Written evidence submitted by Equity

Equity is the trade union representing over 47,000 creative workers including actors, stage management, dancers, designers, directors, variety artists, comedians and many other professions. We welcome this Inquiry from the Treasury Committee and any have responded just to those questions of most relevance to our membership. We would appreciate any further opportunity to provide additional written or oral evidence to the Committee in due course.

Which areas of the tax system are most in need of reform, and which are best left alone?

Status issues

Equity is of the view that existing arrangements relating to our members are best left alone. The entertainment industry has operated for many years on the basis that most performers are self-employed for tax and "workers" for employment rights purposes as they meet the definition of s.230 (3)(b) Employment Rights Act 1996. This arrangement has been of huge benefit to our world-leading industry in that is has combined flexibility for performers and engagers with the ability to maintain our competitive edge against increasing competition from other countries.

Our sector is an international one and a flexible tax/NICs regime is essential to its continuing competitiveness. Any re-calibration of the current status position could compromise inward investment and employment in an industry worth over £118m to the economy.

IR35

We would advocate that when considering the application and usefulness of IR35 it is again important to do so in a way which does not have the unintended consequence of causing widespread damage to the entertainment sector. Any future reforms to IR35 should involve proper consultation and feedback from specific sectors.

We do not believe there is a widespread problem of non-compliance with IR35 in our sector and would value a continuing dialogue with HMRC about how it is applied to the entertainment industry. We are particularly concerned about the impact of IR35 compliance activity on high-end TV production. Where workers have been taxed as 'employees' we strongly believe that they should be able to access the full range of employee rights.

Making Tax Digital

Whilst we appreciate that there is potential in having a fully digitalised system we still have a number of concerns:

- We are very concerned about the additional burden of the cost of MTD on a sector which is already in major crisis.
- The data submitted will need to be MTD compliant so that even if you are using e.g. Excel Spreadsheets they still need to link to the MTD compatible software – it is unclear how this will be done as yet.
- Even if three line accounts are permitted all the data, record-keeping, etc. will need to be compiled on an ongoing basis to meet the three month deadlines.
- It is unclear whether the free software on offer will meet the kind of functionality requirements that members typically have e.g. recording foreign income received.
- There needs to be an infrastructure of support to SME's including a helpline

We would strongly recommend the following be considered:

- a raising of the threshold level from the stated level of £10,000
- a proper impact assessment
- some form of exemption/flexibility for the entertainment industry because of the varied, itinerant and unpredictable work patterns.

What reforms should be considered in response to the pressures on the tax system?

We appreciate HMRC's need to try and reduce the tax gap – however, we would ask that future compliance activity e.g. random checking is carried out to an equal extent with the corporate sector as it is with SME's as the evidence suggests this is not currently happening. Organised fraud of any kind is extremely rare in our industry – underpayments of tax are almost always caused by simple error and we have many examples through our Helpline of members who appear to have paid too much tax through underclaiming legitimate business expenses. In our view, more accessible information and customer support will help reduce the tax gap as much as compliance activity.

We do not believe there is a need to increase NICs for the self-employed. Increasing the NICs burden may have the effect of undermining the competitiveness of the sector and forcing more out of the profession after a period in which support for the self-employed has been patchy at best. Equity estimates that up to 40% of our self-employed members, tens of thousands of creative workers in a range of professions were ineligible for SEISS despite having worked and paid tax for many years.

Many members were unable to access the government support schemes for a variety of reasons: mixed self-employment and PAYE work patterns, operating through PSCs, having a higher income for a limited period, newly self-employed in 19/20 tax year. They are suffering real hardship and even if able to access Universal Credit this does not cover the costs of running a business. This would be the wrong time to impose additional financial burdens on them.

There is a need for much better coordination in policy in our view between HMRC and the DWP. So any tax reforms should take account of the welfare safety net and how well that is operating. For the self-employed a key factor remains the Minimum Income Floor in Universal Credit which has the effect in many cases of a sanction on self-employed activity forcing members to consider abandoning the profession. Increasing tax burdens at a time when members cannot rely on effective support from the social security system would add to the crisis in the industry.

What is the best way to tackle tax reform, including what changes might be needed at HMRC to support implementation, and how should the Government consult with stakeholders and parliament?

Equity has just concluded a very productive three year process of agreeing new tax guidance for the entertainment sector with HMRC. These were complex discussions involving ourselves as the union representing front of camera/on stage performers and talent in the industry and engagers throughout the industry including the BBC, ITV, PACT and SOLT/UK Theatre.

The guidance is shortly to be published on HMRC's website and we think it represents an example of good practice in tax reforms with HMRC being prepared to listen to experts in a sector to gain knowledge from insiders about work patterns, contractual conditions, the impact of guidance on the industry, both workers and engagers, and in our case the huge economic contribution made by the sector to GVA.

Our view is that guidance or indeed proposed legislation that has involved the industry at every stage is far more likely to be successful and have the desired long-term impact. We would like to think that our engagement with HMRC on this guidance over the period 2017-20 could be a model of this kind and therefore we think that any future tax reforms needs to involve a sectoral approach with proper impact assessments being made as part of any consultation process and stakeholders being consulted and involved in the process.

In terms of implementation we would also ask that future tax reforms do not place excessive reliance on online tools such as the Check Employment Status for Tax (CEST) test – the use of the CEST has been shown to have its limitations when applied to our sector and in our view cannot be a substitute for an agreed sectoral guidance informed by relevant case law. We accept that online tools may have a valuable role in standard cases but there is a need for flexibility in their use.

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