July 2023

TAXADVISER

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Heroes of the tax world

We honour some of the individuals who have fundamentally shifted our approach to tax on a national and global level.

New pensions tax rules

Changes to the annual allowance limits and the lifetime allowance charge

UK imports and exports

The key impacts that Brexit has had on UK trade since 2021

LITRG's 25th anniversary

Some of the notable achievements of the Low Incomes Tax Reform Group

HELEN WHITEMAN
JANE ASHTON

Welcome
Mixed messages

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Earlier this month, the ATT, CIOT and LITRG issued press releases following the announcement by HMRC that it would pilot a new seasonal model for the Self Assessment helpline. This 'seasonal model' refers to the closure of the helpline for three months until 4 September.

The announcement gives mixed messages to the millions of Self Assessment taxpayers who a few months ago were being encouraged to file their Self Assessment returns early. HMRC was citing a number of benefits for early filing, such as avoiding the stress of last-minute filing, while taxpayers who know what they owe earlier can budget for the year and pay the tax bill in instalments if needed.

While the helpline is closed, taxpayers are being encouraged to use HMRC's digital services, including its online guidance, digital assistant and webchat. However, one major concern is that those unable to find the answers they are seeking will turn towards unofficial sources such as online forums, increasing the risk that they will receive inaccurate advice or no advice at all. This could lead to errors, non-compliance and more problems for HMRC and taxpayers alike further down the line.

Whilst it said that this was a 'pilot of a new seasonal model', it is clear that it is just another indicator that HMRC can't cope with everything it is being tasked to do, and simply cannot meet the demands of a growing and ever more complex tax system. HMRC really needs adequate and effective resources to provide the services needed by taxpayers to assist them with their filing obligations. This is something that both ATT and CIOT have repeatedly called for and without which it is unlikely that services will improve.

An unusual but positive impact of the closure for members is that it is likely to encourage more taxpayers who are frustrated with using the system to seek the services of tax agents, so we were pleased to note that the Agent Dedicated Line is unaffected by this change, and that agents can still call HMRC during this period. However, given the recent restrictions placed on the Agent Dedicated Line, we hope that the line is still operating as intended when you read this!

Our Equality, Diversity and Inclusion Committee reviewed progress against our Action Plan at its June meeting. We are pleased to report that alongside our 'Returners to Work' workstream, we are making positive progress against our marketing and communication activities. Our new careers brochures, videos and other materials have been specifically designed with accessibility in mind. Take a look and tell us what you think. On 5 July, we are delighted to host an online Neurodiversity event in conjunction with the charity Neurodiversity in Business. It is aimed at our members who are symptomatic or have a diagnosis within neurodivergence. They form an invaluable part of the work culture, and the event will help them to navigate a happy and successful career path.

It was lovely to welcome new ATT members to the Admissions Ceremonies in June. We hope that those who attended had a lovely day and have a successful career in tax.

Congratulations to the East Midlands Branch, chaired by Dipti Thakrar, who hosted a 40th celebration conference and evening on 12 June in Leicester. We are looking forward to celebrating Manchester branch's 90th anniversary on 4 July and NE England's 40th on 6 July. Both are evening networking events and we encourage you to come along and join the celebrations!

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Regulars

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GARY ASHFORD
PRESIDENT

A vibrant debate

> One of the next big taxation debates of our time will be linked to climate change and decarbonisation of the world economy.

It has been a very busy few weeks! Since the AGM on 31 May, we have hosted the CTA Address on 8 June and the Parliamentary Reception on 12 June. Both were a roaring success – and that's not just coming from me, that's the feedback from everyone who attended!

First of all there was the CTA Address at the most beautiful RSA House, near my offices behind the Strand. Picking up on the theme of outdoor summer music festivals, we had a rock star line up.

On the stage, we had Pascal Saint-Amans, one of the key architects of OECD BEPS and more recently the Pillar 1 and Pillar 2 proposals (BEPS 2.0), and now a consultant with the Brunswick Group. We also had the eminent Heather Self. Many of you will know Heather – as well as her many successes over the years as an international tax expert, she won the Lifetime Achievement award at the Tolley's Tax Awards in May. And to complete the line-up, we had Tove Maria Ryding. Tove is a well-known campaigner for tax transparency, and sacrifices much of her life in pursuit of tax justice in her many roles, most notably as tax justice coordinator at the European Network on Debt and Development (Eurodad).

The debate was illuminating, in part as Pascal shared many great anecdotes on his journey to securing agreement to the BEPS actions. Of course, we are not there yet with Pillar 1! Heather followed up with an excellent analysis of the developments and a balanced view on some of the positives and negatives of the BEPS programme. And then Tove provided an equally excellent response, explaining her view that we need to involve the UN much more so that developing countries will have a greater seat at the international tax framework table. Pascal also mentioned what I see as one of the (if not THE) next big taxation debates of our time – taxation linked to climate change and decarbonisation of the world economy.

The feedback we have had has been immense, and I am so pleased to have played a small part in this event.

Then it was the House of Commons Parliamentary reception. This is always an excellent event. Despite the risks of thunderstorms we enjoyed a beautiful sunny evening, so many guests spilled onto the Thames terrace. On a personal level, it was lovely to see new and old friends. We were honoured to have the attendance of a number of Parliamentarians, including the Financial Secretary to the Treasury Victoria Atkins MP, and her opposite number, the Shadow FST James Murray MP.

Victoria, as one would imagine, has significant diary commitments but she kindly spent a fair bit of time with me and Susan Ball. We had the honour of James speaking at the event, alongside myself, Lord Leigh of Hurley and Craig Mackinlay MP, who was our gracious and generous host for the evening. Craig and Lord Leigh are both CTAs, while Lord Leigh chairs the Lords Economics Affairs Finance Bill Sub-Committee, the first parliamentary select committee chaired by a CTA to produce a report on tax.

And so it is onwards to the joint CIOT/IFS debate on 26 June. The theme is 'The future of income tax'. Given that income tax is currently the UK's biggest tax raiser, we are keen to discuss what the future might look like, not least because in recent years we have seen allowances frozen and sizeable shifts to the higher rate threshold. We are not planning a 'blue sky' discussion but something more pragmatic – although we do hope it will go beyond rates and allowances. Let's see!

As well as my Presidential commitments, I still have my job as a senior Tax Partner at Harbottle and Lewis. I am lucky that I have such great support from my team and firm as a whole, as well as the amazing team at the CIOT. From their work to prepare for Council and subcommittee meetings, to supporting high level events such as those described here, the CIOT 'head office' is a very well organised operation!

And finally, one of my favourite things here is to thank all our branches and volunteers. Special thanks and birthday wishes go to Manchester and District, celebrating a cool 90 years on 4 July, while North East England are celebrating 40 years on 6 July. A belated congratulations also to East Anglia branch, who celebrated their 40 years on 3 May. And finally, East Midlands branch held a great conference in Leicester on 12 June.

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SIMON GROOM
DEPUTY PRESIDENT

Extra pressures

> Putting obstacles in the way of early tax return filing could undo years of work by HMRC and professional bodies.

Hello, and welcome to the Deputy President's page for July.

As an officer of the ATT, one of the highlights of the year for me is attending our Admission ceremony, where I have the opportunity to meet our new members to welcome them to the Association and to celebrate with our prize-winners. This year's admission ceremony was held on 15 June at the Law Society in Chancery Lane, a historic and elegant venue that has been at the centre of the legal world since 1832.

As well as the formal presentation ceremony, the ATT officers and other Council members can mix with the new members and their guests, and so are able to hear about the wide range of backgrounds and experiences that have led them to become a member of the Association. It is truly inspiring to hear about their different motivations and pathways into the tax profession.

It is also wonderful to see how diverse our membership is, in all senses of the word. It is geographical – one new member had travelled from Bangalore in India. There is also such a wide diversity of experience – another member had sat the ATT exams after a 25 year career with HMRC. Our new members come from a wide range of roles, from a traditional tax role in a large accounting firm and an in-house position in a legal firm, along with those who work in financial services and those who are starting their own businesses. Whatever their background, all of our members demonstrate the appeal and diversity of the tax profession.

And talking of new members, the examination results from the May sitting will be released later this month. I know there will be many people who, whilst enjoying a break from studying, will be eagerly awaiting their results. I look forward to welcoming those who have satisfied the criteria for membership at a future Admission ceremony.

This month also saw the announcement by HMRC that the phonelines helping taxpayers with Self-Assessment queries will be closed from 12 June until 4 September, freeing up advisers to take urgent calls on other lines and answer customer correspondence.

This means that taxpayers who need help from HMRC to file their tax returns will now be forced to delay. Ironically, the move comes just three weeks after HMRC launched a campaign encouraging people to file their tax returns earlier this year. Not only will this cause stress and inconvenience, but it will also lead to extra pressure on HMRC nearer to the January tax return deadline.

HMRC is suggesting that during the closure taxpayers can go online to resolve issues. However, there are lots of tasks, such as cancelling a tax return or chasing a refund, which some taxpayers – including those less familiar with technology, and those who are digitally excluded due to age, disability or living in an area of poor or no internet connectivity – may find much more difficult to do without the helpline.

Together with the CIOT, we have long been calling for HMRC to be better resourced to provide a more effective and resilient service for taxpayers. It is concerning that the latest closures will hit hardest those who are unable or unwilling to use the digital platforms. Putting obstacles in the way of early tax return filing could undo years of work by HMRC and professional bodies in encouraging taxpayers to get their tax returns filed early.

This latest closure coincides with HMRC closing its VAT registration helpline from 22 May, as well as severe restrictions on the Agent Dedicated Line used by our members. It is clear that HMRC are under-resourced and demand for support from them clearly outstrips supply. This latest in a series of customer service restrictions proves that HMRC – as the main source of income for the Treasury – desperately needs additional resource to work effectively.

Like most of us, *Tax Adviser* will be taking a break over the summer and your next edition will land at the start of September. This is my last Deputy President's welcome page as I will, all things being well, take over the Presidency of the Association in July. Senga Prior, currently Vice President, will be bringing you her thoughts and keeping you up to date with what is happening at the Association.

I wish you a long and enjoyable summer.

Simon Groom
ATT Deputy President
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Four tax heroes
Changing the tax world

We honour some of the individuals who have fundamentally shifted our approach to tax on a national and global level.

by Bill Dodwell

One of the advantages of working in tax for quite a few years is that I've met a wide range of people throughout the profession. It's one of the benefits of volunteering with one of the professional bodies or with a business organisation; we are exposed to new perspectives. There are lots of great tax practitioners who every day make a difference to their clients or the business where they work. This article highlights four people I've met who have made a difference to the broader tax system.

Dame Sarah Falk DBE

I first met Sarah Falk when working on transactions – M&A, demergers and other reorganisations. She had read law at Cambridge and then joined the London Magic Circle law firm Freshfields (now global firm Freshfields Bruckhaus Deringer). After qualifying as a solicitor in 1986, she became a tax partner in 1994 and led the Freshfields's City tax group. I remember the importance of bringing my A-game when working with Sarah!

However, Dame Sarah Falk features on this list not for her work on transactions, but because she has become the first solicitor to be appointed (in 2022) as a Lady Justice of Appeal in the Court of Appeal of England and Wales. She is the sole solicitor on the Court of Appeal bench, with all 37 other members being barristers. She is certainly not the first tax specialist to join the Court of Appeal – but tax specialists are relatively rare.

She retired from Freshfields in April 2013 but continued in a consultancy role. In 2015, she was appointed a deputy judge of the Upper Tax Tribunal, whilst still consulting at Freshfields. High Court judges also sit in the Upper Tribunal and Sarah Falk has said that meeting the judges inspired her to apply. She was appointed directly to the High Court bench from private practice in 2018, just one of three solicitors to do so, and the first woman.

She has recorded a biography (see tinyurl.com/2p97st2d) where she says she was most proud of – and found most rewarding – mentoring younger lawyers, mainly women.

John Whiting CBE

I can't remember when I met John – but quite possibly I listened to him explain tax on the radio, first. John has been one of the very best at explaining tax to the general public and to journalists. He featured regularly on *Money Box* and the *Today* programme, as one of the few who could explain tax concepts so that they made sense. John was a partner at Price Waterhouse (now PwC), specialising in employment taxes but with a huge breadth of knowledge about the whole tax system. It was no surprise that when he retired from PwC, the CIOT appointed him as its first Tax Policy Director until he stepped down in 2013. He had previously served as CIOT President in 2001-02.

In 2010, then Chancellor George Osborne and tax minister David Gauke turned to John to set up the Office of Tax Simplification. He made such a success of the OTS that the body was given a statutory mandate in 2016. Under his leadership, the OTS put forward ideas such as the cash basis for self-employed individuals, and he looked extensively at how to link income tax and national insurance in a better way. He was awarded a CBE in 2016, before his term at the OTS concluded in 2017.

He was a board member at HMRC from 2013 to 2019 and was one of the first board members of Revenue Scotland, serving from 2014 to 2022.

John isn't done with his contribution to the broader UK tax system. He was a director of the Taxation Disciplinary Board from 2017 to 2023, in which role he oversaw the management of the Board, rather than being involved with individual

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cases. I now work with John on the GAAR Advisory Panel, which he chairs.

John has written about his work at the OTS in ‘Confessions of a tax simplifier’ (see tinyurl.com/mwzaf6nf).

Professor Judith Freedman CBE

Professor Judith Freedman shares one characteristic with the others on this list – she never stops! Judith started her career as a solicitor at Freshfields, before deciding that academic life was for her.

In 2001, she was appointed Professor in Tax Law at Oxford University. Thanks are due to KPMG and to Pinsent Masons, who sponsored her chair initially; the academic study of taxation in the UK is not as well funded as we would like.

At Oxford, Judith has mainly focused on corporate and business taxation, with special interests in tax policy and design, small businesses, the interaction between law and accounting, tax avoidance, tax and corporate social responsibility, and the use of discretion in the administration of taxation.

Professor Freedman has always had an eye to broadening the study of taxation in the UK. She participated in the establishment in 2005 of the Oxford University Centre for Business Taxation, as Director of Legal Research. The Centre is a rare example of combining law and economics – both vital components of business taxation.

She and colleagues set up the MSc in Taxation in Oxford and was one of its first directors. The MSc now has an established UK and international reputation and attracts a wide variety of students – both in terms of their home countries and their previous experience of tax.

Judith was one of the few lawyers contributing to the Mirrlees report ‘Reforming the Tax System for the 21st Century’. She was a founder member in 2015 of Women in Tax (see https://womenin.tax).

Today, Judith chairs the Tax Law Review Committee of the Institute for Fiscal Studies. She continues as the general editor of the *British Tax Review* and sits as a judge in the social security tribunal.

Professor Freedman was appointed a CBE in 2013 and an Honorary Fellow of the CIOT in 2015. She talks about her career and Oxford Women in Law on YouTube (see tinyurl.com/3dm9v266).

Pascal Saint-Amans

Pascal Saint-Amans graduated from L’École nationale d’administration (ENA) in 1996 and was a French Finance Ministry official for nearly a decade, including chairing OECD Working Party No. 1 of the Committee on Fiscal Affairs.

This article highlights four people who have made a difference to the broader tax system.

He was appointed Director of the Centre for Tax Policy and Administration at the OECD on 1 February 2012. He had joined the OECD in September 2007 as Head of the International Co-operation and Tax Competition Division.

He was thus in pole position to lead the international work on reforming international corporate tax and opening up new initiatives on global tax transparency – which is how I met him.

In October 2009, he was appointed Head of the Global Forum Division, created to service the Global Forum on Transparency and Exchange of Information for Tax Purposes. The Global Forum introduced the Common Reporting Standard for automatic exchange of information, now adopted by 168 countries and jurisdictions. The first reports were in 2017 and have significantly reduced banking secrecy. At the same time, the OECD has supported developing countries to participate in the exchange and receipt of financial information.

In 2012, the G20’s Base Erosion and Profit Shifting project was entrusted to the OECD. The first step was to define 15 Actions for study and, over the next two years, turn them into a programme for change that could be endorsed both by the G20 and then more widely. The BEPS project is now owned by the Inclusive Framework – some 139 countries and jurisdictions, which have committed to implement the Actions. The key intention is that profits should be taxed where the physical activities take place – and that taxable profits should not be eroded by excessive finance costs. There is also a beefed-up process for tax authorities to reach agreement on their slice of a multinational’s profits and a multilateral convention to override existing double tax treaties. There is support for developing countries with the flagship initiative Tax Inspectors Without Borders, which brings tax officials from major administrations to support those in developing countries.

More recently, the allocation of corporate profits in the digital era has come to the fore, with substantial work on Pillar 1 (the allocation of part of the profits based on digital activity) and Pillar 2 (setting a global minimum tax of 15%).

The recent focus has also turned to climate change, and the impact of carbon taxes/carbon pricing. The Inclusive Framework on Carbon Mitigation Approaches (IFCMA) was launched at the 2022 OECD Ministerial Council Meeting.

Pascal Saint-Amans has presided over a huge agenda of international tax change, where significant results have been achieved by consensus, which has required all his imagination and diplomacy, as well as of OECD officials.

He has written a book *Paradis fiscaux: Comment on a changé le cours de l’histoire (Tax Havens: how we changed the course of history)* about his work at the OECD. He promises there will soon be an English edition (see tinyurl.com/bdzmb435).

Pascal was awarded the Officier de l’Ordre du Mérite by France in 2023. Today he is a Professor of Law at Lausanne University, a Non-Resident Fellow at Bruegel (a European think tank based in Brussels) and a partner in Brunswick.

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Profile: Bill is the outgoing Tax Director of the Office of Tax Simplification and Editor in Chief of Tax Adviser magazine. He is a past president of the Chartered Institute of Taxation and was formerly head of tax policy at Deloitte. He is a member of the GAAR Advisory Panel. Bill writes in a personal capacity.

New pensions tax rules
The ‘ghost’ of the lifetime allowance?

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While the new pension tax rules have relaxed the annual allowance limits and abolished the lifetime allowance charge, there are still a number of potential traps for the unwary.

by Rhys Thomas

Key Points

What is the issue?
The annual allowance limits have been relaxed, but all the old complexities remain.

What does it mean for me?
Whilst the lifetime allowance charge has been abolished, the tax treatment of ‘lifetime allowance excess’ pension scheme funds has not been completely aligned with that of funds within the lifetime allowance. Individuals should also consider whether a lifetime allowance charge could be re-introduced by a future government.

What can I take away?
The recent pensions tax reforms substantially increase the opportunities for making pension scheme savings. However, careful planning as to the amount and timing of both pension scheme contributions and distributions will be essential.

Since April 2006, contributions to and distributions from UK registered pension schemes have been subject to a series of tax exemptions, ‘normal’ tax charges and ‘special’ tax charges.

Contributions to a registered pension scheme:

- Contributions are normally fully exempted or relieved from UK income tax. Employer contributions, including any made by salary sacrifice, are not liable to national insurance contributions. Personal contributions are not deductible for NIC purposes, though.
- Contributions to a scheme that operates on a defined contribution basis are ‘tested’ against the relevant individual’s available annual allowance. If the registered pension scheme operates on a defined benefit basis, the benefit accrual during the tax year (as measured on a prescribed statutory basis) is tested instead. The annual allowance charge is imposed on any excess at the individual’s marginal tax rate.

Distributions from a registered pension scheme:

- Distributions are tax-free up to a certain amount (normally 25% of the total benefits value). They are thereafter subject to income tax.
- Prior to 6 April 2023, the lifetime allowance charge was imposed on any lifetime allowance excess. Depending on the precise circumstances, such excess was subject either to the charge at 25% plus income tax, or solely to the charge at 55%.

