



## **EXCESSIVE REMUNERATION**

**A proposal to change the law to:**

- i. Create a direct relationship between the lowest and highest paid person in a business.**
- ii. Deny tax relief on the payment of excessive remuneration.**
- iii. Limit the amount of remuneration paid to executives working in the public and voluntary sectors.**



### **About the Partism Foundation**

Partism is a philosophy which believes that individuals, businesses, corporations, governments and nations operate more efficiently, effectively and fairly when in an active partnership.

The Partism Foundation researches, debates and promotes policies and ideas which accord to the Partism philosophy.

The Partism Foundation has no political allegiances or alliances. It is politically party agnostic.

Definition: A partnership is an arrangement in which two or more parties co-operate together to share a common task, to achieve their shared goals and to advance their mutual interests.

### **About the author**

Charles Bunker is a chartered accountant. He was formerly head of Corporate Finance at a top ten international accountancy practice before founding Kerburn Rose, corporate finance house, in 1990 where he specialised in raising money for companies and takeovers and mergers. He has been a director of a number of London Stock Exchange AIM quoted companies. Charles served two terms as a non-executive director for East Herts NHS Trust which ran a leading District General Hospital. Charles is currently Executive Chairman of a UK based English Language teaching business which trades all around the world. He is a former Chairman of Hitchin and Harpenden Conservative Association, a former Chairman of Hertfordshire Area Conservatives and a former Deputy Chairman of Eastern Region Conservatives. He has served as an assessor on Parliamentary Assessment Boards and has sat on the Appeals Committee of the Conservative Party. He resigned from the Conservative Party as a result of a sense of deep frustration with the political elite, which he felt had taken control of the Party, their failure to recognise the public demand for change, the changes which are required, and the necessary speed. Charles founded the Partism Foundation as a result of his profound belief in partnership, co-operation and collaborative working.

## **The Excessive Remuneration Bill**

### **Introduction**

This paper proposes:

- a) Tax Relief should be denied to businesses which pay their employees Excessive Remuneration when judged against the lowest paid employees thereby creating a formal relationship between the highest and lowest paid.
- b) A statutory limit on the amount paid to persons working for government, local authorities and charities with the maximum amount linked to the lowest paid employees.

### **Rationale**

A society is more cohesive and much happier when there is a general feeling of fairness. Whilst total fairness in a society is a utopia, but one worth striving for, alarm bells ought to ring if a society is becoming manifestly unfairer, as it puts the very fabric of that society at risk.

Unfortunately the United Kingdom economy has, in recent times, become increasingly unfair as those earning the most have often enjoyed pay increases which far exceed the pay increases of those earning the least. Many of those businesses paying the most in performance related bonuses to their highest earners, have managed to achieve these high profits, and thus pay high bonuses, by keeping down the wages of the poorest. If the national minimum wage had kept pace with FTSE 100 CEO salaries since 1999, it would now be £18.89 per hour instead of the current £6.50<sup>1</sup>. Today the top earners take three times the share of national income than they did 25 years ago.

It would be an anathema for a society which passionately believes in the freedoms of the individual to bring in legislation which restricts the upper amounts that anyone could earn other than those employed by the State. Further, in a world largely operating a market economy, it would be economic foolishness to impose such a restriction as it runs the risk that those with the greatest talents, and therefore capable of earning the most, would move overseas and, in the process, deprive the UK economy of its engines for growth.

No government should condone a situation which is manifestly unfair by allowing the owners of a business, which pays excessive remuneration to some of their employees, the benefits of a tax deduction against the business profits for that amount which is considered to be excessive remuneration.

Tax legislation sets a large number of monetary limits both for social and economic reasons. For example, it was decided a long time ago that businesses should not enjoy tax relief on general entertaining. It is therefore quite appropriate for the tax legislation to provide a limit for pay above which tax relief will be denied. The attached proposed Excessive Remuneration Bill is drafted to do just that.

### **Excessive Remuneration Bill**

The Excessive Remuneration Bill has three objectives:

1. To support a developing programme of responsible capitalism by recognising that businesses are best run where all those involved operate within a partnership culture. This does not

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<sup>1</sup> It was announced on 17<sup>th</sup> March 2015 that the National Minimum Wage will increase from £6.50 to £6.70 with effect from 1<sup>st</sup> October 2015

mean all are equal either in the sense of control or remuneration. However, it does mean that those with more power think carefully about all those involved in a business and are not exploitative of those with less power.

