February 2023

TAXADVISER

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Clearing the path

What will follow the closure of the Office of Tax Simplification?

Hybrid working

Is it time for a rethink on some longstanding policies?

Keep energy costs down

How to make best use of tax reliefs, exemptions and allowances

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HELEN WHITEMAN
JANE ASHTON

Welcome
A busy start to 2023

Happy New Year. We hope that you all managed to have a break over the festive period and that January was not too stressful for those of you involved in submitting some of the 5.7 million tax returns that were still outstanding at the beginning of January.

The big story over the festive period was the announcement on 19 December that Making Tax Digital for Income Tax Self-Assessment (MTD for ITSA) would be further delayed, with the first taxpayers now not coming into scope until April 2026. This delay was welcomed by both the CIOT and ATT, especially as a recent survey of members showed that 97% did not think that MTD for ITSA could be successfully introduced from the planned date of April 2024 (see bit.ly/3IKGIf4). Many thanks to those of you who responded to this survey, which underlined the importance of a delay and a rethink of HMRC's plans.

Although we now have an extra two years to get ready for MTD for ITSA, we shouldn't be complacent, as there is much to achieve in that time. The ATT, CIOT and LITRG technical teams will continue to work closely with HMRC to ensure that members' views are heard.

The other recent hot topic has been HMRC's service levels, with members continuing to report delays and issues across all taxes. We appreciate the frustration this is causing, and continue to work closely with HMRC and raise issues through a number of different channels. If you have any examples you are able to share, please send these to atttechnical@att.org.uk or technical@ciot.org.uk.

We were pleased to see that taxpayers can set up a Time To Pay (TTP) arrangement with HMRC through an easy, straightforward online service which has no human intervention. With the cost-of-living crisis putting an enormous financial strain on households up and down the country, it's probably a good time to remind your clients who may struggle to pay their tax bill that this is available, and they don't need to speak to anyone to do it. The service can be used (within 60 days of the payment deadline) where the tax due is less than £30,000, the payment terms required are less than 12 months, and there are no other plans or debts with HMRC. Those that don't qualify to use the online service can still contact HMRC to arrange a TTP, and having a plan agreed by the end of the month will ensure that the 5% penalty is not incurred.

We have written in previous editions about the Natural Capital Working group which is coordinated by the ATT. Having gathered together a range of interested parties, we are now meeting with HMRC to discuss some of the problems that members are seeing in practice with the Woodland Carbon Code. Under this scheme, landowners can earn money by selling 'carbon credits' based on the amount of carbon dioxide taken up by trees planted on their land. This and other similar schemes to capture greenhouse gases through natural processes are becoming increasingly popular but there are a large number of tax and accounting issues and HMRC is keen to understand more about what members are seeing in practice. Examples of scenarios where current tax laws create uncertainty or disincentives would be welcome via atttechnical@att.org.uk.

We are pleased to report that our equality, diversity and inclusion (EDI) strategy has been adopted by both the ATT and CIOT Councils, please look at this on page 34. The strategy has been written as a result of the comments and suggestions that members and students made in the EDI survey we carried out last year. We will be working with the EDI Committee to take forward the actions and will provide updates throughout the year.

A new design for the *Tax Adviser* magazine website will be launched this month. Please take a look when you get the email and if you want to opt out of receiving hard copies of *Tax Adviser* magazine please let our Membership Team know at membership@att.org.uk or membership@ciot.org.uk.

The ATT website has also been upgraded to the latest software version, so you will notice a few changes later this month which we hope you will like. If anyone has any feedback on the site please email Jane (jashton@att.org.uk) as we are keen to make it as user friendly as possible for our 1.5 million audience.

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SUSAN BALL
PRESIDENT

Getting our voice heard!

> Our voice does get heard and, amongst many other things, is one of the benefits of membership and a recognition of the power of the CIOT in engendering beneficial change.

They say time flies and it certainly feels that way. We are already a month into 2023 and many of you will only just be recovering from (or still embroiled in) the turmoil and fall-out of self-assessment filing. You have my total admiration.

There is a huge sigh of relief, I am sure, when the last return goes in. Many of you will also have seen the announcement before Christmas that there will be a further delay to the roll out of Making Tax Digital for Income Tax Self-Assessment (MTD for ITSA) and that this will now be phased in from 2026. Whilst we could argue that it's a shame the whole topic wasn't reviewed earlier, this is welcome news – and just one of many areas that I think we can, as an Institute, take credit for helping to bring about. Our voice does get heard and, amongst many other things, is one of the benefits of membership and a recognition of the power of the CIOT in engendering beneficial change.

As for those that have recently passed their exams, I hope to welcome all of you as members and look forward to seeing you at an admissions ceremony in March. Many congratulations! Some of you will have been on the joint programmes, and many of the LinkedIn posts I have seen are a salutary reminder of the number of books and exams required to pass. Super well done!

One of the wonderful things about being your President is that I get to send all the congratulations letters and sign the certificates! But education does not end there so please make sure you keep up your CPD – there is lots available from CIOT!

For those that still have more exams to go, the very best of luck. As I have said before, sitting your CTA exams is no mean feat. It is quite possible that preparing and studying towards the qualification can really get on top of you. So, you should all be proud of your achievements, pass or fail. Why? Finding the time to engage with all of that material and studying, whilst holding down a job in the profession, is challenging to say the least.

One of the things I am often asked is what the role of President entails and do I have a theme for my year of office. I have talked a little about the role in previous pages and I normally describe it as a figurehead plus chair of the board (in this case, Council). In terms of the second question, I don't have an explicit theme as it could be too disruptive to have a change of theme each year with each President.

That said, I have tried to use the opportunity that the Presidency has given me to highlight matters that are close to me but impact on many; for example, dyslexia, equality and diversity. And from a taxation perspective, there have been various campaigns including HMRC service levels, MTD and others.

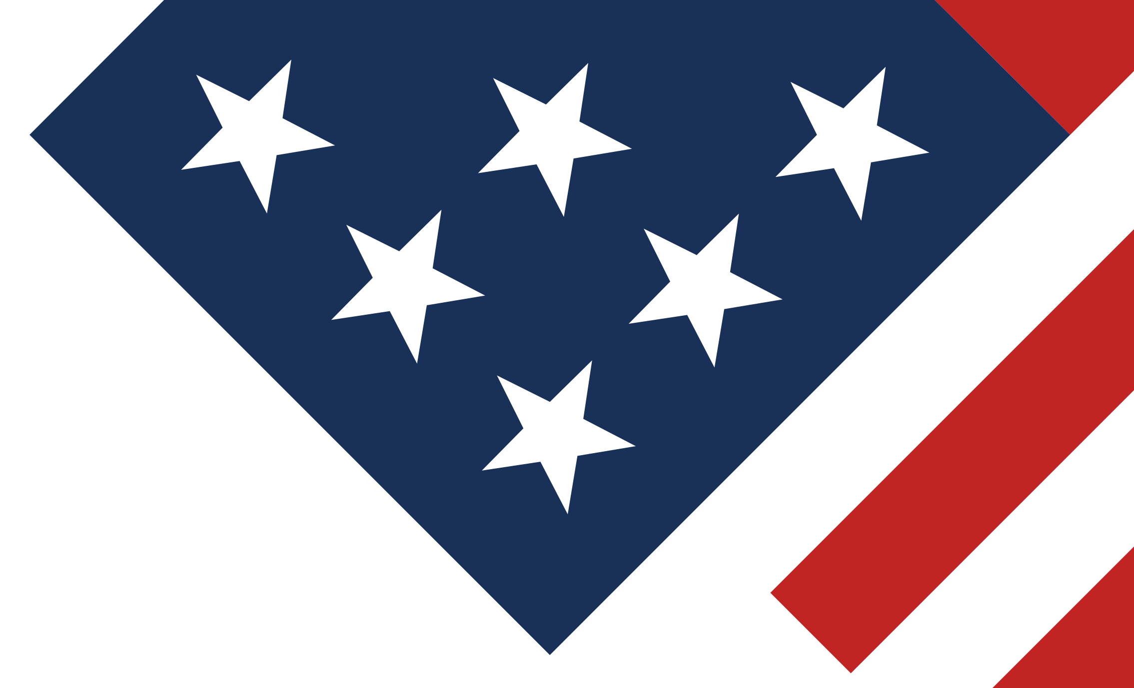
On HMRC matters, a BIG thank you to all of those who have responded to our surveys and requests for examples. We have been engaging with HMRC at senior levels and others such as the Public Accounts Committee (see page 44) to raise the issues and discuss how things might improve. Watch out for further details. This in turn leads me nicely into a plug for the email weekly newsletter. If you haven't signed up, you really should. Not only does it cover news on what the technical teams have been up to but also recent tax updates, including tax cases, HMRC manual changes, etc. Reading it can even count towards your CPD (see my earlier comment!).

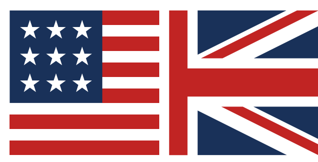
Whilst I am in 'plugging mode', please keep an eye out for the latest events both in person and online. They are another great way to get your CPD and or just to talk tax with a wide range of people. All these take a lot of hard work to organise and there are some I would like to highlight. The first are podcasts – including the *Tax Adviser* podcast, which you can find via the newly designed *Tax Adviser* website at: www.taxadvisermagazine.com, as well as Spotify. I have also tried my hand at podcasting with help from my RSM colleagues (www.rsmuk.com/the-loop) but there are many more out there to help us.

Conferences wise, the IFS residential conference 2023, 'Taxing top incomes: design issues and challenges beyond the politics' takes place on 30-31 March at Worcester College. The CIOT Spring Virtual Conference 2023, covering a wide range of topics from HMRC service levels and tax tribunals to crypto and stamp duty, takes place on 26-27 April 2023.

Lastly, and even though it is already February, I wish you all a very happy and successful 2023!

Susan Ball
President
president@ciot.org.uk





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SIMON GROOM
DEPUTY PRESIDENT

Professional and public challenges

> Over the last few months, the press has woken up to the oddities and anomalies of the UK tax system.

Hello, and welcome to the Deputy President's page for February. I hope that you all managed to get a bit of a break ahead of the January onslaught and the 31 January deadline for personal tax returns. By the time you read this, most of the hard work will have been done and so I hope things are beginning to feel a little less fraught.

Talking of filing returns, HMRC seems to relish telling us about the number of people who file their returns on Christmas Day. This time, according to GOV.UK, 3,275 'customers' filed their online returns on 25 December, compared with 2,828 the year before, and 2,700 in December 2021. That's a 21% increase since 2021! I'm sure there is a hardcore of people for whom filing on Christmas Day is now a well ingrained ritual – and looking at the increase over the last couple of years that club is growing. Apparently, the hour up to 1pm was the most popular time with 319 returns being filed – no doubt being used as an excuse not to have to peel the Brussels sprouts.

One group who hopefully had a well-deserved rest were those who sat one or more of the ATT and CIOT examination papers in November. I remember the time after the exams as a time of mixed feelings. On the one hand, it's a huge relief not to have to get the study materials out and burn the midnight oil; on the other, there is the uncertainty of waiting for results.

The results from the November exams were released on 25 January and I would like to offer my congratulations to those who were successful. These challenging exams require a lot of work and dedication, whilst, for most people, juggling a full time job and family life at the same time. The fact that the preparation is hard makes the achievement of passing all the more worthwhile. You can now move on to the next paper, or – if you are lucky enough to have completed all of the CBEs and written papers necessary for membership – you can think about submitting an application for ATT membership.

As well as the examination requirements, you also need a minimum of two years' experience, either part-time or full-time, working in taxation or in any other occupation which entails an element of UK taxation, and be a fit and suitable person for admission. If you have satisfied the requirements, you can apply for membership even if you are going on to study for another qualification, such as CTA.

Changing tack completely, it has struck me over the last few months how the press has woken up to the oddities and anomalies (or whatever term you choose to describe them) of the UK tax system. Whilst we all have our favourites, it is the stories around marginal tax rates that are currently breaking into mainstream media. There is nothing new here but in very particular circumstances – where income tax, NIC and entitlement to benefits interact – anomalies in marginal tax rates can result.

At the end of November, the *Daily Telegraph* was headlined 'Why some workers will pay 93% tax'. I even saw another headline, again in the *Daily Telegraph*, that read 'How earning £1 extra could cost you £14,000', as it considered the impact of a pay increase on entitlement to free childcare.

Whilst these are extreme cases and will affect very few people at these levels, it is the high income child benefit charge that has justifiably attracted a lot of attention. It is affecting an ever increasing number of people (see page 28 for an illustration of how it works in practice) – not only due to the very high marginal tax rates, in some cases almost 75% (when including the effect of National Insurance), but also the fact that it applies where the individual or their partner has income over £50,000. Where one individual has income of £60,000 or more, all the child benefit will be lost; yet a couple who each have income of £50,000 will have no high income child benefit charge to pay.

I remember someone once saying during a debate on tax simplification that the price of simplification was fairness. It seems that also gets sacrificed with complication.

Whatever your views, I find it refreshing when tax reaches the front pages of the newspapers. It will hopefully make people think more about how their tax is calculated and that can only be a good thing.

Simon Groom
ATT Deputy President
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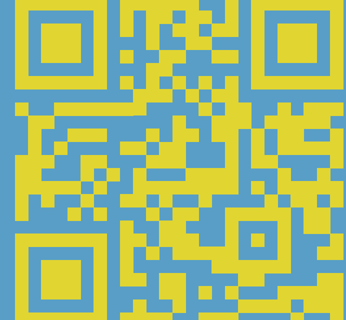

Working remotely
Time for a rethink?

Following the massive increase in hybrid and distance working, the OTS's final report calls for a rethink of longstanding policies.

by Bill Dodwell

On 20 December, the Office of Tax Simplification published its final report, following the announcement of its closure on 23 September. The report covers one of today's hot topics – hybrid and distance working (see bit.ly/3wuY48w). Many companies, taxpayers, advisers and representative bodies contacted the OTS to share their challenges and experience.

UK-based hybrid working

The Office for National Statistics estimates that about 40% of the UK workforce are hybrid workers (see bit.ly/3JekemV): that is, they spend part of their time working from home and part at their employer's offices or other bases or visiting other work sites. It seems that almost everyone who can work in a hybrid manner is doing so. Businesses report significant demand from employees to continue hybrid working; the debate is about the terms, as policies and approaches continue to develop. Academics told the OTS that hybrid working could boost productivity in the short term (mainly due to reducing travelling and flexible working hours) but there was considerable uncertainty over longer term effects.

Hybrid working hasn't needed to be considered very much before 2020 – so it's not surprising that tax reliefs and policies are directed at working at an employer's premises, at customer premises or at home. Most of the business comments about UK hybrid working covered three areas:

- A change of policy towards expenses, with an unsurprising request for more tax deductions. Some employers wanted to reimburse employee costs, such as broadband, or office equipment purchased by the individual. However, the rules don't permit tax relief for reimbursements, which is an unneeded complexity. Some employees were asking employers to pay travel costs from the home office to the employer's base – whilst employers prefer an employee tax deduction. The whole issue of 'workplace' (which defines when travel costs are tax deductible) needs to be re-examined.
- Reconsideration of reliefs originally defined by working at the employer's base, such as the cycle to work scheme.
- Improvement in guidance to recognise the issues of hybrid working.

International hybrid working

Most of the focus is on domestic hybrid working, but there is a growing international dimension. Many multinationals – large and smaller – told the OTS that there was strong employee demand for permission to work part-time in another country. Companies had introduced new policies to help manage the tax and legal issues raised. Despite the keen interest, however, short-term overseas working remains low. Most companies said that fewer than 5% of eligible employees had worked overseas, whilst a few reported that up to 10% had taken up the opportunity.

Most multinationals had tried to set policies to minimise the risks of having a taxable presence for payroll withholding, operation of social security and corporate tax. Whilst businesses believed that any additional tax due would be negligible, the administrative burden would be significant. Accordingly, most had set policies to permit a small number of overseas workdays (typically 10 to 30 days). Some also imposed restrictions on particular roles working outside their home location and others limited the types of activity (e.g. not permitting reaching contractual agreements) or on the length of an individual stay.

The OECD's Centre for Tax Policy and Administration has acknowledged that work needs to be undertaken internationally to respond to the tax issues raised by new ways of working. However, the focus on international corporate tax (Pillars 1 and 2) means that the OECD has not yet managed to schedule work in this area. Ideally, agreement would be reached on issues such as a minimum number of days needed to create a taxable presence, as well as new approaches to whether an employee's accommodation would be a fixed place of business for their employer, and confirmation that certain types of activity would always be 'preparatory or auxiliary' and so not liable to tax locally. The ancient doctrine of signing contracts almost certainly needs revisiting when many more contracts are made online from potentially anywhere with internet access.

Some companies have seen demand for long-term overseas working. Our internet-enabled world could allow individuals with particular skills to live in a country of their choice, even when the business benefiting from their work is in a different country. Long-term presence would certainly trigger payroll, social security and corporate tax obligations – but trying to minimise the additional administration is a key objective.

Hybrid working prompts the need for governments and tax administrations to rethink longstanding policies. This could be time to reshape parts of the tax system.

UPDATE ON THE OTS

The work of the OTS concluded in December 2022. The OTS website remains (albeit with a 'closed' marker), so that users may view and download all OTS policy papers. The index of OTS work since 2010 with links to the reports is at bit.ly/3WBtMeO. The Chair and Tax Director remain in place until the closure, which is expected under the Spring Finance Bill.

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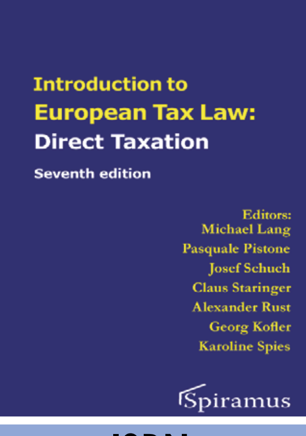

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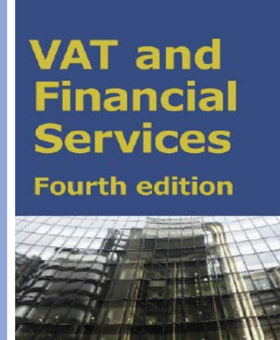

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Correction time

Errors and adjustments

What is the difference between a VAT error and an adjustment? We consider this question with the help of some practical examples.

by Neil Warren

HMRC has recently introduced a new online form to correct errors made by a business on past VAT returns. I have just used it for the first time to adjust a client's output tax errors for the previous four years and – pause for dramatic effect – I give it a mark of ten out of ten. The main advantage of the form is that it can be both completed and submitted online to HMRC, and you are able to attach supporting documents to help HMRC verify that the claim is correct; e.g. Word documents and spreadsheets.

In this article, I will remind readers of the basic rules for correcting errors and also some important VAT adjustments that must always be considered. Adjustments are not classed as errors.

Bad debt relief

Claiming VAT on bad debts will be a subject of increased interest due to the economic recession. The basic rules for bad debt relief are straightforward:

- Bad debt relief only applies where output tax has been declared on a VAT return based on the invoice rather than payment date. In other words, the business does not use the cash accounting scheme where bad debt relief is automatic.
- If a sales invoice is more than six months overdue for payment and has been written off in the business accounts – crediting the sales ledger and debiting the profit and loss account with a bad debt expense entry – the VAT can be reclaimed on the next return. There is no error correction situation here; it is a VAT adjustment.
- There is an extra bonus if a business uses the flat rate scheme. (See VAT Notice 733 s 14.)

To share some twists with the rules, and an example of two errors rather than adjustments, see ***Bucket maker Bob: bad debt relief issues***.

Partial exemption annual adjustment

Here is a VAT poser: when will a business that is partially exempt – having both taxable and exempt income – not have to do an annual adjustment calculation? The answer is: if the business uses the annual accounting scheme and therefore submits only one return a year, which coincides with its partial exemption tax year. However, all other partially exempt businesses must do the annual calculation, which is carried out up to 31 March, 30 April or 31 May, depending on the VAT periods of the business. It is 31 March for a business that submits monthly returns.

Here are three important tips:

- A business using the standard method – which is based on the percentage split between taxable and exempt sales – can round up its residual input tax claim to the next whole number if the residual input tax is less than £400,000 per month on average. So, for example, if 65.1% of sales are taxable, then 66% input tax can be claimed. Residual input tax is the VAT incurred on general overheads or costs that relate to both taxable and exempt activities; e.g. the cost of an advert in a newspaper that promotes the whole business.
- Any tax owed or owing after the calculation has been carried out must either be included on the March, April or May return or the return for the following period. The taxpayer has the choice, so if it is a repayment

Key Points

What is the issue?
VAT adjustments are declared on a return for both over and underpayments of tax. They are not classed as errors because they are made in accordance with the legislation. Common adjustments apply to partially exempt businesses, retail scheme users, and businesses that are not on the cash accounting scheme and incur bad debts.

What does it mean for me?
If adjustments are incorrectly notified to HMRC as error corrections, then any underpayments will usually be subject to interest, which could be costly. When annual adjustments are made on a return, the annual calculation always supersedes the declarations or claims made on returns submitted within the year.

What can I take away?
Errors where the net tax owed or owing is less than £10,000 can be included on the next VAT return rather than disclosed separately to HMRC. Larger businesses can adjust net errors of up to £50,000 on the return in some cases.

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BUCKET MAKER BOB: BAD DEBT RELIEF ISSUES

Bob issued a sales invoice on 21 March 2022 for £5,000 plus VAT on 60 day payment terms. He wrote off the unpaid invoice in his sales ledger on 30 September 2022 and claimed bad debt relief of £1,000 on his September 2022 return. This is an error: he is not entitled to claim relief until the debt is more than six months overdue for payment, which would be 21 November 2022. The earliest return to make the adjustment is December 2022.

Bob also identified a sales invoice in the end column of his aged debtors report for £500 plus VAT that was issued in September 2017. He reclaimed bad debt relief of £100 for this on the September 2022 return. This is another error because bad debt relief can only be claimed up to four years and six months after the invoice or payable date, whichever is later. He is therefore time-barred with this claim. (See VAT Notice 700/18 para 2.3.)