There are many thousands of different possible annual allowance and lifetime allowance figures, due to the impact of the annual allowance tapering-down and carry-forward rules, the various lifetime allowance ‘protections’ and the impact of previous withdrawals on an individual’s available lifetime allowance.

In the 2023 Spring Budget, it was announced that with effect from 6 April 2023 the following changes would be made (and the necessary provisions have been inserted in the Finance (No. 2) Bill 2023):

- The annual allowance rules are to be somewhat relaxed (although not made any simpler).
- The lifetime allowance charge is to be abolished altogether. All distributions (in excess of the 25% tax-free amount) will in future normally be subject only to income tax.

The abolition of the lifetime allowance charge is potentially beneficial to individuals with substantial pension fund schemes, as it means that any lifetime allowance charge ‘excess’ benefits will now only be subject to income tax (not penal tax). It should also be somewhat easier to work out how much money should be paid into a registered pension scheme. Previously – even where there was clearly sufficient 'annual allowance headroom' – the uncertainty as to future investment returns meant that it was impossible to predict the extent to which the ultimate distributions might exceed the lifetime allowance and therefore be taxed at much higher rates.

However, a future government might reintroduce the lifetime allowance charge – and the 'ghost' of the lifetime allowance' is also evident in other ways.

The annual allowance: where are we now?

Three key changes have been made to the annual allowance rules; namely:

- The standard annual allowance has been increased from £40,000 to £60,000.
- The level of adjusted income (essentially, UK taxable income plus employer pension contributions) at which annual allowance tapering-down starts to apply has been increased from £240,000 to £260,000. (This is provided also that threshold income – essentially, UK taxable income plus, in certain circumstances, salary sacrifice pension contributions but minus any personal pension contributions – exceeds £200,000.)
- Irrespective of an individual's adjusted income level, the annual allowance cannot now be reduced below £10,000 (previously this was £4,000). (Certain types of withdrawals from a registered pension scheme operating on a defined contribution basis are capable of permanently reducing an individual's annual allowance to the money purchase annual allowance level. This has also been increased from £4,000 to £10,000.)

However, no fundamental changes have been made to the way in which annual allowance testing applies. All the old annual allowance rules – including the complex tapering-down and carry-forward provisions – continue to apply.

As previously, not only can it be quite complicated to calculate an individual's available annual allowance, but it can also often be difficult to know until the end of the tax year to what extent an individual will be impacted by tapering-down. This is due, for example, to the impact of uncertain levels of year-end bonuses or self-employment income.

Furthermore, a salary increase can easily push a member of an employer-run defined contribution scheme with salary-related contribution levels into 'annual allowance excess' territory. Defined benefit scheme members can be especially vulnerable, as their salary increases will normally increase the level not only of their current but also of their past benefit accruals. All such increases are subject to annual allowance testing.

The increase in the various annual allowance limits, however, may make it attractive for some individuals to increase their pension contribution levels – particularly via a NIC exempt salary sacrifice arrangement. However, the precise circumstances must always be considered. In certain cases, for example, making salary sacrifice (rather than personal) contributions may result in an individual's personal allowance being tapered down.

Tax treatment of distributions: where are we now?

Notwithstanding the abolition of the lifetime allowance charge, traps remain for the unwary. A big distribution from a registered pension scheme can easily 'push' an individual into a higher tax band and could, for example, result in a basic rate (20%) taxpayer being taxed at 40% on most of the distribution. However, by 'spreading' distributions over a number of tax years, an individual can often ensure that they are taxed at lower tax rates. Sometimes a series of small distributions may even be entirely covered by the individual's personal allowance.

The lifetime allowance charge, by contrast, was imposed at fixed rates and applicable even where a distribution was entirely covered by the relevant individual's personal allowance. Furthermore, lifetime allowance testing was normally applied to all remaining defined contribution pension scheme funds when the individual reached age 75.

The government has announced that the lifetime allowance itself is to be abolished with effect from 6 April 2024. The precise implications of this are not yet quite clear. For example, how will serious ill-health lump sums taken before age 75 – currently tax-free only insofar as they do not exceed the lifetime allowance – be impacted?

The Labour Party, meanwhile, has announced its intention to re-introduce the lifetime allowance charge if it wins the next general election. Whilst we can't know what may happen in the future, individuals with pension scheme funds exceeding their available lifetime allowance who have reached the normal minimum pension age (currently 55) may wish to consider whether to take full withdrawals before then. Do bear in mind, though, the potential risk of such withdrawals pushing individuals into a higher tax band, the resulting loss in future tax-free investment returns and the increased inheritance tax exposure (see below).

In the case of an individual with a 'lifetime allowance excess' pension fund, the tax-free cash facility continues to be restricted to 25% of the lifetime allowance. As the standard lifetime allowance is £1,073,100, normally the maximum amount of tax-free cash in such cases will therefore be £268,275. It currently appears that this limit may be frozen indefinitely. However, the abolition of the lifetime allowance charge should enable individuals with *enhanced* or *fixed* lifetime allowance protections applied for before 15 March 2023 to start making additional pension contributions if they wish to top-up their pensions savings but still retain their enhanced lifetime allowance levels and corresponding tax-free cash entitlements. Previously, such individuals would have lost their enhanced lifetime allowance levels by making further pension contributions .

The international angle

Registered pension scheme

Annual allowance testing continues to be applicable to registered pension scheme members working abroad – even though normally they won't receive any UK income tax relief (sometimes not even local tax relief) on their contributions. The annual allowance tapering-down rules also fully apply to such persons (although, in practice, their UK taxable income is unlikely to be sufficiently high for them to be impacted by this).

The increase of the standard annual allowance from £40,000 to £60,000 should mean that, in a few years' time (assuming the annual allowance legislation is not amended again), an individual returning to the UK from abroad will, after exhausting their annual allowance headroom in the tax year of return, potentially also be able to contribute up to a further £180,000 by virtue of the carry-forward rules.

However, any personal (as opposed to employer) contributions made in the tax year of return will only be eligible for UK income tax relief if and insofar as the individual has matching UK taxable remuneration in that tax year. (This is a key consideration for individuals – even high-earnings ones – who only return to the UK towards the end of the year).

The abolition of the lifetime allowance charge is, potentially, especially beneficial to non-UK resident individuals. Whilst the provisions of a double tax treaty between the UK and the member's country of residence may well remove the UK's income taxing rights, the lifetime allowance charge (being a 'special' tax charge) has always been applicable notwithstanding the double tax treaty position.

Non-UK pension plans

Annual allowance testing will also continue to be applicable where UK income tax exempted or relieved contributions are made by or in respect of an individual working in the UK to a non-UK pension plan.

Annual allowance testing operates in broadly the same way as for a registered pension scheme but subject to the special rules applicable to non-UK pension plans. (In certain circumstances, only a portion of the contributions will be subject to annual allowance testing – and with somewhat different carry-forward rules.)

It should not, however, be assumed that the pensions tax rules will always operate in relation to non-UK pension plans in a more generous manner. In particular, special UK statutory rules – whereby 'lifetime allowance excess' distributions from non-UK pension plans can in certain circumstances be classified as unauthorised payments – could sometimes result in penal UK tax charges being imposed on such distributions, notwithstanding the abolition of the lifetime allowance charge.

> **Notwithstanding the abolition of the lifetime allowance charge, traps remain for the unwary.**

Death planning

Registered pension schemes have long enjoyed a near total exemption from inheritance tax. Indeed, the scope of this exemption has been extended in recent years, as an omission by a seriously ill person to withdraw monies from a registered pension scheme can now no longer potentially give rise to an inheritance tax charge.

Previously, the idea of using a registered pension scheme as an inheritance tax shelter was made considerably less attractive by the fact that, although most post-death distributions were not subject to the lifetime allowance charge, the charge could not usually be avoided.

In particular, all remaining defined contribution 'lifetime allowance excess' pension funds would normally be subject to a 25% lifetime allowance charge liability on reaching age 75. Typically, this would have been deducted from the pension fund, reducing future benefits.

An individual might, therefore, now consider not taking any registered pension scheme withdrawals during their lifetime, as no tax charges should then arise either before or on death. Any post-death distributions will, however, normally be subject to income tax at the recipient's marginal tax rate. Inheritance tax will not apply where the fund is, for example, covered by the individual's nil rate band or spouse exemption.

In certain circumstances (for example, where the intended beneficiaries are non-UK resident, living in countries where double tax treaties remove the UK's taxing rights) the abolition of the lifetime allowance charge could make such death planning attractive. However, individuals under the age of 75 should be mindful of the possibility of the lifetime allowance charge being re-introduced.

It is also important to remember that where an employee (aged under 75) dies, any post-death lump sum payment under a registered pension scheme (either a 'normal' pension scheme or a 'standalone' scheme providing only death benefits) is now to be subject to income tax (previously the lifetime allowance charge) if and insofar as exceeding the deceased employee's available lifetime allowance. This is another instance of the continued relevance of the lifetime allowance.

Excepted group life policies should therefore continue to be a potentially attractive way for employers to provide employee life cover – as any post-death lump sum payment under such a policy will normally be completely tax-free.

Other reforms

The Finance (No.2) Bill 2023 also makes certain other pensions tax reforms. In particular, low earning employees who make personal contributions to an employer-run pension scheme were sometimes previously unable to obtain income tax relief on such contributions – as under a net pay arrangement (operated by most employers) such relief is given by way of a PAYE reduction.

A non-taxpaying employee (whose income is fully covered by the personal allowance) was therefore previously unable to benefit, as PAYE would not have been applicable in any event. As from 6 April 2024, however, such individuals will receive a special 'relief payment' from HMRC, subject to making a claim.

Final thoughts

The recent pensions tax reforms substantially increase the opportunities for making pension scheme savings, but the old complexities surrounding the annual allowance rules remain. Individuals may also need to consider the impact of a future government reintroducing the lifetime allowance charge and the other ways in which the lifetime allowance contines to be relevant. Careful thought as to the amount and timing of both pension scheme contributions and distributions will be essential.

Note: This article covers pension tax issues. It does not constitute financial advice, which may only be given by an authorised financial advisor.

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Challenges for charities

Some common questions

We provide answers to some common VAT questions asked by charity trustees.

by Neil Warren

Our charity is not registered for VAT but the total income is close to the annual £85,000 threshold. Do charities get special treatment with this threshold?

As far as VAT is concerned, charities do not get special treatment but they can benefit from certain concessions in the legislation. However, when it comes to registering for VAT, a charity or not-for-profit entity must follow the same rules as a commercial business; i.e. it must register once its taxable sales have exceeded £85,000 in any rolling 12-month period or will exceed £85,000 in the next 30 days.

Your main challenge is to analyse all sources of income and identify those that are not 'taxable'; i.e. the income is either exempt from or outside the scope of VAT. These sources of income are ignored as far as the threshold is concerned.

For example, donations, legacies and most grant income are outside the scope of VAT. Income from fundraising events is exempt. However, you must include sales of donated goods – such as from a high street shop – because they are zero-rated.

You say that a charity can ignore most grant income from the registration test. Are there some grants that must be included in the calculations because they are subject to VAT?

There are some grants where a charity is being paid for supplying goods or services as a condition of getting the grant. If these supplies are taxable, they must be included.

For example, I encountered a situation several years ago where a charity received a grant from a local council but a condition of the funding was that the charity's staff had to unlock and lock the public toilets next to its premises each day. This payment relates to a supply of VATable services.

A useful strategy is to check grant and funding agreements to see if there are references to performance indicators, targets, service agreements, and so on.

If a charity is registered for VAT and charges VAT on its grants because they are taxable, does that mean it can claim more input tax on its expenses?

Yes. There was a well-publicised tribunal case many years ago – *Bath Festivals Trust* [2008] UKVAT 20840 – which related to a charity that organised an annual music festival on behalf of the local council. The charity received grants from the council for its work promoting the event and charged VAT.

This was an unusual situation because HMRC claimed that the income should be outside the scope of VAT rather than standard rated – it usually challenges the reverse outcome! The reason was because the charity claimed input tax on its costs and overheads on the basis that they related to taxable sales. However, the charity won the case; the grant income was subject to VAT.

As a separate issue, VAT charged to local authorities is not usually a problem because they can reclaim it from HMRC with a 'section 33' claim. The legislation in Value Added Tax Act (VATA) 1994 s 33 gives local authorities the right to recover VAT on expenses that relate to their non-business activities.

Our charity is registered for VAT and has organised a fundraising dinner, with ticket sales exceeding £10,000. Are these sales subject to VAT?

This question is very topical because a recent case has been heard in the First-tier Tribunal about whether fees charged by

Key Points

What is the issue?
Charities benefit from certain concessions in the legislation but do not get special treatment. For example, they will not pay VAT on their advertising expenses and only 5% VAT on fuel costs for their premises.

What does it mean for me?
If a charity is not registered for VAT, it is important to regularly check that taxable sales are less than £85,000 on a rolling 12-month basis. Trustees must be clear about which sources of income qualify as exempt or outside the scope of VAT and are therefore excluded from the calculations.

What can I take away?
Input tax can only be claimed if an expense directly relates to VATable supplies. It might be worthwhile reviewing the methods adopted by your charity clients to exclude VAT incurred on costs relevant to both non-business and exempt activities to ensure that the calculations are fair and accurate.

BUSINESS OR NON-BUSINESS: TWO NEW TESTS

Test 1: Does the activity result in goods or services being supplied for a consideration (i.e. a payment)? A legal relationship must exist between the buyer and seller.
Test 2: Is the remuneration earned from the activity obtained for the purpose of receiving income?

If the answer to test 1 is 'no', the activity or income is non-business and there is no need to consider test 2. HMRC's VAT Business/Non-Business Manual has been updated to give further guidance on the revised policy (see VBNB30200 to VBNB30400).

ANIMAL CHARITY: VAT ON PROPERTY RENT

Animal Charity rents a building for £30,000 per quarter excluding VAT. The landlord has made an option to tax election on the building so wants to add £6,000 VAT to each invoice. The charity uses the building as follows:

- The ground floor is used as a shop to raise funds by selling donated goods.
- The first floor is used to give care and treatment to stray cats and dogs.
- The second floor is used for head office type functions of the charity; e.g. accounting, human resources, property management.

The first-floor rent will be exempt from VAT, despite the option to tax election. An easy calculation would be for the landlord to charge VAT on two-thirds of the total rent – based on a simple square footage split of two floors being taxable and one being exempt; i.e. £30,000 plus VAT of £4,000 (see HMRC Notice 742A para 3.5).

Note: There is no official form to complete to benefit from this concession but the landlord should be advised of the usage split in writing, with the letter signed by a senior member of the charity; e.g. a trustee.

the Yorkshire Agricultural Society for admission to its annual Great Yorkshire Show qualified as exempt income from a fundraising event (*Yorkshire Agricultural Society v HMRC* [2023] UKFTT 389).

To qualify as a fundraiser, an event must meet three conditions, as specified in VATA 1994 Sch 9 Group 5 Item 1:

- It must be organised by a charity or not-for-profit organisation for a charitable purpose.
- Its primary purpose must be to raise money.
- It must be promoted as being primarily for raising funds.

HMRC argued that the 'primary purpose' of the Great Yorkshire Show was 'to promote farming in the community' and not to raise money. However, the judge decided that the wording of the legislation referred to 'whose primary purpose' and therefore accepted that '***a*** primary purpose' had to be the raising of funds rather than '***the*** primary purpose.'

There was a secondary issue: HMRC did not like the reference to the publicity material as an event which will 'raise funds' as opposed to being a 'fundraising event.' This might seem over fussy but charities must ensure that all three conditions are fully met to prevent a later challenge from HMRC. If they are not met, the £10,000 income from ticket sales will be taxable.

Can a charity that is registered for VAT fully claim input tax on all its expenses?
Unfortunately not. A charity can only claim input tax if an expense has a 'direct and immediate' link to a taxable supply; i.e. a supply where it charges either 0%, 5% or 20% VAT. As an opening challenge, a charity must do a business/non-business split of its expenses; i.e. exclude VAT on all costs that relate to non-business or charitable activities. In most cases, this will be straightforward but there will be some expenses, such as telephone bills, where there will be a dual purpose and the VAT must be apportioned. The calculation method must be fair and reasonable; no specific method is prescribed in law.

Once a charity has identified the 'business VAT' on its expenses, can it be fully claimed on a VAT return as input tax?
Many charities have exempt income, such as the fundraising events mentioned above. They must therefore carry out a separate input tax split between exempt input tax (not claimable) and taxable input tax (claimable). A charity must use the standard method of calculation for partial exemption purposes to calculate how much input tax can be claimed. Alternatively, it could apply to HMRC to request a special method if the standard

method produces an unfair result (see HMRC Notice 706 s 4).

Our charity has some activities where we charge a token fee for our services, which in most cases does not cover our costs. Will these activities be classed as business or non-business?
HMRC changed its policy last year about the approach that a charity or similar entity should adopt to determine if an activity is classed as business and therefore the income is subject to VAT. HMRC issued Revenue and Customs Brief 10 (2022) after considering the binding views of judges in two well-publicised tribunal cases:

- *Wakefield College* [2018] EWCA Civ 952; and
- *Longridge on the Thames* [2016] EWCA Civ 930.

There has been no change in the law. Instead, the Brief explains how HMRC will now approach the question of whether an activity or supply is business or otherwise. See ***Business or non-business: Two new tests.***

What are the special VAT concessions for charities that you mentioned earlier?
To give a practical example, charities are not charged VAT on supplies of advertising. They must give the supplier proof of their charitable status and the supplier will then zero-rate their services (see VATA 1994 Sch 8 Group 15 Item 8).

Another important concession is that a landlord who has opted to tax their building will not charge VAT on rent to a charity if it only uses a building for its charitable activities, other than as an office. If a building is partly used for charitable activities and partly for business purposes – which are carried out in clearly defined areas – the landlord should apportion the VAT. See ***Animal Charity: VAT on property rent.***

What about VAT on the fuel bills for charity premises?
Supplies of gas and electricity to a charity for non-business purposes are subject to 5% VAT when charged by the fuel supplier. If a building is partly used for charitable purposes and partly for business purposes – such as the building used by Animal Charity – the following outcome is relevant:

- The charity must certify to the fuel supplier the proportion of the building that qualifies for the reduced VAT charge; i.e. based on its non-business use.
- If the qualifying part of the building exceeds 60% of the total building use, the entire supply of fuel and power will be subject to 5% VAT. (See HMRC Notice 701/19 s 3.)

Are there any final tips you can give?
Some of the concessions that are available to charities do not apply to their trading subsidiaries, however, even if these subsidiaries are wholly owned by the charity and gift their trading surplus to the charity.

For example, the zero-rating concession for advertising expenses is not available to a subsidiary but there is no problem with the exemption for fundraising events.

Finally, a charity can register for VAT on a voluntary basis if the mix of income means it will save VAT by reclaiming input tax; e.g. if there are many zero-rated sales. However, the additional compliance costs – such as the need to complete digital accounting records and send returns electronically to HMRC – must be fully considered.

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The pensions dashboard

Yet more delays...

What impact will the continuing delays to the pensions dashboard have on savers?

by Ian Bell

The pensions dashboard is the largest digital transformation project that the pensions industry has ever attempted: the creation of a digital platform consolidating the pension information of every individual in the UK.