2. To make those responsible for remuneration within an organisation think as much about those who are at the bottom of the pay scale as those who are at the top.
3. To stop the taxpayer subsidising excess remuneration by disallowing, as a deduction for the calculation of an employers' Income Tax or Corporation Tax liability, the excessive remuneration of any employee who earns more than the legislated multiple of the lowest paid employee (hereinafter referred to as the 'Permitted Amount').

The Excessive Remuneration Bill uses a multiple of 40,000 times the hourly rate of the lowest paid employee to set the Permitted Amount, i.e. the maximum sum which might be paid to the highest earner for their whole remuneration to qualify for tax relief. The multiple of 40,000<sup>2</sup> is based upon the assumption that the maximum earning should not exceed the minimum earnings by a multiple of 23 times and that the average working year comprises 1,740 working hours.<sup>3</sup>

An hourly multiplier has been used instead of an annual multiplier as it is easier to correlate to any future changes in the Minimum Wage which is hourly based.

Based upon a multiple of 40,000 an employer who employs a person on the newly announced minimum wage of £6.70 per hour would continue to get tax relief on the first £268,000<sup>4</sup> of the total remuneration paid, but not on any remuneration paid in excess of this amount.

It is important to note that should a business, employing people on the minimum wage, pay a bonus of £1,000 in a year to all those employees then the permitted remuneration, before which tax relief would be denied on the excess, would be increased by £23,000<sup>5</sup> to £291,000.

The amount of the multiple is a political judgement. The table below shows the Permitted Amount - i.e. the total remuneration above which tax relief would not be available at different given multiples.

| Hourly Minimum Wage | Annual Remuneration assuming 1,740 hours a year (for lowest paid employee) | Multiplier | The Permitted Amount (i.e. The Total Remuneration above which tax relief will not be available on Total Remuneration of the highest paid employees) | Multiple |
|---------------------|--|------------|---|----------|
| £6.70               | £11,658  | 20,000     | £134,000  | 11.5     |
| £6.70               | £11,658  | 30,000     | £201,000  | 17.2     |
| £6.70               | £11,658  | 34,800     | £233,160  | 20.0     |
| £6.70               | £11,658  | 40,000     | £268,000  | 23.0     |
| £6.70               | £11,658  | 43,500     | £291,450  | 25.0     |
| £6.70               | £11,658  | 50,000     | £335,000  | 28.7     |

<sup>2</sup> 1,740 hours a year x 23 multiple between highest and lowest earners = 40,020.

<sup>3</sup> 52 weeks x 5 working days a week, less 8 days public holidays, less 20 paid holidays = 232 working days x 7.5 hours each working day = 1,740 working hours a year.

<sup>4</sup> 40,000 x £6.70 = £268,000.

<sup>5</sup> £1,000 ÷ 1,740 x 40,000 = £22,988.

It is emphasised that this Bill does not restrict or limit the amount of remuneration paid to any employee by any commercial company. Subject to the requirements to pay the Minimum Wage, every commercial employer is still able to pay any employee any amount which they believe is the appropriate amount for the job that they do. It does, however, restrict the amount which can be paid to an employee by any government body, government agency, local authority, public education body, trade union or charity.

The Excessive Remuneration Bill imposes a statutory limit on the total remuneration payable to an employee in the Public and Voluntary Sectors which is equal to the amount at which remuneration is considered excessive in the private sectors; namely 23 times the amount paid to the lowest paid employees.

If society judges that there should be a limit for remuneration in the private sector, it follows that the same amount should comprise a cap in the public sector. It is, after all, public money which is being spent in the public sector and, as a matter of public policy, the amounts should be limited. Further, there are recognised significant advantages to working in the public sector, which are not available in the private sector, such as final salary pensions. There are some who would argue that a remuneration cap might mean that a specific job does not attract the right calibre of person. I would respond by saying that a person who does not put the call for public duty above their demand for excessive remuneration is not exhibiting the kind of characteristics which make them worthy of employment in the public sector.