CHANGE OF INTENTION: RENT OUT RATHER THAN SELL A NEW DWELLING

ABC Builders purchased a plot of land and built a new house. Input tax has been reclaimed on all costs because the sale will be zero rated. However, it has been decided to rent it out on a long-term basis, so input tax claimed for the last six years must be repaid to HMRC on the next return.

The key date is when the decision to rent out has been made, rather than the later date when the tenant pays their first rent. The rental income will be exempt from VAT, hence why the payback and clawback rules are now relevant.

Note: If a developer intends to rent out on a short-term basis and then sell, the input tax can be reviewed on a ten-year forward-looking basis. So, if the intention is to rent for two years and then sell, then 20% input tax must be paid back. (See VAT Notice 706 para 13.12.)

outcome, it is sensible to claim it on the earlier return.

- The partial exemption de minimis limits mean that up to £7,500 of input tax in a tax year relevant to exempt supplies can be reclaimed if it is also less than 50% of the total input tax figure. There are two other de minimis tests that can be used. (See VAT Notice 706 s 11.)

Retail schemes

A retailer that only has sales subject to one rate of VAT must always use a 'point of sale' retail scheme; i.e. where VAT is calculated at the time a sale is made. Retailers with sales subject to more than one rate of VAT – such as a clothes shop selling zero-rated children's clothing and standard rated adult wear – can use a point-of-sale scheme but also has the choice of using four separate schemes: Apportionment schemes 1 and 2; and Direct calculation schemes 1 and 2 (see VAT Notice 727 s 3 for details about how they work).

So, quiz time again, what are the use restrictions for each scheme and which of them require an annual adjustment?

The first answer is that a business can only use Apportionment scheme 1 and Direct calculation scheme 1 if its annual taxable retail sales are less than £1 million excluding VAT. The other two schemes can be used by any business if annual retail sales are less than £130 million excluding VAT. If sales exceed the latter figure, the business must agree a bespoke scheme with HMRC.

In terms of annual adjustments, these are relevant for Apportionment scheme 1 and Direct calculation scheme 2; the latter scheme requires an annual stock adjustment.

Payback and clawback adjustments

Imagine that you have a client who has built a house with a view to selling it. They have claimed input tax on their project costs because the sale will be zero-rated. But what happens if they change their mind and decide to rent it out on a long-term basis, so that the first income received will be exempt from VAT?

The payback and clawback regulations deal with the situation when expenses are incurred on a project where the sales are intended to be taxable but then the first actual sale is exempt from VAT. This is a 'clawback' situation because input tax needs to be repaid to HMRC. A 'payback' outcome means that intended exempt sales are superseded by actual taxable sales so input tax previously not claimed can be claimed on the next return. See ***Change of intention: rent out rather than sell a new dwelling***.

Here are some important outcomes with the payback and clawback rules:

- Any adjustment with these regulations does not produce an 'error' situation. Corrections of under and overclaims of past input tax will always be included on a VAT return.
- The relevant time period for input tax adjustments is the last six years, which is different to the four-year period that applies to adjusting past errors on returns.
- A project might be intended to generate both taxable and exempt income – a mixed use – so the payback and clawback rules will apply if there is a chance of intention so that actual income is wholly taxable or exempt. The same rules apply if the change is vice-versa.

> **If a past over or underpayment does not qualify as a VAT adjustment, it will be deemed to be an error.**

Error corrections procedures

If a past over or underpayment does not qualify as a VAT adjustment, it will be deemed to be an error. The audit trail is as follows:

- When the return is being completed, the business must calculate its total 'net error' figure for all errors made in the previous four years. If this figure is less than £10,000, it can be included on the return. So, if input tax has been overclaimed by £12,000 and output tax overpaid by £3,000 on past returns, the key figure is the £9,000 difference and not the fact that £15,000 worth of errors have been made.
- The tax can also be included on the return if the net error figure is between £10,000 and £50,000, and is also less than 1% of the total Box 6 outputs figure on the return where it is being corrected. So, for example, if your quarterly sales are £4 million in Box 6, you can include error adjustments of up to £40,000.
- If the net error exceeds the above amounts, it must be separately disclosed to HMRC, usually on form VAT 652. However, this can be done in a letter format if that is preferred.
- Errors that are more than four years old cannot be adjusted and are time-barred. The relevant date is the end of the VAT period; e.g. errors on the quarterly return to March 2019 can only be corrected on returns up to and including March 2023.

Correctly claiming input tax
The VAT challenges and the need for deals to be properly structured
Neil Warren bit.ly/3X3Ze6h

Late VAT returns: the new penalties
Repayment returns are now also subject to points and penalties
Neil Warren bit.ly/3Qy3Q26

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TAXING TOP INCOMES
DESIGN ISSUES & CHALLENGES
BEYOND THE POLITICS

WHO ARE THE TOP 1%?
HOW DO THEY RESPOND TO TAXATION?
WHAT CAN WE LEARN FROM OTHER COUNTRIES?

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Who is the real owner?
Implied trusts and beneficial ownership

Whilst express trusts are deliberate arrangements, the all-important beneficial ownership of an asset or income stream can be unknowingly split from legal ownership. We examine how beneficial ownership works in practice.

by Chris Thorpe

Key Points

What is the issue?
Beneficial ownership of an asset or income stream is determinative for income tax, capital gains tax and inheritance tax. It is not always with the legal owner.

What does it mean for me?
Whilst most transactions between individuals are straightforward and involve the transfer of both legal and beneficial titles, it's just possible they may not. It may transpire that the beneficial ownership never left the donor, in which case there would be no tax implications and an implied trust merely bestows the recipient with trusteeship (unwittingly).

What can I take away?
Make sure all transactions are properly documented so that everyone party to a transaction knows the position and intention is clearly evidenced. This avoids the need for the law to make presumptions.

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'Taxation of income is based on beneficial ownership, not legal ownership. For income tax purposes, you need to know who is the beneficial owner of the income, that is, who is "entitled to" the income.' This is the word according HMRC in the Trusts, Settlements and Estates Manual (TSEM9305). It summarises the position taken by the courts for hundreds of years; i.e. that it is the real or 'beneficial' owner who is deemed to own an asset or stream of income, even though the legal ownership might lie elsewhere.

Common law only ever recognised legal ownership but this was always subject to law of good conscience (i.e. equity), which recognised that the real owner might be someone whose name is not on the title deed. This law of equity grew alongside common law and ultimately became its master (see Senior Courts Act 1981 s 49(1), in turn stemming from the Judicature Act 1873, which merged the equity and common law courts).

This applies to the tax authorities, which recognise the prominence of beneficial ownership over legal. One way in which the law could do this is to impose an 'implied trust', so that the legal owner becomes a mere trustee holding the asset/income stream for a beneficial owner. Whilst that beneficial owner would have the law on their side as far as property law is concerned, they would also bear the burden of taxation. These implied

PRESUMED INTENTION TRUSTS

We set out below some common scenarios of how presumed intention trusts work in practice.

Joint house purchase
Mr Brown and Ms White buy a house together but, despite the purchase money coming from them both equally, the legal ownership is (for whatever reason) in the name of Mr Brown.

Equity would recognise the ownership of Ms White by virtue of her contribution to the purchase, and thus the presumed intention that it was to belong to them both equally. The legal owner Mr Brown would be deemed as the trustee holding the property for the benefit of them both. HMRC would recognise joint beneficial ownership even though the Land Registry would only show the name of Mr Brown as the sole legal owner.

Sale of partnership business
Another scenario follows the sale of a partnership business owned by husband and wife Mr and Mrs Green. The cash proceeds are held in Mrs Green's bank account.

Mrs Green would be holding the capital on the resulting trust for them both as it was a joint venture. Therefore, the corresponding interest would also be taxed on both Mr and Mrs Green, even though the account is in the name of only one of them.

trusts are essentially implied 'bare' trusts, as HMRC will look past the legal owner and tax the beneficial owner.

Express and implied trusts

An express trust is one which is deliberately created, usually in writing (in the form of a deed or a will) with the parties being aware of their positions and duties; also, the trustees are usually those who pay tax.

With an implied trust, however, mere trusteeship may be imposed upon someone who thinks they are the outright owner; meanwhile an individual who thought they had no interest in an asset may, according to the law of equity, be the beneficial owner and subject to tax.

Because trusts are a produce of equity, it is the law of conscience which governs the imposition of implied trusts.

Types of implied trusts

There are broadly two categories of implied trusts:

- 'constructive' trusts; and
- 'resulting' trusts: these are sub-divided into 'presumed intention' and 'automatic'.

Constructive trusts

A (traditional) constructive trust is arguably a form of restitution. When someone has knowingly appropriated property illegally, by abusing a position of fiduciary trust, then a constructive trust rights that wrong by removing the beneficial ownership from the culprit and placing it into the hands of the wronged person.

An example given by HMRC in the Company Taxation Manual (at CTM20090) is where a shareholder receives a dividend from their company, knowing (or reasonably suspecting) it to be illegal (e.g. due to a lack of distributable reserves). In this instance, the shareholder will hold those monies on constructive trust for the company; i.e. the beneficial ownership of that dividend will revert back to the company. It is much easier to simply assign the beneficial ownership, rather than the legal title of the ill-gotten gain.

Note that it is the shareholder's knowledge (or reasonable suspicion) of the illegality that is key. If the shareholder genuinely did not realise that the dividend was unlawful and acted in good faith, then the law of conscience would not impose trusteeship upon them. However, as HMRC points out in that same guidance, where the shareholder is also a director, then knowledge of the 'ultra vires' payment would be presumed.

Resulting trusts

Resulting trusts arise when a gift is incomplete and the beneficial ownership returns to the donor; this would be an 'automatic' resulting trust. More commonly, the gift has failed due to a technicality. An asset cannot remain ownerless, so it defaults back to the original owner.

Certain 'gifts' are indeed presumed to be outright gifts with the legal and beneficial owner passing to the recipient for no consideration. Gifts of land are presumed to be just that (Law of Property Act 1925 s 60(3)).

However, gifts of other assets will create a resulting trust with only the legal ownership passing to the recipient and the beneficial ownership remaining with the donor. The presumption is that the donor could not have meant to gift the asset absolutely, unless there is any evidence to the contrary.

There is a 'presumption of advancement' (i.e. of an outright gift) when a husband makes a gift of any asset to his wife and/or children; however, gifts from a wife to her husband would cause a resulting trust to arise in the first instance. This outdated presumption was supposed to have been abolished with the passing of the Equalities Act 2010 (in s 199) but the legislation was never fully enacted.

The distinction between the automatic and 'presumed intention' trusts was outlined by Megarry J in *Vandervell Trustees (No.2)* [1974] EWCA Civ 7 at 294. A 'presumed intention' resulting trust will, as the name suggests, bring to fruition the parties' presumed intentions, which can be inferred by who put forward the capital to purchase the underlying asset. See ***Presumed intention trusts*** above.

Income tax and the settlements legislation

Besides being re-designated through the law of equity, beneficial ownership of income streams can also be redirected to the real owner via a legislation-based implied trust, should any attempts be made to place it in the hands of someone paying lower rate income tax.

SETTLEMENTS LEGISLATION: AS SEEN IN FILM...

A couple of well-known actors have fallen foul of the settlements legislation over the last century.

In 1954, Jack Hawkins (*Bridge on the River Kwai, Zulu, The Cruel Sea*) had his earnings funnelled through a service company, shares of which lay mainly within a trust created for the benefit of his children. Jack took only a small salary for himself, well below what a film star would normally earn, thus allowing artificially inflated distributable reserves within the company to be subsequently declared to the trustees. Whilst Jack wasn't a shareholder in the company or the actual settlor of the trust (his father-in-law was), he was a director so would have known what was happening.

The then Inland Revenue held that the fruits of Jack's labour attracted the income, and he was thus the 'real' settlor of a 'settlement' which was created for the benefit of his minor children. The trust's income was therefore assessed on him for income tax. The incorporation of the company, the service agreement and the trust's acquisition of the shares constituted an 'arrangement' according to the Inland Revenue. The Court of Appeal agreed in *Crossland v Hawkins* [1961] Ch 537.

Hayley Mills (*Pollyanna, Tiger Bay, the Parent Trap*) was caught in the same web. Her famous father (Sir John) was the actual settlor of a trust for Hayley's benefit which held shares in her service company. The profits generated by Hayley's films swelled this company and funded the trust – so she was deemed by the Inland Revenue to be the real settlor. As sole beneficiary, it was deemed by the Inland Revenue as settlor-interested and so the income therein was taxed upon Hayley. The House of Lords agreed in *IRC v Mills* [1975] AC 38.

The settlements legislation was first introduced by the Finance Act 1922, but subject to slightly more restrictive changes through the following decades. The modern legislation is now to be found in the Income Tax (Trading and Other Income) Act (ITTOIA) 2005 ss 624–648.

The definition of a 'settlement' is, and always has been, very wide. ITTOIA 2005 s 620(1) now defines it as: 'any disposition, trust, covenant, agreement, arrangement or transfer of assets (except that it does not include a charitable loan arrangement)'. It is an example of implied trusts being created by tax legislation as a 'corrective' measure to counter a bounteous (i.e. non-commercial) settlement.

The person who created a settlement and provided the funds (directly or indirectly) is the settlor; and if that person, their spouse or minor unmarried children can still benefit from a settlement or arrangement, then that settlor is taxed upon the income of those beneficiaries. Oddly, HMRC includes 'friends' (however one defines this) in its Trusts, Settlements and Estates Manual (TSEM4320) as coming within this remit alongside spouses and minor children, despite this not being mentioned in the legislation. That income is essentially redirected back to the settlor who earned/generated it via a settlor-interested implied trust.

Spousal 'get-out'

Whilst income above £100 gifted to one's children would be taxed upon the settlor, there is a statutory exemption (Income and Corporation Taxes Act 1988 s 626, formerly s 660(6)) for gifts to settlor's spouses which are not wholly gifts of income; i.e. they also consist of the underlying capital asset. Prior to 1990, a wife's income was taxed on the husband ('aggregated') anyway, so the settlements legislation was primarily aimed at minor children. It was only after 1990 that a husband's diverting income to his wife became an issue for the Inland Revenue.

This was tested in *Jones v Garnett* [2007] 1 WLR 2030 (better known as the 'Arctic Systems'). This case also involved a limited company receiving monies from an individual's trade. The individual was taking a much smaller salary than he should, thus artificially inflating the distributable reserves which were then paid out to his wife. Mr Jones was an IT specialist who owned Arctic Systems Ltd equally with Mrs Jones; whilst he was doing all the client work, Mrs Jones was company secretary and focused on administration. Despite this, both received equal dividends which the Inland Revenue believed formed part of an arrangement.

The House of Lords agreed that a settlement had been created; however, because Mrs Jones owned 50% of the company shares commensurate with the income, the 'gift' was not one purely of income but was also accompanied by underlying shares. There was some disagreement between the Law Lords about whether bounty was present in this case, but it was held that the settlement came within the s 660(6) exemption. There were subsequent plans by the government to legislate to overturn this ruling, but they were eventually dropped.

Why does this matter?

Tax advisers need to keep their eye on the beneficial ownership ball, which is what matters as far as tax is concerned. Don't assume this lies with the legal owner. If another person has contributed capital to the purchase of an asset, the equitable presumption is that it is jointly-beneficially owned. If a gift is made, don't assume that the beneficial ownership has necessarily followed the legal title (it may not have been intended as a gift and equity may doubt that too). If income is being diverted to family members then the settlements legislation may divert it back to the 'settlor'; i.e. the person who actually generated it and to whom it really belongs.

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The price of business

Keeping energy costs down

In the light of current high energy prices, we take a look at ways that businesses can try to keep their energy costs down by using tax reliefs, exemptions and allowances.

by Jayne Harrold and Jawad Masood

Business energy costs have been at record highs recently with an unprecedented level of intervention from the government. Business is supported by the Energy Price Guarantee until 31 March 2023, with a less generous Energy Bills Discount scheme to follow from 1 April 2023 to 31 March 2024 (see bit.ly/3H4SrnD).

For energy intensive industrial sectors, energy can represent a large proportion of total costs. There is a plethora of taxes and levies on energy, with a series of reliefs and exemptions available. There is an increased focus amongst industrial energy users in making sure that they are accessing and maximising all of the savings available to them to help relieve the cost pressure.

Key Points

What is the issue?
Businesses are experiencing significantly increased energy prices. The Energy Bill Relief Scheme caps wholesale energy costs for businesses until 31 March 2023 and is replaced by a less generous discount on energy prices from 1 April 2023 to 31 March 2024.

What does it mean for me?
Businesses are examining their energy costs more closely and seeking ways to reduce cost. There are reliefs, exemptions and allowances available to help reduce energy costs for **business.**

What can I take away?
For any business with high energy use it is worth checking the detail of climate change levy exemptions, climate change agreements, and energy intensive industries exemption that may be available.

GLASS BOTTLE FACTORY: CALCULATING CCL RELIEF

As a worked example, a factory which manufactures glass bottles and is a member of the climate change agreement for the glass sector can claim the following relief:

Total electricity supply to site	100,000,000kWh
Electricity used for manufacture of glass bottles which benefits from mineralogical processes exemption	40,000,000kWh
Electricity used in other eligible processes under the climate change agreement	50,000,000kWh
CCL discount on climate change agreement – 92%	46,000,000kWh
Total CCL relief available	86,000,000kWh
Relief to be claimed from supplier	86%
Value of relief to be claimed at 0.775p/kWh	£666,500

This article explores the reliefs, exemptions and allowances available, the sectors that qualify, and how to access them.

Climate change levy reliefs and exemptions

Climate change levy (CCL) is a tax on supplies of gas, electricity and some other fuels to business users. It is charged on energy bills by the energy supplier.

The main rates of CCL are 0.775p/kWh for electricity and 0.568p/kWh for gas. Compared to the current Government Supported Price of 21.1p/kWh for electricity and 7.5p/kWh for gas, CCL represents an additional cost of 4.7% for electricity and 7.6% for gas.

Some businesses are eligible for reliefs and exemptions from CCL, but they have to be claimed. Below we cover the reliefs and exemptions that are most likely to have the broadest application.

Supplies for non-business use by a charity or for domestic use and community heating schemes are excluded from CCL. The definitions of charitable and domestic use mirror the VAT rules, and the VAT reduced rate generally applies where the supply is excluded from CCL. Examples of where this may apply may include universities, which are charities, that may use some energy for their non-business research use, and pubs or shops that may have accommodation on site resulting in some domestic use.

There is a CCL exemption available for operators of mineralogical and metallurgical processes. Broadly, mineralogical processes involve the manufacture of glass, ceramic, refractory, cement, lime, plaster, concrete and stone products. Metallurgical processes involve the manufacture of iron and steel, precious metals, aluminium, lead, zinc, tin, copper, other non-ferrous metals and their products. There is detailed guidance on the processes that qualify in Annex A of HMRC's Excise Notice CCL1/3 (see bit.ly/3X1ArQz).

To claim the exemption, the operators of eligible processes need to complete form PP10 to calculate their relief entitlement and send it to HMRC. The operator should then take the percentage figure calculated on form PP10, put it onto form PP11 and send it to their energy supplier so that the energy supplier can apply the relief directly to the energy bill. Separate forms need to be completed for gas and electricity.

Energy intensive businesses can also claim CCL discounts of 92% for electricity and 86% (or 88% from 1 April 2023) for gas until 31 March 2025 if they have entered into a climate change agreement. These are voluntary agreements made between Industry Associations and the Environment Agency to reduce energy use and carbon dioxide emissions. The government is currently consulting on a replacement scheme to continue to support affected sectors when the current agreements end (see bit.ly/3ZncLYq).

Climate change levy is a tax on supplies of gas, electricity and some other fuels to business users.

Climate change agreements cover a wide range of sectors from chemicals, plastic and paper to supermarkets and agricultural businesses such as pig and poultry farming. A full list is available at bit.ly/3ZjUfAh.

CCL discounts for energy used under a climate change agreement are also claimed through the use of forms PP10 and PP11. See the example above ***Glass bottle factory: calculating CCL relief*** for how CCL works in practice.

On-site generation of electricity

Investment in on-site generation is increasingly favourable in the light of increased energy costs, which have increased the return on investment and reduced payback periods.

Renewable electricity generated on-site is outside the scope of CCL.

For businesses that have a heat need, or local heat offtake available, combined heat and power plants also receive favourable treatment under the CCL rules with exemptions available for fuel inputs, carbon price support and electricity self-supplies provided that the scheme is registered under the Combined Heat and Power Quality Assurance (CHPQA) scheme and meets the efficiency criteria to be good quality.

Business rates

The March 2022 budget announced the exemption of plant and machinery used in on-site renewable energy from business rates, effective from 1 April 2022 to 31 March 2035. This exemption makes it highly attractive to install roof top solar panels, wind turbines and battery storage to store and generate on-site renewable energy. In addition, there is 100% relief for eligible low-carbon heat networks, which have their own rates bill, and the storage used with electric vehicle charging points. With the 2023 business rates revaluation on the way, it is a good time for businesses with on-site generation to review their business rates to ensure they are receiving the reliefs available to them.

Capital allowances: super deduction

Expenditure on on-site generation, such as combined heat and power plant, can currently benefit from significant capital allowances tax relief, which give businesses tax relief for certain capital expenditure. Companies (only) can currently benefit from enhanced first year capital allowances for capital expenditure incurred between 1 April 2021 and 31 March 2023, on certain new items of plant and machinery.