The primary aim of the pensions dashboard is to provide individuals with a comprehensive and easily accessible overview of their pension savings. Over their working life, and increasingly since the introduction of auto enrolment in 2012, many people accumulate multiple pension schemes throughout their career, making it difficult to track and manage their retirement funds effectively. According to the Pensions Policy Institute, around £26.6 million is currently sitting in lost pension pots in the UK. The dashboard project aims to address this by allowing users to view their pensions from various providers in one place, offering a consolidated and holistic understanding of their retirement savings.

The concept of a pensions dashboard was initially introduced in 2016 as part of the Financial Advice Market Review and the wider Pension Freedoms reforms. The government has continued to support the initiative, recognising its potential to enhance pension awareness and engagement among the population. The recent announcement of further implementation delays until October 2026 is disappointing, but understandable given the scale and importance of the project.

The rationale behind the dashboard

Once launched, the pensions dashboard is expected to deliver several significant benefits. Firstly, it aims to empower individuals to make informed decisions about their retirement savings by providing a clear picture of all their pension pots. Users will have access to details on contributions, investment performance, projected retirement income and other relevant information, helping with better financial and tax planning.

It is also hoped that the dashboard will encourage greater engagement with pension planning. By providing enhanced transparency and visibility of pension information, individuals can take an active interest in their savings, leading to improved financial literacy and more effective retirement and tax planning. This increased awareness can prompt adjustments to pension contributions or investment strategies, helping pension holders to align their savings with their retirement goals. However, its implementation has faced significant problems.

Pension industry challenges

Several years on, one of the primary challenges continues to be the complexity of integrating data from various pension providers, each with their own systems and data formats. Ensuring data accuracy, privacy and security across multiple platforms poses a formidable technical challenge. Furthermore, obtaining the necessary cooperation and commitment from pension providers has proven time consuming. The pension industry comprises numerous stakeholders, including pension schemes, insurers and administrators, each with their own priorities and infrastructure. Coordinating these to deliver the required data and functionality for the dashboard project has been a complex undertaking.

Another contributing factor to the delays has been the need to establish robust governance and regulatory frameworks to ensure the security and integrity of the pensions dashboard. With the ever-increasing cyber security threat, protecting sensitive personal and financial information is of paramount importance.

The impact of delays

For individuals looking to understand and plan their pension arrangements, these delays will have implications that may be felt many years down the line. They will continue to face difficulties in obtaining a comprehensive view of their pension savings. This lack of visibility can hinder retirement planning and may lead to suboptimal decision-making regarding contributions or investment choices. This risk may be exacerbated by the current cost of living crisis as individuals opt to save less into pension pots now, without understanding the longer-term impact of this decision.

Dashboard delays also hamper the ability to identify and address any discrepancies or issues with pension records promptly. Without a centralised platform to review pension information, pension holders may encounter challenges in rectifying errors, updating personal details, or consolidating multiple pensions.

While the delays are disappointing, it's essential to note that much progress has already been made by the pensions industry and there is continued cross-party support for the project. Significant time has already been invested to address the technical and coordination challenges, as well as establish robust governance frameworks. Once these hurdles are overcome, the pensions dashboard holds the potential to revolutionise pension management for millions of individuals, offering a more transparent, accessible and user-friendly approach to retirement planning. The risk with the new 2026 implementation deadline is that the project becomes a lower priority until the new deadline looms closer.

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UK imports and exports
The impact of Brexit

Leaving the EU has had a significant impact on UK trade in terms of both imports and exports. Two and a half years later, we examine the key points from a trade perspective.

by David Miller

HMRC estimated that the number of businesses importing or exporting would rise from 250,000 prior to Brexit to 400,000 afterwards. This means that there are an estimated 150,000 businesses which traded internationally with the EU but which had little or no experience in customs formalities before 1 January 2021. A combination of factors has meant that HMRC has taken a largely 'light touch' approach in respect of undertaking customs audits since Brexit, although it has said this will change.

Maybe unsurprisingly, many businesses have been focused on ensuring that their goods moved, despite the many challenges Brexit has presented. Brexit has been seen as 'the British disease', so EU customers and suppliers have expected (and still expect) UK business to take the brunt of the pain caused by it.

HMRC expects that any business engaged in imports and exports should know what they are doing and be 'customs competent'. There may have been a disconnect between this expectation and how many businesses have approached importing and exporting post-Brexit.

The rules on customs can be complex and the plethora of trade deals that the UK has entered into do not make matters easier. And whilst the UK has a trade deal with the EU, it is by no means without complexity, as we shall explore below.

Even where a business uses a clearance agent – whether a courier company, a transport or logistics company or a specialist freight forwarder – it is the importer or exporter's responsibility legally to ensure that their declarations are correct.

Key Points

What is the issue?
HMRC expects that any business engaged in imports and exports should know what they are doing and be 'customs competent'. There may have been a disconnect between this expectation and how many businesses have approached importing and exporting post-Brexit.

What does it mean for me?
The rules on customs can be complex and the plethora of trade deals that the UK has entered into do not make matters easier.

What can I take away?
Do not leave things to chance, be proactive and understand what you're doing. HMRC works on the basis that if you import and export you should know the rules before doing so.

The responsibilities of importers and exporters

Working on the basis that compliance and opportunities go hand in hand, we will first examine what responsibilities importers and exporters have when moving goods into and out of the UK.

Generally, no goods will flow without customs declarations being lodged, usually in advance of shipments arriving at a port. Also, businesses must understand the customs specific information that is required to be given on a declaration, as set out below.

Commodity codes

Commodity codes are also known as harmonised system (HS) codes or tariff codes.

An importer needs to declare what goods are being imported and what commodity code applies to those goods. This is important as these codes determine the rate of duty that is payable at import. It is the importer's responsibility that these codes are correct.

A common approach is to rely on the information provided by the supplier. However, it still falls on the UK business to ensure that the code is correct. Do not fall into the trap of blindly accepting that a supplier is correct as this has no binding effect in the UK.

Be aware that specific rules determine which code applies, including for those goods which don't have an 'obvious' code. This is particularly important when an item can on face value be classified under different codes which attract different duty rates.

Some goods, such as garments, have specific codes making the classification more straightforward. However, ceramic flower pots don't have a specific commodity code. They can be classified either as 'ceramic ornamental articles' or 'miscellaneous ceramic articles', depending on whether they are for ornamental purposes or for practical purposes. Either code could be correct, depending on use. This illustrates that classification is not straightforward, even if HMRC expects an importer to be able to classify correctly.

Assistance is available from HMRC, which provides both 'binding' and non-binding rulings. Consultancy firms can also provide assistance without necessarily referring to HMRC. Getting the commodity codes wrong can be costly, so take advice if you are unsure.

Declaring the correct 'customs value'

All imports and exports must have a declared customs value. This is based on the value of the goods plus the cost of freight to get the goods to the UK, as well as any insurance paid to insure the movement of the goods. Again, this is important as it determines the amount of duty and import VAT which is due.

Whilst the value of the goods will usually be the purchase price paid to buy the goods, there are specific rules around additional charges which have to be included in this value. For example, any royalties payable or anything else paid as a condition of purchasing the goods are included in the customs value. Getting the value wrong can be costly. HMRC can and does assess for underpaid duty, VAT and penalties (which can be significant).

Furthermore, it is a common misnomer that if there is no purchase then a zero value can be declared. This is not the case. For example, where items are moved around temporarily, a value still needs to be assigned to the goods and there are worldwide recognised principles that must be considered and adopted before shipments occur.

Customs valuation can be complex, especially if the goods moving are not being purchased or sold. A business should be aware of the rules and take advice as required, either from HMRC using its new 'Advance Valuation Service' or via a consultant.

Claiming a preferential rate of duty

In addition to compliance, there are also measures which allow duty and VAT to be reduced or relieved. This includes claiming a preferential rate of duty; for example, under a trade deal.

The most common trade deal is the UK/EU Trade Co-operation Agreement. The relevance of this trade deal is that any goods imported into the UK from the EU which are of 'EU origin' will generally attract a 0% duty rate rather than the full duty rate.

For example, if a UK importer bought men's T-shirts from an EU supplier and they had been manufactured in the EU, then 0% duty is payable. However, T-shirts manufactured in China would bear a 12% duty rate even when they are purchased from an EU supplier.

Somewhat bizarrely, if the T-shirts originated in, say, Bangladesh – where both the UK and EU have a trade deal – but were imported via the EU, duty will usually be payable since free trade deals rely on direct shipments.

So beware, as all trade deals are based on the goods traded between the parties meeting origin rules. In the case of the UK/EU deal, the goods must be of EU origin when imported from the EU or of UK origin if exported to the EU.

What does origin mean?

Origin is important since it means that:

- a product was either wholly manufactured in the country or territory in question; or
- it has gone through 'sufficient' processing to render the goods as having been manufactured in that country.

The first common mistake is that just because goods are purchased from the EU, they originate there. As detailed above, finished goods imported into the UK from the EU but manufactured in China will bear the duty rate as if the goods were bought direct from China. This only changes if the EU supplier has undertaken 'sufficient' processing in the EU to change the origin.

Origin rules are complicated under any trade deal. Before placing purchase orders from overseas suppliers, it is worth investigating whether a trade deal exists with that country. Also, ask whether the overseas supplier can provide a document showing that the origin is their country. This is important as a document proving origin must be presented to UK customs so the reduced duty rate can be paid.

In the case of the EU, this document is a 'statement on origin' declaration, which can be made on the supplier's invoice. However, a further complication is that for such a declaration to be valid for consignments exceeding €5,400 in value, the EU supplier has to be registered with their local Customs and obtain a Registered Exporter System (REX) number.

A further consideration is that UK exporters which export to the EU can declare origin without having to be authorised. The process to state that goods are of UK origin is therefore easy; however, the same rules apply in terms of whether or not the goods are of UK origin.

Any business exporting goods – and especially to the EU – should not state that something is of UK origin unless the following issues have been considered.

1. Sufficient processing has been undertaken in the UK

A list of what is deemed 'insufficient processing' is set out in Article 43 of the UK/EU Trade Co-operation Agreement. Consider a UK business that imported combs from the United States, stamped their logo onto the combs and re-exported them to the EU, stating the combs were of UK origin. This statement is false since minor processing such as repackaging or stamping a logo are specifically listed as 'insufficient' to change origin.

The use of components or materials

The business must have considered the detailed rules around the use of components or materials used in manufacturing, where that material is not sourced from either the UK or the country the trade deal is with. Although trade deals do allow the use of non-UK material in the manufacturing process, there are complex rules to determine whether UK origin can still apply if, for example, Chinese components are used in the manufacturing process.

In short, the message here is:

- If you wish to claim reduced rates of duty under trade deals, ensure you establish the rules for doing so.
- Ensure you can get the correct paperwork.
- If you are asked to declare UK origin, make sure you understand what this means, as there are penalties for misdeclarations.

Planning: Avoiding double duty

Effective planning is required where a UK business imports finished goods which are going to be sold in both the UK and overseas markets. One of the less palatable elements of Brexit is the ability for UK distributors to be impacted by 'double duty'. For example, a UK business which imports finished goods from China for distribution will pay duty in the UK. For goods sent overseas, duty will also be payable on import into the destination country since the goods won't have UK origin.

Unless stock bound for the destination country can be sent directly there (which isn't always possible logistically or for reasons of cost), the way round the 'double duty' position is to utilise a customs warehouse (commonly known as a bonded warehouse) whereby duty and VAT are not paid in the UK at all.

This could involve using a public customs warehouse. Alternatively, many UK businesses have set up their own customs warehouse. Whilst this is an added complication, the benefit is that duty is not unnecessarily paid in the UK.

Planning: Exports

Many businesses that export to EU customers are having to consider their business model. Some customers are pulling back from purchasing from the UK as they do not wish to import goods, while the UK business wants to ensure that it remains competitive.

UK businesses can supply on a delivered duty paid (DDP) basis. This is a delivery agreement whereby the seller assumes all of the responsibility, risk and costs associated with transporting goods until the buyer receives or transfers them at the destination port. However, there a wide range of factors to consider including:

- **Understanding who does what:** Have a clear strategy and take advice. You must communicate with customers as to who does what and why.
- **Strategic shipping:** Be clear the route by which you will ship your goods and and where to customs clear. You don't want to end up having to customs clear in multiple EU countries. Working with shipping companies that specialise in post Brexit shipping is key.
- **VAT registration:** If you supply DDP, you may have to become VAT registered in the EU but easements are available.

Exporting should not be discouraged and whilst more complex post Brexit, planning is key.

Customs reliefs

As well as using a customs warehouse, a number of customs reliefs are available – all of which have conditions that must be followed. In brief, these include:

Returned goods relief: This relief allows duty and vat relief on goods which:

- are UK customs status goods;
- have been exported from the UK within the last three years; and
- are being returned in an unaltered state.

If returned goods relief is not used, duty and VAT are payable on returning UK goods.

Outward processing relief: This is a relief which allows duty and VAT relief on goods which:

- are UK status goods; and
- have been exported from the UK for processing or repair and are now being returned.

Although duty and VAT are potentially due on the processing charges, if this relief is not used then duty and VAT are payable on the value of the returning UK goods as well. It should be noted that many businesses inadvertently use outward processing by only declaring the processing charges at import. However, this is legally incorrect and lays businesses open to assessments for using outward processing without authorisation.

Inward processing relief: This is a relief of both duty and import VAT on goods imported, which are processed or repaired and then returned re-exported. Its benefit includes where a business does not own goods imported for processing as it avoids an irrecoverable VAT loss given that under the VAT rules, import VAT ***cannot*** be claimed back if the importer does not own the goods.

Both inward process relief and outward processing relief can be claimed at import but this is limited to three times per year. Also, a deposit will be taken to cover the VAT and duty payable so full authorisation is worth consideration.

Temporary admission: In addition, there are a number of scenarios (around 30) where goods can be imported temporarily with duty and VAT relief.

The advice for looking at using any customs reliefs is to do your research, take advice as appropriate and ensure that clear instructions are given to clearance agents.

Postponed VAT

In addition to customs reliefs, one Brexit 'positive' is the availability of postponed VAT accounting. Under this, rather than physically paying import VAT to HMRC, it can be accounted for by being declared and, where allowable, recovered on a business's VAT return. This is a cash flow positive step and doesn't require prior approval to use. However, the business does need to ensure it declares the postponed VAT accounting is shown on its postponed VAT accounting statements that HMRC generates monthly.

Key messages

The main messages are not to leave things to chance, be proactive and understand what you're doing. HMRC works on the basis that if you import and export you should know the rules before doing so.

Help is available from:

- HMRC (online): There is a wealth of literature, though this can sometimes be confusing and requires you to know exactly what you're looking for.
- Business organisations: such as Chambers of Commerce and the Institute of Export.
- Customs consultancy firms: These firms exist to assist UK businesses not just be compliant but also maximise planning opportunities. These firms will also represent you in dealings with HMRC.
- Freight forwarders: Although they may be more focused on getting goods cleared quickly than providing planning advice.

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A taxing mistake? The risk of being knowingly wrong

We consider the limits of setting aside transactions on the ground of mistake in the context of artificial tax avoidance schemes.

by Rahim Velji and Klara Kronbergs

Key Points

What is the issue?
The case *Bhaur v Equity First Trustees* considers the limits of the courts' powers when reversing transactions relating to trusts on the equitable ground of mistake.

What does it mean for me?
The decision to refuse the relief where the appellants knowingly entered into a complex tax avoidance arrangement, which then went wrong, makes it clear that the courts have little sympathy for these types of predicaments.

What can I take away?
Mistake cannot be a safety net when you knowingly run the risk of being wrong.

The recent Court of Appeal decision in *Bhaur and others v Equity First Trustees (Nevis) Limited and others* [2023] EWCA Civ 534 is the latest in a long line of cases considering the limits of the courts' powers when reversing transactions relating to trusts on the equitable ground of mistake. This unanimous decision to refuse the relief where the appellants knowingly entered into a complex tax avoidance arrangement, which then went wrong, makes it clear that the courts have little sympathy for these types of predicaments. Further, the more artificial the scheme, the less likely the relief is to apply, even where the outcome for the claimants is potentially financially devastating.

Background

The Bhaur family built a successful property development and rental business over several decades. In 2006, on the advice of Aston Court (a tax advisory business), Mr and Mrs Bhaur entered into an inheritance tax avoidance scheme, marketed to them as an 'Asset Liberation Solution'. This was principally to avoid a charge to inheritance tax on the passing of the property portfolio, then held in the couple's own names, to their sons.

Broadly, the scheme involved setting up an employee benefit trust, a type of trust which must only benefit employees and their families. In principle, an employee benefit trust can benefit from favourable inheritance tax treatment if certain conditions are met. One of these is that both the participators in the close company (here, Safe Investments UK), which disposes of assets to the employee benefit trust, and any persons connected with those participators, must be excluded from benefiting from the trust (save as to income payments).

The scheme relied on the view that once the participators (Mr and Mrs Bhaur) had died, then their children would no longer be considered 'connected' to them and thus in the future could benefit from the employee benefit trust assets free of inheritance tax. As such, family members were classed as employees under the scheme, albeit their ability to benefit from the trust was limited accordingly.

After a complex sequence of transactions, involving various offshore entities – which ultimately amounted to a transfer of the Bhaurs' business assets from Safe Investments UK to a British Virgin Islands trust company, to be held on the trusts of the employee benefit trust – the trustees resolved to distribute £480,000 of income to members of the Bhaur family.

This proposed distribution, in 2017, appears to have been prompted by HMRC starting to investigate various tax schemes promoted by Aston Court. Naturally, the distribution was driven by the trust terms, by which the trust assets had to be applied for the benefit of employees. The relevant family members refused the distributions, as they did not require the funds and the distributions would attract significant tax charges.

Given this refusal, the trustees instead resolved to distribute the remaining trust funds to the default charitable beneficiary of the trust, the NSPCC. Unsurprisingly, the Bhaur family objected and applied to the court for the initial transfer of assets into trust by Safe Investments UK to be set aside on the equitable ground of mistake, thus hoping to effectively unravel the scheme and reclaim the trust assets.

By this stage, HMRC had also challenged the scheme directly, which, if successful, would lead to 'seriously disadvantageous tax consequences' for the Bhaur family, as well as the loss of any inheritance tax reliefs and potentially the wider family fortune via associated costs and penalties.

High Court judgment

Mr and Mrs Bhaur's application was rejected by the High Court in 2021, primarily because the unintended consequences of the scheme did not amount to mistake, but mere misprediction as to the consequences of the scheme.

The High Court held that the test for mistake as set out in *Pitt v Holt* [2013] 2 AC 108 was not met. In brief, the test is that:

i. there is a genuine mistake of a relevant type (and not a mere misprediction: 'a misprediction relates to some possible future event, whereas a legally significant mistake normally relates to some past or present matter of fact or law'); and
ii. the mistake is so serious that it would be unconscionable for the donee to retain the property given to them.

Grounds of appeal

The Bhaur family appealed on four closely related grounds. The three most important grounds considered by the Court of Appeal were that:

1. The appellants did not mispredict the tax consequences of the scheme failing, but rather they made a mistake of the relevant type when entering into the scheme because they thought there would not be 'ruinous' tax charges if the scheme failed.
2. The appellants were mistaken as to their belief in the honesty of Aston Court and relied upon this trust in Aston Court when entering into the transaction.
3. The appellants had a mistaken belief that they would still retain de facto control over the assets put into trust. Their mistake was that they ceded control to 'rogues' rather than trustworthy individuals.