There is a persuasive argument that tax relief should be denied on the whole amount of the Total Remuneration, when the amount paid is above the Permitted Amount rather than, as this paper proposes, deny tax relief only on the amount which is in excess of the Permitted Amount. However, to deny tax relief on an amount up to and including the Permitted Amount would be tantamount to imposing a fine of £56,280<sup>6</sup> on the business for each employee who is paid above the Permitted Amount. Whilst it can be argued that it is quite normal in the UK to impose a monetary penalty for anti-social behaviour (i.e. urinating in the streets) and paying excessive remuneration is, in the current climate, anti-social behaviour worthy of a fine, it is not the primary purpose of the proposed Bill to provide another way for the Government to raise taxes.

The objective of this paper, and the proposed Bill, is to create an incentive for directors to think as much about the lowest paid in their businesses as the highest. The fact that excessive remuneration suffers an additional tax charge is the incidental cost of creating the incentive. The proposed Bill has been crafted so that, as the wages of the lowest paid are increased, so does the tax relief enjoyed by the employer on their highest paid employees. For example, if an employer were to increase the wages of a person on the minimum wage by £1.00 to £7.70 per hour, then the Permitted Amount would increase by £40,000 from £268,000 to £308,000 and, for an employee earning this amount, the employer would benefit by £8,400<sup>7</sup> in additional tax relief.

The argument that it will drive businesses overseas is facile. The extraordinarily high cost of property in the UK, caused by UK residential property being seen as an asset class to be held within an

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<sup>6</sup> £268,000 x 21% Standard Rate of Corporation Tax 2015/16 = £56,280.

<sup>7</sup> £40,000 x 21% Standard Rate of Corporation Tax 2015/16 = £8,400.

international investment portfolio, is far more likely to cause businesses to relocate outside the UK than the denial of tax relief on employees' expenditure.

The Excessive Remuneration Bill excludes from the category of the lowest paid employees, those who are under 21 years old or who are employed on a government approved apprenticeship or training scheme. This is so that the Bill does not act to hinder or impede getting those, who fall into this category, into the work force.

There will be those that argue that an Excessive Remuneration Bill is redistributive and, as a result, it would hinder economic growth. In this respect, the paper by Jonathan D. Ostry and Andrew Berg, 'Treating Inequality with Redistribution: Is the Cure Worse than the Disease?', is worthy of reference. Based upon an examination of the data, they found that inequality is a robust and powerful determinant both of the pace of medium-term growth and of the duration of growth spells, even controlling the size of redistributive transfers. They concluded it would still be a mistake to focus on growth and let inequality take care of itself, if only because the resulting growth may be low and unsustainable. Inequality and unsustainable growth may be two sides of the same coin. Secondly, they found there is remarkably little evidence in the historical data used in their paper of adverse effects of fiscal redistribution on growth. The average redistribution, and the associated reduction in inequality, seemed to be robustly associated with higher and more durable growth. They found some mixed signs that very large redistributions may have direct negative effects on growth duration, such that the overall effect—including the positive effect on growth through lower inequality—is roughly growth-neutral. The proposals for an Excessive Remuneration Bill cannot be seen as comprising a very large re-distribution of wealth, with the result that its economic impact will be neutral. However, its social impact should, hopefully, be quite high.

There are over 18,000 people earning over £1 million in the United Kingdom. Assuming (i) all these people are employed by companies who have at least one employee on the minimum wage, and (ii) they pay corporation tax at the rate of 21%, and (iii) £1 million is the full amount of their income, then the denial of tax relief proposed in this paper would result in an additional £2.67 billion<sup>8</sup> in tax receipts for the Government from a business sector which, as demonstrated by the higher remuneration, can afford the additional tax burden. It might also provide the scope for the Government to remove the unfair 60% marginal income tax rate which applies to employees earning between £100,000 and £120,000 as a result of the reduction in the personal allowance for earnings within this band.