The enhanced relief is split into two categories and the rate of relief varies depending on the nature of the expenditure:

- 130% super deduction (increased from 18% per year): 'apparatus' used in the business that is not classed as special rate plant and machinery, including significant elements of combined heat and power plants; and
- 50% first year allowance (increased from 6% per year): for expenditure on special rate plant and machinery. This

TABLE 1: HIGH LEVEL INDICATION OF RELIEFS THAT MAY BE AVAILABLE

Sector	CCL exemption	CCL discount through CCA	EII exemption
Glass	✓	✓	✓
Ceramics, refractories and bricks	✓	✓	✓
Cement, lime and plaster	✓	✓	✓
Concrete	✓	×	×
Mining and quarrying	×	×	✓
Stone products	✓	×	×
Metals	✓	✓	✓
Intensive farming	×	✓	×
Animal feed	×	✓	✓
Food and drink	×	✓	✓
Textiles	×	✓	✓
Wood	×	✓	✓
Paper	×	✓	✓
Petroleum products	✓	×	✓
Chemicals	×	✓	✓
Plastic and rubber	×	✓	✓

GLASS BOTTLE FACTORY: THE ENERGY INTENSITY TEST

This is how to the calculate the level of exemption available (up to 85%) to our previously used glass bottle manufacturer:

Electricity used for manufacture of glass bottles (note that manufacture of glass bottles qualifies for the 'sector level test') **(A)**	40,000,000kWh
Total electricity supply to site through the meter **(B)**	100,000,000kWh
Total exemption (%) available on the indirect costs of funding the CFD, RO and FIT exemption schemes **85% x (A/B)**	34%

includes integral features such as air-conditioning, general power and lighting and solar PV panels; plus, assets with an expected useful economic life of 25 years or more.

Although the enhanced reliefs are due to come to an end on 1 April 2023, they are currently part of an HM Treasury consultation into the capital allowances regime. The consultation was launched in the summer of 2022 and we expect the spring 2023 budget on 15 March to include details of any extension or replacement to the super deduction and 50% first year allowance.

The previous enhanced capital allowances scheme, which provided 100% tax relief for certain energy and water efficient plant and machinery, was considered too cumbersome and was discontinued for expenditure after April 2020.

Energy intensive industries exemption scheme

The UK has a number of policies and schemes to incentivise and increase the share of electricity generated from low carbon and renewable sources. These include Contracts for Difference (CFD), Renewables Obligation (RO) schemes and the Small-Scale Feed-In-Tariff (FiT). The cost of funding these policies is borne by electricity consumers through levies added to their bills.

The energy intensive industries exemption scheme supports energy intensive businesses in sectors which suffer from international competition by exempting eligible businesses from up to 85% of the charges arising from the costs of CFD, RO and FiT.

The UK Energy Security Strategy published in April 2022 committed to continuing to help industries in the UK that face higher industrial energy prices. The Department for Business Energy and Industrial Strategy (BEIS) consulted on changes to the scheme in August 2022 with a view to potentially increasing the amount of exemption provided. In the consultation document, BEIS published a comparison of the taxes and levies borne by extra-large industrial consumers in other European countries, showing the UK as second only to Germany, and both countries paying almost double the price per KW borne by Poland, which followed them in the size of levy (see bit.ly/3ZntElM).

In order to benefit from these savings, eligible businesses must apply to BEIS and be approved for an energy intensive industry exemption certificate. The business then provides the certificate to their energy supplier, which applies the savings directly to their energy bills.

Eligible businesses must meet the following two tests:

- the 'sector level test', which requires that the business must manufacture a product in the UK within an eligible sector (defined by a four-digit NACE Code); and
- the 'business level test', which is the requirement to pass a 20% electricity intensity test.

Additionally, the business must not be an ailing or insolvent economic actor, have at least two quarters of financial data and be able to provide evidence of the proportion of electricity used to manufacture the product for a period of at least three months.

Eligible sectors

BEIS guidance for applicants sets out a list of sectors that qualify for the 'sector level test', along with their four-digit NACE code (see bit.ly/3ZrRuN0). There are 71 eligible NACE codes listed, which have a lot in common with the mineralogical and metallurgical processes eligible for CCL exemption and sectors eligible for CCL discounts through climate change agreements.

Table 1 above contains a high level summary of some of the eligible sectors with an indication of the reliefs that may be available, depending on the specific activities and NACE codes. Given the breadth of sectors that qualify it is not a fully comprehensive list. For any business with high energy consumption, it is worth checking the details of CCL exemptions, climate change agreements and energy intensive industry exemptions available.

Energy intensity test

The energy intensity test requires that business can show that their electricity costs amount to 20% or more of their Gross Value Added (GVA), an adjusted measure of earnings, over a reference period, normally based on the accounting period.

There is a specified method for calculating both electricity costs and GVA to ensure that all applicants are treated in the same way, regardless of the actual price they have negotiated for their energy. GVA is defined as earnings before interest, tax, depreciation and amortisation (EBITDA), excluding extraordinary items and staff costs.

For businesses with both eligible activities and ineligible activities, the energy intensity test is conducted at entity level, including all uses, but the relief will only be available for the portion of the electricity used in the eligible activities.

There is a detailed application form for businesses to complete, and BEIS can also require that applications are accompanied by an accountant's report from the company's auditors. See the example ***Glass bottle factory: the energy intensity test*** for how this works in practice.

Energy efficiency improvements

As noted above, expenditure on new, more efficient equipment and plant and machinery will qualify for capital allowances relief against your businesses operating profits, currently at enhanced rates. This can also include expenditure on the installation of thermal insulation to existing buildings that qualifies for capital allowances at the special rate of tax relief.

Conclusion

With the current high cost of energy for business users, there is increased focus on using available cost saving mechanisms.

For industrial businesses with high energy use, there is a wide range of reliefs, exemptions and allowances to help.

On-site generation of electricity is increasingly attractive due to the improved return on investment resulting from higher energy prices. Some forms of on-site generation, such as renewables and combined heat and power plants, benefit from favourable CCL treatment. Maximising both business rates savings and capital allowances can help to further support the business case for investment.

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Tax simplification Where is it heading now?

Following the closure of the Office of Tax Simplification in December 2022, we bring you an insider's view about whether the UK tax system has been left any simpler – and what might happen next.

by Andy Richens

I consider myself fortunate to have been the longest serving Policy Adviser for the Office of Tax Simplification (OTS), in various guises (volunteer, contractor and employee) covering its lifespan from formation in 2010 through to the surprise announcement of its closure in last year's Growth Plan. Although much of that plan was reversed in the subsequent Autumn Statement, the office was effectively closed on 31 December, but interestingly remains currently in place on the statute.

I still recall the buzz of excitement attending the Treasury for the first meeting, having just been invited onto the small business consultative committee, formed of industry representatives, tax advisers and officials from HMRC and HM Treasury.

I was the tax technical director of a mid-sized firm of accountants based in the South West, with a client base consisting mainly of owner managed businesses – so a good match. The small business project was one of the first two reviews of the OTS, having recently been founded by the government in 2010, with a remit to identify areas where complexities within the tax system could be reduced for both individuals and business, with a particular focus on small business.

It is surely common ground that a simplified tax system reduces administration burdens and costs on individuals and businesses, increasing certainty and indeed compliance, and making the UK a more competitive place for business and investment.

The work of the OTS

I quickly discovered that the modus operandi of the OTS was to carry out an extensive consultation process with stakeholders, consisting of professional advisory bodies, industry representatives, advisers, businesses and individual taxpayers, as well as HM Treasury and HMRC officials. The OTS initiated this process before the five-stage tax policy development framework was set up by HM Treasury. Furthermore, the OTS consultation process was proactive, and involved attending industry representative meetings, such as local Federation of Small Business groups, or the Chamber of Commerce, and presenting at conferences, such as the Landlord Expo in Bristol as part of last year's Property Income review.

All the OTS reviews started with a published Scoping Document, agreed with HM Treasury and HMRC. Following a call for evidence, the stakeholder consultation took place and then, based on the emerging themes, the drafting of the report. The draft was shared with HM Treasury and HMRC policy teams, and changes suggested based on policy considerations and sometimes additional information. The OTS was, of course, independent and could have chosen to ignore such representations. However, it was ever conscious that such an approach would mean its recommendations would be unlikely to progress.

Finally, the report was published. It is important to note the OTS could only make recommendations. The decision on implementation always rested with the government.

Key Points

What is the issue?
Six years after entering legislation as a permanent independent office, and 12 years after its formation, it was announced in last year's Growth Plan that the Office of Tax Simplification (OTS) would be closed.

What does it mean for me?
A complex tax system adds costs and uncertainty for businesses, making them less competitive and the UK a less competitive place for investment, and adding administrative burdens for taxpayers, advisers and HMRC. This article reviews whether the OTS fulfilled its remit, and whether the UK tax system is any simpler.

What can I take away?
The OTS issued 56 reports with approaching 1,000 recommendations, consisting of both technical changes in the law and administration improvements. The Growth Plan proposed embedding simplification into the work of HMRC and HM Treasury, but what are the challenges in that approach?

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OTS reports and recommendations

After publication of the interim small business report, I joined the OTS to work on the final report, which covered the cash basis, disincorporation and HMRC administration. The introduction of a cash basis has resulted in over 1.1 million small self-employed traders and the majority of unincorporated residential property landlords adopting this simplified basis. The paper on a disincorporation relief followed extensive stakeholder support for such a measure. Very unfortunately, an asset limit of just £100,000 was added to the measure within the Finance Bill at a late stage, which hadn't been recommended by the OTS and rendered the relief redundant.

A subsequent report of the Tax Professionals Forum (formed of tax advisers appointed by the Financial Secretary to the Treasury to help monitor the tax policy delivery process) (see bit.ly/3Whu36B) in December 2015 suggested incorporating the OTS recommendations into the five-stage framework, which would have improved the effectiveness of developing new policy such as this.

My initial contract was for nine months. However, I continued to advise on consultative committees for the reviews of employee benefits and expenses, and employee share schemes before rejoining the OTS for the 2014 UK Competitiveness review, commissioned by the government to review how the tax system impacted on the competitiveness of UK businesses. Of 52 recommendations, 46 were accepted or marked to be considered by the government and taken forward to subsequent reviews.

Up until around the mid-point in the life of the office, each Finance Bill contained a number of measures based on the OTS review(s) from the previous year. For example, the Small Business reports published in 2012 resulted in the cash basis, fixed rate expenses and disincorporation relief entering Finance Act 2013. Measures to digitise share scheme reporting from the 2013 OTS review entered Finance Act 2014. And various improvements to employee benefits and expenses, published in the 2014 OTS report, entered Finance Act 2015.

Whilst certain OTS recommendations have continued to find their way into the legislation – for example, doubling the capital gains tax reporting and payment deadline to 60 days (sometimes it's the little things that make a difference) – this process was not formalised and became less certain.

All review papers looked at both technical changes to the tax law and administration improvements. The Small Business HMRC administration report, the final Partnership report and the Inheritance Tax review resulted in a number of useful administration improvements. The Guidance review improved HMRC engagement on enhancing and updating their guidance, although as always there is more work to be done here. Comment on HMRC plans for digitalisation were woven into several OTS reports, most recently the Property Income review.

The OTS was put on a permanent independent statutory footing in Finance Act 2016. Whilst the earlier OTS reviews were all commissioned by the Chancellor of the Exchequer on behalf of the government, following the statutory footing the OTS was able to commission its

own reports where there was evidence of complexity. I remained working at the office until the end of last year, contributing to the Property Income review and the Hybrid and Distance Working report, when the work of the office ceased.

Over the lifetime of the OTS, 56 reports have been published. A full list can be accessed from the OTS website at bit.ly/3GKuWyP. Of particular interest will be the links to the government response to each review, where commissioned by the Chancellor.

Did the OTS fulfil its remit?

As set out above, the remit when the office was formed was to identify areas where complexities within the tax system could be reduced for both individuals and business, with a particular focus on small business. This focus was confirmed in the government response to the OTS 'Tax Simplification' review, following the five-year review of the office.

The 56 reports published include approaching 1,000 recommendations. Given the extensive consultation that the OTS carried out with stakeholders on each report, I will allow the reader to reach their own conclusion. It may be considered unfair for someone who worked at the OTS throughout its lifetime to answer this question...

So, after 12 years, is the tax system simpler?

I think everyone who works in tax knows that the answer to this question is no. So why hasn't the (hopefully) positive response to the question of whether the OTS fulfilled its remit followed through into this question? I believe there are two principal reasons.

Taking recommendations forward

It will be seen from the Chancellors' response letters that up until around the mid-term point, each principal recommendation was marked as 'accept', 'consider' or 'reject'. As mentioned above, on the UK Competitiveness review 46 of the 52 recommendations were marked as 'accept' or 'consider', and many were taken forward into the Small Company and Simplification of the Corporation Tax Computation reviews.

As part of last year's Property Income review, the OTS received feedback that two thirds of rural agricultural businesses were diversifying to support their farming activity. Although unified accounts were prepared for the business overall, the tax system required separate reports for each business. In the UK Competitiveness report in 2014, the proposal for schedular reform allowing pooling of income and expenditure for tax purposes had been marked as 'consider'.

The government response to the Corporation Tax Computation review of 2017 on this point was to ask officials to gauge costs, risks and impact on customer groups. However, when this proposal was raised with current policy teams, it was unclear whether such work had been undertaken.

Whilst the OTS periodically published update documents on primary issues, the CIOT response to the OTS five-year review suggested the need for a framework to be put in place setting out which recommendations government would be taking forward (including non-Chancellor commissioned reviews) and the likely timescale.

This should also track which recommendations would not be taken forward, with the reasons given. This would help to facilitate the tracking of past recommendations.

Introducing simplification requires an understanding of the burdens faced by individuals and businesses.

New tax legislation

A second consideration relates to new tax legislation. The OTS reviews were based on the stock of existing tax legislation. However, changes made following recommendations have been dwarfed by the flow of new legislation, on which the OTS had no say. The OTS' Tax Simplification report of 2022 recommended that simplification should be embedded into each stage of the tax policy making process in order to address this.

A useful analogy could be the number of tax reliefs on statute. At the time of the OTS 2012 review, there were 1,042 reliefs. The OTS picked out 155 reliefs to review in detail, of which 43 were actually abolished (see bit.ly/3wf2Ir1), neatly bringing the total number down to below 1,000. However, by 2018, the number of reliefs had grown to over 1,100 (see bit.ly/3XKcCg7). Although the number of reliefs has not fallen, there are fewer than if the OTS had not acted. The same could be said regarding the impact of the OTS work on simplification.

What is the future for simplification?

When the announcement of the OTS closure was made in the 2022 Growth Plan, it was stated that simplification would be embedded into the work of HM Treasury and HMRC. Is that a reasonable direction of travel? In the government's response to the OTS 2022 paper on 'Tax Simplification', the Financial Secretary at the time acknowledged that there are trade-offs between simplification and other policy objectives. Whilst these two departments are not against simplification, would not the department's own policy agenda be a conflict of interest and compromise simplification measures?

So, what is the future for tax simplification? A positive move would be to embed simplification measures into the tax policy making framework. This could include entering simplification on each new policy onto the Tax Impact and Information Notes (TIIN), which could possibly make use of the complexity index developed by the OTS in 2017. (The index measures complexity by assigning ten factors – six for intrinsic complexity and four for impact of complexity.) The Tax Professionals Forum could continue to oversee this process.

However, introducing simplification requires an understanding of the burdens faced by individuals and businesses, and the need to have certainty on the tax impact of choices made, to help make business more competitive and the UK a competitive place to invest. The OTS was able to engage freely with external specialists and industry groups, and as noted in the CIOT response document, was open minded to the views of others. So, could a privatised office, with relevant specialists brought on board, take on the OTS' role instead?

Such an office may not have such ready access to HM Treasury and HMRC policy teams, nor the data from the knowledge, analysis and intelligence (KAI) team within HMRC. But it would be free to comment in its report papers without fear of pushback, although this may also give rise to perceived conflicts with its own members' interests.

Perhaps it could work under the control or sponsorship of one or more of the professional bodies, who share similar aims and values to those of the OTS. The work of the new office need not be confined to the UK tax system, so could cover devolved taxes under the powers of the Scottish and Welsh governments, or indeed the tax regimes in other countries. Views on the appetite for setting up such an office would be most welcome.

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Providing support
Employees with disabilities

This article highlights tax reliefs available to workers on account of their disability. How can the tax system assist employers in providing support to staff?

By Kelly Sizer

Key Points

What is the issue?
For people with disabilities, there can be extra costs of getting into, and staying in, work. The tax system offers some help.

What does it mean for me?
Find out what tax reliefs are available; e.g. for employers making reasonable adjustments for employees with disabilities.

What can I take away?
Ensure you are aware of what support is available, such as the Access to Work scheme, which might help your employer clients and their employees.

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This article is largely based on an unfinished work by the late Robin Williamson. Robin was Technical Director of the CIOT's Low Incomes Tax Reform Group (LITRG) until his retirement from full-time work in 2018. He subsequently became an active volunteer with the LITRG advisory panel, alongside his wife Jane Moore. Robin was passionate about making the tax system work better for people with disabilities and wanted to help raise awareness in this area.

There is no general tax exemption available for work-related costs that employees incur because of a disability. However, the social objective of removing the barriers facing people with disabilities entering the workplace is satisfied to a limited extent by certain specific exceptions from the tax charge on earnings.

We look at what help the tax system offers in the following areas:

- the treatment of travel costs where an employee has a disability;
- the provision of equipment, services and facilities;
- the Access to Work scheme; and
- compensation for loss of office, re-assignment of duties or a drop in earnings resulting solely from an injury or disability.

Getting to and from work

Expenses incurred in travelling to and from home and the workplace are generally not tax deductible. However, where an employer provides transport for an employee with disabilities, reimburses such an employee's expenses or meets their costs (including the provision of a voucher), no income tax liability arises if the transport or expenses are for ordinary commuting between home and work. This applies for both income tax (Income Tax (Earnings and Pensions) Act (ITEPA) 2003 s 246) and National Insurance contributions (Social Security (Contributions) Regulations 2001 reg 25; Sch 3 Pt V para 5(a); and Pt X para 8(b)). See also the National Insurance Manual (NIM06390).

This does not, however, apply where an employee pays their own costs in getting to and from work and those costs are not ultimately borne by the employer;

i.e. the employee cannot claim a deduction in this situation.

For these purposes, an employee is disabled if they have a 'physical or mental impairment with a substantial and long-term adverse effect on the employee's ability to carry out normal day-to-day activities' (Income Tax (Earnings and Pensions) Act (ITEPA) 2003 s 246(4)).

HMRC guidance (Employment Income Manual EIM10080) qualifies that its interpretation of the exemption is that the following circumstances do **not** qualify, even though the employee may still qualify for protection against discrimination by virtue of the Equality Act 2010 definition on which s 246 is modelled:

- where the individual has a recurring disability but is in a period of remission during which the impairment ceases to have a substantial adverse effect;
- where the individual has recovered from a previous disability; and
- where the individual is being treated for the effects of an impairment so that the effects of it are alleviated or removed.

In short, if the employee is able to carry out normal day-to-day activities at the time the employer meets the cost of their commuting, HMRC may not allow the tax exemption. It should be remembered, however, that this interpretation is non-statutory and circumstances might be identified in which it could still be appropriate to argue that the exemption applies, given that s 246 itself gives no qualification of the Equality Act 2010 definition.

Employees with disabilities who do not qualify for the total exemption from car benefit charge may claim certain reliefs.

Travelling on work assignments: accompanying carer

If an employer pays or reimburses the travel expenses of an employee, that amount is treated as the employee's general earnings and assessed to tax accordingly, unless the expenses are attributable to necessary attendance at a place in the performance of employment duties (ITEPA 2003 s 338). HMRC guidance (EIM31985) confirms that a deduction can also be given if the employer covers the travel expenses of an accompanying spouse or other carer in cases where:

- the employee's health is so poor that it would be unreasonable for him or her to travel alone; and
- the attendance of a spouse or other carer is necessary for the proper performance of the employee's duties.

Company car: benefit in kind exemption

Normally, if an employer makes a car available to an employee, there is a charge to tax on the benefit. But ITEPA 2003 s 247 provides that no car benefit charge arises where:

- the car has been adapted for the employee's special needs, or has automatic transmission in a case where the employee cannot drive any other sort of car because of their disability; and
- the car is made available on terms that it can only be used for business travel, ordinary commuting (or travel between any two places that is for practical purposes substantially ordinary commuting) or travel to a place of training where the expenses of such travel would be exempt if the employer paid them.

Accordingly, any private use of the car, or any use of it which does not conform strictly with those terms, puts the employee beyond the scope of the exemption and a chargeable benefit arises.

For the purposes of this exemption, the definition of disability follows ITEPA 2003 s 246 as discussed above.

Other reliefs for provision of company cars, fuel and accessories

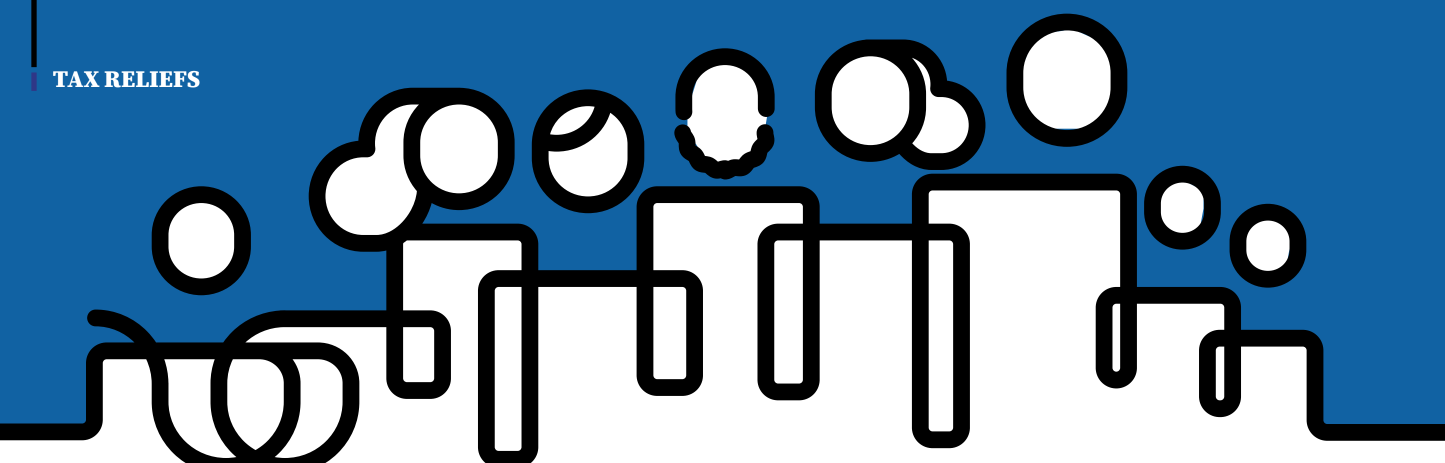
Employees with disabilities who do not qualify for the total exemption from car benefit charge (for example, because they use the adapted or automatic car for private as well as business purposes) may nevertheless claim certain reliefs in calculating the taxable benefit where they are provided with a car, fuel or accessories.

