



TAX RELIEF FOR TRAINING: SUGGESTIONS FOR CHANGE

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This briefing of 9 January 2018 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 2 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

This note was submitted to HM Treasury in January 2018 following an invitation to participate in an informal round table discussion on tax relief for self funded training in the UK. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.

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EXECUTIVE SUMMARY

We welcome both the current initiative to introduce a tax deduction for self funded training and the fact that HMT and HMRC are seeking views at such an early stage in the policymaking cycle.

We suggest that consideration be given to:

- extending the current tax deduction available for employers who train their employees (s250 ITEPA 2003) to unreimbursed costs of training incurred by employees themselves
- including training costs as an optional remuneration arrangements exemption (s228A ITEPA) so that employees who sacrifice salary to fund training costs paid by employers are not taxed on the higher of the cost of the training and the amount sacrificed
- simplifying the current position on self-employment and training
- introducing tax relief on training expenditure to develop new skills for the employed and self-employed.

We recommend as an overriding point that any new rules need to be clear and consistent.

WHAT THIS NOTE COVERS

This briefing provides ICAEW's assessment of the UK tax reliefs available for training costs incurred by employers, the employed and the self-employed, with suggestions for improvement.

1. Principles for better tax system
2. Tax reliefs available for training
3. Summary of our key concerns and where change could be considered
4. Appendix: ICAEW's ten tenets for a better tax system

PRINCIPLES FOR A BETTER TAX SYSTEM

By way of introduction we would like to draw your attention to our ten tenets for a better tax system (see appendix). We consider these principles to be central to a good tax system.

Of the ICAEW's ten tenets, the following three are most relevant to tax reliefs available for training:

- A tax system should be fair and reasonable;
- Tax rules should be simple, understandable, and clear in their objectives;
- Tax should be easy to collect and calculate.

TAX RELIEFS AVAILABLE FOR TRAINING

We strongly support this early stage review of tax relief for training in 2018.

In 2004 the Labour Government commissioned **Sandy Leitch** to undertake an independent review of the UK's long-term skills needs. The review culminated in the publication of [*Prosperity for all in the global economy - world class skills*](#) in December 2006. ICAEW provided a response to this review in the context of tax reliefs available for training. Although

much has changed in the economy and world of work, very little has changed as regards tax relief for training.

- **The current position where an employer pays for training courses for employees** is that the cost is tax deductible from the employer's trading income. Employees are not taxed on the value of the training as long as the course relates to their work. For example, if a practice nurse is sent on a first aid refresher course, the nurse will not be taxed on the cost of this course because the course relates to their work. See s 250, ITEPA 2003, for work related training.

However where an employer funds the cost of training by way of employee salary sacrifice arrangements, then under the new optional remuneration arrangements (OpRA) rules introduced in Sch 2 Finance Act 2017, employees are liable to income tax and NIC on the higher of the amount sacrificed and the cost of the training. This is reducing the amount of training undertaken by employees in this situation.

- **The current position for an employee who pays for a training course directly** is that usually they cannot claim tax relief for the costs of the training course. Unless they are reimbursed, by their employer, no relief is available except in rare circumstances.

If an employee pays for a course directly, they cannot claim tax relief for the costs unless the training was actually carried out as a part of their job, not just to prepare them to do that job. This makes it highly unlikely that relief will be available.

The tax law which allows a deduction for general expenses incurred by an employee is very strict:

Section 336, ITEPA 2003, Deductions for expenses: the general rule

1. The general rule is that a deduction from earnings is allowed for an amount if—
 - a) the employee is obliged to incur and pay it as holder of the employment, and
 - b) the amount is incurred wholly, exclusively and necessarily in the performance of the duties of the employment.

Recommendations

The exemption in s250, ITEPA 2003 should be extended to allow relief where the employee incurs similar training costs, and

Training should be treated as exempt for OpRA purposes under s228A, ITEPA 2003.

- **Training costs incurred by the self-employed are currently classified either as a capital expense or a revenue expense.** A capital expense relates to training for new skills outside of that individual's current vocation; tax relief is not available. A revenue expense relates to training that tops up the individual's existing knowledge or skills. It relates to their current vocation and is tax deductible from their current income.

Many people seeking a new or enhanced career, or those returning to work following a career break or redundancy, will pay for their own training in a new field. That they are not allowed tax relief against their future self employed earnings is often surprising to them and seems to be contrary to Government policy to encourage people to learn new skills and develop. (Note. The same applies to similar individuals who follow their career break with new employment rather than self employment).

Recommendation

There are two possibilities.

The first is to remove the capital / revenue distinction from training costs. This would give full relief immediately from the income generated by using the new skills to trade.

The alternative would be to retain the capital / revenue distinction, but to allow tax relief for the capital cost spread over the period when earnings result, perhaps for four years.

SUMMARY OF OUR KEY CONCERNS AND WHERE CHANGE COULD BE CONSIDERED

- **Consideration could be given to the introduction of tax reliefs for the employed and self-employed on training expenditure to develop new skills.** The cost to the Exchequer should be outweighed by the positive contribution new skills bring to the UK economy.
- **Consideration could be given to extending the current tax deduction available for employers who train their employees, to unreimbursed costs of training incurred by employees themselves ([ss250, ITEPA 2003](#)) and including it as an OpRA exemption (in s228A, ITEPA)**
- **The rules that define which tax reliefs relate to training need to be clear and consistent.** For example, in **Decadt v CRC (TL3792)** a specialist registrar was refused relief for the expenses of taking professional examinations, even though it was a condition of his employment that he should do so. Additional examples can be found on the following link.
- According to the Office for National Statistics (ONS) around 4.7 million people were registered as self-employed last year. These are highest figure since records began in 1992 and perhaps are related to the lack of jobs available in the current economic environment. **Consideration could be given to simplifying the current position on self-employment and training.** There are two obvious options which policymakers could consider. One, remove the distinction between a capital expense and a revenue expense. Or retain the current distinction but allow a tax relief for the capital cost spread over the period from when earnings are received. (For example, four years).

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APPENDIX 1

ICAEW Tax Faculty's ten tenets for a better tax system

The tax system should be:

- **Statutory:** tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
- **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.
- **Simple:** the tax rules should aim to be simple, understandable and clear in their objectives.
- **Easy to collect and to calculate:** a person's tax liability should be easy to calculate and straightforward and cheap to collect.
- **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.
- **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.
- **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.
- **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.
- **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.
- **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>).