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<sup>8</sup> £1,000,000-£268,000 = £732,000 x 21% = £153,720 tax relief denied x18,000 people = £2,767 million

# Excessive Remuneration Bill 201[5]

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**BILL**

To disallow as a trading expense Excessive Remuneration paid to employees from the Income Tax or Corporation Tax computation of employers who pay such Excessive Remuneration and to limit the amount of pay of those who hold public or charitable office.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 1. The denial of Income Tax or Corporation Tax Relief for Excessive Remuneration.**
  - 1.1. Total Remuneration paid by a Qualifying Employer to a Qualifying Employee above the Permitted Amount shall not be allowed as a deduction from the trading profits of the Qualifying Employer for the purposes of calculating that person's taxable profits when the total amount paid by a Qualifying Employer to a Qualifying Employee comprises Excessive Remuneration in accordance with the provisions of this Bill.
  - 1.2. The denial of Income Tax or Corporation Tax relief as set out in Clause 1.1 above shall be known as 'the Excessive Remuneration Disallowance'.
- 2. Legal limit on the Total Remuneration paid to any public or registered charity employee.**
  - 2.1. It shall be illegal for any Restricted Authority to pay any person more than the Permitted Amount in each year.
- 3. Definitions.**
  - 3.1. In this Bill the following words shall have the following meanings.

|                        |  |
|------------------------|--|
| Connected Company      | means each and every holding company, subsidiary company, associated company, sister company or related company of an employer or Service Company together with any partnership or Limited Liability Partnership.        |
| Excessive Remuneration | means the Total Remuneration paid by a Qualifying Employer to a Qualifying Employee above the Permitted Amount.  |
| Full Time Employee     | means any employee of the Qualifying Employer who works for the employer under a contract of employment for more than 25 (twenty-five) hours in any one week for more than 26 (twenty-six) weeks in any Qualifying Year. |
| Permitted Amount       | means an amount which is equal to 40,000 (forty thousand) times the amount paid per hour to the  |



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|---|---|
|   | lowest paid Full Time Employee employed by the Qualifying Employer in the Qualifying Year. <sup>9</sup>   |
| Qualifying Employee                       | means any employee, who is employed by the Qualifying Employer, and whose Remuneration exceeds the Permitted Amount.  |
| Qualifying Employer                       | means any individual, body corporate or partnership who employs the Qualifying Employee and whose Total Remuneration paid to any individual exceeds the Permitted Amount.   |
| Qualifying Year                           | means each and every year ending on 31 <sup>st</sup> March.   |
| Restricted Authority                      | means any government department, government agency, local authority, municipal authority, county council, local council, trade union, state school, degree awarding university and registered charity.  |
| Service Company                           | means a company or limited liability partnership whose main or principle business is the supply of manpower services, together with any Connected Company, whose total sales in any Qualifying Year to the Qualifying Employer comprise more than 35% of its total sales in that Qualifying Year.   |
| Total Remuneration                        | means the total of all amounts paid to an employee for services provided including all salaries, wages, bonuses, rewards, remuneration, stipends, pension scheme contributions and benefits in kind, including the open market value of any awards of shares or securities or share options, or other economic benefits measured in money or money's worth. |
| Works Substantially in the United Kingdom | means an individual who works 120 Working Days or more in the United Kingdom in any Qualifying Year.  |
| Working Day                               | means any day in the UK in which the Qualifying Employee spent more than a total of 5 hours attending to the business affairs of the Qualifying Employee.   |

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<sup>9</sup> An employer who employs a full-time employee on the new minimum wage of £6.70 an hour would be able to pay Total Remuneration of up to £268,000 to an employee and still get tax relief on the full costs of employing that person. Should the employer pay more than this amount then the Total Remuneration paid to that employee above this amount would be disallowed for tax relief.

#### **4. Applicable Persons**

- 4.1. The Excessive Remuneration Disallowance applies to a Qualifying Employer whose Total Remuneration paid to each and every Qualifying Employee in a Qualifying Year is of an amount which exceeds the Permitted Amount and such Total Remuneration of each and every Qualifying Employee shall be known as 'Excessive Remuneration'.

#### **5. Excessive Remuneration Disallowance**

- 5.1. Where a Qualifying Employer pays Excessive Remuneration, then the total amount of the Excessive Remuneration paid to each and every Qualifying Employee, together with the applicable Employers National Insurance Contributions, above the Permitted Amount shall not be allowed as an expense of the trade or business for the purposes of calculating the Qualifying Employer's Income Tax or Corporation Tax liability.

#### **6. Hourly Rate of the Lowest Paid Employee**

- 6.1. The hourly rate of the lowest paid Full Time Employee shall be calculated by taking the Total Remuneration of that employee in the Qualifying Year and dividing it by the total number of hours worked in that Qualifying Year by that employee.
- 6.2. Excluded from the category of lowest paid Full Time Employees are those persons who are under the age of twenty-one or are employed under a government approved apprenticeship or training scheme.