Where an employee with disabilities who holds a Blue Badge is provided with an automatic car because their disability means they can only drive an automatic, ITEPA 2003 s 124A provides that they may use the list price of the equivalent manual car to calculate their taxable car benefit, if lower. A manual car is equivalent to an automatic if it is first registered at about the same time and is the closest variant available of the make and model of the automatic car.

Similarly, where an employee who holds a Blue Badge is provided with an automatic car because their disability does not allow them to drive a manual, they may use the CO_2 emissions figure for the equivalent manual car, if lower, to calculate any fuel benefit.

Also, by virtue of ITEPA 2003 ss 125(2)(c) and 172, accessories are disregarded for calculating any benefit charge if they are either:

- designed solely for the use of a chronically sick person or person with disabilities; or



An employee who needs a support worker to help them in their work would normally be the support worker's employer.

- made available in cases where the person with disabilities holds a Blue Badge to enable the person to use the car despite their disability.

HMRC guidance on these reliefs can be found at EIM23650 and associated pages.

Provision of equipment, services and facilities

If an employer provides certain equipment (such as a hearing aid or wheelchair), services or other facilities to an employee with disabilities, no taxable benefit arises if the main purpose of providing the benefit is to enable the employee to perform the duties of their employment (SI 2002/1596). This applies even if there is significant private use, as long as the main purpose is to enable the employee to perform their duties (EIM21846).

The benefit must be provided under the terms of the Access to Work programme (see below), the Equality Act 2010 or any similar statutory provision or arrangements, whether or not the employer has any legal duty to provide it; and it must be available to all of the employer's employees with disabilities on the same terms.

The benefit must not include any 'excluded benefits' within ITEPA 2003 s 316(5), which are:

- a motor vehicle, boat or aircraft;
- the extension, conversion or alteration of living accommodation; or
- the construction, extension, conversion or alteration of a building or other structure on land adjacent to and enjoyed with such living accommodation.

While the employee can claim an exemption from the charge on benefits in kind where the benefit is provided by the employer, if the employee acquires the equipment, services or facilities themselves without reimbursement by the employer, they cannot deduct the cost for tax purposes. The employee can, however, apply for a grant from the Access to Work programme to cover the cost, in which case they are not liable for tax on any such payment that is applied entirely to cover the cost.

The Access to Work scheme

Access to Work is a programme run by the Department for Work and Pensions (DWP) in England, Wales and Scotland which makes grants to individuals or their employers to enable the individual to go to, or remain in, work despite their disability. The purpose is to cover the extra costs incurred by the individual when working, because of their disability. These may include (for example) extra transport costs if the employee is unable to use public transport to get to work, or practical support in the workplace. There is a Northern Ireland equivalent, Access to Work (NI), run by the Department for Communities. Any grant made directly to an individual is tax exempt to the extent that it is spent on the equipment, services or facilities for which the grant was intended.

It is worth noting that an employee with disabilities who needs a support worker or personal assistant to help them in their work would normally be the support worker's employer. They would therefore incur the usual obligations of an employer such as payroll, pensions auto-enrolment and statutory payments. However, if the employer takes on the support worker to assist the employee, then the employment relationship will be between the employer and the support worker so that the employer, not the employee, will incur those obligations towards the support worker.

The Low Incomes Tax Reform Group website discusses further the tax and accounting aspects of Access to Work (see tinyurl.com/5ynnfsav).

Termination payment on account of disability

A termination payment made in connection with the termination of an employment in connection with the employee's death, or on account of injury to, or disability of an employee, is not taxable under the provisions in ITEPA 2003 Pt 6 Chapter 3 (see s 406 and EIM13610). This exception also applies if the employee is transferred to different duties, or if there is a change in their earnings, because of the disability or injury (ITEPA 2003 s 401).

'Disability' includes psychiatric injury, but not injured feelings (such as in cases where the employee alleges discrimination) (ITEPA 2003 s 406(2). There must be an identifiable medical condition giving rise to the disability or injury, and the payment must be made solely on account of the disability or injury (*Horner v Hasted* [1995] STC 766). HMRC will generally require medical evidence and documentation before agreeing to apply the exception (EIM13630).

Note that if the payment is in fact a payment of earnings made at termination of the employment, rather than a payment 'in consideration or in consequence of, or otherwise in connection with' the termination, etc., this exception does not apply.

Consider this example of payment of earnings made on the termination of employment, as compared to compensation for the loss of office due to injury. Jack was injured at work while driving a defective forklift truck. As he could no longer do the same job, Jack's employer agreed on termination of his employment to a payment of £100,000 by way of damages for his injuries. Jack was also due £10,000 arrears of earnings and pension contributions, a total payment of £110,000. The £100,000 is tax exempt in its entirety under ITEPA 2003 s 406(1)(b), but the £10,000 is taxable as earnings.

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- Monday 19 June 2023, 9.30 – 13.30 (Live Online Session)
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Finance Bill hiccups High income child benefit charge

The high income child benefit charge has always been a controversial measure. The case of *HMRC v Wilkes* revisits the taxation problems surrounding the benefit.

by Keith Gordon

Key Points

What is the issue?
If a family unit is in receipt of child benefit and the recipient (or partner) has taxable income in excess of £50,000, some or all of the child benefit is repayable to the government in the form of a freestanding income tax charge, the high income child benefit charge (HICBC).

What does it mean for me?
There are a number of problems with the HICBC. In many cases, it represents a clawback of all the child benefit received, which is not necessarily suffered by the person who has actually received the child benefit. Some of these problems have also led to certain difficulties in its enforcement.

What can I take away?
If you have a client who is facing a HICBC challenge via a discovery assessment, you should ascertain whether or not the client is protected by the limited transitional provision for pre-30 June 2021 cases.

The high income child benefit charge has always been a controversial measure, ever since its introduction by the Finance Act 2012. Its apparent aim was to remove the financial advantages of receiving child benefit from wealthier families without giving the impression that the universality of the benefit was being undermined. In order to do so, it overrode what has been a key principle of income tax ever since 1990 – namely, the tax independence of married couples (and, latterly, civil partners) – by treating couples as a single unit for certain specific purposes.

In short, if a family unit is in receipt of child benefit and the recipient has taxable income in excess of £50,000, some or all of the child benefit is repayable to the government in the form of a freestanding income tax charge, the high income child benefit charge (HICBC). If the recipient of the child benefit is a member of a couple, then the freestanding charge is levied on the partner with the higher income.

Where the payer of the HICBC has income in excess of £60,000, then the HICBC payable is equal to the entire child benefit received (whether it is received by the payer or the other member of the couple). If the payer's income is between £50,000 and £60,000, then the amount of HICBC payable is simply a commensurate proportion of the child benefit received in the year. In other words, income of £55,000 means an effective repayment of 50% of the child benefit; and income of £57,000 means an effective repayment of 70%, etc.

Some problems with HICBC...

Readers will immediately spot a number of problems with the HICBC.

First, the HICBC is not simply the application of income tax to a source of 'income' received by the family. Such an approach would require the child benefit

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to be added to the person's total income for the year and tax to be charged at the individual's marginal rate on that additional income. Instead, the HICBC represents a clawback of (in many cases) all the child benefit received.

Secondly, the clawback is not necessarily suffered by the person who has actually received the child benefit. Indeed, it is a modern example of robbing Peter to pay Paul.

Thirdly, even if the HICBC can be claimed to be a justified exception to the independent taxation of married couples, it does not carry out its task particularly fairly. This is because a couple with two incomes of £50,000 (i.e. total family income of £100,000) will have no liability to pay any HICBC, whereas a single earner family with that earner in receipt of income of £60,000 will be liable to repay all child benefit in the form of the HICBC.

Some of these systemic problems with the HICBC have also led to certain difficulties in the enforcement of the HICBC by HMRC. In the December 2020 issue of *Tax Adviser*, my article 'The third Wiseman' discussed three cases that had been heard by different constitutions of the First-tier Tribunal (with differing outcomes), which each considered whether HMRC was entitled to make discovery assessments to collect the HICBC. One of those cases, *HMRC v Wilkes* [2022] EWCA Civ 1612 has now reached the Court of Appeal.

The facts of the case

In November 2018, HMRC sent Mr Wilkes a letter suggesting that he might be liable for the HICBC. This was on the basis that his income was in excess of £50,000 and that his wife had received child benefit. In response to the letter from HMRC, Mr Wilkes telephoned HMRC and in late December 2018, based on the information he had provided, was issued with discovery assessments for the 2014/15, 2015/16 and 2016/17 tax years.

Unlike the taxpayers in the other two First-tier Tribunal cases, Mr Wilkes was successful in his appeal against the imposition of the HICBC. However, HMRC then appealed against the First-tier Tribunal's decision to the Upper Tribunal and, when it lost again, to the Court of Appeal.

The Court of Appeal's decision

The case came before Lord Justices Newey, Baker and Arnold. The main judgment was given by Lord Justice Newey and the other two judges gave concurring judgments.

The court looked at three issues.

The first was the wording of Taxes Management Act 1970 s 29(1) as it stood prior to the enactment of the Finance Act 2022. Section 29(1) sets out three circumstances in which a discovery assessment could be made, being:

- where income or gains that should have been assessed have not been assessed;
- where an assessment is or has become insufficient; or
- where relief given is or has become excessive.

It was common ground that the latter two limbs did not apply in the present case. Mr Wilkes had not self-assessed his tax liability and therefore there was no insufficient assessment; similarly, this was not a case where excessive relief had been given.

HMRC's difficulty in respect of the first limb, however, is that the HICBC does not represent a tax on income. Indeed, child benefit is statutorily excluded from being within the definition of income. Accordingly, as concluded by the First-tier and Upper Tribunals, this was not a case where there had been any failure to assess any income.

In the Court of Appeal, HMRC argued that the word 'income' should be construed purposively so that it could catch any situation where there was a shortfall in the income tax paid.

However, the Court of Appeal disagreed. It noted that (at least prior to the introduction of certain standalone charges in the Finance Act 2004), s 29 adequately catered for situations where there was an income tax shortfall. In all such cases, there would have to be a source of income that was insufficiently taxed. In other words, the actual wording of s 29(1)(a) was up to the job it was meant to fulfil.

Although new provisions were subsequently introduced that affected how income tax might be levied, the 'purpose'

of the words in s 29(1)(a) could not be assessed in the light of those later amendments. Accordingly, there was no justification for departing from the actual words of s 29(1)(a). As the HICBC does not represent any charge on income, the first argument was decided against HMRC.

HMRC's second argument was based on the fact that Mr Wilkes (strictly) ought to have notified HMRC of his liability to HICBC under s 7 of the Taxes Management Act 1970. (When the HICBC was introduced, the usual exception for PAYE taxpayers such as Mr Wilkes was cut back so as to require such individuals to bring themselves to HMRC's attention. This process would lead to HMRC issuing a Section 8 notice requiring a tax return, which would then have included a self-assessment for the HICBC. In the absence of the inclusion of the HICBC, HMRC could have then been justified in proceeding down the second limb of s 29(1) as the self-assessment would have been insufficient.)

HMRC relied on this failure by Mr Wilkes to start the tax return process, claiming this meant that (ultimately) Mr Wilkes's other income (his PAYE earnings), which would otherwise have been included in his self-assessment, was not in the end assessed. Therefore, even on the court's preferred interpretation of s 29(1)(a), it was indeed the case that income that should have been assessed was actually assessed.

However, the court dismissed that argument as well. When the relevant conditions are satisfied, s 29 permits HMRC to issue assessments to remedy the loss of tax that it has discovered. As the court concluded, that loss of tax must relate directly to the income that HMRC has discovered has not been properly assessed. In the present case, the loss of tax (the HICBC) had nothing to do with the unassessed income – it was in fact an additional freestanding charge to tax over and above Mr Wilkes's actual taxable income. Although there is nevertheless some connection between liability to HICBC and a taxpayer's income (as the court put it) 'that limited connection with income cannot, however, render section 29(1)(a) of Taxes Management Act 1970 applicable'. Indeed, as the court continued, it is not as if the HICBC will 'make good the loss of tax arising from income which ought to have been assessed'. Accordingly, HMRC's second argument was similarly dismissed.

HMRC's third argument relied on asking the court to apply a 'rectifying construction' to the legislation. This is a rarely used power whereby a court can overlook an obvious error in the legislation and pretend that the statute reads how Parliament had clearly intended the legislation to read. See, for example, my article, 'Mind the (property) gap', in the November 2013 issue of *Tax Adviser*. When considering a rectifying construction, the courts are mindful not to step into the shoes of the legislature (Parliament): instead they are restricting their activities so as to do no more than interpret the statutory words.

However, once again the court disagreed with HMRC's approach. The main stumbling block was the fact that the court could not be 'abundantly sure' that Parliament had intended HMRC to use discovery assessments to recover HICBC. For example, there was no clue in the statute that this was something that had been considered and either overlooked or improperly implemented. As the court noted, it is possible that no actual intention had been formed on this point either by the drafter or by Parliament. HMRC might well have been expected to use its powers to request tax returns. Indeed, HMRC would have had sufficient information (being the payers of child benefit) to enable it to request tax returns within the relevant time limits.

Perhaps now is time for the entire HICBC code to be the subject of some serious reconsideration.

Another obstacle to a rectifying statute was the fact that the 'problem' could have been solved in various different ways. Accordingly, the court could not have been sure as to the approach that Parliament would have taken to ensure that taxpayers such as Mr Wilkes paid the HICBC. As a result, it would be wrong for the court to assume that HMRC's approach represented the only reasonable way forward.

For these reasons, HMRC's appeal was dismissed.

Commentary

It should be recalled, as the court noted, that Parliament has indeed sought to rectify the situation. Section 29(1)(a) (as substituted in last year's Finance Act) now ensures that a discovery assessment may be made if there is a discovery that 'an amount of income tax or capital gains tax ought to have been assessed but has not been assessed'. Furthermore, Parliament felt that this was an occasion where the statutory revisions will generally be applied retroactively. Accordingly, the full effects of the *Wilkes* decision will be enjoyed by very few individuals.

This retroactive legislation is in itself an unsatisfactory practice that has become extremely common in recent Finance Acts. What it amounts to is a statement that HMRC might well have failed to get its paperwork right. However, it has managed to persuade Parliament to intervene and allow the paperwork to be remedied after the event. It will be noted that taxpayers who discover errors of their own and who seek to repair the paperwork at a later date will usually be committing fraud.

Adding to the discomfort I have with this retroactive legislation is the fact that some cases are protected from the Finance Act 2022 changes and therefore will be able to take full advantage of the *Wilkes* decision. These were cases where the s 29(1)(a) point was live (or likely to be so) as at 30 June 2021 (the date on which the Upper Tribunal gave its decision in the *Wilkes* case). Typically, these will be taxpayers who were better advised and therefore knew of the restrictions in HMRC's powers to issue a discovery assessment.

Given the inherent unfairness of the HICBC itself and the fact that these were generally cases where HMRC actually had all the information it needed to ensure that HICBC was properly taxed at the time, it is my view that Parliament should have been far more careful before sanctioning retroactive legislation to remedy HMRC's administrative shortcomings and then protecting only those taxpayers who had access to better advice. However, given that fiscal drag is bringing even more taxpayers within the scope of HICBC, perhaps now is time for the entire HICBC code to be the subject of some serious reconsideration.

What to do next

If you have a client who is facing an HICBC challenge via a discovery assessment, you should ascertain whether or not the client is protected by the limited transitional provision for pre-30 June 2021 cases. If the client is so protected, then (based on my experience in relation to my one HICBC client) I would expect HMRC to be writing to you or your client to in order to withdraw its assessment.

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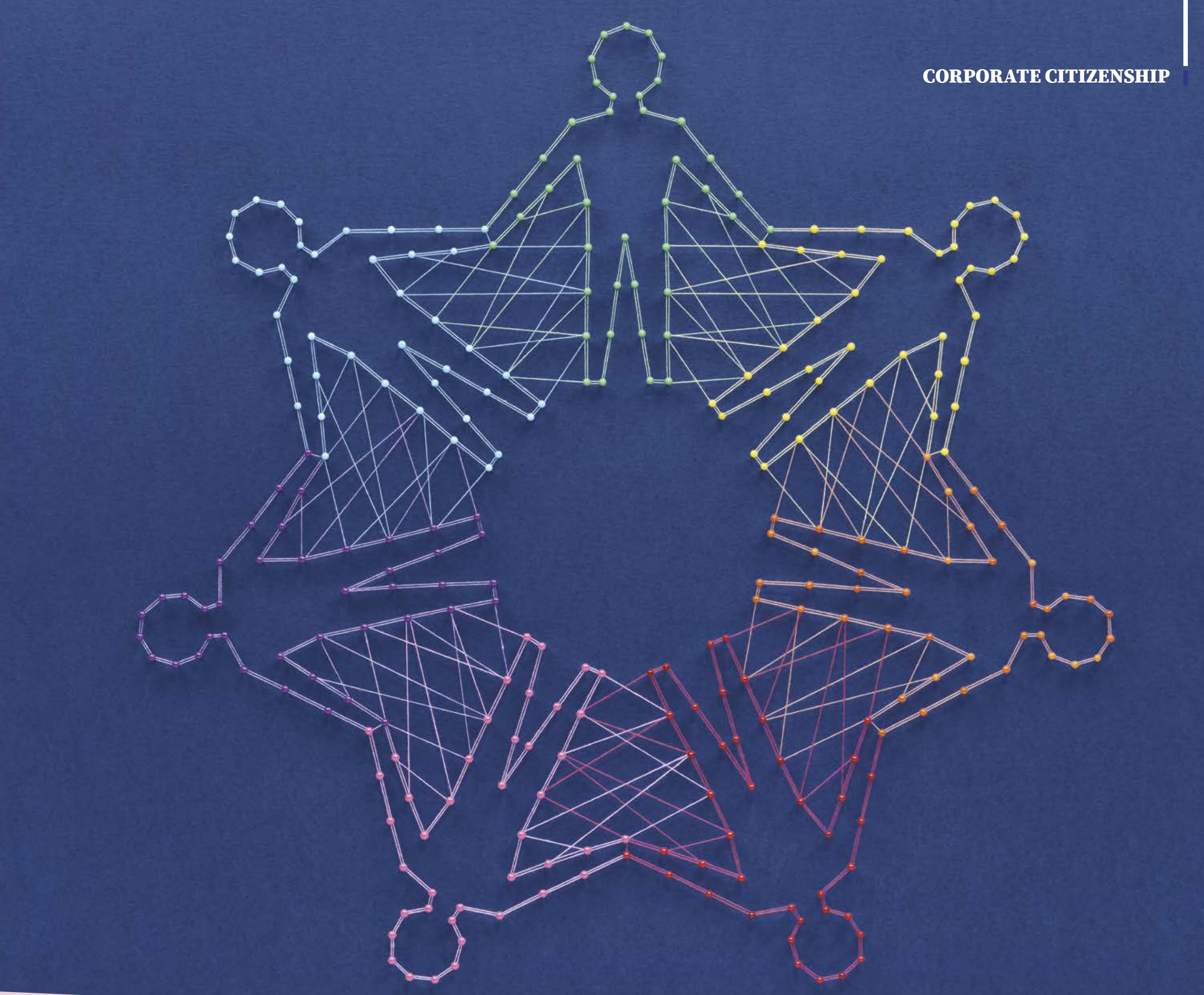

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Morale boost

Mutual tax trust

Tax morale is the trust and belief in the tax system which influences tax compliance behaviours and therefore the intrinsic motivation to pay taxes.

by Dave Murray and Rachel Craig

Key Points

What is the issue?
Being a good corporate citizen necessitates that business follows both the letter and the spirit of the law – paying the right amount of tax, in the right jurisdictions, at the right times.

What does it mean for me?
Increased levels of mutual trust between tax administrations and multinational enterprises could be a win-win outcome for all stakeholders.

What can I take away?
The OECD's recent report 'Tax morale II: Building trust between tax administrations and large businesses' provides practical ways to boost tax morale and therefore improve the intrinsic willingness of businesses and other taxpayers to pay tax.

Tax used to be an advisory discipline. Now, it is an area of focus for many boards and among a wide range of other stakeholders. Stephen Pearce, CFO of Anglo American, noted that: 'Citizens increasingly want to understand the value and the costs that businesses are bringing to their societies, and investors want to be able to undertake sophisticated analysis of risks, alongside reassurance that their capital is supporting sustainable and responsible businesses.'

It may not be something that all tax technical practitioners will be thinking about on a daily basis when solving technical challenges, but individuals and businesses pay taxes to support countries in their provision of services and welfare. The payment of taxes is not only a legal requirement; it is a moral requirement too. Being a good corporate citizen necessitates that business follows the letter and spirit of the law – paying the right amount of tax, in the right jurisdictions, at the right times.

The law is complex. On occasion, it might not be beyond doubt what the 'right' amount is, and a good corporate citizen needs to recognise this challenge. This is no longer just viewed merely as good corporate governance. It's also a key sustainability metric; the sustainability of a business is underpinned by the sustainability and integrity of the tax systems with which that business operates. Tax morale is a critical feature of this.

What is tax morale?

Tax morale is the trust and belief in the tax system which influences tax compliance behaviours and therefore the intrinsic motivation to pay taxes. Research by the OECD tax morale workstream 'aims to encourage research, dialogue and actions to deepen the understanding of tax morale, as well as the policies that enhance it'. It has been found that in countries with a high level of trust in a fair and effective tax system, there appears to be correlation with the willingness of taxpayers to follow the letter and spirit of the law.