Court of Appeal judgment

On the appellants' first ground, LJ Snowden noted that the distinction between misprediction and mistake can often be very fine, if not outright blurred. Indeed, he noted that the relevant transaction could reasonably be characterised as either: (i) Mr Bhaur making a judgment as to the future likelihood of the scheme succeeding and the potential consequences of failure being limited; or (ii) a mistake as to the legal nature of the transaction and the reversibility of it.

However, he ultimately held that the question of misprediction versus mistake was moot in this case, as relief should not be granted on equitable grounds in any event. This conclusion was specifically reached on the premise that the transaction failed to meet the second limb of the test in *Pitt v Holt*, that it would be unconscionable for the donee to retain the property.

In denying the relief, particular emphasis was placed on the fact that the scheme was entirely artificial (there were initially no non-family employees under the employee benefit trust and there was no reason to employ individuals other than to enable the scheme). Knowing this, the Bhaurs had made a deliberate decision to proceed, cognitive that there was 'a risk of failure and possible adverse consequences … in implementing the scheme Mr and Mrs Bhaur knew there was a risk and decided to take it anyway'. As such, it was not unjust to leave the mistake uncorrected.

On the appellants' second ground (that they were mistaken in their belief as to the honesty of Aston Court), LJ Snowden did not consider that to be the 'type of mistake which can possibly justify setting aside a gratuitous disposal in favour of a third party donee who has no knowledge of the dishonesty'. The mistake was not of a relevant type as it did not go to the root of the transaction; the Bhaurs' belief in Aston Court's honesty was *independent* of any particular transaction. Further, the judge expressed reticence in allowing the setting aside of gratuitous disposals because of negligence as a general policy position.

Third (on the ground regarding the level of control afforded to the Bhaur family), LJ Snowden questioned the relevance of this mistake on causal grounds. The mistake was not concerning the initial disposal by Safe Investments UK, but instead a mistake as to 'what would happen in practice in the future' (the allegation of 'rogue[ish]' behaviour being prompted by the events of 2017). Interestingly, the judge gave weight to the timing of the mistake when determining whether it was a mistake of the relevant type, expressing scepticism that the trustees exercising their powers in 2017 was capable of justifying the setting aside of the transaction ten years earlier.

Concluding points

This unanimous judgment gives further clarity to the position of the courts regarding the limits of the doctrine of mistake and its application in the case of artificial tax avoidance arrangements. While the court is generally willing to set aside transactions on the ground of mistake (even when the main issue concerns the tax implications of the transaction; for example, in the recent case of *Hopes v Burton* [2022] EWHC 2770 (Ch), where a mistake was made as to the 'vanilla' tax consequences of an event), the artificiality of the relevant tax mitigation arrangements is central to whether equitable relief may be granted.

As LJ Snowden stated: 'I fully accept that tax avoidance is not unlawful, but I agree with Lord Walker's observations in *Pitt v Holt* … that artificial tax avoidance is a social evil that puts an unfair burden on the shoulders of those who do not adopt such measures. In my view this is a weighty factor against the grant of any relief.'

Equally damning is entering into such arrangements with your eyes open (even if you cannot foresee the exact outcome): mistake cannot be a safety net when you knowingly run the risk of being wrong.

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Blowing the whistle

Speak up and stop harm

In March 2023, the government announced a review of the UK's whistleblowing framework. What might this mean for whistleblowing and the role that workplace culture can play?

by Elizabeth Gardiner

Key Points

What is the issue?
In March 2023, the government announced a review of the UK's whistleblowing framework. Our current law is 25 years old and is no longer seen as world leading.

What does it mean for me?
Brexit means that the UK is not required to update its whistleblowing laws. However, any organisation trading with the EU would be wise to take note of the very much stricter obligations to have detailed procedures in place.

What can I take away?
It is a myth that whistleblowers are persistent – most will raise a concern only once – so managers have a small window to identify a whistleblowing concern and give assurances.

Rarely a day goes by without a whistleblowing story in the press – from patient safety concerns in hospitals, to fraud in the meat industry to toxic workplaces in the CBI. What many of the cases have in common is that internal whistleblowing processes are not working. Staff working inside these organisations have been too scared to speak up, have spoken up to the wrong person, or have spoken up only to be ignored. That's bad news for the whistleblowers, but it is also very bad news for employers.

Finance professionals should care about whistleblowing. When their organisations get it wrong, there may be an impact on the bottom line. The consequences can be reputational damage or regulatory intervention, with knock-on effects on the confidence of shareholders and investors. There's a human cost to the whistleblower too, which can result in uncapped damages being awarded at an Employment Tribunal.

On the more positive side, there is evidence that staff are even better than internal audit at detecting fraud – and can act as a vital early warning system for employers. Put simply, whistleblowing is good for business.

Protect is the UK's whistleblowing charity and this year we celebrate our 30th anniversary. We see whistleblowing in the round: from the perspective of those trying to speak up to stop harm – the 3,000 whistleblowers who call our confidential legal advice line each year – and from the perspective of businesses that understand the benefits of whistleblowing.

We know that advising whistleblowers is only half the story. Getting workplace cultures right so that whistleblowers can be heard is equally important. We provide businesses across all sizes and sectors with training, consultancy and benchmarking to help them on their journey to best practice.

There are several reasons why it is timely to review the health of your whistleblowing arrangements.

International perspective

First, from an international perspective, most countries across the European Union have now passed laws implementing the EU's Whistleblowing Directive. Brexit means that the UK is not required to update its whistleblowing laws (but, as explained below, it may well do so). Anyone with a trading subsidiary in the EU should look carefully at the new obligations in each country. However, any organisation trading with the EU would be wise to take note of the very much stricter obligations placed on employers to have detailed procedures in place, as well as the sanctions for breaching whistleblower confidentiality. It is only a matter of time before organisations will expect these higher standards from anyone in their supply chain.

UK government proposals

Second, there are political changes afoot. As the latest economic crime bill passes through Parliament, the government plans to introduce a new 'failure to prevent fraud' offence. Any organisation facing prosecution under the new offence will want to argue in their defence that they took all 'reasonable steps'. Effective whistleblowing arrangements should be key here.

In March 2023, the government announced a review of the UK's whistleblowing framework (see bit.ly/44RBJlo). Our existing protections were introduced through the Public Disclosure

Act 1998. They are now 25 years old, and are no longer seen as world leading.

The review will consider:

- whether the framework encourages and protects whistleblowers;
- the benefits of whistleblowing to employers, regulators and others; and
- best practice for responding to whistleblowing disclosures.

At Protect, we're keen to see the law updated – it simply hasn't kept pace with the modern workforce. The 'protections' to whistleblowers are only after-the-event remedies which, due to the complexity of the law, are difficult to obtain. We want many more employers to be required to introduce effective arrangements. Outside of regulated sectors such as financial services, most employers have no legal obligations to introduce even a policy. We'd also like positive steps to prevent whistleblower victimisation.

With an election not too far away, there is limited time to bring forward the primary legislation needed for such reforms. However, some changes could happen quickly, such as extending the definition of 'worker' for whistleblowing purposes to include non-executive directors, charity trustees, self-employed contractors, job applicants and others currently denied a remedy if they are treated badly as a result of whistleblowing. This can be done swiftly through secondary legislation.

Responding to the ESG agenda

The third reason for a review is that the ESG agenda is here to stay. Whistleblowing is a golden thread across all three areas of environment, social and governance.

The climate emergency means new requirements on firms to act in the interests of groups well beyond shareholders and customers. Regulators want transparency in climate-related disclosures and there is a crack-down on 'greenwashing' where claims to be environmentally friendly are overstated or misleading. The Advertising Standards Authority and Competition and Markets Authority have already acted, while the Financial Conduct Authority has consulted on the importance of accurate labelling of investment products. Those working inside organisations are likely to have insight into whether claims can be substantiated, and we should expect to hear more from whistleblowers concerned about greenwashing and wider environmental concerns.

Whistleblowing has always been central to good governance (the 'G' of ESG). It is difficult to imagine how an organisation could claim to have sound governance if it did not have processes for managing risk and heeding staff concerns. Where potentially harmful activities are taking place, it is in the interest of the board and senior team to be aware. Good whistleblowing arrangements enable this vital flow of information, enabling action to be taken early.

Until recently, whistleblowing may not have been seen as crucial to the 'social' element of ESG. However, risks about organisational culture that are not addressed can be a ticking timebomb. Before the #Metoo and Black Lives Matter movements, many issues about harassment, discrimination or bullying in the workplace were simply dealt with as grievances (when they were taken seriously at all). Toxic workplace cultures don't just emerge overnight, and you can be sure that your staff will know where the problems are.

In our experience, having a range of channels outside of line management to raise concerns is helpful.

Whistleblowers who witness others being treated badly can provide vital intelligence that will allow deeper dives to uncover wrongdoing. Organisations that are truly safe for speaking up are likely to be the ones which attract and retain staff and obtain the benefits that come with staff trust.

Getting ahead of the curve

So, what can you do to check that your processes are as good as they can be? At Protect, we work with hundreds of employers who want to have effective whistleblowing arrangements and understand the value of information from their staff. Over the last 30 years, we've gained insight into what makes whistleblowing work.

Having a whistleblowing policy is a necessary, but not sufficient, first step. Make sure that the policy is well-written, easily accessible and widely communicated. Good employers will use a range of channels – from newsletters to one-on-one meetings – to communicate the key messages:

- We want you to speak up.
- It is safe to speak up.
- We'll take action if anyone victimises a whistleblower.

Leaders set the tone, so this message needs to be endorsed by those at the top of an organisation, and by every line manager. Good words need to be backed with clear processes.

In our experience, having a range of channels outside of line management to raise concerns is helpful. Training of all staff is important – not just about how to speak up, but also about how to respond to concerns. Line managers are likely to be the first recipient of concerns. It is a myth that whistleblowers are persistent – most will raise a concern only once – so managers have a small window to identify a whistleblowing concern and give assurances.

Training those who may investigate whistleblowing concerns is also vital – protecting the whistleblower's identity while being fair to those under investigation is no easy challenge.

The right time for a review is now

Things go wrong in every organisation – human nature means that we can't eliminate all risk. But how we respond to that risk can make the difference between an internal discussion and correction, and being the next organisation in the headlines for the wrong reasons. Listening to staff means you can act fast on small risks, and addressing concerns early means your staff won't need to take them externally. Getting whistleblowing right is in every organisation's interest – and the best time to review your arrangements is now.

Auditing and reviewing your arrangements can be done using Protect's Whistleblowing Benchmark (see protect-advice.org.uk/our-benchmark). Our unique diagnostic tool allows you to assess your whistleblowing arrangements across three key areas: governance (your policies, processes and audits); engagement (training and communications); and operations (the experience of the whistleblower using the system).

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The Scottish Tax Clinic

Assisting low income individuals

After the first two years of operation, we reflect on the Scottish Tax Clinic and how to support low income individuals to navigate the UK tax system.

by Amy Lawton

The Scottish Tax Clinic launched in September 2021 as the first tax clinic in Scotland, and drew from the success of the North West Tax Clinic, the first tax clinic in the UK – see 'Opening our doors', *Tax Adviser* (October 2020). Now finishing its second year of operation, it is a useful point to reflect on some of the impacts that the UK tax system has on low-income individuals.

The clinic works in partnership with Edinburgh Law School and TaxAid UK, a national charity that provides income tax advice to those who cannot afford to pay for a professional tax adviser. The clinic is an undergraduate course at the Law School with 14 students working in the clinic each academic year. The students take the lead in the clinic and retain responsibility over their own cases, which requires students to communicate with the clinic's clients, research their tax issues and draft tax advice.

Local tax professionals are also a key part of the clinic and volunteer their time to supervise the students. This supervision ensures that all of the advice that is prepared by the students is accurate and appropriate for the clinic's clients.

The values and remit of the clinic and TaxAid align, meaning that the clinic provides means-tested, free, confidential tax advice to individuals based in Scotland on matters of income tax. Common issue of the clinic include:

- explaining PAYE tax codes and working with P800s;
- educating self-employed individuals (or those thinking of setting up a business) on their tax obligations;
- preparing and submitting self-assessment tax returns; and
- appealing late-filing penalties.

Since opening, the clinic has engaged with well over 100 individuals and provided over 1,000 pro bono hours to the community it serves. The clinic has also successfully appealed almost £30,000 in late-filing penalties. The work of the clinic has been reported in the Scottish Legal News (see tinyurl.com/39bvc7mc) and has been more widely recognised with an Outstanding Course Award from the Edinburgh University Students' Association (see tinyurl.com/bdfch89m), as well as winning a Community Impact Award from the university in June 2023.

Common tax issues affecting low-income individuals

The clinic has seen a broad range of tax issues come through its doors, including some that it cannot help with, such as the consequences of selling a house for capital gains tax or how to submit a return for inheritance tax.

Within the realms of income tax, there is also an array of issues for the clients, many of whom have additional vulnerabilities and challenges, such as mental health difficulties, neurodiversity, physical disability, bereavement or low levels of education. Some of the most common self-employment issues will be explored below in the interests of furthering the discussions in this field (and do not constitute advice). Whilst these may not be generalisable to the whole population, they do provide an insight into the impacts our tax system has on the most marginalised in society.

The Scottish Tax Clinic is an experiential learning environment (learning through experience), exposing our students to how tax works in the real world. By working in the clinic, they develop soft skills that they would not necessarily work on in the classroom. Talking to clients, HMRC and their supervisor means that they work on their written and oral communication skills. It is a working environment where they develop time management, professionalism and independence.

1. What is self-employment?

There is a confusion over what self-employment is, particularly where there are short periods of work for small amounts of money. This results in a confusion around the next steps and particularly the distinction between notifying HMRC about the self-employment and submitting a tax return.

The Taxes Management Act (TMA) 1970 s 7(1C)(a) requires a person to notify HMRC within six months of the end of the year of assessment if they have not already received a notice from HMRC to submit a tax return. As stated in gov.uk guidance, this equates to notification by the 5 October following the end of the tax year in which the business started (see www.gov.uk/register-for-self-assessment).

Our clients were sometimes (but not always) aware of the deadline to submit a tax return. However, a significant number of clients would come to the clinic without HMRC knowing that they were self-employed and who were unaware of the notification deadline. Whilst it is beneficial for HMRC to know who is self-employed before the self-assessment tax return is due, the messaging around the 5 October deadline is not trickling down to the public.

There are also misunderstandings and difficulties for Construction Industry Scheme (CIS) contractors – specifically, that CIS contractors are self-employed for the purposes of tax and that they also need to complete a tax return.

The CIS scheme covers most construction work in the UK and deducts money from a contractor's payments to send to HMRC as a withholding tax. (There are thus echoes of the PAYE system in CIS scheme for CIS contractors.) The clinic has encountered a number of clients who have been involved in the CIS scheme and who do not appreciate that they have to submit a tax return – primarily because, in their eyes, the tax has already been sent to HMRC.

Finally, it also translates to the confusion that students who are on a student visa (previously known as a tier 4 visa) are not able to be self-employed. This is particularly problematic as students are often engaged in 'gig economy' work, where the lines between employed and self-employed are particularly blurred. University students are intelligent people, yet there is a lack of awareness around what constitutes self-employment.

2. Notification of self-employment

Linked to the above, very low-income individuals may not need to notify or submit a return at all. Currently, HMRC guidance requires individuals to submit a tax return when they have self-employment income of over £1,000 (see tinyurl.com/ms93db5n). This maps out on to trading allowance, introduced in the 2017/18 tax year that is also set at £1,000.

However, HMRC's guidance is at odds with the statutory obligations of individuals. Here, TMA 1970 s 7(3) states:

> 'A person **shall not be required to give notice** under subsection (1) above in respect of a year of assessment if for that year:
> (a) **the person's total income consists of income from sources falling within subsections (4) to (7) below'**
> (emphasis added)

Of note for those on a low income is TMA 1970 s 7(7), which states that where the person would not be *liable* to tax on all their income from that source for any year of assessment, then the source of income falls within that subsection.

The subsection specifically uses the word liable rather than chargeable, meaning that where someone would not be liable to tax on their self-employed income, then there should be no need to notify HMRC; i.e. those with a low enough income that none of the self-employment income would attract tax (but which could be higher than £1,000). This is in stark contrast to the guidance, which informs people that they 'must send a tax return', and potentially brings people into self-assessment unnecessarily.

On the other hand, notification of self-employment to HMRC is required 'immediately' for National Insurance contributions under the Social Security (Contributions) Regulations 2001/1004 Reg 87AA. The legislation around notifying HMRC is therefore convoluted and confusing, with mixed messages on when to notify HMRC and submit a tax return. This area would be very difficult for most laypeople to follow.

3. Brown envelope anxiety and late filing penalties

Brown envelope anxiety exists and has been a pervasive issue in the clinic. One of the biggest impacts we have seen is how the tax system treats those who stick their heads in the sand.

A tax return that is more than 12 months late currently attracts a minimum late filing penalty of £1,600 under the Finance Act 2009 Schedule 55.

It is not uncommon to see clients with two, three or four tax returns outstanding, which means that the late filing penalties very quickly add up to a significant liability to HMRC – even if they would have no tax to pay on their income for those years.

> **Since opening, the clinic has provided over 1,000 pro bono hours to the community it serves.**

This is a finding that was corroborated by Tax Policy Associates, which published a report that highlighted the extent of the impact of late filing penalties on low income individuals (see tinyurl.com/yy2pc849). They found that 400,000 late filing penalties were issued to individuals with an annual income of less than £13,000 between 2018 and 2020.

With a change to points-based system for late filing penalties, it remains unclear whether this system will be any better for those the clinic helps. Brown envelope anxiety will still accrue enough points over time for penalties to be applied.

Get involved

The Scottish Tax Clinic will reopen its doors in September 2023 for the new academic year and a new cohort of students.

If you are based in Scotland and would be interested in getting involved with the Scottish Tax Clinic, then please email alawton@ed.ac.uk. Professional supervisors are also TaxAid volunteers and covered by their professional indemnity insurance. All supervision can take place online.

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Inherit the Wind
A settled property?

The case of *Hall v HMRC* raises questions about the nuances of 'interest in possession'.

by Keith Gordon

Key Points

What is the issue?
Mrs Raboni's will provided for her house to be retained as Mr Boggia's home during his lifetime and for him to live there without charge (subject to costs). However, there was insufficient cash in the estate for inheritance tax to be paid. The residuary beneficiaries agreed to retain the house as an investment and pay the inheritance tax from their own resources.

What does it mean for me?
HMRC considered that, immediately before his death, Mr Boggia had an interest in possession in the house and determined that inheritance tax was due on his death.

What can I take away?
The case suggests that cash-poor estates can confer interests that fall short of an interest in possession. Advisers who deal with inheritance tax have to think carefully about similar arrangements and, where possible, take pre-emptive action to avoid unnecessary uncertainties.

Before the sudden reforms of the inheritance tax rules in March 2006, there was a fundamental distinction between life-interest trusts and discretionary trusts. This distinction can still be significant for all taxes (including inheritance tax). Furthermore, the nature of the trust will be of considerable importance in guiding how the trustees administer the trust (and the beneficiaries' rights under the trust). Nevertheless, it must be said that, for inheritance tax purposes, the distinction is no longer quite as fundamental as it once was.