#### **7. Anti-Avoidance Provisions**

- 7.1. Where an individual Works Substantially in the United Kingdom and they are employed and their salary is paid by a person who is not UK resident for tax purposes and that individual's Total Remuneration is more than the Permitted Amount, then that individual shall be treated as a Qualifying Employee and the person for whom they work, as distinct from the person who employs them, shall be treated as a Qualifying Employer and shall be liable to Income Tax or Corporation Tax on the amount of the Total Remuneration paid to that Qualifying Employee in the Qualifying Year above the Permitted Amount.<sup>10</sup>
- 7.2. Where an employer makes payments to any Service Company in any Qualifying Year which exceeds the Permitted Amount then unless:
  - 7.2.1. the employer shall have given to the Service Company a Statutory Notice in the prescribed form stating the employer's Permitted Amount for the Qualifying Year within 4 months of the end of the Qualifying Year, and

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<sup>10</sup> Clause 7.1 is an anti-avoidance clause. The obvious way around the principles of the primary legislation would be to set up an overseas operation which employs the highest paid employees. This overseas operation would then charge the UK Company with all the employment costs through a management charge which would normally get tax relief. Clause 7.1 has the effect of nullifying the management charge in the same amount as would have been disallowed if the Qualifying Employee was employed by a UK tax paying company.

7.2.2. the Service Company shall have given to the employer a Statutory Declaration in the prescribed form within 4 months of the end of the Qualifying Year,

the total amount paid by the employer to the Service Company shall not be treated as an expense of the trade or business for the purposes of calculating the employer's Income Tax or Corporation Tax liability with such expense being disallowed in the computation of taxable profits.

7.3. A Service Company in receipt of a Statutory Notice from an employer shall for the purposes of determining their Permitted Amount use the lowest of either:

7.3.1. their Permitted Amount; or

7.3.2. the lowest of the Permitted Amount provided by their customers in the Statutory Notice.

7.4. The Statutory Declaration to be given by the Service Company to the Qualifying Employers shall be sworn by a director of the Service Company in front of a Solicitor or Commissioner of Oaths and it shall include an undertaking that the Service Company will not treat as a deductible expense of its trade or business for the purpose of calculating its Income Tax or Corporation Tax liability the Total Remuneration of an Employee earning more than the Permitted Amount as set out in the Statutory Notice given by the employer to the Service Company.

## **8. Publication of Excessive Amounts in Statutory Accounts**

8.1. Every incorporated body shall, for all statutory accounts prepared with an accounting reference date commencing on or after 1<sup>st</sup> April 2016, include as a note to the accounts, a statement of the total amount of Excessive Remuneration which was disallowed in their tax computations relevant to those statutory accounts.

## **9. Persons working for a Restricted Authority**

9.1. A person working for a Restricted Authority whose contract of employment entitles them to receive Total Remuneration in any Qualifying Year in excess of the Permitted Amount shall:

9.1.1. Have their total remuneration reduced to the Permitted Amount with effect from 1<sup>st</sup> April 2016.

9.1.2. Not be able to claim breach of contract, or unfair or constructive dismissal or receive any form of compensation by reason for their Total Remuneration being reduced from the contracted amount to the Permitted Amount.

9.2. Any person who, either alone or jointly, is in charge of a Restricted Authority and who actively permits a person working for a Restricted Authority to receive Total Remuneration in excess of the Permitted Amount shall be guilty of an offence punishable by a fine which shall not exceed the Permitted Amount.

## **10. Effective Date**

10.1. The Excessive Remuneration Disallowance shall be effective in respect of the tax year beginning on 6<sup>th</sup> April 2016.

## **11. Financial provisions**

11.1. There is to be paid out of money provided by Parliament any expenditure incurred under or by virtue of this Bill by the Chancellor of the Exchequer or by a Government Department.

## **12. Short title and extent**

12.1. This Act may be cited as the Excessive Remuneration Bill 201[5].

12.2. This Act extends to the United Kingdom.

# The Excessive Remuneration Bill 201[5]

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**BILL**  
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Disallow as a trading expense Excessive Remuneration paid to employees from the income tax or corporation tax computation of employers who pay such Excessive Remuneration and to limit the amount of pay of those who hold public or charitable office.