For tax administrations, several tight years – fiscally driven by events such as the covid pandemic, international political events and rising costs of living – mean that pressure on tax receipts is unrelenting.

As businesses change and adapt, tax officials have an increasing need to better understand the ways in which multinational businesses operate. For businesses themselves, recent years have seen rapid change throughout supply chains, while globalisation often blurs the traditional tangible/intangible boundaries. There has also been a greater focus on topics ranging from tax transparency to corporate governance.

OECD's report on tax morale

The OECD recently released its second report on tax morale: 'Tax morale II: Building trust between tax administrations and large businesses' (see bit.ly/3VTjDcS). As well as useful research, this provides practical ways to boost tax morale and therefore improve the intrinsic willingness of businesses and other taxpayers to pay tax.

The findings of the report are applicable to all jurisdictions but focus primarily on developing countries. These are typically the jurisdictions which are most reliant on tax revenues from large businesses, suffer the most if there is tax avoidance and may face larger capacity challenges. Although previous research suggests that tax morale may be lower in these regions, they have the most scope for improvement. Regional differences exist in the findings and can also vary by stakeholder group.

The main way in which the report envisages achieving a boost in tax morale is by enhancing co-operation, trust and confidence in the tax system between taxpayers and tax administrations. In some countries, this may be realised via the strengthening of co-operative compliance approaches, while in others a gradual improvement of communication channels and trust between the relevant parties will be a more natural first step.

The report builds on the previous OECD report (2019), which showed that trust in the tax administration can be a key driver in tax morale, and that it may be relatively easier for tax administrations to become trusted by business than vice versa. However, this does not mean that taxpayers wanting to improve morale should sit back and wait for tax administrations to take the first step – building trust is a two-way street.

The latest report includes further research, including the findings of surveys of multinational enterprises (MNE) on the principles of obtaining greater tax certainty, and the perceptions of over 1,200 tax officials from 138 jurisdictions about their perceptions of MNE adherence to the OECD's 2013 best practice statement on engaging with tax authorities in developing countries (see bit.ly/3X1QHAX).

The OECD held a series of regional roundtables with stakeholders from both tax administrations and business which helped it to develop a range of recommendations for how tax morale could be improved through the actions of each, and by working together.

What can we do to improve morale?

The OECD notes that: 'Responsibility for building trust and improving transparency and communication is shared between taxpayers (and advisors) and administrations.' There is no silver bullet that either tax administrations or businesses can deploy to quickly maximise tax morale. However, there are things that each can do to build trust between them and lead to a virtuous tax morale circle.

MNEs have highlighted the importance they place on resolving areas of tax uncertainty in an efficient manner. From the perspective of tax administrations, better prioritisation of their enforcement activities towards high-risk taxpayers could generate resource savings (both cost and time), while still allowing tax administrations to be satisfied that taxpayers with robust levels of tax morale will readily fulfil their obligations and be willing to provide this comfort in a range of open and transparent ways that demonstrate their values. Increased levels of mutual trust could therefore be a win-win outcome for all stakeholders.

Chapter 3 of the OECD's latest report provides specific recommendations, as well as identifying areas where further work is required. The findings are grouped into four broad categories:

- compliance and audit strategies;
- expectations and accountability of behaviour;
- transparency and communication; and
- capacity building.

Feedback reveals that the lack of understanding of business structures and value chains is a common challenge faced by tax authorities around the world. Since understanding of these areas sits overwhelmingly in the private sector, more business expertise is needed to support capacity building initiatives. The report also highlighted the mutual benefits of co-operative compliance programmes. Businesses can play a key role in supporting tax administrations to develop these relationships by sharing their experiences in other countries and discussing their risk management framework with the tax authorities. Improving expectations and accountability for behaviours are highlighted as key areas to explore.

The business response

Business at OECD (BIAC) welcomed the OECD's work on tax morale, and its recommendations (it had been consulted in the design of the OECD's survey, and participated in the roundtables). As an immediate response, BIAC has rewritten its paper on engaging with tax administrations in developing countries (see bit.ly/3VY2AXo), intending it to represent an aspirational framework for MNEs when engaging with authorities in developing countries. The ten best practices are set out below.

Governance

1. Businesses should follow established and agreed-upon procedures and channels when dealing with tax authority officials.
2. Businesses should make the payment of their tax liabilities within established due dates.
3. Businesses should recognise the capacity challenges that tax authorities in developing countries may face. This should impact how the business resources its own tax functions, how it approaches engagement with the tax authorities, and how it may look to provide assistance.
4. Businesses should not engage in bribery, corruption or tax evasion and should take proportionate steps to mitigate any related risks.

Trust and compliance

1. Businesses should seek to build trusted relationships with tax authorities.
2. Businesses should co-operate with tax authorities and respond in a timely fashion to enquiries.
3. Businesses should not undertake transactions with the sole purpose of creating a tax benefit that is in excess of the reasonable interpretation of relevant tax rules. They also should not use artificial arrangements, structures or contracts to reduce their taxes, nor

utilise tax incentives or exemptions inappropriately.

4. Where businesses engage in public policy advocacy on tax, they should seek to shape future tax policy and legislation in ways that create shared value in enhancing a transparent and constructive relationship with tax authorities.

Transparency

1. Businesses should be open and transparent with tax authorities by providing as much relevant information as possible to help to address queries or issues in an efficient manner.
2. Business should recognise the interest of their stakeholders and the public in their tax affairs, and should provide relevant public information on their economic contribution and taxes paid.

Each of these best practices is now supported by additional commentary, a narrative explanation and examples intended to show tax administrations and other stakeholders how they might be delivered by taxpayers, and some of the challenges that taxpayers may face in doing so.

These best practices are not intended to be binding requirements for business but should be viewed as guiding principles to follow. While many MNEs already implement the principles, they should be used as a helpful tool for businesses in all sectors that are seeking to develop trusted relationships with tax administrations.

Next steps

The OECD will be undertaking further research, and working with partners to try to deliver a range of initiatives in line with the recommendations, including within its existing Tax and Development capacity building initiatives.

Business at OECD (BIAC) encourages its member federations and businesses to endorse the best practices. Tax administrations (particularly in developing countries) should look to the best practices as a way to engage with taxpayers and build out their domestic governance requirements. Businesses should look to the best practices and critically assess whether they are meeting them. If so, they should be prepared to explain how this is being achieved. If not, they should be asking themselves 'why not?' and considering how to bridge any gaps.

Business at OECD (BIAC) will also seek to work with the OECD and other stakeholders in the coming years to provide expertise and support to tax administrations in helping them shape their contributions to improve tax morale and build capacity, as well as exploring other initiatives that business can take directly.

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TAXADVISER

New year, new look website

Keep on top of the latest news and insights in tax with our new and improved Tax Adviser magazine website for ATT and CIOT members.

With improved accessibility and functionality, we've made it even easier for you to access features, articles, news and technical content via desktop, tablet and mobile.

Take a look at:
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Our Joint EDI committee

A CIOT and ATT strategy

The launch of the new Equality, Diversity and Inclusion Strategy by CIOT and ATT will build on our efforts to create a diverse, inclusive community.

Key Points

What lies behind the launch?
The CIOT and ATT Councils have adopted their first Equality, Diversity and Inclusion Strategy, as presented by Olayinka Iwu, Chair of the EDI Committee.

What does it mean for me?
Our EDI strategy is intended to help the CIOT and ATT and, importantly, all of us involved with them to reach the position where the *right thing* has become the obvious and automatic thing to say or do.

What can I take away?
In the four years to 2026, our specific focus will be on implementing measures in furtherance of EDI objectives related to sex, age, ethnicity and social mobility, at the same time as remaining alert to other EDI issues.

There will be challenges in converting the EDI aims into reality.

FOREWORD: A NEW STRATEGY

Olayinka Iwu, Chair of the CIOT and ATT's Joint EDI Committee, shares her hopes for the development of the strategy.

I am delighted to welcome the adoption by the CIOT and ATT Councils of this, their first Equality, Diversity and Inclusion (EDI) Strategy. As the independent Chair of the joint EDI Committee, I know how much work the officers of both bodies and the EDI Committee members have put into preparing the strategy. I have been particularly impressed with the two Chief Executives, and all the work and thought they have put into the research we have conducted to develop this strategy.

The strategy contained in this document is designed to apply for the four-year period up to December 2026, but I know that the EDI Committee is hoping that it will be possible to further develop aspects of the strategy before then – for example, by giving greater focus to disability.

I know from my work elsewhere that EDI concepts can sometimes seem hard to grasp at first and even harder to apply in practice. I also know that when they are embraced positively in an organisation, everyone connected with that organisation can benefit.

There will be challenges in converting the EDI aims into reality. If there weren't, it would mean that it wasn't working. That, however, is where the EDI Committee can help. We look forward to providing whatever support we can.

Olayinka Iwu
Chair of Joint EDI Committee

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As two educational charities, our common purpose is the advancement of public education in taxation. Our EDI strategy should contribute to this shared purpose by inspiring, informing and influencing members, students, volunteers, colleagues, key stakeholders and the public.

In the four years to 2026, our specific focus will be on implementing measures in furtherance of EDI objectives related to sex, age, ethnicity and social mobility, at the same time as remaining alert to other EDI issues.

In relation to EDI, we aim to:

1. Develop an inclusive environment within our workplaces and to ensure that the ATT and CIOT live their values within EDI.
2. Embed EDI throughout the work that we deliver within those workplaces.
3. Build an inclusive membership with a true sense of belonging which celebrates diversity.
4. Inspire the next generation of tax professionals and ensure inclusive access to our tax qualifications and member services.
5. Undertake initiatives in respect of EDI-related matters including research, the preparation of resources and commentary on relevant tax proposals.

WHEN THE RIGHT THING BECOMES AUTOMATIC

Helen Whiteman
Chief Executive
CIOT

Jane Ashton
Chief Executive
ATT

This is not just an Equality, Diversity and Inclusion (EDI) Strategy – it's a CIOT and ATT EDI strategy! So if you are reading it, it will almost certainly affect you. The roles and connections which you have with CIOT and/or ATT inevitably bring you into contact not only with the organisations and the work they do, but also with many of the other individuals who have such roles and connections.

All of us like to be understood for what we are and in turn we like to understand others. Few, if any, of us wish to make anyone else feel uncomfortable but, in our diverse community, we can sometimes struggle to know what the right thing is to say or do (or not do) as the case may be.

Our EDI strategy is intended to help our two organisations and, importantly, all of us involved with them reach the position where that *right thing* has become the obvious and automatic thing to say or do.

Both of our organisations have strong reputations for being inclusive. This EDI strategy has the potential to enhance our reputations further. But, more importantly, we believe that living our EDI aims will be better for all of us, both as individuals and as organisations.

We take this opportunity to thank Yinka and the EDI Committee for their time and enthusiasm in helping us reach the stage where we could produce this strategy document.

Below, you will find our joint goals and our strategy up to 2026. This will also be published on both our websites and progress against our action plan will be reported to both Councils on a regular basis.

We hope that you will find all of this interesting, useful and, hopefully, inspiring.

Our strategy for 2022 to 2026

In furtherance of our aims, we will:

1. Work to improve our diversity data collection and monitoring by:
   a) collecting, collating and analysing appropriate diversity data to ensure we have an evidence-based approach to our work;
   b) using this data to prioritise actions; and
   c) undertaking our second EDI survey of students and members in 2025.
2. Follow up the findings in the 2022 survey in respect of the students and members who reported having experienced inappropriate activity, mostly related to sex, by undertaking further research in this area to understand the nature and context of that activity and how we might influence, inform and encourage positive behaviours and encounters to deliver more positive/better experiences.
3. Address the issue identified in the 2022 survey of the difficulties encountered by members returning to work after a career break by reviewing our services to identify what support, guidance and information we are able to provide to members returning to work.
4. Identify and implement ways to make our volunteering information, support and guidance more accessible and visible in order to address the finding from the 2022 survey which indicated that members and students did not know how to get involved as volunteers with their professional body/bodies.
5. Work to improve our understanding of:
   a) race and ethnicity data collection and monitoring on a broader basis as well as any cultural differences that exist; and
   b) any barriers that may exist which prevent ethnically diverse individuals from becoming students and/or from subsequently achieving their aspirations to become members and then progress in their careers.
6. Strive to:
   a) remove any EDI-related barriers that prevent or discourage enrolment as a student or registration to sit any of our examinations; and
   b) ensure that appropriate publicity is given to the process for applying to sit an examination under special arrangements.
7. Ensure in our capacity as employers that all our staff colleagues:
   a) have the opportunity to succeed and feel a sense of belonging within our organisation; and
   b) are encouraged to make full use of all their talents, be their best and achieve their potential.
8. Strive to use appropriately inclusive language in all our publications.
9. Work collaboratively with other bodies (including new 'partners') to share good practice and extend the reach and influence of our EDI work and achieve our aims.
10. Work closely with our EDI Committee, looking to them to support, monitor and advise on the development and delivery of our EDI strategy and the realisation of our full potential to advance EDI within our spheres of influence.

We will publish progress on our website, in our annual reports and in *Tax Adviser* to keep you informed. Thank you for your support.

Choosing to challenge
The experiences of four female tax practitioners, the challenges they have faced. bit.ly/3wfSOFr

The truth behind the figures
The views of Black, Asian and Minority Ethnic tax practitioners about their tax experiences. bit.ly/3Xlp7yX

Spring Virtual Conference 2023

Wednesday 26 and Thursday 27 April 2023

The Spring Virtual Conference will offer a range of topical lectures presented by leading tax speakers and offers access to CPD opportunities from the comfort of your own home or the office.

Lecture topics include:

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- Stamp duty pitfalls on common transactions – how to spot them and deal with them
- Structuring purchase of own shares transactions
- Taking a case to the Tax Tribunal – busting the myths
- HMRC Customer Services update
- Making sense of Making Tax Digital and coping with basis period reform
- Decrypting cryptoassets and understanding how they are taxed
- Coming of age – what to expect next for managed service companies and umbrellas
- Finance Act 2023 – First Thoughts

Visit: **www.tax.org.uk/svc2023** for more information.

Select your preferences to get relevant communications

The CIOT and ATT prides itself on holding, managing and using student and member data with integrity.

We want to ensure we are sending the most relevant communications, and in February all students and members are requested to select their communication preferences.

Please update your preferences when prompted to do this when we email you this month.

WELCOME

February Technical newsdesk

By the time you read this, especially if you have had a well-deserved break following the Self-Assessment deadline, the announcement about Making Tax Digital (MTD) for Income Tax Self-Assessment (ITSA) might feel like old news. But MTD is still a key focus for the technical teams.

Let me start with a quick recap. There was a general consensus emerging during the latter part of 2022 that a 'big bang' launch of MTD for ITSA in April 2024 simply wasn't going to be successful, and some form of deferral or rethink was necessary. In an attempt to demonstrate this, during early December we ran a short member survey to gauge views – more on this in the Briefings section of the magazine.

What the responses suggested – with which we agree – is that a rethink is necessary; i.e. not just a delay to the timetable, but a critical examination of the policy itself and its key requirements.

I looked back at what was stated about MTD in the 2015 Autumn Statement documents. This was broadly:

- The introduction of simple, secure and personalised digital tax accounts, removing the need for annual tax returns.
- Investing £1.3 billion in HMRC 'to transform HMRC into one of the most digitally advanced tax administrations in the world'.
- Require most businesses (self-employed and landlords) to keep digital records and submit quarterly updates via their digital tax account.
- Consult on options to simplify the payment of taxes.

It was also stated that these reforms are 'a first step by HMRC towards meeting a new target to reduce the costs to business of tax administration by £400 million by the end of 2019-20'.

There still seems to be a lack of appetite for consultation around how MTD can meet its objectives.

I have said several times before that one of the reasons (and perhaps the main reason) that much of this has not been achieved is the lack of consultation around how MTD could meet its objectives – to make it easier for individuals and businesses to get their tax right and keep on top of their affairs. In particular, the goal was to reduce the error and failure to take reasonable care elements of the tax gap which, when MTD was originally announced, stood at over £10 billion.

Over seven years later, there still seems to be a lack of appetite for consultation around how MTD can meet its objectives. The key components of MTD for ITSA remain unchanged; i.e. digital record keeping, quarterly reporting, end of period statements and final declarations. The only chink of light in the announcement by the Financial Secretary was the government's stated intention to review the needs of smaller businesses (particularly those with turnover below £30,000) and to look in detail at whether and how MTD for ITSA can be shaped to meet their needs. We are hopeful that this is a genuine opportunity to take a fresh look at what is workable for these smaller businesses, in an open and collaborative manner, rather than simply looking for ways to justify extending MTD for ITSA to this population.

It won't bypass readers that all this comes at a time when we are also seeing the demise of the Office of Tax Simplification (OTS), replaced by the mandate from government to HMRC and HMT to focus on simplifying tax. If the last seven years have demonstrated anything, it's that the tax system is either too complex to digitalise, or at least that it cannot be digitalised in accordance with the current plans.

We are not alone in these views. Other representative bodies, tax and accounting professionals and bodies such as the Administrative Burdens Advisory Board and the OTS have all expressed concerns about the project. Indeed, the government seems to be the lone voice in thinking it is right to stick to the original design.

So, this brings us round to why it's still a key focus for us. First, we need to ensure that some of the key barriers to making MTD achieve its objectives can be overcome, such as the ability for taxpayers to appoint multiple agents for ITSA, how to deal with jointly-owned property, the correction of errors, and the multiple reporting cycles for businesses. There is a long list of issues, and we will be working with HMRC to identify those which are 'mission critical', and try to resolve them. Secondly, we are working with HMRC and HMT regarding the government's commitment to embed simplification. It seems to me there is, based on the current MTD requirements, a real conflict between the two. This is an opportunity for the government to show it is really committed to simplification and think again about the core requirements of MTD. Let's hope they do that.

Find out the results of our survey of CIOT and ATT members on the proposed roll out of MTD for ITSA at tinyurl.com/mu72emrf

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GENERAL FEATURE PERSONAL TAX, MANAGEMENT OF TAXES INTERNATIONAL TAX

New gig economy reporting rules

LITRG and the CIOT have submitted comments on the draft regulations which implement the model reporting rules for digital platforms.

Very broadly, the Organisation for Economic Co-operation and Development's (OECD) model reporting rules for digital platforms will require UK platform operators to collect, verify and report certain details of sellers who work on their platform to HMRC, and to provide a copy of the reported information to sellers. First reports will be due in January 2025 (extended from January 2024).

In LITRG's response, we mainly focus on the requirement that reports must be made to sellers as well as HMRC. This is an important feature of the rules and could help sellers to comply and complete their tax returns correctly. Regulation 4(4) says: 'where a reporting platform operator must make a report for a reportable period including information in respect of a reportable seller, the reporting platform operator must provide that reportable seller with that information by no later than 31 January following the end of the reportable period.'

Although the reporting deadline of 31 January does not fit well with the UK tax year (as workers will not receive information for January, February and March of a particular tax year until the filing deadline), we recognise that the reports will be useful to some workers. We recommend to HMRC that the regulations should stipulate the format in which the data is presented to the sellers to ensure that it is easily understandable and consistent, and so make the reports as user friendly as possible. We also recommend that the government consider asking platforms to signpost to voluntary sector organisations such as TaxAid or Citizens Advice for further help.

We think that 'must provide' in the wording of the regulations is not specific enough. Should a hard copy be sent? Is an email sufficient? In addition, given the plethora of ways that documents can be provided to people these days, and so in which they can pass people by, there should be a requirement on platforms to ensure, *as far as possible*, that the information successfully reaches the target recipient.

LITRG comment that the information given in the report cannot exist in a vacuum. Clearly, workers need to understand the significance of the report that is given to them by the platform. For the information on the report to be used and applied effectively, it must be accompanied by better central tax information for gig workers. We suggest that a page (or hub) on GOV.UK is developed to host better, tailored guidance for the gig economy, which could then be linked to from the report.

In a meeting that the CIOT had with HMRC, the CIOT highlighted that the draft regulations do not currently specify whether there will be any consequences, such as penalties, for platform operators if they fail to provide the sellers with information on a timely basis. The regulations are also unclear on the extent to which platform operators may appeal against information requests. We recommended that the definition of 'consideration' should be clarified to make it clearer whether it is net of refunds and that it would be helpful if the meaning of 'reasonable efforts' in relation to verification could be explained in guidance.

Both LITRG and the CIOT are members of a stakeholder working group set up by HMRC to discuss the implementation of the rules, along with guidance and other practical issues raised by the draft regulations. LITRG's response can be found here: www.litrg.org.uk/ref2711

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GENERAL FEATURE

HMRC's 'i' and 'g' forms

HMRC have published guidance on which digital forms agents can use, and some tips to help with their completion.

We frequently hear complaints from members about HMRC's digital forms, particularly around the inability to see upfront what information is needed to complete the form (to enable it to be completed in one sitting), or to save partially completed forms (e.g. for review or client approval).

HMRC have sought to address this, and Agent Update 103 (tinyurl.com/3r5ren4d) contains some helpful information regarding HMRC's digital forms, referred to either as i-forms (intelligent forms) or g-forms (GOV forms).

PERSONAL TAX

The Bereavement Benefits (Remedial) Order: an update

LITRG updates on proposals to extend entitlement to bereavement benefits.

LITRG has previously reported on the government's proposals to extend bereavement benefits to surviving partners with children after the death of a partner to whom they were not married or in a civil partnership.

In the cases of *McLaughlin* [2018] UKSC 48 and *Jackson and Simpson v SSWP* [2020] EWHC 183 (Admin), the Supreme Court and High Court respectively ruled that denying widowed parent's allowance and higher rate bereavement support payment to unmarried (or non-civil partner) cohabiting parents breached their children's human rights. Consequently, the government confirmed that it would make a remedial order to extend eligibility for these two benefits to cohabitee partners with children.

After considerable delay, the remedial order (tinyurl.com/y2j3bezx) is now heading towards being brought into effect.