A life interest trust is one in which a beneficiary, the 'life tenant', has an 'interest in possession' in the settled property. That phrase was explained by the House of Lords in the case of *Pearson v Inland Revenue Commissioners* [1981] AC 753 as 'a present right to present enjoyment [of the trust property]'. Typically, this means cases where a life tenant is entitled to the income (e.g. interest or dividends) arising from an investment; or, in the case of real property, has the right to occupy the property or to receive the rental income arising. What the life tenant cannot do is receive the underlying capital (being the investment itself). That capital must be preserved for a subsequent beneficiary (either for the enjoyment of another life tenant or a beneficiary who is then entitled to the trust assets absolutely, thereby bringing the trust to an end).

The case of *Hall and another (as trustees of the Carolina Raboni estate) v HMRC* [2023] UKFTT 32 (TC) has caused practitioners to have a fresh look at the *Pearson* definition.

The facts of the case

Mrs Raboni was a widow living in a house in East Finchley. Living nearby was a divorcee, Mr Boggia. Mr Boggia was living with his sister, who was a friend of Mrs Raboni. Mr Boggia had also been a friend of Mrs Raboni and her late husband.

The precise factual background is uncertain (and not strictly relevant). However, by 2002, Mr Boggia was regularly visiting Mrs Raboni, kept her company, did her food shopping, cleaned and looked after her garden. When Mrs Raboni's health declined in 2003, Mr Boggia began to spend a few nights a week at Mrs Raboni's house, staying in a spare bedroom and keeping a change of clothes there.

Mrs Raboni made her last will in July 2003. She left the residue of her estate to be shared amongst her five nieces and nephews, together with Mr Boggia's sister. However, the will also provided for Mrs Raboni's house to be retained as Mr Boggia's home during his lifetime, and for him to live there without charge (subject to him being responsible for insurance and maintenance costs). Mrs Raboni died in 2004.

When probate was obtained, the gross value of the estate was a little over £308,000, with the house representing the lion's share of that (having an agreed probate value of £300,000). Debts brought the net value of the estate down to just over

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£302,000. With a nil-rate band then of £263,000, this meant that the estate had an inheritance tax liability of about £15,600. As will be clear from the preceding figures, there was insufficient cash in the estate that would allow that tax to be paid.

Mrs Raboni's executors took legal advice and duly advised the beneficiaries that the house would need to be sold if the estate were to raise the funds to discharge the inheritance tax liability. However, the advice made clear that any such sale would have to be subject to Mr Boggia's right of occupation (which would no doubt reduce the proceeds that could be raised). The residuary beneficiaries agreed, instead, to retain the house as an investment and, in the meantime, to pay the inheritance tax from their own resources. It is implied in the decision that they took advantage of the right to pay that inheritance tax in instalments over ten years.

This appears to have been a wise decision as the house was eventually sold for £827,000 following Mr Boggia's death in 2017. It was that event that then gave rise to the present case.

HMRC considered that, immediately before his death, Mr Boggia had an interest in possession in the house and, accordingly, determined that inheritance tax was due on his death. HMRC's determination was the subject of an appeal which was duly notified to the First-tier Tribunal.

The First-tier Tribunal's decision

The case came before Judge Sarah Allatt.

In the course of her decision, the Judge helpfully cited in full the relevant provision of Mrs Raboni's will by which she provided that her house may not be sold or disposed of during Mr Boggia's lifetime without his consent; and that it should in the meantime be retained as his home for as long as he so desired and without charge (but for the duty to pay for the house's maintenance and insurance).

Mr Boggia had no right to be given any alternative accommodation if he moved out of what had been Mrs Raboni's home.

The Judge also recorded what was common ground between the parties, being that:

1. if Mrs Raboni's estate had had sufficient liquid assets to discharge the inheritance tax liability, the terms of Mr Boggia's occupation of the house would have amounted to an interest in possession; and
2. had the house been sold to pay the inheritance tax, no interest in possession would have existed.

The Judge considered the various scenarios (both actual and hypothetical) that could have arisen on the basic facts of the case. For example, what would have happened had one or more of the beneficiaries not agreed to pay the inheritance tax and instead required the house to be sold? However, the Judge considered that what was important was not what could have happened but what the various parties' ultimate rights were.

Having considered the executors' competing duties to administer the estate, to collect its assets for the benefit of the beneficiaries and to pay any inheritance tax, the Judge concluded that the executors could have required the sale of the house in order to pay the remaining inheritance tax liability. However, noting the common ground between the parties (referred to above), as Mr Boggia had no right to any alternative accommodation, the Judge concluded that this meant that he did not have an interest in possession in the house.

As a result, the Judge allowed the appeal.

Commentary

Many commentators appear to be somewhat surprised by the outcome of the case and expect that HMRC will want the case to proceed to the Upper Tribunal for further consideration. Without rushing to say that the First-tier Tribunal has got it wrong, I would certainly say that its decision is not in accordance with my initial view of the facts. (Indeed, the trustees of Mrs Raboni's will trust initially paid inheritance tax on Mr Boggia's death on the assumption that Mr Boggia had an interest in possession in the house. It was only after some further thought that they sought a repayment which was refused by HMRC. It was that refusal which led to the determination that was the subject of the appeal to the First-tier Tribunal.)

At the heart of the First-tier Tribunal's decision is the fact that Mrs Raboni's estate could not discharge the full inheritance tax liability without selling the house. It was this fact that led to the First-tier Tribunal concluding that Mr Boggia's interest fell short of a right to present enjoyment of the property.

However, the initial difficulty I have with this logic is its relationship with the earlier assumption that any sale of the property would have had to have been subject to Mr Boggia's continued right of occupation. To be fair to the First-tier Tribunal, the Judge did comment that this assumption was based on legal advice received by the executors and that the legal advice might well have been incorrect. As the Judge noted: '[I]t is extremely unclear whether that is the correct legal position, and whether a different firm would have advised differently.' However, it appears that the Judge did not actually then consider this legal question herself, even though in my view its resolution is essential for the correct determination of the issues in the case.

Furthermore, the Judge appears to have been swayed by what was said to be

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Shan Sun talks about the development of the CIOT's Diploma in Tax Technology.
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common ground being that, if the property had to be sold, then no interest in possession would have subsisted. However, I read that common ground as predicated on a forced sale of the property in circumstances where Mr Boggia would have been required to leave the property. If, as the executors were advised, any such sale would have had to have taken place subject to Mr Boggia's continued occupation, then such a sale could not have displaced Mr Boggia's interest in possession.

It is for this reason that I think that the Judge should have addressed the correctness of the advice received by the executors.

On the numbers arising in the case, it would seem likely that a sale could have taken place on terms which preserved Mr Boggia's right of occupation and still raised enough money to clear the inheritance tax liability. For this reason, my own assumption is that the legal advice obtained was probably correct. But, if this is the case, then it would seem that Mr Boggia would have had an interest in possession in the same way as if the estate had had enough liquid funds to pay the tax in the first place.

In contrast, had the value of the house been considerably higher, it is quite possible that a sale of the underlying interest in the house (i.e. subject to Mr Boggia's continued occupation) would not have raised sufficient money to discharge the inheritance tax charge. In such a case, it would have been interesting to see whose interests would prevail: an elderly man who would otherwise be homeless; or the Exchequer.

If HMRC's demand for the tax would have prevailed then, on the First-tier Tribunal's logic, it is possible that there was no interest in possession. However, that issue is something that would still merit the consideration of the Upper Tribunal.

As a result, I believe that this is a case of wider interest and hope that it does proceed to the Upper Tribunal. In the circumstances, this case strikes me as an appropriate one for HMRC to make special arrangements so that, for example, were they to succeed in the Upper Tribunal, they would not seek their costs.

What to do next

For advisers who work in this area, it would be worth looking out for any statements of practice issued by HMRC which comment on this decision or for any sign that the case is to proceed to the Upper Tribunal.

In the meantime, the case suggests that cash-poor estates can confer interests that fall short of an interest in possession. But, if an interest in possession does not exist, does this mean that the more onerous regime for relevant property (defined as 'settled property in which no qualifying interest in possession subsists') applies?

Advisers who deal with inheritance tax are certainly going to have to think carefully about similar arrangements and, where possible, take some pre-emptive action so as to avoid unnecessary uncertainties.

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Key Points

What's the issue?
Brexit has significantly increased the number of cross-border transactions that now fall within the scope of customs duties in the UK. There is often an assumption that the transfer price can be used as the customs value for transfers between related parties.

What does it mean to me?
Customs valuation and transfer pricing outcomes may be divergent, particularly where there are large year end transfer pricing 'true ups'. Businesses importing goods where the customs value is based on a transfer price should consider whether this approach is compliant from a customs duty perspective.

What can I take away?
Fundamentally, the specific customs valuation approach to pricing at the time of importation must be documented to satisfy HMRC in the event of a customs valuation audit. The new customs advance valuation rulings may remove uncertainty, particularly where there is divergence between these valuations.

Two old friends... Customs duties and transfer pricing

Customs duties and transfer pricing valuations used to be broadly in line. Now that they are much more divergent, can we bring together these old friends?

by Jon Morbin and Ben Semper

Following updates to HMRC customs valuation guidance issued in late 2022, the interaction between transfer pricing and customs valuation is causing businesses that purchase goods for import into the UK increased uncertainty. Internationally, there is also no consensus on how to rationalise the potentially different outcomes arising from applying the two taxes, leading to further challenges for businesses that want to take a consistent global approach.

To understand the reasons for this uncertainty, this article explores the similarities and differences between customs valuation and transfer pricing and how the two potential different outcomes can be managed.

Similar but different

On the face of it, customs valuation and transfer pricing have the same purpose: to ensure that goods, and additionally services in the case of transfer pricing, are supplied cross border on a basis that is demonstrably not affected by the relationship between the parties (in customs language) or an arm's length basis (in transfer pricing language).

In some cases, however, customs valuation and transfer pricing can appear to be in conflict, with what is acceptable for one being unacceptable for the other. The challenge for taxpayers is deciding when and how to reconcile the two and when to accept the need for a separate approach for each. The root of the conflict between the two taxes is the different approaches and tools they use to achieve their aims.

Customs duties, for the most part, are calculated as a percentage of the value of the goods. The value of the goods in the majority of cases is based on the transaction or sales value of the goods. This means that HMRC's main concern is ensuring that goods are not undervalued.

Transfer pricing aims to ensure that profits are recognised in a territory in accordance with contributions to value creation in accordance with the arm's length principle. This means that HMRC's focus from a transfer pricing perspective is that goods and services provided into the UK do not confer a potential advantage in relation to UK tax (e.g. that goods are not overvalued).

Whilst the administrative approach of Customs Authorities continues to evolve, the basis for customs valuation has remained largely static since the introduction of the WTO Agreement on Customs Valuation in 1979. Business models have, however, become more complex since this time with the globalisation of the economy. Transfer pricing guidance has also changed at an accelerated pace in recent years in part in response to this. This has led to a greater chance of divergence between the customs and transfer pricing valuation methods which post Brexit can matter much more in the UK and the EU.

For example, the OECD Transfer Pricing Guidelines on the use of customs valuations stated in 1995: 'both customs and tax administrations .... generally seek to determine the value of the products at the time they were transferred or imported.' Even by 2010, however, these words were removed and the OECD recognised: 'Valuation methods for customs purposes ... may not be aligned with the OECD's recognised transfer pricing methods.'

The potential for difference between the two taxes is further emphasised by WCO commentaries and HMRC guidance, which make clear that whilst a transfer pricing study can be informative for customs purposes, it is not sufficient in isolation to justify the customs value of goods.

Mapping the customs valuation to transfer pricing methodologies

The use of arbitrary values is expressly forbidden within customs legislation and the WTO valuation agreement. There is a strict hierarchy of methods for determining the valuation of goods, some of which require data within 90 days of the valuation date (date of importation).

Transfer pricing, on the other hand, involves selecting the most appropriate method for the circumstances, with particular reference to the specific functional, assets and risk analysis. In applying a cost plus, resale price or transaction net margin method, the OECD Transfer Pricing Guidelines state, as a general rule, that the tested party (i.e. the party whose margins should be tested) should be the one for whom the method can be applied in the most reliable manner. This is usually the one with the less complex functional analysis. In the equivalent customs methods, the taxpayer has flexibility to choose the method and tested party. The table opposite provides a broad mapping of the customs methods to the transfer pricing methods.

Further divergences in the two valuation standards

Whilst a transaction by transaction approach is encouraged for transfer pricing purposes, the OECD recognises that there are often situations where transactions are so closely linked and/or continuous that it is impractical to evaluate each on a separate basis. In practice, therefore, a cost plus, resale price or transaction net margin method is typically applied across all product lines for a financial period of account. Customs valuation is, however, by its nature applied on a product by product and shipment by shipment basis.

On the question of timing, the OECD recognises both an ex ante (predictive) and ex post (actual returns) basis for demonstrating compliance with the arm's length principle. The OECD notes, however, that different approaches can lead to different outcomes. This can include discrepancies between the market expectations taken into account in the ex ante basis and the actual outcomes observed in the ex post approach.

Whilst there are different approaches to applying the arm's length principle, for practical purposes taxpayers often take an ex post approach – perhaps also to avoid potential criticisms of information and judgements made on an ex ante basis. This may lead to a reliance on year end 'true-ups' to bring the basis of actual pricing during the year within an arm's length range based on the final financial results.

Therein lies perhaps the critical issue from a customs valuation perspective. HMRC's concern is that where it is clear that a transaction value is likely to be adjusted at a later date, and it isn't known whether that adjustment will be up or down, the value initially declared at import is, from its perspective, arbitrary. In that case,

MAPPING THE CUSTOMS AND TRANSFER PRICING METHODS

	Customs method	Mapping to the closest transfer pricing method
1	**Transaction value**	The actual transaction value. Note that if the parties are related, the relationship must demonstrably not affect the price. As per WTO terms, the condition is met if the importer demonstrates that the relationship did not influence the pricing by examining the circumstances of sale, or that the declared value 'closely approximates to a test value'. In reality, test values are extremely rare and it falls back to a more arbitrary review of the circumstances of sale.
2	**Transaction value of identical goods**	Similar to the comparable uncontrolled price. There is a similar comparability threshold but the goods must have been produced in the same country and imported within 90 days of the goods being valued.
3	**Transaction value of similar goods**	Similar to the comparable uncontrolled price with comparability adjustments for volumes and quality. The goods are commercially interchangeable and imported within the 90 day valuation window.
4	**Deductive method**	Similar to the resale price method but the sale to the unrelated party, the price against which the seller commissions or profit and general expenses are deducted under this method, must take place within 90 days of import; the distributor is therefore in effect the tested party. The use of profit and general expenses means the customs comparison is the gross profit, and the allowable benchmarks to validate whether it is in the normal range are typically very different to transfer pricing comparables.
5	**Computed value** (can be used instead of 4)	A modified transactional net margin method. The producer is the tested party. This includes the producer's profit margin and general expense relating to goods (e.g. design costs and warehouse costs) but could exclude marketing and specific returns on intangibles. There is reference only to margins 'usually reflected in sales of goods of the same class or kind' made by 'producers' in the country of exportation.
6	**Fall-back method**	This is based on WTO valuation principles (e.g. more flexible application of methods 1 to 4, which might be more aligned with the transfer pricing methods).

Method 1: the actual transaction value (see table) strictly cannot be applied. It is arguable that there is no transaction value at the point of import, just an estimate (even with a correcting year end true up) and one of the other methods should be applied.

Where potential year end adjustments are anticipated for transfer pricing purposes, it is unlikely, in HMRC's view, that the actual transaction value at the time of importation will therefore be acceptable as the customs value.

Conclusions: reuniting old friends

Depending on the facts, it may therefore simply be the case that there are different values for goods for transfer pricing and customs purposes; noting the valuations standards. The differences could , for example, be reconciled by identifying and unbundling non-dutiable elements, such as certain intangibles, from the customs value. So the two old friends document their respective positions, acknowledging their differences, and go on to live side by side.

For many, this may be an uncomfortable position which perhaps invites further enquiry and challenge. A potential solution may be to bridge the gap between the two positions by making in-year, prospective price adjustments. This may narrow any year end transfer pricing adjustment, so this is less material. It may then be possible, under customs Method 1, to demonstrate that the actual price is uninfluenced by the relationship between the parties by analysing the circumstances of sale, which will be supported by the data used to inform the prospective adjustments. Data driven tools and strong operational transfer pricing process will assist in the implementation and harmonisation of the two valuations.

In either case, taxpayers would be well advised to review the positions and strategies/options available and document their final positions (supporting separate or aligned positions).

The recent introduction of customs advance valuation rulings could provide taxpayers with some welcome certainty. With HMRC required to provide a decision within 90 days of acceptance of the application for a ruling, advance valuation rulings may offer a practical solution to concerns around potential customs valuation approaches based on a transfer price. Applicants, though, will need to ensure that they have a robust and documented valuation approach to provide the best chance of a ruling being granted.

Particularly in the case of distributors making large year end transfer pricing adjustments, consideration needs to be given to the relationship between their customs and transfer pricing valuations.

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Unclaimed capital allowances? Engaging with a specialist surveyor

When dealing with capital allowances, we consider when and how you should engage with a specialist surveyor.

by Chris Lonergan

Key Points

What is the issue?
It is more common than you might think for capital allowances claims to be either underclaimed or overlooked. Many people are still unaware that such allowances are available.

What does it mean for me?
The typical output from a good capital allowances specialist should be a detailed report which should prove an entitlement to claim allowances and then a breakdown of expenditure into qualifying expenditure.

What can I take away?
Working with a firm of capital allowances surveyors is like working with any trusted advisor and they should demonstrate they understand how your business works and how you work with your clients.

Health warning. This article focuses on the practicalities of engaging with a capital allowances specialist to build and submit one or more reliable and accurate capital allowances claims relating to capital expenditure on commercial property and structures. This expenditure could be incurred through buying, building, extending, refurbishing, improving or fitting out.

It is not a technical tax article, and my assumption is that readers will already be familiar with the tax treatment and benefits of capital allowances and the underlying capital allowances legislation – the Capital Allowances Act 2001 – and subsequent amendments and budget changes, such as the recent announcement on full capital expensing for plant and machinery expenditure.

I also assume that readers will already be familiar with the types of commercial properties and structures that qualify for capital allowances and be aware of the basic 'tests' for claimants:

- registered as UK taxpayer (for corporation or income tax);
- incurring capital expenditure;
- carrying out qualifying activity;
- holding the property or structure as a fixed asset (not trading stock); and
- owning the asset being claimed against at end of tax year in which claim is made.

Lastly, I assume that readers will already be familiar with writing down rates for capital allowances, annual investment allowance, full capital expensing, R&D allowances and other tax matters.

When to engage

It is becoming more and more likely that businesses or their tax advisers will be approached directly by capital allowances advisers to review capital expenditure when properties are purchased or when construction expenditure is incurred. This can be beneficial but is a more reassuring experience if you appoint the right firm.

Nearly all UK businesses and many private individuals incur expenditure on freehold or leasehold commercial properties and should seek to claim capital allowances on this expenditure. It is more common than you might think for capital allowances claims to be either underclaimed or overlooked. Many people are still unaware that such allowances are available.

There will be many areas of capital expenditure on commercial property which a qualified accountant or tax professional can analyse and report on perfectly well without input from a specialist surveyor. For example, expenditure on loose fixtures and fittings, production machinery and capital investments where there are detailed cost breakdowns should probably form part of normal client service.

With commercial refurbishment projects, it is clearly crucial to identify whether any expenditure would qualify as a like-for-like repair or renewal of part of an existing property and, if so, qualify for 100% tax relief when incurred. However, many substantial refurbishments or improvements to an asset will often be treated as capital expenditure.

