account would make it even more difficult and confusing than at present for employers and HMRC to keep track of movements on that account and correctly to calculate PAYE-related amounts due from and repayable to employers. Exacerbating this existing problem would impose unwelcome additional burdens and costs on HMRC and employers at a time when both are having to get to grips not only with PAYE real time information (RTI) but also, in the case of employers (depending on staging date), workplace pension auto-enrolment.
20. Another reason for not using HMRC's PAYE payment account as a means of providing apprenticeship funding to employers is that dealing with payroll is a business activity distinct from looking after the apprentices, even in a business where everything to do with employees is looked after by the same individual. In bigger businesses, both functions might be within the human resources department but under the responsibility of different individuals. The payroll function in a business interacts with HMRC's payroll accounting function. It will therefore create complications for businesses if government accounts for apprenticeship funding using the same account as for PAYE.
21. The two types of payment might become mixed up within HMRC's PAYE accounting system. The prospect of HMRC charging penalties for non-payment of PAYE or withdrawing construction industry scheme gross status or refusing to pass apprenticeship funding onto employers on the grounds that there is an unexplained PAYE underpayment is likely to deter businesses from taking on any apprentices.
22. HMRC's payroll accounting ledgers will not balance if non-payroll sums like apprenticeship funding are added to the mix.
23. The payroll is used to calculate and pay employees the correct net amounts. Its function is also to notify and pay to HMRC the PAYE tax, NIC, student loan repayments as well as paying and recovering from HMRC statutory payments such as statutory sick pay and statutory maternity pay, and recording and making construction industry deductions.
24. Employers must for every payment subject to PAYE submit online to HMRC, normally on or before every pay day, a return known as a full payment submission (FPS). The FPS shows all

payments subject to PAYE and deductions and additions referred to above. The obligation on employers to submit FPS is part of PAYE RTI. RTI started in April 2013 in earnest and currently applies to nearly all employers, and from April 2014 will cover all employers, even if some are still allowed to file on paper.

25. In addition, after the tax month has ended, employers have to submit a second return for the month, called an employer payment summary (EPS), if they want to reclaim statutory payments, construction industry scheme deductions, etc from HMRC.
26. The difference between the PAYE, NIC and student loan figures on all the FPSs submitted during the tax month and the set-offs and recoveries on the EPS submitted for that tax month is what employers are supposed to pay HMRC by the 19th of the following tax month (22nd if paying HMRC electronically) or what HMRC is supposed to repay the employer.
27. If apprenticeship funding is added into HMRC's payroll account, then HMRC's payroll account will not balance and it will be much more difficult for HMRC to ascertain quickly what PAYE should be paid, and to pursue employers who pay late, or to work out how much should be repaid to employers (eg where statutory payment reclaims exceed the PAYE and NIC due for a month). If apprenticeship funding is mixed up with construction industry payments then this may lead to inadvertent withdrawal of gross payment status – which may put the employer out of business. And should the PAYE account be adjusted because apprenticeship funding already credited is found to be not due, so the employer has to repay the funding, then it may look as if the employer has underpaid PAYE, which may cause an incorrect automatic late/underpayment penalty notice to be issued.
28. We also consider that HMRC should not be expected to use its PAYE accounting system as a conduit between another government department and business for monies which are nothing to do with any its functions as a tax collection mechanism. Such a proposal, if implemented, would necessitate software and process changes, thereby diverting HMRC's scarce resources from its mainstream activities, which are already overstretched.
29. In summary, HMRC's PAYE accounting function is not an appropriate vehicle for transferring apprenticeship funding to businesses.

Question 10: How should this model be designed to ensure that it is easy to engage with – for employers and training providers?

30. Please see answer to Question 9. Whichever funding route is selected, either employer- or provider-routed, the PAYE payment model (Model 2) should not be pursued.

Model 3: Provider payment model

Question 11: What are the advantages and disadvantages of providing government support for Apprenticeships in this way?

31. The advantage over Model 2 is that the relevant part of the employer would deal directly with relevant third parties such as the training provider, and government department, responsible for apprenticeships, rather than via intermediaries, including the business's own payroll staff and HMRC's PAYE accounting function. It is also the process that is used currently, so in principle will be familiar to those who already employ apprentices.

Question 12: How should this model be designed to ensure that it is easy to engage with – for employers and training providers?

32. It is important that training providers, employers and other stakeholders are involved throughout the system design, to ensure that it is fit for purpose.

Section 4: Which model works best for employers, learners, providers and Government?

Question 13: All things considered, which is your preferred model and why?

33. Whichever funding route is selected, either employer-routed or provider-routed, we recommend strongly that the PAYE payment model (Model 2) is not pursued. As to why, please see answer to Question 9.
34. As to which is preferable out of the employer-routed direct payment model (Model 1) or provider payment model (Model 3), different employers will have different views for equally valid reasons and in the interests of encouraging businesses to take on apprenticeships by making it as easy as possible, we suggest that the possibility of running both Models 1 and 3 should not be ruled out

Question 14: What should the government take into account when making the transition from the current system to your preferred model – or any other models?

35. Change always creates additional burdens on business and any changeover should be designed to be as painless as possible. This means that the rules need be in place in advance rather than made up on the hoof after go-live, and new systems and processes, whether information technology (IT)- or paper-based, should be capacity tested at least a year before go-live so they are ready at go-live day, and implementation should be delayed if they do not work correctly. Whilst apprenticeship funding is not an HMRC project, we suggest that the recommendations in Lord Carter of Coles' *Review of HMRC online services* published on 22 March 2006 and adopted by the then government should be followed.
36. There will also need to be clear guidance not only for businesses and training providers but also for apprentices, which is available well before go-live day.

Question 15: What impact would adopting your preferred model – and the other models – have on businesses' engagement with and approach to Apprenticeship training?

37. We believe that the right model, ie Models 1 and 3, coupled with constructive support and processes that are simple and accessible, and adequate funding from government, should fulfil the government's intention to encourage businesses to take on and train more apprentices.
38. Adopting the wrong model, ie Model 2, will, as noted above, deter businesses from taking on any apprentices.

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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 icaew.com/en/technical/tax/tax-faculty/-/media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)