The initial draft remedial order was published in July 2021, proposing that eligibility would be extended back to 30 August 2018, being the date the Supreme Court judgment in *McLaughlin* was handed down. LITRG made submissions to both the Department for Work and Pensions (DWP) and the Joint Committee on Human Rights (JCHR) in response to that initial draft order.

Taking on board comments from respondents and from the JCHR, a final draft remedial order was laid in parliament on 13 October 2022. Under government procedure, the order lay in parliament for 60 days (which came to an end on 11 December 2022), during which time the JCHR was required to scrutinise the draft order before making a recommendation to parliament as to whether the order should be adopted or voted down. Under the parliamentary procedure for remedial orders, the detail contained in this most recent draft order could not be changed. Ultimately, the JCHR could only make a recommendation as to whether to adopt the order or to vote it down.

The JCHR issued a call for evidence in respect of the final draft order, and LITRG were one of only three organisations to respond. As with the previous draft order, LITRG's comments (www.litrg.org.uk/ref2708) were focused on the tax and benefits interactions of any back-payments of bereavement benefits being awarded to claimants if the remedial order is adopted. Though some issues have been clarified, other areas remain uncertain – for example, we remain concerned about how HMRC and DWP will work together in terms of administering the payments and dealing with any tax issues arising. There is also a lack of clarity over the tax credits treatment of backdated payments of widowed parent's allowance. LITRG have attended round-table meetings with DWP to gain clarity on these points and also hope to meet with HMRC.

Ultimately, the JCHR has issued its report (tinyurl.com/2p8288j6) recommending that the remedial order be approved. Assuming parliament votes in favour of the remedial order, a scheme should open for individuals to make retrospective claims back to 30 August 2018, provided they would have otherwise met the criteria for bereavement benefits at the time.

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i-forms

Agent Update 103 lists the 13 i-forms accessible by agents. Upon starting an i-form, the user will be given a code which lets them use the save and return function. The code can be entered within the Agent Forms Dashboard to return to an existing form.

g-forms

There are around 86 g-forms available to agents, and again these are listed in Agent Update 103. A completed g-form can only be seen once all questions have been answered and the form is ready to be submitted. However, it is possible to preview g-forms, enabling you to identify all the information you will need to complete the form before you start it.

To do this, you need to type the following link into your browser:

www.tax.service.gov.uk/submissions/new-form/specimen-

adding onto the end of that link the last part of the URL of the g-form you wish to view.

For example, if you wish to view the information you will need to make a VAT error correction, access that g-form at:

www.tax.service.gov.uk/submissions/composite-auth/auth-selection-form/notification-errors-vat-returns?continue=%2Fsubmissions%2Fnew-form%2Fnotification-errors-vat-returns

Select the text which specifies the form; i.e.:

notification-errors-vat-returns?continue=%2Fsubmissions%2Fnew-form%2Fnotification-errors-vat-returns

Then copy and paste it onto the end of the first link. The full link to the specimen VAT error correction g-form will then be:

www.tax.service.gov.uk/submissions/new-form/specimen-notification-errors-vat-returns?continue=%2Fsubmissions%2Fnew-form%2Fnotification-errors-vat-returns

This provides access to a prototype where you can view each screen that you will see during the form's completion. Agent Update 103 provides a similar example for the form to apply for a certificate of residence.

If you have any feedback on this service, or on digital forms generally, please send it to technical@ciot.org.uk or atttechnical@att.org.uk. Further details can also be found on the ATT website at www.att.org.uk/viewing_HMRC_forms.

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OMB LARGE CORPORATE

Mid-Sized Business Update

The CIOT has regular meetings with HMRC's Mid-Sized Business team to discuss various topical issues relating to this population of taxpayers. A summary of matters recently discussed is provided below.

HMRC's Mid-Sized Business (MSB) Customer Support Team

HMRC's MSB Customer Support Team can offer support to businesses in this population via an online portal on GOV.UK (see tinyurl.com/ms77s8rx). A MSB is a business with a UK turnover above £10 million or with at least 20 employers. A business can get help from HMRC using this service if:

- it has a tax issue;
- it cannot find the information it needs on GOV.UK; and

- there is not already a dedicated team in HMRC that it can contact for help.

HMRC have provided us with some additional information explaining who can use the service, how to access support and some examples of the requests the Team can deal with (see tinyurl.com/mr2jmm26).

Any agent with a Government Gateway ID, regardless of the size of the agent, can access the system using their own Government Gateway ID and seek support for an MSB client by entering their client's UTR and other details once inside the system, provided their query does not relate to one for which there is already another dedicated team within HMRC.

HMRC are interested in receiving feedback on CIOT members' experiences of using the online portal. Please send feedback to technical@ciot.org.uk.

Certificates of residence for companies, public bodies and partnerships

HMRC have improved their process for how taxpayers request certificates of residence to prove their UK tax residence to other jurisdictions. Until a few months ago, the process required posting a document to HMRC. Now, if you are (or represent) a company, a public body or a partnership, you can make your request entirely online, by completing the RES1 form (see tinyurl.com/mxrtz3d9). HMRC say that initial feedback from taxpayers who have used the online service has been overwhelmingly positive, materially cutting both waiting times and improving the customer experience. For more information on requesting certificates of residence and other types of taxpayers, please visit tinyurl.com/24bxxzae.

Temporary Customer Compliance Manager (tCCM) service

HMRC launched a small scale tCCM service last year for a trial period to provide time-limited, targeted support to MSB taxpayers who would most benefit, such as those experiencing key life events, mergers and acquisitions, business sales, retirement, complex international issues or multiple related tax enquiries. HMRC are currently conducting an evaluation of the trial using online focus groups, which CIOT members were invited to take part in via our weekly 'Latest News from CIOT' email. The evaluation will include any resulting benefits or concerns about the model, suggestions for improvements, and how the role should look in the future. Feedback is also being sought around which customer groups CIOT members feel would benefit from this offering.

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INDIRECT TAX

VAT: more changes for option to tax notifications

From 1 February 2023, HMRC will implement further changes to the procedures for option to tax notification receipt letters, and requests to confirm the existence of an option to tax, subject to certain exceptions.

Taxpayers have encountered some long-term and severe delays in some areas of HMRC's VAT customer services, and this has included services related to the option to tax, which in the first quarter of 2022 had a processing time of approximately eleven months.

Background

In May 2022, HMRC ran a six-week trial within the option to tax team with the aim of speeding up the review process for new option to tax notifications. This was to be achieved by reducing the detail in the acknowledgement letter, which would only acknowledge receipt of the letter but not confirm the validity of the option to tax. HMRC stated in the trial that section 4.2.4 of VAT Notice 742A acknowledges that the letter is not a legal requirement: 'HMRC will normally acknowledge receipt of your notification, although this is not necessary for the option to tax to have legal effect'. Following the end of the trial period on 1 September 2022, HMRC continued with its approach.

Further proposals and consultation

Building on the notification letter changes, HMRC opened a brief consultation period in October, proposing further changes to the option to tax procedures. HMRC engaged with stakeholders from the Joint VAT Consultative Committee and the Land and Property Liaison Group (both forums have representatives from the CIOT and ATT). Stakeholders were asked to provide feedback to HMRC by late November.

The CIOT obtained feedback from members of its Indirect Taxes Committee and Property Committee and the ATT obtained feedback from its VAT Technical Committee. Both CIOT and ATT made their own submissions to HMRC. Although HMRC confirmed that feedback was considered, the proposed changes have been taken forward without any modifications.

There are two changes effective from 1 February 2023:

1. Option to tax notification letters

HMRC will stop issuing option to tax notification receipt letters from 1 February 2023, though if the option to tax notification was submitted via the official email address at optiontotaxnationalunit@hmrc.gov.uk, the sender will still receive an automated email response that confirms the date of notification and this should be retained in the business records. Postal notifications or option to tax notifications sent via other means will **not** receive an acknowledgement letter or email receipt.

2. Confirmation of the existence of an option to tax

HMRC will stop processing requests confirming the existence of an option to tax, subject to the following exceptions:

- the effective opted date is likely to be over six years ago; or
- if the request is made by an appointed Land and Property Act receiver, or an insolvency practitioner to administer the property, and only if the request is accompanied by a letter or deed of appointment of this role.

HMRC issued Revenue & Customs Brief 1 (2023) on 11 January 'Changes in processing option to tax forms' (tinyurl.com/2zd3x4ev), which provides further details.

Next steps

At the time of writing, the new changes are due to be discussed at the Land and Property Liaison Group meeting, where CIOT and ATT representatives will have the chance to discuss some of the points that were raised in our feedback on the initial consultation. We are also considering how the changes fit into HMRC's charter standards.

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EMPLOYMENT TAX

Employment Taxes Forums

A brief overview of employment taxes forum meetings attended by representatives of the CIOT, LITRG and ATT, including the Employment and Payroll Group, the Collection of Student Loans Group, the Employment Status and Intermediaries Forum, the Expat Tax Forum and the Share Schemes Forum.

In this article, we summarise the main points from meetings of various groups that took place in late 2022, which are attended by CIOT, LITRG and ATT volunteers. HMRC publishes the minutes of meetings on GOV.UK.

Employment and Payroll Group

This group is the main HMRC forum for employment tax related matters. The forum is attended by representatives of CIOT and ATT and meets quarterly. The main topics of discussion at the last meeting were:

- the repeal of the Health and Social Care Levy and the changes to 2022/23 National Insurance rates, where HMRC indicated that there were no plans to reintroduce the levy;
- a discussion around the status of multi-purpose vehicles, and when they should be classified as a car or van; and
- HMRC's article on salary advances, and the issues this raises around the 'on or before' reporting principle.

Expat Tax Forum

This forum is attended by the CIOT, and recent discussions have included:

- an update from HMRC on UK tax issues relating to employee global mobility, with particular reference to UK outbounds;
- HMRC service levels;
- social security coordination, where the UK considers individuals who are working remotely from the EU to be covered by the posted or detached worker provisions, provided that they meet the usual direct relationship, duration of activity, etc. conditions and that these conditions won't be met where working temporarily in the EU against an employer's instructions;
- queries around the use of Appendix five arrangements;
- the definition of a lump sum from an overseas pension; and
- HMRC's 'one to many' nudge letters.

Share Scheme Forum

CIOT and ATT representatives attend this forum. The main topics discussed at the last meeting were:

- updates to HMRC's guidance in respect of Enterprise Management Incentives and (a) restrictions in options agreements, and (b) the independence requirement;
- the changes to Company share Option Plans taking effect from 6 April 2023;
- a review of the SAYE bonus rate mechanism; and
- the planned reduction in the CGT annual allowance.

Employment Status and Intermediaries Forum

This forum is attended by the CIOT. HMRC provided an update on:

- its umbrella company guidance, which HMRC have discussed with bodies such as LITRG who represent unrepresented taxpayers;
- moving the CEST tool to a new platform;
- progress on meeting the Public Accounts Committee's recommendations;
- what it means to take reasonable care in the context of making a status determination and what happens if the decision reached was wrong; and
- the difference between a Managed Service Company Provider and providing accountancy and tax services.

Collection of Student Loans Consultation Group

CIOT, LITRG and ATT representatives participate in this group. Topics discussed included:

- the case for updating the P45 to include student loan deduction information (and NIC deductions); and
- HMRC's research into understanding common employer issues, such as failing to start or stop deductions and how best to mitigate or address these issues.

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OMB LARGE CORPORATE

A tourist tax and business rates reform: new Welsh tax proposals

Recent consultations by the Welsh government consider the introduction of a discretionary visitor levy in Wales and reforms to business rates, including bringing in more frequent valuations.

A visitor levy for Wales

The Welsh Programme for Government 2021-2026 includes the commitment to consult on a levy on overnight visitors to Wales. Wales is not alone in considering the idea of a local tourist levy in the UK. Legislation allowing local authorities to introduce a local visitor levy is planned to be introduced in the Scottish Parliament in early 2023.

The Welsh consultation considers the design of a visitor levy, to be introduced at the discretion of each of the 22 local authorities in Wales, aiming to:

- lead to a more even share of costs between Welsh residents and visitors to fund local services and infrastructure that benefit visitors; and
- allow local authorities to generate additional revenue that can be invested back locally to support sustainable tourism.

Our preference is for a clear national framework for the levy to ensure consistency and coherence with the Welsh government's core tax principles. Lack of consistency increases administrative burdens and adds complexity for businesses, particularly those operating across local authority areas. Visitors paying the levy are less likely to trust it if it differs substantially between local areas. A consistent approach will be easier for politicians to explain. However, local authorities having the option to set the **level** (as opposed to the **type** of rate) could have advantages because the level can reflect local circumstances.

The consultation references 90 million visits to Wales in 2019 of which a relatively small proportion (10 million) were overnight stays. Assessing the visitor accommodation provider (based on overnight stays) is a more practical approach than levying a charge directly on the visitor. However, we are concerned about the additional administrative costs of collection and reporting for businesses. We suggest due weight is given to exploring options that might reduce those burdens and potentially simplify the process, some of which we put forward in our response.

Raising a levy on accommodation providers alone would be taxing one part only of the tourism industry, which could be seen as inequitable (or even as a perverse incentive not to stay overnight) if the arguments made in favour of a tourism levy apply to a wider set of visitors and service providers.

We recognise that collecting a levy on day visitors presents significant practical challenges. However, charging a higher (seasonal) rate for existing paid-for services, such as parking (with discounts for residents), in areas with high visitor numbers might be an option to explore (recognising that brings its own complexities).

Any exemptions to the levy inevitably add complexity and so must be easily and objectively identified (and not open to manipulation). As the example of the city of Geneva's provision of public transport vouchers to levy-payers suggests, it may be easier to 'sugar the pill' of the levy or vary its overall impact, such as fine-tuning what the money raised is spent on.

GENERAL FEATURE

Scottish aggregates levy

The CIOT has responded to the Scottish government's consultation on the introduction of a devolved aggregates levy to replace the existing UK-wide levy in Scotland.

Since 2002, a UK-wide aggregates levy has been charged for the commercial exploitation of aggregates (in essence, crushed rock, sand and gravel); the rate is currently £2 per tonne. The Scotland Act 2016 gives the Scottish Parliament the power to introduce a devolved replacement for the levy, on aggregates obtained in Scotland. An initial consultation was launched in September 2022, asking stakeholders and interested parties to add their thoughts on what a devolved levy should look like, the definitions involved, exemptions/reliefs, the rates, registration, what purpose it should achieve and how it should be enforced. It was proposed to devolve the aggregates levy because, like the existing devolved taxes in Scotland (land and buildings transactions tax and the Scottish landfill tax) the nature and situs of the taxed objects are geographically confined to Scotland.

However, a new devolved levy also has the potential to affect taxpayers in the rest of the UK because aggregates can be transported over the border between Scotland and the rest of the UK, as well as outside the UK. What was proposed therefore was that, in keeping with the UK tax, the levy would be paid in the country where the aggregates ended up, so that the Scottish government would tax imported aggregates as well as domestically used aggregates, but would exempt exports of aggregates. The CIOT made clear in our response for the need to ascertain where the tax point is on aggregates being imported and exported to ensure there is no double taxation with the UK levy or relevant foreign taxes (and noted further that Scotland imported a small tonnage of aggregates but exported some 40% of the rock quarried there, so there was a potential for a loss of revenue). We noted also that many of the larger aggregate businesses operate quarries throughout the UK, so registering and reporting for both the UK and a Scottish levy will be necessary. Thought should therefore be given by the Scottish government as to the interaction between the two levies.

The intention behind a devolved levy will be driven largely by Scottish government policy and what they hope to achieve through this devolved tax. Whilst the CIOT cannot comment on this, we pointed out that the preferred option would be for the new Scottish levy to mirror the existing UK one as closely as possible, including the rate of tax. Those who must pay the current levy are well versed in how it works, the exemptions and reliefs, and the administration of it – a wholly different levy in Scotland could be an unwelcome upheaval. A more expensive levy in Scotland could also cause distortions in the UK market and even lead to greater incidents of illicit activity (for example, smuggling). The Scottish landfill tax has different rates for 'active' and 'inert' waste – we suggested a similar arrangement for the aggregates levy if the government were not minded to keep to a simple uniform rate at or near the existing one. We suggested too that, if the government did wish to diverge from the existing levy, more precise definitions of chargeable aggregate be provided within the legislation, rather than relying on exemptions to remove specific aggregates from the charge.

The full CIOT response can be found here: www.tax.org.uk/ref1025. It is expected that a further consultation with draft legislation will be released shortly.

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Linking a statutory licensing scheme for overnight accommodation to the administration of the levy has clear compliance benefits. The proposed new legal duty to inform the Valuation Office Agency of liability to business rates (see below) might assist in providing a comprehensive list of visitor accommodation for local authorities.

Discussions will take place with the UK government about the proposed VAT treatment of the levy. If VAT applies to the levy, it may undermine what is intended to be a local tax for Wales (as VAT revenues flow to the UK government) and would lead to an undesirable 'tax on tax', a feature already present for the land transaction tax in Wales. We recognise that the VAT consequences are not within the control of the Welsh government; however, it may affect how the levy is viewed and levels of acceptance.

The full CIOT response can be found here: www.tax.org.uk/ref1028

Business rates reform in Wales

The consultation proposed:

- revaluations every three years instead of every five;
- a legal duty to supply property and lease information to the Valuation Office Agency via a new online service;
- a review of business rates reliefs and exemptions; and
- the introduction of a business rates general anti-avoidance rule.

We agree that moving, initially at least, to revaluations every three years provides a balance between administrative cost and the need for regular revaluation to reflect economic conditions.

However, given the rapidity of changes in business and shopping practices, a phased approach to achieving even more frequent valuations should, we suggest, remain under evaluation. In the longer term, a local land value tax as a replacement for business rates and council tax in Wales (under long term consideration by the Welsh treasury) would require annual valuations.

The new information requirements represent a significant step-change – applying to all ratepayers, including those who pay no business rates as a result of a relief. An extensive communications campaign will be essential to inform ratepayers.

The development and testing of the online service will be key to implementation as teething problems with new online systems inevitably create administrative and cost burdens for taxpayers. The system needs to facilitate agent access.

We are very concerned that the Welsh government's proposals to remove the need for primary legislation to create or change business rates reliefs will lack appropriate scrutiny. In our view, secondary legislation should generally be used only for administrative matters.

Similarly, the proposed general anti-avoidance rule for business rates should be set out in primary legislation (as proposed). Contrary to the consultation proposal, we are also of the view that the supporting civil penalty regime should be in primary legislation, not imposed by regulation.

The full CIOT response can be found here: www.tax.org.uk/ref1030

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CIOT		Date sent
Levelling Up and Regeneration Bill	www.tax.org.uk/ref1058	26/09/2022
Draft Finance Bill 2022-23: Clauses in relation to R&D	www.tax.org.uk/ref1039	28/10/2022
Progress Report on the Administration and Tax Certainty Aspects of Amount A of Pillar One	www.tax.org.uk/ref1071	11/11/2022
Review of double taxation agreements (DTAs) 2023/24	www.tax.org.uk/ref1045	23/11/2022
Public Accounts Committee inquiry: Digital Services Tax	www.tax.org.uk/ref1054	25/11/2022
Consultation on devolution of more fiscal powers	www.tax.org.uk/ref1038	28/11/2022
Alcohol Duty Review: Further technical detail consultation	www.tax.org.uk/ref1033	29/11/2022
Developing a Scottish tax to replace the UK Aggregates Levy: consultation	www.tax.org.uk/ref1025	01/12/2022
Proposals for a discretionary visitor levy for local authorities	www.tax.org.uk/ref1028	11/12/2022
Reforming non-domestic rates in Wales	www.tax.org.uk/ref1030	14/12/2022

ATT		
Draft Finance Bill 2022/23: Clauses in relation to R&D	www.att.org.uk/ref411	16/10/2022

LITRG		
Treasury Committee inquiry: Tax Reliefs	www.litrg.org.uk/ref2696	03/11/2022
Joint Committee on Human Rights: Draft Bereavement Benefits Order 2022	www.litrg.org.uk/ref2708	07/12/2022
Draft Regulations: The Platform Operators (Due Diligence and Reporting Requirements) Regulations	www.litrg.org.uk/ref2711	15/12/2022

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MPs draw on CIOT evidence in call for HMRC service improvements

The House of Commons Public Accounts Committee (PAC) has drawn on evidence provided to it by CIOT to conclude that taxpayers and their agents are not receiving an acceptable level of customer service.

In the report of its inquiry into HMRC's Annual Report and Accounts 2021-22, the PAC noted: 'The Chartered Institute of Taxation submitted evidence to us that highlighted concerns about the difficulties both advisers and taxpayers face getting timely responses and action from HMRC.' (Para 15)

The committee has asked HMRC to write to it setting out its plan to improve customer service to adequate levels as quickly as possible, and within three months, including the metrics that HMRC will use to monitor its customer service performance and the level of customer service that taxpayers and their agents can expect to receive over the next three years against each of these metrics.

In its evidence to the committee, CIOT expressed concern that staff numbers within HMRC are being cut in anticipation of securing savings from digitalisation when these savings have not yet been realised.

CIOT President Susan Ball welcomed the report, saying: 'The Public Accounts Committee are right to be challenging HMRC on customer service levels. The delays that taxpayers and their advisers currently face are not acceptable. It is crazy that people trying to get help from HMRC on paying the right amount of tax find it so difficult to get through. The first principle of compliance surely has to be making it easy for willing taxpayers to comply with their obligations.'

The government is obliged to respond to the PAC's report within two months.

HMRC bosses being questioned by the Public Accounts Committee.

> 'Susan Ball, president of the Chartered Institute of Taxation, whose evidence was referenced in the report, said: "Our members tell us every day of the delays they face getting answers and action from HMRC – and the impact this is having on businesses and individuals."'
>
> *Daily Telegraph*

Political update

CIOT, ATT and LITRG work with politicians from all parties in pursuit of better informed tax policymaking.

As well as its general inquiry into HMRC's annual report (see above), the Public Accounts Committee has been looking into the value for money of HMRC's Covid support schemes and into the effectiveness of the digital services tax. CIOT submitted evidence to both inquiries and this was referred to by MPs in their questioning of HMRC officials in both sessions.