Therefore, my focus is on expenditure outside the normal scope of an accountancy or tax professional where collaboration with a specialist capital allowances surveyor would be beneficial. This would include property acquisitions and disposals, and construction projects including new build, extension, refurbishment and fit outs.

As former quantity surveyors and project managers, we understand the cost of building projects and know the associated tax leakage can be substantial. Even those who believe claims have been maximised might be pleasantly surprised by a typical uplift of between 10% and 20%

that can be found by specialists. In our experience, this relief is being underclaimed in many cases. Below are some of the common areas where unclaimed capital allowances relief can be found and improvements made:

1. Where there is a lack of construction cost and/or purchase information: Breaking down those costs can unlock additional elements for relief and improve the overall levels of claims.
2. When it is hard to analyse or accurately apportion all construction costs, such as preliminaries, professional fees and contributions for fit outs and other works.
3. In relation to the purchase of second-hand property: This is true even if there is a Section 198 (or other) election in place to fix the level of capital allowances transferring as part of the transaction. These are just some of the scenarios where additional claims can be made:
   - if the allowances included in a Section 198 election, while agreed and signed at the time of a property purchase, have not been claimed within your tax computations;
   - if Commercial Property Standard Enquiry (CPSE) replies say not applicable – these replies can often contain errors, leading to significant underclaims and missed opportunities;
   - when you are going to use the property for R&D purposes;
   - when the seller is a non-taxpayer, such as a government body or charity;
   - if the seller held the property prior to 1 April 2008; and
   - if the seller held the property as stock in their accounts and so could not make a claim.
4. In relation to historic expenditure: Many people think they can only claim capital allowances in the year that expenditure is incurred. This is not the case, if qualifying assets are still owned when a retrospective claim is made. There are no time limits in claiming these tax reliefs – expenditure made 10 or 20 years ago may qualify.

The typical output from a good capital allowances specialist should be a detailed report which should prove an entitlement to claim allowances and then a breakdown of expenditure into qualifying expenditure (plant and machinery allowances, research and development allowances, structures and buildings allowance and contaminated land remediation relief, though it could also include more specialist areas such as mineral extraction allowances) and non-qualifying expenditure.

How to engage

Collaborative relationship: As with any trusted adviser, a firm of capital allowances surveyors should understand how your business works and how you work with your clients. It is all about providing specialist support to jointly ensure the best client result and not producing reams of marketing material showing inflated claims, complex terms and conditions of business, and a pushy approach. They must also understand where you and your client are in terms of your annual client service cycle to avoid where possible additional work such as re-working tax computations and re-submitting tax returns.

Clear boundaries: A good specialist should understand who does what in terms of engaging with clients and delivering services. Unless your intention is to become a specialist yourself, it is probably enough that you understand the triggers for making a claim and the likely client benefit.
Of course, it should also be your decision whether the specialist engages with your clients direct, with or through you.

Professional qualifications: The specialist should be accredited by Royal Institution of Chartered Surveyors (RICS) and have in-depth knowledge of capital allowances legislation. Assuming you have your own tax capabilities, it is a moot point whether they need tax qualifications as this can blur boundaries. RICS accreditation ensures technical and ethical standards.
Professional indemnity insurance will be in place, as well as an independent procedure for handling issues and complaints.

Experience and expertise: While the fundamental principles of surveying and cost analysis are transferable skills, an established firm should have sector experience so they can tackle any issue they face. They should also be able to prove their ability and provide referees.

Credibility with HMRC: Many specialists have established track records with HMRC, though this a little harder to achieve now with fewer local inspectors in post. HMRC will view their reports as ones prepared by professionals in line with current guidance and best practice. This will reduce the risk of HMRC investigation, increased tax bills, interest or penalties.

Ability to liaise with all claim stakeholders: After the rule changes introduced from April 2012, it has become essential that a capital allowances specialist can liaise with property lawyers during property acquisitions and disposals to review and advise on the correct completion of pre-contract enquiries (CPSE.1) and the drafting of contract clauses so the entitlement to allowances for the business can be protected. Especially with claims relating to construction expenditure, it is critical that an advisor can understand and build relationships with professionals who provide construction, cost and project management support, both in-house and for external providers.

Client focus: It should go without saying that it is fundamental that a service provider can provide services on time, to budget and of the agreed quality, and that there is clear communication between all parties. It is important that timely responses can be provided when clients are buying or selling property.

Commercial sensibilities: A good advisor will have sector knowledge and should be able to provide an accurate estimate of the expected level of unclaimed allowances available to your client and, based on your overall knowledge of a clients financial and tax affairs, to work with you to establish immediate tax savings and cash-flow benefit over time.

Client fees: A good partner will be flexible to work on different fee bases depending on the situation, particularly if the engager audits the business where a contingent fee approach may not be suitable.

Work with people you like and trust: It used to be said that trust was intangible; however, studies now have shown that trust between advisors is based on a combination of credibility, reliability, willingness to collaborate and an ability to put themselves in your shoes and not act selfishly.

Try before you buy: I know we're not talking about shopping; however, it's important to test the water before committing to a partner. You need to be comfortable with their way of working from initial client engagement to billing and payment collection.

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Paying your debts
How to gain more time

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We examine the primary legal mechanisms businesses can use to gain more time to pay debts, and how to can secure the best payment terms when negotiating with HMRC.

by Robert Cooksey

There are several routes to rescue an insolvent company, but to give a business the best possible chance of recovery, securing more time to pay debts is typically crucial. Whether this will require the business to reform the way it manages cash flow, restructure its operations or secure outside financing, gaining more time to pay the money it owes offers the necessary breathing room the organisation can use to implement these changes.

Securing a formal agreement with new payment terms has significant additional advantages – not only making it easier for the business to pay its debts and move into a better financial position, but also taking off the pressure from creditors and the threat of legal action. If the matter has already been brought to the courts, businesses can make formal arrangements with their creditors that will set new payment terms and bring any legal action to an immediate halt.

The approach a business should take in these circumstances will differ depending on the nature of its creditor. Debts to HMRC are treated differently from debts to suppliers or other creditors. But the sooner the company reacts, and the more proactively it pursues a resolution to the challenges of insolvency, the more options will be available and the better the organisation's chances of recovery.

Ways to secure new payment terms

There are several ways that a business can approach financial difficulties, but the most important consideration is to be proactive and address concerns as early as possible. It should be clear to most business owners that their organisations are at risk of insolvency, and it is best to be cautious. If the ability to pay debts when they fall due relies on a single large payment from a customer, or an order that is expected but which has not yet been confirmed, the business should proceed on the assumption that this will not take place.

This is the only way to ensure that there are appropriate contingencies in place and means that the business can start to address the debt challenges before they become much more urgent – and before options begin to fall away. By taking proactive steps and communicating with their creditors, businesses will have a better chance of maintaining a positive relationship. This could be vital, as any efforts to secure more time – whether through the available legal mechanisms or simply by negotiating new payment terms – will rely on support (and, in some cases, approval) from creditors before these can proceed. This also means that, if the company successfully pays off its debt and recovers from the threat of insolvency, it can continue its business relationship with the creditor.

The cash flow challenges that can prevent businesses from paying their debts on time will come and go – it is rarely about the relationship that an organisation has with a single creditor, even if that creditor's strict payment terms or forceful efforts to pursue its debts are part of the problem in the current circumstances.

While informal negotiations with creditors may result in new payment terms, it is typically best to secure a formal agreement for a new payment plan that allows the debtor to pay the money they owe over time. This is especially important where there is more than one creditor, as a structured agreement has a number of benefits. Two primary mechanisms enable this: Company Voluntary Arrangements for debts to general creditors and Time to Pay Arrangements for debts to HMRC.

Key Points

What is the issue?
There are several ways that a business can approach financial difficulties. The two primary mechanisms are Time to Pay Arrangements for debts to HMRC; and Company Voluntary Arrangements for debts to other creditors.

What does it mean for me?
Securing a formal agreement with new payment terms has significant additional advantages, making it easier for the business to move into a better financial position, but also taking off the pressure from creditors and the threat of legal action.

What can I take away?
The company reacts, and the more proactively it pursues a resolution to the challenges of insolvency, the more options will be available and the better the organisation's chances of making a proper recovery.

Company Voluntary Arrangements

A Company Voluntary Arrangement is a legally binding agreement between a company and a creditor that offers a structured payment strategy. It allows the business to pay its debts in set instalments over an agreed period of time, which can make them much more manageable from the perspective of the debtor, and ensure that creditors receive the full amount (or an agreed percentage) of the money they are owed.

The company must make a proposal for a Company Voluntary Arrangement and present it to creditors, who are given an opportunity to approve or reject the proposal. There are strong incentives for the creditors to vote to approve the Company Voluntary Arrangement, provided the proposal is fair, reasonable

and realistic. A suitable Company Voluntary Arrangement will often give creditors the best possible chance of recovering their debt, because other legal mechanisms – for example, applying to wind up the debtor's business and force it into liquidation – will only result in a partial dividend for the creditor, which may not cover the full debt amount.

Businesses can only pursue a Company Voluntary Arrangement through an insolvency practitioner, who will work out an 'arrangement' covering the amount of debt that the business can pay and a payment schedule. They must do this within a month of being appointed. Businesses can find a licensed insolvency practitioner in their area via the Insolvency Service at: www.gov.uk/find-an-insolvency-practitioner.

Insolvency practitioners can also manage the process of gathering creditors to vote on the proposal and ensure that the payment plan is fair to all parties involved. Once the proposal is complete, the insolvency practitioner will send it to creditors for consideration. After 14 days, they are asked to vote and the Company Voluntary Arrangement is approved if 75% (by debt value) of the creditors who vote agree. If approved, then all unsecured creditors are bound by the arrangement. At this point, any legal actions against your company are halted and your creditors cannot take any further action against you if you keep to the terms of the Company Voluntary Arrangement.

A Company Voluntary Arrangement can provide breathing space for companies in debt. It stops legal action by creditors and can even write off a portion of the debt if it is deemed unmanageable. Importantly, it allows the company to continue trading throughout the process, which can preserve jobs and potentially lead to a recovery in business performance, which is the best-case scenario for a business facing the threat of insolvency.

A Company Voluntary Arrangement may enable a company to avoid the negativity of other insolvency procedures. The arrangement is not normally advertised but is registered at Companies House and employees must be informed.

However, it is worth noting that a Company Voluntary Arrangement can negatively impact a company's credit rating, making borrowing more expensive in the future. It also requires strong management commitment to successfully navigate through the repayment period and implement necessary operational changes. This is just one reason that it is important to seek expert advice when your business is facing insolvency and to plan your approach carefully.

Working with HMRC on Time to Pay Arrangements

A Time to Pay Arrangement is an arrangement set up by HMRC to cover debts owed to HMRC. A Time to Pay Arrangement can cover all outstanding amounts overdue, including penalties and interest. HMRC has set out details at tinyurl.com/2cj5mzxd, including the new facility for an individual with a self assessment tax debt not exceeding £30,000 to make an application online. There is a fuller discussion of Time to Pay Arrangements in 'Avoiding enforcement action due to tax debt' in the March 2022 issue of *Tax Adviser*.

Interest will accrue from the due date to the end of the Time to Pay Arrangement, and the interest payable will be included in overall debt covered by the arrangement. The current interest rates applied to the main taxes and duties that HMRC currently charges and pays interest on are:

- late payment interest rate: 7%; and
- repayment interest rate: 3.5%.

The Time to Pay Arrangement allows businesses to pay their tax debts over a set period of time; when making a proposal, the business must demonstrate that the proposed payment plan is feasible and that future tax obligations will be met on time. Unlike the CVA, the Time to Pay does not normally write off part of the tax debt.

The length of the arrangement will depend on how much the business owes and its financial circumstances. HMRC can request a range of information when working on the arrangement, including information about the business's financial position and how its finances are expected to change in the future. HMRC will ask what efforts have been made to raise the funds against the business' debt and to try to pay the tax bill, and what the business is doing to get its tax affairs back on track. It may also discuss whether there are business assets that can be released to reduce the debt as much as possible before agreeing an arrangement.

Provided the business puts forward a fair and reasonable payment plan which will pay off the debt as quickly as possible, HMRC has an incentive to grant a Time to Pay Arrangement. A formal agreement of this nature will also set an expected payment schedule and give HMRC the best chance of recovering all of the money owed. If the business fails to comply with the approved proposal, HMRC can still pursue legal action. Recent changes to the law have made HMRC a higher-priority creditor, which makes it easier for the tax authority to recover debts it is owed by insolvent businesses.

The change, which was introduced by the UK government in 2020, elevated HMRC to the position of a secondary preferential creditor and established that certain tax debts are secondary preferential debts, ringfencing these funds for HMRC. This ensures that any taxes that are due but are held by a company when it goes into liquidation – including VAT, Pay as You Earn (PAYE) Income Tax and National Insurance contributions for employees, among others – are paid to HMRC, ahead of any secured creditors with a floating charge, and any non-preferential creditors.

With these changes, HMRC is now better able to secure the money it is due. As such, it is vital to ensure that any proposal for a Time to Pay Arrangement is prepared with a thorough understanding of the financial position of the business in question. The most important priority to successfully securing new payment terms with HMRC is to make the proposal as attractive as possible, as well as ensuring that it is realistic and possible to achieve. If a business fails to meet the new payment terms, the consequences can be severe – this means that striking a balance of fairness between all parties is of the utmost importance to a Time to Pay proposal.

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We're still here to help LITRG at 25

2023 marks the 25th anniversary of the CIOT's Low Incomes Tax Reform Group. We look back at some of the group's notable achievements.

by Victoria Todd

The Low Incomes Tax Reform Group (LITRG) was established in 1998, when John Andrews, then President of the CIOT, identified the need for low income, unrepresented and often vulnerable taxpayers to be better supported by the tax profession and for their voice to be heard by those administering the tax, and related benefits, system.

With the approval of CIOT Council, LITRG was created with a remit:

> 'To target for help and information those least able in the community to afford tax advice and make a real difference to their understanding of taxation and to work to make the tax system more friendly to their needs.'

In the quarter of a century that has passed since it was formed, LITRG has fulfilled the mandate originally given to it by campaigning for, and securing, improvements to the tax and related welfare benefits systems for unrepresented taxpayers.

Today, LITRG's website guidance is used by over 5 million people each year. This includes low-income taxpayers in employment and self-employment (complicated these days by the rise of the gig economy and 'false self-employment' issues), students, migrants, pensioners, those who have been bereaved, and disabled people and their carers. Its guidance is also used by advisers, both those in the profession and in the welfare advice sector.

Thanks to the hard work and dedication of our staff and volunteers, and the relationships that have been established and nurtured over two and a half decades, there is much to reflect on with pride. LITRG's 25th anniversary offers an opportunity to look back at the evolution of the group, its successes in making the tax system better for those on low incomes and its plans for the future.

A helping hand for older taxpayers

One particular focus of LITRG's early work was on improving the tax system for older people. Having heard from hundreds of pensioners who had written to share their experiences of dealing with the then Inland Revenue, LITRG published its first report, 'Older people on low incomes: the case for a friendlier tax system', in December 1998.

The report helped to lay the groundwork for a number of changes to the tax system in the early 2000s. They included: revisions to the guidance for claiming Blind Person's Allowance; the reversal of a government decision not to extend the starting rate of taxation to savings income; changes to the timing of coding notices for age-related tax allowances; and alterations to the taxation of retirement annuities, ensuring that pensioners would have the correct amount of tax deducted at source rather than at the automatic basic rate amount.

LITRG's early work also led to the creation in 2003 of Tax Volunteers, who provide the Tax Help for Older People service, a charity born from pilot tax advice surgeries pioneered by LITRG in 2001 to help older people with their tax affairs. Today Tax Help works closely with the other frontline advice tax charity Tax Aid, and overall they provide free help and advice to nearly 20,000 people a year.

LITRG has also secured changes to the tax system for those saving ahead of retirement. The 2021 commitment from the government to address an inequality that had been preventing some low earners from receiving tax relief on their pension contributions was the result of a campaigning coalition led by LITRG in partnership with others including the pensions industry and leading politicians.

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Key Points

What is the issue?
The CIOT's Low Incomes Tax Reform Group celebrates its 25th anniversary this year. Since 1998, the group has worked to secure improvements to the tax system for the benefit of low-income, unrepresented taxpayers through policy and process changes.

What does it mean for me?
One of the CIOT's key aims is to achieve a more efficient and less complex tax system for all. The LITRG supports these aims by seeking to make the tax system simpler and fairer for those on the lowest incomes who are unable to pay for advice.

What can I take away?
People on low incomes who are unable to afford tax advice need their taxes to be as simple as possible and need to be able to access guidance and support. While there is always more to be done, thanks to the dedication of its staff and volunteers, LITRG has had many notable achievements.

Having first secured a commitment to act in the 2019 Conservative election manifesto, legislation in the Finance (No.2) Bill 2022-23 will mean that, from 2024/25, over a million low-income workers (around three quarters of whom are women) will be entitled to receive a rebate of up to £63 per year from HMRC, equivalent to the tax relief they would receive on their pension contributions.

Branching out

As well as older taxpayers, among the other groups LITRG identified as having the potential to be on low incomes and experiencing difficulties with the tax system were students and people with irregular working patterns; for example, those moving between employment, self-employment and unemployment.

LITRG's 2001 report 'Students: the case for making life easier' convinced the Inland Revenue to embark on a major review of the way in which they communicated with students. Other successes around this same time were:

- persuading the Inland Revenue to launch a 'Taxback' campaign encouraging non-taxpayers to reclaim tax incorrectly deducted from their wages and savings income; and
- significant simplification of the working families tax credit application process for the self-employed, with the original 30 box application form reduced to three lines.

> LITRG's website guidance is used by over 5 million people each year, including low-income taxpayers in employment and self-employment.

Tax credits

The introduction of tax credits in 2002/03 became an important focus for LITRG due to the measure of income being based broadly on a person's taxable income and the credits being administered by the tax authority. A particular area of focus was tax credit overpayments, with LITRG helping to challenge government policy to make it easier for affected taxpayers to better manage their debts. LITRG helped to achieve an increase in the amount of extra income a taxpayer could receive before having to repay overpaid tax credits from £2,500 to £25,000. Fairer processes were also secured for determining how and when overpayments should be repaid, especially in cases of official (as opposed to claimant) error.

LITRG also led an alliance of charities in campaigning for the right to 'notional entitlement'. This involved situations where taxpayers may not have realised the need to report a change of circumstances (or had been slow to do so), such as the start or break-up of a relationship. This meant that any overpayment could be reduced by the amount they would have been entitled to had they reported the change and made the new correct claim at the right time.

In 2016, following a government announcement that it planned to cut working tax credit entitlements, LITRG's parliamentary briefings were highly influential and much quoted, particularly in the House of Lords, in explaining the very complex proposals which allowed them to be properly debated.

Building relationships

LITRG's reputation has grown steadily over the last 25 years, allowing us to give a voice to the unrepresented taxpayer in the development of tax policy and administration. Much of this is possible thanks to the relationships that we have built with officials across the UK and in the devolved governments and parliaments in Scotland and Wales. These are built on trust and respect and have allowed us to contribute to the development of legislation, often before any definite policy has been decided by

LITRG AT 25: A TIMELINE OF SUCCESS

1998
LITRG is established by CIOT Council. Its first report, 'Older People on Low Incomes – the case for a friendlier tax system', leads to changes to the tax system helping the pensioner population.