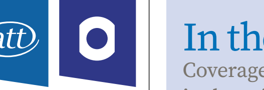
CIOT were also mentioned by Scottish tax minister Tom Arthur in a response to a parliamentary question on the Office of Tax Simplification. He said, in essence, that CIOT thinks the OTS should be retained and he agrees with us!

In the Lords, Lord Palmer (Lib Dem) asked a question that ATT had suggested during a mini-debate on the tax treatment of trees and woodlands.

MPs and peers have been debating the increase to the stamp duty land tax threshold. CIOT (jointly with the Stamp Taxes Practitioners Group) provided a briefing identifying areas where greater clarity is needed. During the debate, Lib Dem spokesperson Baroness Kramer noted the 'loopholes and anomalies' identified by CIOT and the STPG and asked the government to investigate them further. In response, Treasury minister Baroness Penn said that the government were aware of the CIOT/STPG points and 'have asked officials in HMRC and the Treasury to work with those groups to discuss their comments'.

In December, Lords Speaker John McFall made his first big speech on reform of the House of Lords. ATT/CIOT Head of External Relations George Crozier asked him if he thought the upper House could take on a bigger role in scrutinising tax legislation. McFall, a former Commons Treasury Committee chair, said he was a convert to the idea that the Lords could play an active role in tax law.

MTD delay welcomed



ATT and CIOT welcomed the announcement that the government are delaying Making Tax Digital for Income Tax until April 2026 for those in the first stage, and later for smaller businesses.

Following the publication of the Financial Secretary's written statement a week before Christmas, Alison Hobbs, Chair of the joint CIOT and ATT Digitalisation and Agent Strategy Committee, said: 'This announcement recognises reality. The incredibly limited testing, combined with significant problems still to be resolved, means that this delay had to happen.'

An ATT/CIOT survey of tax professionals, carried out earlier in December, found that 97% of respondents did not think that MTD for ITSA, in its current form, could be successfully introduced from April 2024. It found widespread concern around taxpayer awareness, taxpayers' ability to comply

Alison Hobbs

with the new requirements, software availability and HMRC's own capacity to support taxpayers and agents.

The survey found that more than three quarters of tax professionals who responded think keeping digital records will be useful. However, just one in three think quarterly reporting will be useful.

Survey results can be found at: tinyurl.com/mu72emrf

LITRG welcome plan to get tough on refund companies

The CIOT's Low Incomes Tax Reform Group (LITRG) have given a broad welcome to HMRC's plans to tighten up the tax refund company market – but are urging them to translate these plans into reality as soon as possible for taxpayers who need to claim tax relief.

For a number of years, LITRG have been pressing HMRC to take action to protect taxpayers from the abusive practices of some refund companies.

Recognising this, HMRC invited Victoria Todd, Head of LITRG, to contribute a quote to their press release announcing the new legislation. Victoria welcomed the proposed steps, and the recognition of HMRC's role in consumer protection which they signify, but said it was also important that more effort goes into raising awareness of refunds and ensuring that it is as simple as possible for taxpayers to access them.

As well as prohibiting legal assignments of income tax repayments, HMRC is proposing a significant strengthening of its 'Standard for Agents' which will apply to tax agents generally. This will introduce stricter transparency

For a number of years, LITRG have been pressing HMRC to take action to protect taxpayers from the abusive practices of some refund companies.

rules and require greater evidence of customer consent.

CIOT and ATT both gave this a qualified welcome. John Cullinane, CIOT Director of Public Policy, said the changes were unlikely to impact much on tax agents who are members of professional bodies, as they are already subject to Professional Conduct in Relation to Taxation, but they would be a step forward in raising standards among those outside these bodies.

Senga Prior, Chair of ATT's Technical Steering Group, said that for the standard to be effective, HMRC need the legislative power to enforce any non-compliance.

In the news

Coverage of CIOT and ATT in the print, broadcast and online media

'There is a strong case for wider use of prosecutions but the obstacles to this are genuine and serious. It could easily result in HMRC bringing in less revenue, at least in the short-term.'

John Cullinane, CIOT director of public policy, quoted in the Daily Telegraph on proposals from MPs that HMRC should criminally prosecute aggressive tax avoidance, 8 Nov

'Tom Henderson, a technical officer for the Low Incomes Tax Reform Group, said self-assessment taxpayers "quite often forget something", such as money earned through a hobby or selling things online, when earnings exceeded the £1,000 trading allowance.'

Financial Times, 9 Nov

'HMRC should ensure they do not launch any new IT services until they are confident they are fit for purpose and have been robustly tested.'

Emma Rawson, ATT technical officer, quoted in the Financial Times on 14 Nov on a new digital platform for companies to register to pay VAT. Richard Wild of CIOT was also quoted.

'John Cullinane, director of public policy at the Chartered Institute of Taxation, raised concerns that [cuts to tax-free allowances] meant HMRC could find it difficult to process the extra tax returns, which "will increase their administrative burden significantly at a time when they are already struggling with demands on them".'

Financial Times, 18 Nov

'The Government has not raised the VAT threshold since 2017... If it had been uprated by inflation each year since 2017 it would have hit £122,000 in April 2026, according to the Association of Taxation Technicians.'

The Times, 18 Nov

'The CIOT said those with earnings that fall between the Scottish and UK higher rate tax thresholds of £43,662 and £50,270 will be taxed at a marginal rate of 54 per cent on that slice of income, compared with 32 per cent in the rest of the UK.'

The Scotsman, 15 Dec. The CIOT analysis was widely reported across the Scottish media.

Awards

Relaunching the CIOT Institute Awards

Emma Barklamb, Head of Member Services, explains the different categories of Institute Awards, and how they recognise the huge contributions of tax professionals.

Emma Barklamb

To shine a spotlight on the work and achievements of individual tax professionals, the CIOT are relaunching the CIOT Institute Awards. A Working Party formed of Council Members, chaired by Charlotte Barbour, undertook a thorough review of our awards. Its role was to look at the current process and make recommendations on how things might be improved. We believe that the nomination process and criteria for these awards has been clarified, and those who actively contribute to our Institute and its charitable aims can be suitably and consistently recognised.

Institute Award Categories

There are four Institute Awards, which each celebrate different contributions and achievements.

1. The Council Award:

The Council Award is given exceptionally rarely. This reflects a significant and sustained contribution to the values, aims and objectives of the CIOT and to the tax profession. Only six Council Awards have been made since its inception.

2. The Honorary Fellowship:

The Rt Hon Gordon Brown collected his Honorary Fellowship from the then President Peter Rayney at a virtual ceremony. In his witty speech he described the Institute as 'serving our country with distinction'. This was a tremendous moment for me, as a member of staff, and I felt very proud of the small part we play in Member Services. We do also award Honorary Fellowships to other people, not just ex-chancellors and prime ministers! There are over 30 honorary fellows so far, and the full list is available online.

3. Certificates of Merit:

The Membership and Branches Committee, chaired by Sarah Hewson, has given staff permission to carry out the awarding of Certificates of Merit. CIOT President Susan Ball was able to award members, some of whom had waited since 2019, with their Certificates of Merit at the National Gallery in September last year.

When I asked Susan why she felt the awards were significant, she said: 'I think it's really important to show gratitude and recognition to those who contribute to the Institute and its aims and objectives. This process should make it easier for us as an organisation to recognise the achievements of our volunteers and those in the tax profession, some of them unsung heroes. I look forward to us receiving many more nominations going forwards.'

The CIOT are relaunching the Institute Awards. A Working Party was formed to look at the current process and make recommendations on how things might be improved.

Certificates of Merit are very special and are awarded in recognition of a significant contribution to the charity's public benefit requirement and charitable aims.

Importantly, you do not have to be a member to get one! The judging panel will be looking for evidence of your nominee's contribution by having demonstrated, amongst other things: innovation or adaptation to challenges; setting high standards; having built public trust and confidence; and having a clear impact or achievement which has taken place in the last three years. There have been 67 awards in this category, and their names are available to view online.

4. Branch Certificate of Appreciation:

We look forward to a bumper crop of Branch Certificates of Appreciation in 2023 with so many good news stories from our Network. Sarah Hewson, who has chaired Leeds and London branches, has always emphasised the importance of the regional voice and visibility. Sarah, who is a member of CIOT Council, commented that 'members of Branch Committees volunteer their time to not only provide tax education but to create a local tax community, affording both members and non-members the opportunity to build their tax knowledge and network.

The commitment of many Branch volunteers to deliver interesting and relevant programmes is truly inspirational and, from personal experience, takes time and determination. We hope the Branch Certificate of Appreciation will afford Branches the opportunity to recognise the valuable contribution of dedicated Committee members and we look forward to liaising with Branches to help them identify nominees and navigate the nomination process.'

If you would like to learn more about how and when to nominate someone, as well as the previous winners mentioned above, visit the Institutes Award webpage: www.tax.org.uk/instituteawards

Request to members

Transactions in Securities

Pete Miller and Philip Ridgway are reaching out to members about cases relating to counteraction assessments under the transactions in securities rules.

We are asking members to contact us with details of any cases from the year 2015/16 where HMRC have issued counteraction assessments under the transactions in securities rules after 5 April 2020.

There are a large number of cases where HMRC have issued counteraction assessments under the transactions in securities rules for the year 2015/16. In all of the cases that we are aware of, the assessments were issued during the tax year 2021/22, mostly in the first three months of calendar year 2022.

This is important because, under the rules that applied until 5 April 2016, we believe that the assessments had to be issued within four years of the end of the tax year in which the tax advantage arose, in other words by 5 April 2020, so that assessments raised by 5 April 2022 were two years too late.

Given the number of cases that rely, in whole or in part, on whether HMRC have raised assessments in time, we are of the view that a sensible approach, saving work for all parties, would be to arrange for a lead case on this issue to be considered by the tribunals and the courts.

If the final outcome is that HMRC's assessments were issued too late, all the cases fall away. On the other hand, if HMRC win on the timing issue, a number of cases will probably concede, on the basis that the income tax advantage was the main or one of the main reasons for entering into the transactions in securities. Either way, this approach means considerably less work for all the parties, which is why we are advocating it as a sensible way forward.

The reason for this note, is therefore to ask if any members are aware of cases from 2015/16 where HMRC have issued assessments after 5 April 2020.

If you are aware of any such cases, please pass details either to Pete at Jerroms Miller at petemiller@jerromsmiller.co.uk or to Philip at Temple Tax Chambers at Philip.Ridgway@templetax.com.

Examinations

Success in CIOT and ATT November 2022 exam results

On 25 January 2023, the Chartered Institute of Taxation and the Association of Taxation Technicians announced the results from their examinations taken at the November 2022 exam session.

982 CTA candidates sat exams, with a further 371 candidates who sat one or more papers on the ACA CTA Joint Programme (with ICAEW) and 32 candidates who sat a paper on the CA CTA Joint Programme (with ICAS).

668 ATT candidates sat exams in November 2022 and 945 ATT CTA Tax Pathway candidates sat a combination of ATT and CTA papers.

CIOT President Susan Ball

The Institute President, Susan Ball, commenting on the results said: 'I would like to offer my heartfelt congratulations to all the candidates who have made progress towards becoming a Chartered Tax Adviser as a result of passing one or more papers at the November 2022 examination session.

We would like to offer our heartfelt congratulations to all the candidates who passed one or more of our papers in November 2022.

'They should be really proud of their hard work, dedication and effort. It has paid off.

'287 candidates have now successfully completed all of the CTA examinations and we very much look forward to welcoming them as members of the Institute in the near future. Included in this figure are 66 candidates who were on the ACA CTA Joint Programme, 13 candidates who were on the CA CTA Joint Programme and 64 candidates who have now fully completed the ATT CTA Tax Pathway by passing the CTA element.

'We are very pleased that we have been able to resume holding our Admission Ceremonies in person and we look forward to welcoming those new members into the Institute in March 2023 when the next Admission Ceremony will take place.'

ATT President David Bradshaw

The Association President, David Bradshaw, commenting upon the results said:

'I am delighted to congratulate all the successful candidates from the November sitting of our exams.

'In total, 668 ATT candidates and a proportion of 945 ATT CTA Tax Pathway candidates sat 1,464 papers and 1,023 passes were achieved with 78 distinctions awarded for outstanding performance.

'Candidates are applauded for putting in the hours of study necessary to achieve success. Within the five-year registration period the ATT's modular system means that candidates can study at their own pace, whether they are working towards full membership or simply wishing to obtain one or more Certificates of Competency in their specialist area.

'I look forward to meeting as many new members as possible at our next Admission Ceremony.'

Information regarding these results, including pass lists, can be found on the CIOT and ATT websites and on the Tax Adviser website.

Fellows

Fellows admitted

Chartered Institute of Taxation: New CTA Fellow in 2022

We are delighted to confirm that the Peter Mason became a Fellow of the Institute through the successful submission of a Body of Work titled 'Practical Tax Commandments for Advisers'.

Find out more about Fellowship of the CIOT: www.tax.org.uk/fellowship

Association of Taxation Technicians: New ATT Fellows in 2022

The following members were admitted to Fellowship in December 2022:

Mrs Barbara Acheson, Cupar
Mr Keith Adams, Bath
Mrs Adenike Adewusi, Leeds
Mrs Juliette Adie, North Shields
Mr Stephen Aldwinckle, Kettering
Mr Uziel Alvarez, Singapore
Mr Abraham Amoo, Middlesex
Mr Henry Appiah, Dunmow
Mr Michael Armstrong, Launceston
Mr Stephen Armstrong, Sunbury-on-Thames
Mrs Carolyn Arnold, Birkhamstead
Mrs Rachael Ayre, Bishop's Stortford
Ms Nadia Aziz, London
Mr Thomas Barker, Tunbridge Wells
Mrs Jodie Barwick-Bell, Newcastle Upon Tyne
Mr Garry Bell, St Clement
Mrs Joanna Bello, Amersham
Ms Natalie Beveridge, Berwick-upon-Tweed
Miss Zehra Bharmal, Harrow
Mr Sergejs Bogrovs, Bournemouth
Mr James Boyle, Beaconsfield
Mr Paul Bradbury, Brentwood
Mr Ronan Bradley, Belfast
Miss Alison Broadberry, Suffolk
Mrs Caroline Brown, Oxford
Miss Jennie Brown, Northamptonshire
Mrs Jacqueline Brown, Newark
Mr Rupert Browne, London
Mr Paul Buckley, Redcar
Mrs Ingrid Bussell, Tunbridge Wells
Mrs Roisin Byrne, Coventry
Mr Alan Chambers, Nottingham
Miss Susan Chan, Northwich
Mrs Catherine Chapman, Salisbury
Mrs Charlotte Chapman, Loughborough
Mrs Lucy Charles, Cheltenham
Mr Faisal Chaudhary, Islamabad
Mrs Linda Cherry, Lisburn
Mr Margaret Chmielowiec, Greenford
Mr Safder Chohan, Wolverhampton
Mrs Alexandra Clark, Newcastle upon Tyne
Mr Jeremy Clarke-Morris, Worcester
Mr Paul Collins, Hornchurch
Mr Joe Collins, Farnham
Miss Lesley-Anne Connon, Aberdeen
Mr Paul Cooper, Chesterfield
Miss Kate Cowell, Colchester
Mrs Clare-Louise Creasey, London
Mr Michael Crocker, Dorset
Mr Nicholas Curram, Stroud
Mr Timothy Dale, Kettering
Mr Thomas Daniels, Tamworth
Mrs Mandy Davanna, Peterborough
Mr Tiago De Castro Carvalho, Newtownabbey
Mr Paul Dewey, Croydon
Miss Helen Dodgson, York
Mrs Lynn Drysdale, Aberdeen
Mr Paul Duce, Petersfield
Mr John Duffy, Ilford
Mr Anthony Easter, Herne Bay
Miss Karen Eckstein, Esholt
Mrs Emma Elkin, Morecambe
Mr Andreas Epiphaniou, London
Miss Eva Fallstrom, London
Mr Clive Fathers, London
Mrs Angela Ferguson, Dartford
Miss Dorothy Fisher, Leicester
Ms Louise Flintoft, Calne
Miss Fiona France, Cranley
Miss Sarah Fraser, Chichester
Mr James Gamgee, Newark
Mrs Janet Goddard, Littleborough
Mrs Rebeca Gonzalez Iglesias, Coed Darcy
Mr Timothy Goram-Smith, Norwich
Mrs Carolyn Graham, Wigton
Mr Christopher Green, Portsmouth
Mr Steven Green, Sheffield
Miss Rachael Green, Sunbury-on-Thames
Mrs Samantha Gregory, St Columb Major
Mrs Jacqueline Griffiths, Conwy
Mr Richard Grimster, Newmarket
Mr Michael Grundy, Wirral
Ms Puja Gujral, Purley
Mr Richard Hall, Eastleigh
Mr Richard Hanley, Silsoe
Mr George Hardey, Stockton-on-Tees
Mr Daniel Harding, Sandbach
Miss Laura Harding, Salisbury
Mr Trevor Harvey, Woodford Green
Mr Timothy Hassanally, Winscombe
Mr Daniel Hayward, Farnborough
Miss Amie Hearn, Stonehouse
Miss Elaine Heinsar, Edinburgh
Ms Verena Heyd, Barnt Green
Mrs Julie Higman, Rayleigh
Mrs Leanne Hillock, Newtownabbey
Mrs Leigh Hills, Wokingham
Mrs Amy Hook, Hinckley
Mrs Catherine Hubbard, Stowmarket
Mr Paul Hughes, Tandragee
Mr Traian Ivanov, Orpington
Mr Nathan Jennings, Redruth
Mrs Debbie Jones, Crowborough
Mr Sami Joseph, Shoreham-by-Sea
Mr Sanjay Kachhela, Leicester
Mr Bhupinder Kang, Slough
Mr Taranjit Kang, Bradford
Miss Susan Kelly, Shoeburyness
Mr Patrick Kelly, Chester Le Street
Mr Liam Kerr, Armagh
Miss Deborah King, Worthing
Mrs Kate Knott, Callington
Mr Andrew Latham, Guildford
Mrs Kim Ledgerwood-Evans, Plymouth
Miss Amanda Lee Kim, London
Miss Jennifer Lehmann, Dunstable
Mr Suchabinder Lidhar, Wolverhampton
Miss Vivian Linstrom, Kirkcaldy
Mr Niall Longworth, London
Mr Gary Loughlin, Liverpool
Mr Rickie Lowery, Sheffield
Mrs Kirsty Luffman, Southampton
Mr Iain Lundie, Belfast
Mr Adam Lyon, Boston
Mr Stephen MacLeod, Wokingham
Mrs Francesca MacRae, Horsham
Mr Sarik Malde, Harrow
Mr David Massey, Milnthorpe
Mrs Claire Matthews, Reading
Mrs Christine McLaren, West Malling
Miss Mandy McLean, Jersey
Mrs Samantha McNiven, Bristol
Mr James Meekley, Farnham
Mr Robert Meredith, Edinburgh
Mr Merkebu Million, Southampton
Mrs Mariann Mitchell, Inverurie
Miss Emma Mitchell, Leeds
Mr Andrew Molloy, Cambridge
Mr Thomas Moore, March
Mr Stephen Moorse, Crewkerne
Miss Samantha Mudd, Harwich
Mr Gaetano Mule, Bedford
Mrs Lisa Murphy, Chichester
Mr Thurane Myint, London
Mrs Sharondip Nandra, Stourbridge
Mr Simon Neil, Basingstoke
Mr Gordon Nelson, Prestwick
Mr John Newell, High Wycombe
Miss Rebecca Nicholson, Sheffield
Miss Lise Nowell, York
Mrs Judith Oliver, Ponteland
Mr Paul O'Neill, St Saviours
Mr Kevin O'Shea, London
Mrs Shaina Osman, London
Mrs Caroline Ottewill, Bury
Miss Jennifer Pape, Preston
Mrs Roopal Patel, Ascot
Mrs Leanne Pattemore, Crewkerne

Mr Desmond Pearson, Nottingham
Miss Melanie Peebles, Comber
Mr Premnath Permala, London
Mrs Gemma Pettit, Honiton
Mr Mark Purdue, North Tawton
Miss Manjit Rai, London
Miss June Reece, Bagillt
Mrs Florence Richards, Canterbury
Mr Richard Roberts, Spalding
Mr Brian Robson, Plymouth
Ms Nicola Rose, London
Mrs Katarina Safai, London
Mrs Melanie Sampson, Cornwall
Mrs Gemma Sellers, Wakefield
Mrs Nishma Shah, London
Mr Benjamin Sharland, Tavistock
Mrs Caroline Sharpe-Szunko, Warrington
Mr John Sheen, Altrincham
Mr Christopher Shepard, Billericay
Mr Iain Shields, Bedford
Ms Saika Shiraishi Ferreira, London
Miss Nicola Smith, Aylesbury
Mr Matthew Smith, Kinross
Mrs Amanda Smith, Liverpool
Mr John Smith, Stockton-on-Tees
Mr James Smyth, Addlestone
Mr Paul Snelgrove, Stourbridge
Mr Kevin Stocks, Dereham
Mr Richard Stonier, Eccleshall
Mrs Monika Summan, Henlow
Mr Simon Tatford, Hurstpierpoint
Miss Hital Thakkar, London
Mrs Kaye Thomas, Lewes
Mr Gavin Thomson, Gold Coast
Mrs Samantha Thrower, Suffolk
Mrs Giulietta Toriello, Bedford
Mr Ritchie Turnbill, Edinburgh
Mr Paul Twist, Leamington Spa
Mr Gareth Vaughan, Kings Langley
Mrs Satwant Virdee, London
Mrs Theresa-Anne Waddingham, Lincoln
Miss Christine Wallwork, Greater Manchester
Mrs Sally Walters, Ripley
Mr Bao Wang, Birmingham
Mr Dennis Ware, Waterlooville
Miss Sarah Watts, London
Mrs Janet Waweru, London
Mr Paul West, Rudgwick
Mrs Priscilla Westgarth, Saxmundham
Miss Janette Whiteway, Eastleigh
Mr Paul Williamson, South Molton
Mr Stuart Williamson, Crowborough
Mr David Williams-Richardson, Billingshurst
Ms Miranda Wood, Folkestone
Miss Angela Wood, Harpenden
Ms Claire Wright, Gloucestershire
Mr Jonathan Wright, Falmouth
Miss Nicola Youngson, Perth
Mrs Fatima Zahid, San Francisco

Find out more about ATT Fellowship at: bit.ly/3G33nhC

A MEMBER'S VIEW

Joseph Oliver Eloi

Manager, Tax and Trade Strategy, EY

This month we are excited to shine the spotlight on Joseph Oliver Eloi and ask him how he came to work in the world of tax.

How did you find out about a career in tax?

I first chose an organisation that I wanted to work for – EY. From there, tax felt suited to my interests and my long-term ambitions in and out of work.

Why is the CTA qualification important?

As well as developing technical knowledge, professional qualifications like the CTA demonstrate the ability to manage your time and a willingness to invest in your future, and provide a stable foundation for your career.

Why did you pursue a career in tax?

I've always been interested in economic policy and the political economy, and tax is a policy area whereby subtle changes can have a significant knock-on effect on our day-to-day behaviour and the wider economy. Coupled with this, it is a career that provides the security and flexibility to achieve your goals outside of work.

How would you describe yourself in three words?

Dedicated policy nerd.

Who has influenced you in your career?

Friends, family and colleagues. The best advice I have received has always been from those I trust, respect, and who know me best.

What advice would you give to someone thinking of doing the CTA qualification?

Thinking about where you see yourself in five years still only represents 10% of your career. I would focus on the long term and invest in yourself! Deferred gratification is often better than instant.

What are your predictions for tax advisers and the tax industry in the future?

A shift towards indirect tax technology. Rising geopolitical tensions and on-shoring may lead to a rise in cross-border indirect taxes. Ageing populations may require government support, increasing the need for higher tax revenue. As a greater proportion of the population will not be in the labour force, the opportunity to collect tax through workers' income will be reduced. Governments are likely to turn to other forms of taxation, like indirect taxes. Digitalisation will give us more tools to trace taxable activity but will make the nature and place of that taxable activity harder to define.

What advice would you give to your future self?

To remember that I have achieved more than I ever expected, so keep working hard and always be proud of individual and team accomplishments.

Tell me something about yourself that others may not know about you.

I can do a backflip.

You can also hear from Joseph later this month as guest speaker in the ATT/CIOT employer webinar series, 'Develop and retain your tax talent', on 22 February at 11am. Register here: www.tax.org.uk/develop-and-retain-your-tax-talent

Contact

If you would like to take part in A Member's View, please contact Jo Herman at: jherman@ciot.org.uk

Online CPD

Volunteers required for the new Online Branch

Reshma Johar is looking for volunteers to help her develop the Online Branch, delivering a programme of events to provide content and engage with members online. If you would like to join the team, she would love to hear from you.

Reshma Johar

Following on from the success of the Online Working Group, established by Joint Branches Sub-Committee in early 2021, Council approved the establishment of an Online Branch in 2022. The Online Branch will have a remit to work closely with our existing branches, delivering a series of online events which complement the existing CPD.

Engagement with members online did not diminish when lockdown ceased and the CIOT would like to continue offering online training sessions alongside existing Branch CPD courses (in-person and online).

As the Chairperson of this newly formed committee, I will be taking forward the shared ambition of the Institute, ensuring that all attendees continue to benefit from a diverse range of technical topics which will be available to join live online, with opportunities for Q&A or as a recording for catch up. Furthermore, one of the objectives of this newly formed committee will be to nurture and grow new speakers to our platforms.

I am now looking for volunteers to join me, along with Emma Barklamb, Head of Member Services, and Andrea Gale, Branch Network Manager, at CIOT/ATT, to help develop our online programme for 2023 and beyond. Committee members can serve for a term of three years, and I will be asking for your help researching speakers, topical subjects, niche areas of tax interest and new rising stars.

Joining the committee will expand your tax network and help to raise your profile, while providing valuable insights. It will also help you to develop your skills in managing events, working with different tax specialisms across the country (and the globe) and building your professional skills generally. As a committee member, you will form part of a 300 plus group of volunteers supporting the educational aims of the charities.

If you are interested in joining the Online committee and supporting the provision of content for the continued online programme, we would love to hear from you.

Please complete our expression of interest form at: bit.ly/NetworkBranch

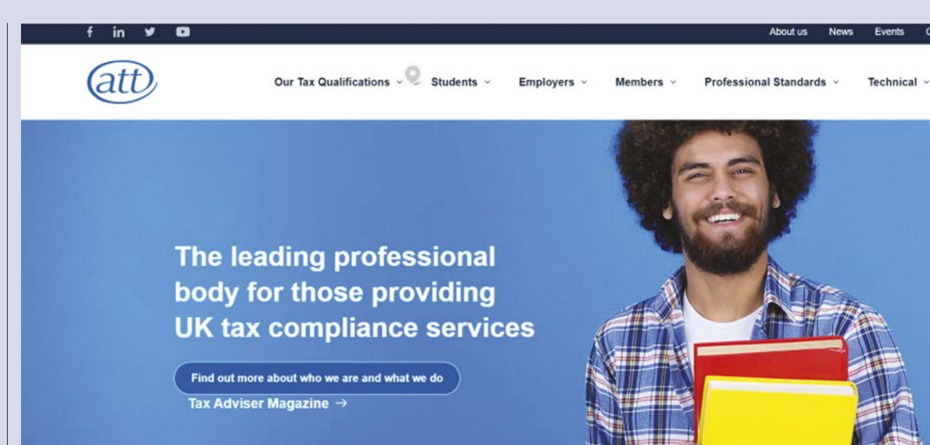
Reshma Johar, Chair of the ATT/CIOT Online Branch
Reshma is a Tax Consultant at Carter Backer Winter LLP. She specialises in a range of direct taxes centered around owner-managed businesses. For the last four years, she has been a London Branch Committee member, as well as part of the tax technical committee at CIOT. She is also Vice-chair of the Joint ATT/CIOT EDI Committee.

Website

ATT launches new look website

The ATT are pleased to present a new look and feel website at www.att.org.uk this February. A website platform upgrade allowed us the chance to update the design of the website in line with the Association's brand identity.

We hope you agree that the design and content is positioned well for students and members alike, as well as supporting our objective to attract prospective students into ATT. Take a look at the new site and let us know your thoughts at: page@att.org.uk



HOWELLS CONSULTING

Specialists in Private Client Appointments

Personal Tax Director
London / Hybrid
£100,000 – £120,000 + Bens

An exceptional opportunity to join one of London's high-profile Private Client Tax teams and be supported with progression to Partnership. Our client advises UHNW individuals, business owners, entrepreneurs and family offices on all areas of personal taxation, trusts and asset structuring. Many of the clients are UK res non dom in nature. Client relationship management is a key element of the role and you will also participate in business development. **Ref 5049**

Manager, Personal Tax Planning
London / Hybrid
To £70,000 + Bens

This award-winning Private Client team advises an impressive client list of UK and international entrepreneurs, wealthy families, trusts and family offices. The team is growing and keen to appoint a CTA qualified personal tax Manager, to advise UK res non doms on capital taxes planning, offshore structuring, remittance, transfer of assets abroad etc. You will work closely with high-profile Partners and have a supported route to Senior Manager. **Ref 5059**

Private Client Tax Manager
Guildford / Hybrid
£60,000 – £70,000

Handle high-end London and international private client tax work, without commuting into the Capital. Our client has a high-profile Personal Tax team, offering the opportunity to advise HNW/UHNW individuals on a broad range of income and capital taxes planning issues. They seek an additional CTA Manager with strong personal tax advisory experience, to perform a key client-facing role. Genuine Senior Manager prospects. **Ref 5033**

Personal Tax Manager
Bristol / Hybrid
£48,000 – £58,000 + Bens

One of Bristol's premier Private Client Tax teams is growing and keen to appoint an additional CTA at Manager grade. You'll perform a client-facing role, advising new and old money HNWIs on IHT, CGT and trusts, as well as associated personal tax compliance. An opportunity to work with leading advisers in a modern, sociable and supportive environment. Genuine scope for progression to Senior Manager. Hybrid working 2-3 days a week. **Ref 4963**

Personal Tax Advisory Senior Manager
London / Hybrid
£80,000 – £85,000 + Bens

Looking for an advisory-focused Senior Manger role offering a supported route to Director grade? Our client has an award-winning Private Client Tax team, advising UHNWIs on all areas of their personal taxation, with particular expertise in advising UK res non doms. The team is growing and keen to recruit a CTA qualified Senior Manager with experience of advising entrepreneurial clients on CGT and IHT planning. **Ref 5016**

Senior Manager, Personal Tax
Southampton / Hybrid
£60,000 – £70,000

A strategic hire into the Private Client Tax team of a high-profile accountancy practice. You will liaise closely with Partners from across firm and oversee the delivery of personal tax advice to HNW entrepreneurs and business owners. The CTA qualification is essential, along with demonstrable experience of advising on income and capital taxes planning. Experience of managing a team of ATTs and CTAs is also important. **Ref 5055**

Part-Time Personal Tax Manager
London / Hybrid
£60,000 – £70,000 FTE

We are keen to speak to Personal Tax Managers who may be interested in a part-time role (3 days or 4 days a week), with a high-quality boutique in the West End. They advise international HNWIs, offering a broad range of interesting personal tax work. Strong UK res non dom experience is therefore important. It's an opportunity for a CTA to perform a flexible role, fitting in around lifestyle and other commitments. **Ref 5062**

CTA Personal Tax Senior & Assistant Manager
London / Hybrid
£43,000 – £58,000

Are you CTA qualified and looking for the next step in your Private Client career? This is an opportunity to join one of London's premier Personal Tax teams, advising domestic and international UHNWIs, family offices, entrepreneurs, PE clients and trusts. You'll work with some of the profession's leading Private Client practitioners and be supported with progression to Manager grade. A friendly, sociable and award-winning team. **Ref 5042**

Our clients support hybrid working and offer scope for homeworking 2–3 days a week, if one wishes.

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TAX PARTNERS

ACROSS THE NORTH £Exceptional

We are delighted to be working with several accountancy firms ranging from Top 10 through to local independent firms that are looking to recruit either established tax partners coming from a corporate, personal or mixed tax background or ambitious directors looking to achieve partnership in the short term. **REF: CONTACT IAN**

CORPORATE TAX ACCOUNTANT

WARRINGTON To £50,000

Ideal first move in house for a recently qualified CTA / ACA. The role covers all aspects of UK corporate tax compliance as well as the chance for involvement in ad hoc advisory matters including, R&D, transfer pricing, CFC and treaty clearance applications. Working as part of a wider global team there are plenty of opportunities for growth and development in truly tax varied role. **REF: R3395**

TRUST MANAGER

LIVERPOOL £highly competitive

Our client is a forward-thinking financial services business based in Liverpool that places a high emphasis on looking after its people and being a great place to work. As a result of expansion it is now seeking a highly experienced Trusts and Accounts Manager who will manage an experienced team whilst working on their own portfolio of trust clients. You will have detailed knowledge of Trusts and Estates with related tax knowledge, and the ability to communicate with all levels of clients. This is critical role for the business and has exciting prospects. **REF: C3425**

CORPORATE TAX COMPLIANCE

MANCHESTER / LEEDS To £85,000

Specialist corporate tax compliance and reporting roles from newly qualified through to Senior Manager grade with a large international firm to be based in either Manchester or Leeds. You will work on a variety of different clients ranging from large multinationals to SMEs. Our client offers a high degree of flexibility in hybrid working and candidates wishing to work part time are also welcomed. **REF: A3155**

CORPORATE TAX AM / MANAGER

LIVERPOOL To £60,000

This independent central Liverpool firm with an impressive reputation and exciting growth plans are seeking a Corporate Tax Assistant Manager or Manager to join their Tax team reporting into the Tax Partner. You will be working with a diverse and genuinely exciting range of clients, on interesting and at times challenging complex tax technical work. **REF: C3422**

PRIVATE BUSINESS M / SM

THE NORTH To £85,000

Fantastic opportunity for a corporate or mixed tax specialist with experience in advising privately owned businesses and business owners on a broad range of complex tax advisory matters. If you are looking to take your career to the next level with a global business this is the role for you. Flexible / hybrid working on offer and a market leading remuneration package. Part-time roles available. **REF: A3409**

IN-HOUSE TAX MANAGER

CHESTER £50,000-£60,000

Superb opportunity to join a large in-house tax team that manages all the groups taxation matters within the EMEA region. You will be responsible for the tax compliance & reporting as well as transfer pricing and other projects for a number of regions across Europe the largest being Germany. It is envisaged that you will have some solid experience of tax compliance and will be CTA or ACA qualified. Of particular interest are individuals with either German language skills or experience of dealing with German jurisdiction/companies. **REF: R3426**

EMPLOYMENT TAX ASS'T MANAGER

LEEDS £highly competitive

Joining a Top 10 high performing team the role is providing tax compliance and advisory services to an exciting variety of clients from FTSE 100 companies to entrepreneurs on topics such as pay and benefits, employment status and other UK employment tax issues. Whilst someone who has been in a specialist role would be ideal, our client will also consider those from a private client background looking to move into employment tax. **REF: C3424**

Tel: 0333 939 0190 Web: www.taxrecruit.co.uk

Mike Longman FCA CTA: mike@taxrecruit.co.uk; **Ian Riley ACA:** ian@taxrecruit.co.uk; **Alison Riordan:** alison@taxrecruit.co.uk; **Claire Randerson Smith:** claire@taxrecruit.co.uk

GEORGIANA HEAD
Director
Tel: 0113 426 6672
Mob: 07957 842 402
georgiana@ghrtax.com

Group Tax Manager/Head of Tax
Merseyside or remote
3 day week

Our client is looking for a qualified tax professional to run tax in the UK. You will liaise with external advisors and oversee corporate tax, VAT and employment taxes. It is envisaged that this is a 3 day a week role. You can be based from the office in Merseyside or work remotely with some travel to Merseyside as required. The ideal candidate will be an experienced in-house professional who is looking for work-life balance and a decent salary for a part time role.
Call Georgiana Ref: 4002

Head of Tax – In-house
Peterborough
£excellent

This is a key role in a large FS business. They are looking to establish an in-house tax team from scratch, and seek an experienced tax professional to head up and build a team. It's likely that you will have strong UK corporate tax experience gained in industry or a large accounting firm. You will need experience of team management and be able to introduce tax policy and process. You may be an existing Head of Tax or a Director looking for a step up.
Call Georgiana Ref: 4001

Group Tax Manager – In-house
Alderley Edge
£65,000 to £75,000 + benefits

In-house role for a Group Tax Manager based in Alderley Edge. This major property group seeks an all-round corporate tax advisor who is interested in also doing some treasury work. In this role, you will help the share-holders and the business with tax planning advice, and you will manage the compliance and reporting for the group. As the lead tax person, you will have responsibility for both direct and indirect tax. You will report to the financial controller. This role is office based. Would consider individuals from practice or industry.
Call Georgiana Ref: 3327

Corporate Tax Compliance Manager
Hull
£full or part time

Large international group is expanding its tax team and looking for an experienced corporate tax professional who can help run compliance and reporting. In this role, you will business partner with overseas entities and tax advisers to ensure compliance deadlines are met. You will be a focal point for corporate tax compliance on a global basis. There is also the opportunity to deal with project work such as R&D tax and assisting the head of tax with transaction work. Would consider someone remote working who could travel to Hull once a week.
Call Georgiana Ref: 3295

Corporate Tax Accountant
Warrington
£excellent

Great opportunity to specialise in corporate tax with an opportunity to study for CTA exams. This role is part of a large in-house tax team and reporting to the senior tax manager. Would suit someone who is either ATT qualified or ACA, ICAS or ACCA qualified and who has corporate tax experience, but may work in a broader accounting or general practice role. Hybrid working available – minimum 2 days a week in the office.
Call Georgiana Ref: 4000

Tax Lawyer – Property
Nationwide Remote
£excellent

Our client is a niche law firm that just deals with tax work for large commercial law firms. They seek an experienced lawyer (likely 6 years' plus pqe). This role can be worked remotely from anywhere in the UK. The firm will consider a full or part time employment, so a real chance at work-life balance. The focus of the role is property transaction work including SDLT. Great client base and work make this a great opportunity.
Call Georgiana Ref:3328

www.georgianaheadrecruitment.com

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Head of Tax for a Family Office
Outskirts of Chester
£excellent + benefits

This is a really exciting opportunity for a senior private client professional to work in-house.

It is a key role in a Family Office which supports the shareholders of a privately owned business operating in property, food and agtech, and also provides advice to a range of agricultural, trading and investment businesses. In this role, you will provide tax advice on private client trust and corporate tax matters. You will lead a team of tax professionals and will also work closely with other senior finance leaders and a property tax team (based in London).

The role ideally requires a minimum of 3 days a week on site and some travel to London. Day to day, this will include:

- Managing all aspects of taxation and structuring for the Family Office and associated businesses, including managing external advisors.
- Ensuring an effective tax compliance and advisory service is delivered to all Family Office clients/Trustees/family members and businesses.
- To manage the Family Office relationship with HMRC.
- Agree IHT charges and seek clearances as necessary.
- Consider and identify tax planning and structuring opportunities and requirements.
- Support businesses and other teams in the Family Office on trading matters, investment structuring and support the Property Tax team on trust aspects of tax advice.
- Management and development of a team of tax staff.

This role would suit an experienced private client professional who has dealt with Ultra High Net Worth families and their complex tax affairs, or an Owner Managed Business specialist who has experience of considering trust taxation matters. You may currently work in practice or within a family office. Candidates looking to relocate will also be considered. A knowledge of UK accounting concepts is important and ideally evidenced by a relevant professional qualification (ACA, ACCA, CIMA or similar).

Call Georgiana Head on 07957 842 402

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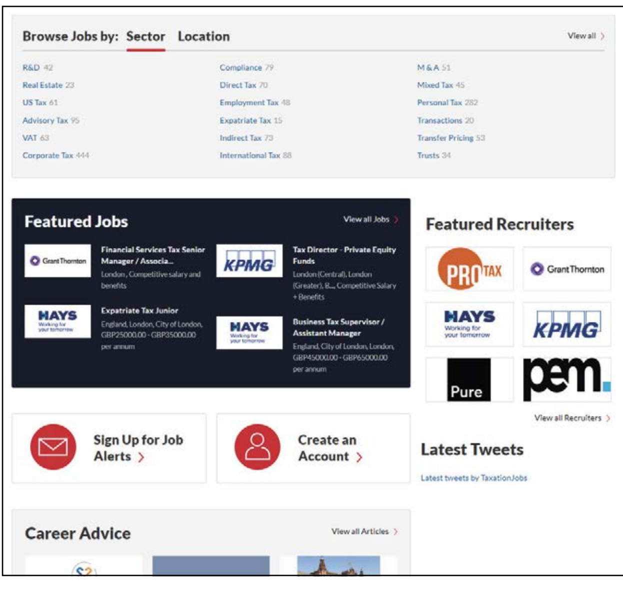

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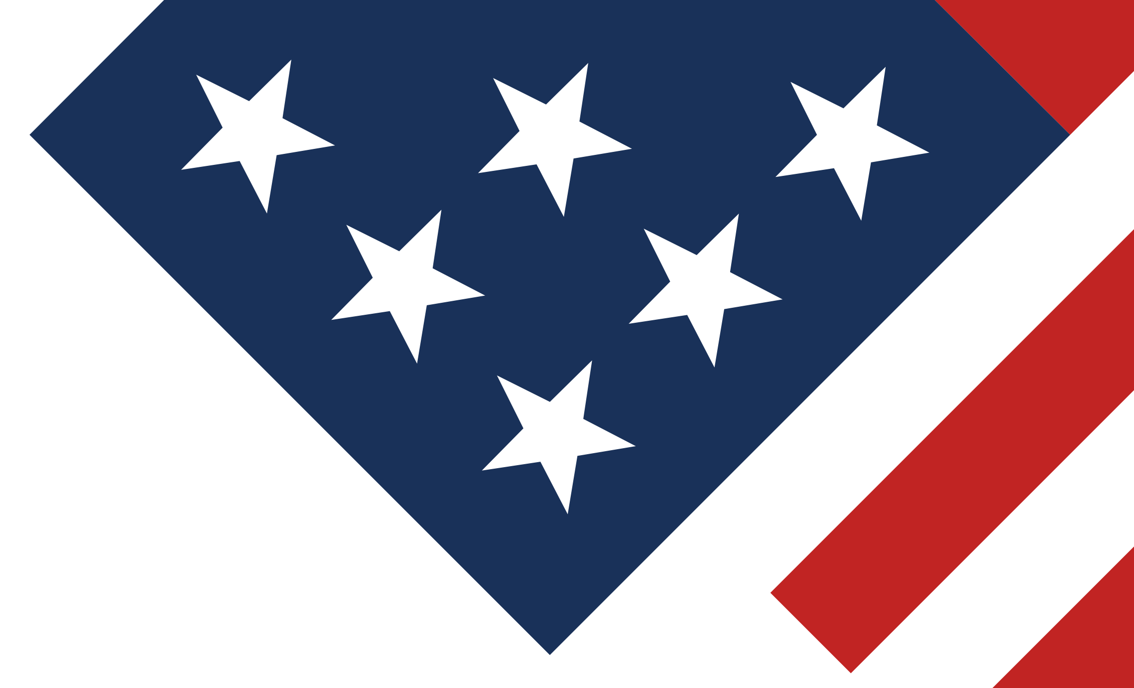

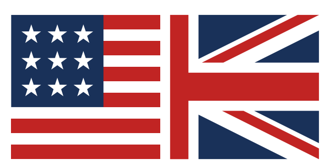

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US/UK Taxation

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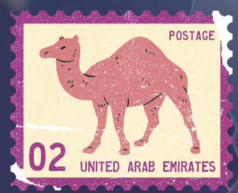

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