1999
LITRG's influence leads to the government retrospectively extending the starting rate of tax to savings income.

2001
LITRG launches pilot tax advice surgeries in Wolverhampton and Dorset to make the case for a free advice service called Tax Help for Older People.

2002
LITRG participates in a major Inland Revenue project to revise its guidance for students following the publication of its report 'Students, the case for making life easier'.

2003
The success of LITRG's pilot surgeries leads to the creation of the company Tax Volunteers, which became the charity providing the Tax Help for Older People service.

2004
A major LITRG report on disability and the tax and benefits system leads to legislation removing offensive terms like 'lunatic' and 'insane' from tax statutes.

2006
Treasury Select Committee adopts a LITRG recommendation to achieve greater fairness in the way HMRC decides to collect or write-off tax credit overpayments as a result of official error.

2007
LITRG and other groups produce a report on the interactions between benefits and tax credits that will be cited in a 2010 White Paper making the case for universal credit.

2009
A coalition led by LITRG persuades HMRC not to collect the tax arrears of 420,000 low-income pensioners.

2011
The 'Revenuebenefits' website is launched, the first of its kind providing a one-stop shop to advisers for information on HMRC entitlements like tax credits and child benefit.

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We are not afraid to speak out in public with the aim of shining a light on areas of concern.

those in charge. These early interactions can deliver meaningful change for those taxpayers we seek to help.

However, when things go wrong, we are also not afraid to speak out in public with the aim of influencing change and shining a light on areas of concern. A recent example of this was our work over the last year to raise awareness of the potential problems associated with certain tax refund companies. Our work in this area resulted in HMRC agreeing to take action not just to tackle the specific concerns that had been raised with us by refunding over 60,000 customers of one particular refund company, but to improve their processes relating to the wider repayment agent market, including the removal of assignments and the strengthening of standards for agents.

Communicating with taxpayers

One of LITRG's big successes has been the development of its website as a source of comprehensive information, guidance and support for taxpayers, providing access to practical guidance and detailed information to help them feel more confident when dealing with HMRC.

> 'I already knew various snippets of information but one sentence on your website joined all of those bits together. Just that has really made my day... Thank you for simplifying the heaps of garbage that I've read about this.
>
> *Member of the public commenting on LITRG website guidance on student loan repayments*

Although aimed at those unable to pay for advice, the information on LITRG's website is widely used by tax professionals who have told us that they find it a helpful source of guidance for areas of tax that they may not deal with on a regular basis.

The site also helps users to join the dots within – and between – the tax and benefits systems. Such are the concerns with the way tax guidance is now provided via GOV.UK that LITRG recently produced a major report on 'good guidance' highlighting the need for improvements.

An example of the power of LITRG's website came during the Coronavirus pandemic. HMRC had to work at speed to deliver government support schemes like the Self Employment Income Support Scheme and Coronavirus Job Retention Scheme. LITRG contributed to discussions as these and other support mechanisms were developed, which not only allowed us to help improve them for unrepresented taxpayers but also put us in a good position to provide a central and comprehensive source of guidance for the public. LITRG's dedicated pandemic support pages, containing guidance on the suite of government measures designed to support the economy through the emergency, were viewed by more than 1 million people.

Most of LITRG's guidance can be accessed on www.litrg.org.uk. In 2022, 5 million people visited LITRG's websites

5 YEARS

2012
Couples, where one is receiving carer's allowance, are excluded from tougher working tax credit requirements thanks to an exemption secured through LITRG lobbying.

2013
LITRG obtains a provision in Finance Act 2013 allowing care and support employers to file Real Time Information (RTI) returns on paper.

2014
HMRC relaxes mandatory online VAT return rules for certain groups unable to file online due to age, disability or their location. Taxpayers backed by LITRG successfully argue in court that it breaches their human rights.

2015
Draft legislation is amended, safeguarding vulnerable taxpayers from HMRC debt recovery processes that allow debts to be taken directly from bank accounts following LITRG talks.

2017
Marriage Allowance legislation is updated allowing claims to be made on behalf of deceased spouses and civil partners, backdated by four years.

2019
Financial Secretary to the Treasury publicly acknowledges LITRG's field-leading work publishing practical guidance on the implications of the Loan Charge.

2020
Over 1 million people access LITRG's coronavirus guidance. LITRG secures changes to a range of pandemic support schemes, as well as improved guidance, helping a wide range of low-income taxpayers.

2021
An action group coordinated by LITRG ensures the government will address an anomaly preventing over a million low-income workers from receiving pension tax relief. This year, LITRG also publishes its influential report on Labour Market Intermediaries.

2022
LITRG raises concerns with the actions of some tax refund companies, leading to direct action by HMRC, refunds to over 60,000 taxpayers and better standards for agents.

2023
LITRG publishes a report on what makes good guidance, setting out 40 recommendations, which has received praise both from HMRC and other external individuals. Changes have been secured as a result of the report.

looking for support. In 2011, funding from HMRC enabled us to set up www.revenuebenefits.org.uk, a website designed to provide information on HMRC entitlements including tax credits and child benefit. It won a Taxation Award in 2012 for 'Best Technological Innovation Award' and funding is expected to continue to 2024. This site will then be wound down due to the transition from tax credits to universal credit.

Our people

LITRG is part of CIOT's public policy directorate. The group is headed by Victoria Todd and supported by a staff team of Chartered Tax Advisers (6FTE), an administrator, part-time website manager and a secondee from HMRC. The staff team continue to be supported by the LITRG advisory panel made up of volunteers, some of whom have been part of LITRG since it began (see www.litrg.org.uk/about-us/litrg-volunteers). The team's recent accomplishments were recognised in 2020 when LITRG won the Best Specialist Team in a Public or Not for Profit Organisation category at the Tolley's Taxation Awards.

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Profile Victoria joined LITRG in 2005 and is a CTA Fellow and member of the ATT. She has a particular interest in tax credits, universal credit and tax/benefit interactions. She was appointed as Head of LITRG in 2018.

The LITRG that exists today would not have been possible without the dedication and hard work of many people. Included in this is the foresight of John Andrews, who saw the need for an initiative such as ours, and the guidance and counsel of subsequent committee chairs.

An article about the last 25 years cannot be written without tribute to Robin Williamson, LITRG's long time Technical Director until 2018 and subsequent volunteer, who sadly passed away last year. Robin was a role model and mentor to many of us and directly responsible for many of the successes discussed in this article. His legacy will continue to live through the 'Robin Williamson Grant', which is being launched this year to support research into issues affecting low income taxpayers, the rights of whom Robin was a steadfast champion.

Towards the next 25 years

Many of the issues LITRG has grappled with in its first 25 years remain as relevant today as they did back in 1998. But there are new challenges too. The rise of the gig economy, the continued strains on HMRC's resources and the push to digitise the tax system all present challenges for low-income, unpresented taxpayers.

This is a reminder, if one was needed, that LITRG's role, while evolving, still plays an important role in delivering on CIOT's charitable purpose, and is needed as much as it was 25 years ago.

Technical newsdesk

WELCOME

July
Technical newsdesk

On Monday 12 June, the National Audit Office published its report and news release on its inquiry 'Progress with Making Tax Digital' (see tinyurl.com/yc7xznrj). I recommend you read it in full. Like a good novel, once you start reading it you will find it difficult to put down.

As you will know, the CIOT, ATT and LITRG technical teams have been engaging with HMRC on MTD since it was announced in late 2015. You will also know that we have been skeptical about the project from its outset, in particular its 'business case'.

Well, it seems that HMRC were not as concerned about the business case as we have been. First, the NAO found that the first business case for MTD was prepared in April 2016, four months *after* MTD was announced. To unveil a project as substantial as MTD, with significant impacts for businesses, agents, software companies and HMRC themselves, without being able to point to a proper business case beforehand, simply beggars belief. And let's not forget that the 'death of the annual tax return' had been announced by the then Chancellor of the Exchequer George Osborne over a year earlier.

Secondly, it seems that when preparing their businesses cases, significant omissions were made by HMRC. Their business case in May 2022, when the mandation date was still to be April 2024, did not include in the cost/benefit analysis the transitional costs for businesses of around £1.5 billion. The business case prepared by HMRC in March 2023 – so after the December 2022 announcement to rescope and further defer MTD for ITSA until 2026 – again failed to include business's transition costs in their cost/benefit analysis. One might consider it ironic that the business case for a system that is designed to prevent error and failure to take reasonable care suffered from precisely those shortcomings!

The report also contains other interesting findings. For a while, we had been hearing of MTD for VAT creating 'unfulfilled obligations', and HMRC pursuing taxpayers for VAT returns that had already been filed and paid. The NAO identified that these amounted to some £5 billion, which exceeds HMRC's estimates of the revenue benefits of MTD of £3.9 billion by 2033-34. Of course, the VAT central assessments that had been raised by HMRC could be withdrawn or challenged, but it does not give much confidence that MTD for ITSA will run more smoothly, especially as testing can only be done with live taxpayer data.

It also appears that HMRC only intend to transfer one year's worth of taxpayer data from its existing Self Assessment system to its new IT platform for MTD for ITSA. This means that everyone will need to interact with both systems for the foreseeable future. The need to use a separate submission service where non-MTD mandated data must be reported will add further costs and complexity.

The positivity in HMRC's response to the report was also surprising. In particular they are reported as saying: 'We welcome the NAO's recognition of our progress in digitalising the tax system, and its confirmation that our plans can improve the system's efficiency and effectiveness.' The ability to find a silver lining in the report's cloud is either laudable optimism or just further evidence that HMRC are not really listening.

To bolster the evidence that we present to HMRC and ministers, as described below, CIOT and ATT have released a members survey on Making Tax Digital for Income Tax Self Assessment, and we would like to hear your views.

NEWSDESK ARTICLES

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GENERAL FEATURE

Simplifying and modernising HMRC IT services: CIOT, ATT and LITRG responses

The ATT, CIOT and LITRG have all submitted responses to the wide-ranging Budget consultation on 'Simplifying and modernising HMRC's Income Tax services through the tax administration framework'.

The consultation on 'Simplifying and modernising HMRC's Income Tax services through the tax administration framework' (see tinyurl.com/bdhyjv8u) was opened at the Budget in March, seeking views on the government's plans to modernise income tax services. It focuses on three main areas: increased digitalisation of HMRC correspondence; improvements to the flow and timeliness of PAYE information; and reviewing the Income Tax Self Assessment (ITSA) criteria.

The consultation builds on the government's 2020 Tax Administration Strategy, which laid out the pathway to 'building a trusted, modern tax administration system' (see tinyurl.com/4bhju2yp). This was followed by calls for evidence forming part of the government's Tax Administration Framework Review and most recently by this consultation.

The responses to the consultation submitted by ATT, CIOT and LITRG are summarised below.

ATT response

The ATT's response (see www.att.org.uk/ref420) highlights the consultation's broad scope, suggesting that each of its three main areas could have warranted a consultation in its own right.

The ATT expressed regret at the lack of *simplification* proposed (perhaps as a consequence of the breadth of the consultation), particularly given the mandate for HMRC and HM Treasury to focus on simplification following the closure of the Office of Tax Simplification. The ATT would have liked to see less focus on streamlining administration of the existing tax system, and more effort addressing how to make the tax system simpler, and therefore easier for taxpayers to comply with and for HMRC to administer.

Looking at the three main areas in the consultation, the ATT highlighted the following issues:

1. Digitalisation requires better public awareness before changing HMRC processes or communication methods. HMRC will need to do more to educate taxpayers on what can be done via digital 'self-service' channels, and why it may be in their interests to go digital. The ATT response also reiterated the importance of maintaining non-digital alternatives as essential to support the digitally excluded.
2. The ATT does not believe that more timely information is the cure-all for issues with the PAYE system. Taxpayers may lack the confidence or ability to review their PAYE codes, agents are rarely copied on updates, and HMRC systems can auto-generate illogical codes based on information fed in without a proper review process. The ATT has reminded HMRC of its role in sense-checking PAYE codes and of the importance of enabling agent access to their clients' coding notices.
3. The ITSA criteria and accompanying HMRC guidance leave a lot to be desired in terms of clarity and achieving the right outcome. The ATT suggests that clearer thresholds should be the priority, rather than relying on guidance to interpret current non-statutory requirements. There is also an opportunity to review the underlying legislation to clarify who needs to be in self-assessment.

CIOT response

The CIOT (see www.tax.org.uk/ref1108) is supportive of HMRC's efforts to move from paper to digital, but believe that greater taxpayer and agent trust is required in IT – including HMRC's present IT systems – before digital interaction will become universally accepted, particularly with the unrepresented. We also consider that HMRC's traditional support channels of telephone and post will need to be properly maintained with prompt response times. These will assist people to learn and adapt to these new digital systems and apply them to their own circumstances, as well as supporting those who cannot go digital.

For PAYE, while we support encouraging PAYE taxpayers to open digital tax accounts and support a digital by default approach to notifications to employers, we note that the majority of PAYE-only taxpayers have very little need to interact with HMRC (digitally or otherwise).

For ITSA, we support a change to require new registrations to be made online, with a digital by default approach to subsequent notices to file and a requirement for annual self-assessment tax returns to be submitted digitally. However, this should only become mandatory when the digital service is operating smoothly, without 'glitches', with widespread accessibility and high customer satisfaction.

When considering the ITSA registration criteria, we agree that the main issues concern guidance, thresholds, HMRC's IT systems and the underlying legislation. We suggest rationalising and aligning the registration criteria with the legislation.

We also suggest that more could be done via the Single Customer Account if its functionality is good enough to engage people from the start. However, until HMRC's IT systems can successfully handle the reporting of untaxed income, claims and reliefs (for example, via the Single Customer Account, Simple Assessment or through PAYE), there will continue to be a need for people to register for ITSA and file tax returns.

LITRG response

LITRG (see www.litrg.org.uk/ref2770) is broadly supportive of HMRC's ambition to improve the scope and quality of their digital offering to taxpayers to achieve a digital channel shift, but points out that access to non-digital options should not be made more difficult to encourage that shift. Doing so would make the experience for genuinely digitally excluded taxpayers more difficult and would not be in line with HMRC's Charter, their Digital Inclusion Strategy or their principles of support for taxpayers who need extra help.

Instead, LITRG says that HMRC's priorities should include the following:

- improving existing services to allow (or encourage) everyone who wants to transact digitally to do so;
- addressing the ongoing difficulties for certain taxpayers in passing Government Gateway verification checks; and
- focusing on improved guidance within forms and tools.

Regarding HMRC's proposals to move various forms to digital by default, LITRG observes that some forms may be more suitable for the change than others. In particular, notices to file a tax return should, LITRG says, continue to be issued by post unless the taxpayer has opted to receive that type of digital communication, and only after their legal significance has been clearly explained. Tax returns should also be more readily available on paper.

For PAYE, LITRG's response includes specific suggestions for improving its operation with the digital agenda in mind, including that DWP should apply PAYE to taxable benefits, tax codes should be easier to understand, and there should be more flexibility to get them changed when they are unsuitable.

GENERAL FEATURE PERSONAL TAX OMB INDIRECT TAX

Making Tax Digital survey

The CIOT and ATT have released a members survey on Making Tax Digital for Income Tax Self Assessment, and we would like to hear your views.

Following various surveys on Making Tax Digital (MTD) for both Income Tax Self Assessment (ITSA) and VAT, the CIOT and ATT have jointly launched a new survey, seeking your thoughts on MTD for ITSA following the December 2022 announcement that it will now become mandatory in April 2026 and 2027 for businesses and landlords with incomes of £50,000 and £30,000 respectively.

The survey is an opportunity to hear views from members as to the starting date and threshold changes, and whether they will help to allay any concerns amongst the profession. One issue of particular interest where members' views would be welcome relates to those businesses and landlords earning less than £30,000, whether MTD for ITSA should apply to them, and how it should apply if so. The CIOT and ATT are currently taking part in a series of discussions with HMRC on this matter, and others, such as multiple agents, which continue to cause concern. The survey also briefly asks for your experiences on MTD for VAT, now that it has become 'business as usual'.

The responses from these surveys enable us to gather members' views and experiences, giving our discussions with HMRC and ministers greater authority and context.

The survey can be found on the CIOT website (see www.tax.org.uk/MTD_ITSA_survey) and the ATT website (see www.att.org.uk/MTD_ITSA_survey) and should take no more than five minutes to complete. Thank you for your input.

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For ITSA, LITRG stresses the importance of the alignment of the criteria with the law. It does not support mandatory digital registration or mandatory online filing following such a registration.

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GENERAL FEATURE

Tax simplification

An update on latest activities with ministers and HMRC.

As reported in the May edition of Technical Newsdesk ('Tax simplification', tinyurl.com/5464kktw), the CIOT, ATT and LITRG, along with ICAEW and ICAS, wrote to the Financial Secretary to the Treasury (FST) Victoria Atkins MP proposing a series of actions that ministers and HMRC should take if they are serious about delivering a simpler tax system.

On 10 May, we met with the FST to discuss the letter. It was a positive meeting, with a commitment by the FST to future engagement with us on this issue. She expressed particular interest in our recommendation to increase awareness of, and improve, GOV.UK guidance and noted our suggestion to include simplification declarations in tax information and impact notes.

We shared with her some areas of difficulty at a high level: complicated processes giving rise to issues such as refund agencies; challenges around producing adequate guidance and raising taxpayer awareness ; often being considered without thinking about the interaction with universal credit; and rogue R&D agents and the current consideration of merging R&D schemes.

We did not get a clear definition of simplification from the FST but understand that HMRC and HM Treasury are undertaking work on what simplification would mean in developing policies, and that it is likely to cover both systems and processes, as well as both future and existing legislative policy. We are meeting with HMRC officials to progress the simplification agenda in early July, and the subject remains a discussion topic in much of our ongoing engagement with HMRC.

We also discussed our disappointment at the closure of the Office of Tax Simplification (OTS). The FST supported the decision to close the OTS but stressed that this does not mean that she does not recognise the importance of simplicity. She pointed to the three criteria to be considered in all policy making in HM Treasury and HMRC, and which featured in the Tax Administration and Maintenance Day announcements: fairer; simpler; and supporting growth. But she then explained the tensions between fair and simple, and that on balance sometimes the former would win. She used the example of needing the small profits rate and marginal relief for smaller businesses, which add complexity but reduce the tax burden on those unable to absorb the 25% corporation tax rate.

The CIOT also provided a briefing to the Public Bill Committee considering the Finance Bill (see tinyurl.com/3efvhn6k). In this, we expressed regret at the government's decision to abolish the OTS, and hoped that even at that late stage the OTS could be saved. We encouraged members of the committee to vote to retain it. We feel that retention of the OTS, especially if it is strengthened, would send out a strong message of the government's commitment to simplification, whereas abolishing it sends the opposite message.

The debate provided an opportunity to press the government on how they will deliver their promise to 'embed tax simplification into the institutions of government'. We strongly welcomed New Clause 1, tabled by members of the Treasury Committee, which would have required HM Treasury to report annually to the Treasury Committee on tax simplification if the OTS is abolished.

The Public Bill Committee debate took place on 18 May, and a liveblog of discussions can be found at tinyurl.com/5um6dmcd. But the clause to abolish the OTS was agreed, and the amendments and new clauses associated with its abolition were defeated. However, the FST has undertaken to write annually to the Treasury Committee on progress with simplification.

The FST was very interested in Making Tax Digital (MTD), referencing the review for those earning up to £30,000. When thinking about MTD, the FST has in mind a taxpayer from her own constituency – the Mablethorpe garage owner – and how small businesses would cope. We reiterated some of the challenges of MTD, including multiple agents, quarterly reporting (especially in conjunction with universal credit reporting), complex rules, difficulties in producing guidance, and availability of software. We are now engaging further on MTD through our responses to the Public Accounts Committee's inquiry into the progress of MTD (see tinyurl.com/mrn7hesr) and regular meetings with HMRC, as well as our survey of members (see box opposite).

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OMB

Expanding the cash basis for the self-employed: CIOT, ATT and LITRG responses

The CIOT, LITRG and ATT responded to an HMRC consultation on proposals to increase eligibility and use of the income tax cash basis scheme for the self-employed. The proposals aim to increase the number of businesses eligible to use the regime and make the rules easier to apply and understand.

The cash basis was introduced in 2013. It allows unincorporated businesses to calculate their taxable profit as the difference between income and expenditure when money is received or paid out, rather than in accordance with generally accepted accounting practice (GAAP accounting), provided certain criteria are satisfied. The consultation document identified a number of potential areas to simplify and expand the regime:

- reviewing the turnover threshold for the cash basis to expand the regime to larger unincorporated businesses;
- setting the cash basis to the default basis for eligible businesses to calculate taxable profits;
- relaxing the interest restriction for businesses in the cash basis to widen access to businesses that have interest costs above £500 per year; and
- removing the restrictions on loss relief in the cash basis to allow new businesses to use the cash basis while setting loss relief against other sources of income.

CIOT response

In our response, the CIOT agrees that it is an appropriate time to review the regime now that it is 10 years old. Despite the cash basis not being introduced in exactly the way that the Office of Tax Simplification recommended in its 2012 report, it does provide some simplification for those businesses that have chosen to use it. However, there are aspects of the current rules that can deter otherwise eligible businesses from using the cash basis.

We would like to see the current restrictions on loss relief and finance costs relaxed. In our view, these are the most significant barriers to use of the cash basis. There seems to us to be little evidence of avoidance to justify them. The current restrictions undoubtedly influence a business's decision not to join the cash basis. We also think that increasing or removing the entry and exit thresholds should not be done without also addressing the loss relief and finance cost restrictions.

Similarly, the cash basis should not be made the default without addressing these restrictions too. More generally, we are concerned that HMRC are proposing making the cash basis the default without investigating and thereby fully understanding why eligible businesses are not currently using it. We think it is likely that there is a significant lack of understanding and awareness of the cash basis, particularly amongst unrepresented businesses. Making the cash basis the default could lead to businesses using it 'by accident', even though the accruals basis may be more suitable for their needs.

We note that the guidance for the cash basis on GOV.UK needs improving and updating and suggest that it should be included in the Small Business Guidance Transformation Project which was announced by the Chancellor in the March 2023 Budget (see paragraph 4.92 of the 'Red Book'). If guidance is improved, this may help to increase understanding and awareness and lead to more businesses taking advantage of the simplifications offered by using the cash basis, where it is appropriate for them to do so.

Ultimately, the cash basis, even an expanded and less restrictive version, is still likely to be suitable only for small businesses with very straightforward financial affairs; in other words, unrepresented taxpayers with no employees and without, or with very low, levels of stock, debtors, creditors and fixed assets. Our impression is that the cash basis is not widely used by taxpayers represented by an agent. This is because preparing accounts on a cash basis really only satisfies the need to report to HMRC, whereas reporting on an accruals basis will serve several purposes, including accurately measuring profitability and performance and providing evidence for loan applications.

The CIOT's response can be found at: www.tax.org.uk/ref1107

ATT response

The ATT consider that there is limited merit in significantly increasing or removing the cash basis entry and exit thresholds. There are many reasons beyond tax why a business may choose the accruals basis, and the cash basis is simply not suitable for many larger businesses.

If the cash basis is made the default, we believe this should be accompanied by relaxation of the current interest and loss restrictions. An extensive education campaign would also be required to ensure that taxpayers are aware of the change and apply the cash basis correctly.

Overall, we feel that the current interest deduction limit under the cash basis of £500 is too low and should be increased significantly. Sideways loss relief should also be allowed for cash basis losses, subject to the general reliefs cap in ITA 2007 s 24A.

The ATT's response can be found at: www.att.org.uk/ref419

LITRG response

LITRG broadly support the expansion of the cash basis. A default cash basis will not make more unincorporated businesses eligible to use the scheme; however, increasing the interest restriction threshold (providing it was sufficiently uprated) and relaxing loss relief restrictions may increase take-up of the cash basis.

In LITRG's experience, many low-income unrepresented businesses do not understand or give much consideration to the basis on which they work out their accounts for tax purposes and are often unaware that there is a choice of two different methods. This means that there are likely to be businesses using the cash basis without ticking the box on their tax return confirming that they are doing so. By making the cash basis the default option, we consider it would formalise what is happening for many unrepresented businesses.

We strongly recommend that HMRC improve their general communications and guidance on the cash basis, especially in growing sectors of self-employment, such as those trading through online platforms. This improvement in guidance should be a priority even if these proposed changes do not proceed.

There are differences between the cash basis for tax and cash accounting for Universal Credit, and the proposals for interest and losses could increase these disparities. However, we think there could be an opportunity for greater procedural alignment in the reporting processes for Universal Credit and for tax purposes under self-assessment and potentially under MTD for Income Tax.

We consider the timing of introducing any change to the default basis is important. In particular, if the default was changed to the cash basis it would be helpful if it does not coincide with other significant changes for the self-employed such as basis period reform in the 2024/25 tax year or the start of the roll-out of MTD in the 2026/27 tax year.

The LITRG response can be found at: www.litrg.org.uk/ref2769

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INDIRECT TAX

Finance Bill: alcohol duty

The CIOT prepared a briefing on Finance Bill 2022-23 raising technical points around the inclusion of an alcohol duty rate applying to flavoured beers.

Budget 2020 announced a review of alcohol duty, following the UK's decision to exit from the EU, with the aims of reform and simplification. In October 2020, a call for evidence was published and there were subsequent consultations following Budget 2021, and again in September 2022. Throughout the years of consultation, HMRC also engaged directly with stakeholders.

As a result of the review and consultations, the Finance Bill included new legislation for alcohol duty in clauses 44-119 and Schedules 6-13. The categories of alcoholic product – i.e. spirits, beer, cider, wine and 'other fermented products' – are defined in Schedule 6. The CIOT's briefing (see tinyurl.com/4y32ujs6) raises questions about the inclusion of paragraph 4(3)(b) to Schedule 6:

> *(3) A beer-based beverage is 'qualifying' if:*
> *(b) it is of an alcoholic strength not exceeding 5.5%.*

This alcohol strength is different to the band for beer more generally, which is set at 3.5% to 8.5% abv, with rates set out in Table 2 of Schedule 7. While 'not exceeding 5.5%' is the current legislative position for flavoured beers set out in The Alcoholic Liquor Duties (Beer-based Beverages) Order 1994, a CJEU judgment in 2018 (*Kompania Piwowarska SA* (Case C-30/17)) ruled that an EU Directive which predated that Order should be interpreted as saying that flavoured beers should be treated as beers for the purposes of excise duty.

In our briefing, we suggested that the distinction now being drawn was perhaps unintentional. The UK can, of course, now legislate to diverge from EU law but we do not believe this is the intention here. We said that if the government's intention is to preserve the existing position, then beers and flavoured beers should be treated the same, and we said that the wording of Schedule 6 needs amending.

We noted that the aims of the review of alcohol duty included reform and simplification, and the inclusion of an additional duty rate specifically for flavoured beers over a certain strength appears to increase the complexity and administrative burden for producers and imported of affected products.

Our briefing can be read at: www.tax.org.uk/ref1141.

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GENERAL FEATURE

Significant changes are underway to business rates

The CIOT has provided a briefing to parliamentarians on the Non-Domestic Rating Bill 2023 and responded to the consultation on disclosure of more information on business rates valuations.

The Non-Domestic Rating Bill 2023, that applies in England and in part to Wales, makes significant changes to business rates. It aligns business rates administration more closely with the wider tax system in particular by introducing a requirement for ratepayers to inform the Valuation Office Agency (VOA) when a business rates liability arises. This addresses a major gap in business rates and aligns business rates with other taxes. The changes follow the government's review of business rates.

Three-yearly valuations

The Bill provides for three-yearly (instead of five-yearly) valuations. The next revaluation will take place in 2026. 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 (perhaps annual) valuations should remain under evaluation.

New reporting obligations

To support more frequent valuations and reduce the number of ratepayer appeals (known as 'Challenges'), the Bill imposes new duties on ratepayers to provide the VOA with information about the identity of the ratepayer, any changes to the property, and trade information used for valuation. Notification requirements will apply to ratepayers that qualify for full business rates relief, but not to exempt businesses. The information will have to be provided within 60 calendar days via a new VOA online facility.

The Bill also imposes a separate duty on ratepayers in England and Wales to provide a taxpayer reference to HMRC to allow data matching of tax and business rates information. The aim of better targeting financial support to businesses is obviously desirable. However, it is unclear how the data matching will enable this objective to be achieved as liability for business rates arises on a daily basis, while data on turnover and profits is provided to HMRC annually via the corporation tax or income tax return. The data that HMRC holds is therefore 'old' not 'current' and so may not readily be used to target reliefs.

We said that greater consistency and transparency around the criteria for business rates reliefs would help to ensure that reliefs are targeted more effectively.

Penalties

In designing the penalties regime to support the new duties, we agree that drawing on existing or proposed tax penalties regimes is sensible. However, we have some concerns about lack of consistency and non-alignment with existing tax penalty regimes.

Improvements relief

The Bill provides for a 12 month relief from higher business rate bills arising from improvements to an existing property. This improvement relief will run from 2024 to 2028 in the first instance. It is not clear why the new relief for improvements will not be introduced until 2024. The timing appears to incentivise a delay in undertaking improvements.

Transparency and disclosure of information on business rates valuations consultation

The consultation concerns proposals to provide increased transparency to ratepayers to allow them to request access, via a largely automated process, to an analysis of evidence used to set their rateable value. Currently specific information about the underlying evidence used to determine rateable value is only provided at the formal Challenge stage. A ratepayer would only be able to access more detailed rateable value information if they have complied with the new notification obligations.

The government has confirmed a six-month window will apply for Challenges on the 2026 rating list, and a three-month window thereafter. This six-month window is a fundamental change to the rating system and greater certainty is needed about how the process will work.

We are concerned that there is the risk of a major bottleneck in the system. It is likely that a large proportion of ratepayers will put in requests soon after each 1 April when a new rating list is published. It will be necessary for the VOA to respond in time to allow ratepayers and their agents to construct and submit a Challenge (within the new six-month window) by 30 September. The ability of the VOA to respond to these requests will depend in part on ratepayers' awareness of and compliance with the new information obligations set out in the Non Domestic Rating Bill. These may take some time to bed in.

The briefing on the Non- Domestic Rating Bill 2023 is at: www.tax.org.uk/ref1138.

The CIOT's response to the transparency and disclosure of information consultation at: www.tax.org.uk/ref1114.

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INDIRECT TAX

VAT energy saving materials relief: CIOT response to call for evidence

In the Autumn Statement 2022, the government confirmed its commitment to improving the energy efficiency of the UK's housing stock and increasing the proportion of energy provided from low carbon, renewable energy sources, part of its Ten Point Plan to reach net zero by 2050.

Budget 2023 announced a call for evidence to consider options to reform the VAT relief for the installation of energy saving materials in the UK. In the consultation document, 'VAT energy saving materials relief – improving energy efficiency and reducing carbon emissions' (see tinyurl.com/ycxfmavf), HMRC sought feedback on two main areas:

- whether additional technologies meeting the three objectives (see below) should be added to the list of installed energy saving materials that benefit from the temporary zero rate; and
- whether the temporary zero rate should be re-introduced for installations of energy saving materials in buildings intended solely for a relevant charitable purpose

For a reform to be taken forward, it has to meet three key objectives:

1. Improving energy efficiency and reducing carbon emissions: does the technology reduce demand for energy derived from fossil fuels?
2. Cost effectiveness: will the reform change consumer behaviour and not have significant fiscal cost?
3. Alignment with broader VAT principles: an expansion of the relief should not risk introducing uncertainty and additional complexity, which could lead to legal disputes.

The call for evidence asked about the possible inclusion of electrical battery storage to the list of qualifying technologies. These batteries connect to pre-existing or new solar panels to that generated energy can be used at other times. In the CIOT's response (see www.tax.org.uk/ref1106), we thought that, in principle, the VAT relief on battery storage could meet the three key objectives. However, we did note that if

INDIRECT TAX

Finance Bill: regulations for drink deposit return schemes

As part of the government's commitment to increase recycling, the four countries of the UK will each launch statutory deposit return schemes for single use drinks containers. During the period of development of a deposit return scheme for Scotland, there have been ongoing negotiations between the Scottish and UK governments to determine the VAT accounting treatment on the deposit amounts.

The deposit return schemes are anticipated to launch throughout the four UK countries on 1 October 2025, at the earliest. The Scottish scheme had been due to launch on 1 August 2023, which was deferred to 1 March 2024. In an announcement on 7 June 2023 (see tinyurl.com/2bmev848), the launch date was delayed for a second time to October 2025, as the UK government did not grant an exclusion from the Internal Market Act for the Scottish scheme, so further changes to the Scottish scheme are required.

It was the UK government's preference that VAT should be accounted for on the deposits at the point of sale and throughout the supply chain (similar to schemes in the EU). The Scottish government's preference was for all for deposits to remain VAT free. However, the Finance Bill (at clause 314) found a middle ground: there will be no requirement for businesses in the supply chain to account for VAT on the deposits, but VAT must be accounted for on unreturned deposit amounts. In addition, this VAT must be declared by the first seller in the supply chain, normally the UK manufacturer or an importer.

On 29 March, draft VAT regulations that will implement these proposals were published and a consultation launched (see tinyurl.com/yhu7j6n2).

In our submission, we were broadly supportive and said that the draft VAT regulations will achieve their intended purpose.

We noted that the error correction procedure in the draft regulations is simplified compared to the normal rules for VAT voluntary disclosures, with a £50,000 error flat threshold rather than requiring any additional turnover test, which is welcomed. However, the regulations allow for some details of the scheme to be set out by HMRC in its guidance, including:

- the calculation method of the scheme adjustment where there is uncertainty if the returned products were subject to VAT or not;
- the disclosure procedure for final scheme adjustments (cessation of business) or special scheme adjustments (no sales of products for reasons other than cessation of business); and
- the specified timescale for disclosures.

The CIOT would prefer as much detail about VAT procedures to be detailed in the regulations themselves rather than guidance, to provide certainty for affected businesses. We would hope that the draft VAT guidance is made available to industry and professional stakeholders for further engagement in due course.

Our response can be found at: www.tax.org.uk/ref1118.

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PERSONAL TAX

Help to Save reform

LITRG has responded to an HM Treasury consultation looking at reforming the Help to Save scheme for low-income workers.

Help to Save is a savings scheme aimed at low-income working people, in recognition of the fact that they are unlikely to benefit from the key savings incentives offered by products such as traditional ISAs. Broadly speaking, those eligible for Help to Save are able to save a maximum of £50 per month for four years and receive two 50% bonuses from the government to match their savings, one after two years and the other after four years when the account matures. Currently, eligibility for the scheme is tied to those receiving working tax credit or universal credit (with a minimum earning limit, to ensure that the policy objective of benefiting 'workers' is met).

The idea behind Help to Save is not only to provide an incentive to save over the four-year life cycle of the product, but to cultivate a long-term savings habit among low-earning workers. Help to Save was launched in September 2018 and was initially due to run until September 2023. At the Spring Budget, it was announced that the scheme would be extended for a further 18 months until April 2025.

HM Treasury then launched a consultation exploring how Help to Save might be improved and reformed with a view to its further continuation beyond April 2025.

Key themes under consideration are:

- eligibility for the scheme and suitability of the current criteria;
- awareness of the scheme;
- simplicity of the scheme and the calculation of bonus payments; and
- promoting the longer-term saving habit beyond the expiry of a Help to Save account.

LITRG has responded to the consultation, setting out that although we are supportive of the scheme and its generous incentives, its success may well be currently hindered by a lack of effective promotion of the scheme. In addition, many eligible workers may simply not have money to set aside month to month, or indeed fluctuations in living costs may mean that making regular monthly savings is challenging. To that end, any reform to the scheme ought to take a more generous approach to the monthly contribution limits, perhaps allowing savers to 'rollover' unused saving limit from one month to the next or allowing savers to make short-term withdrawals which can be replaced within a certain timeframe without affecting their bonus.

LITRG's response also suggests that the scheme might benefit from a more general review of the calculation of bonuses, which are complicated and can be quite restrictive, particularly the second bonus where withdrawals from the account have been made.

A final feature of the current scheme is that, at the end of the four-year period, the account is closed and the savings are paid directly into the saver's current account. It may be preferable if some sort of legacy savings account could be set up automatically into which the funds could be transferred on maturity of the Help to Save account. This would seem like a better way to encourage people to retain their savings habit going forward.

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these technologies were supplied as part of a wider contract of refurbishment works, this may be a single supply of building works and a positive rate of VAT may apply, meaning that there would be no price incentive to the customer in those circumstances.

The second set of questions focused on whether the relief should be reinstated for the installation of energy saving material in a building intended for use solely for a relevant charitable purpose. Prior to August 2013, UK legislation provided a VAT relief for these circumstances, but it was removed as the European Commission identified that its inclusion meant that the UK's application of the relief was too broad. Our view is that charities would welcome the reinstatement of the relief.

The CIOT also suggested that HMRC should consider the position for housing associations. Housing associations hold a significant amount of the UK's rented domestic housing stock and will play a part in increasing the number of homes that are fuelled by energy saving materials rather than fossil fuels. As this sector is more likely to carry out wider refurbishments of their properties, they can be affected by the singly supply VAT rules mentioned above, which remove the zero rate on installed energy saving materials. We asked whether a particular carve out rule could be considered for this sector, in the same way that transportation services were carved out of the single supply of VAT exempt undertaker services.

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INDIRECT TAX GENERAL FEATURE

Extension of the Climate Change Agreement scheme

Climate change agreements are voluntary agreements made between industry in the UK and the Environment Agency, the administrator of the UK scheme, to reduce energy use and carbon dioxide emissions. Businesses within the scheme receive a discount on Climate Change Levy, a tax added to electricity and fuel bills.

The CIOT submitted a response (see www.tax.org.uk/ref1109) to the Department for Energy Security and Net Zero's consultation: 'Climate Change Agreements: consultation on extension to 31 March 2027 and further proposals on any potential future scheme'. We welcomed the extension to the current scheme and that there would be an opportunity for new businesses to join the scheme.

While welcoming the extension, we also said that we would prefer to see longer term certainty for businesses so that they can plan accordingly, rather than a series of short-term extensions that would have to be considered again in a few years' time.

That being said, if there is to be more significant reform to replace the current Climate Change Agreement scheme, businesses would need sufficient time to prepare for change, in which case a suitable extension to the exiting scheme would be welcome, in order to allow sufficient time for businesses to change to any replacement scheme.

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CIOT		Date sent
Climate Change Agreements: consultation on extension and future scheme (2023)	www.tax.org.uk/ref1109	10/05/2023
Finance (No.2) Bill 2023 Low Income Estates in Administration and Trusts	www.tax.org.uk/ref1139	May 2023
Finance (No.2) Bill 2023 Capital Gains Tax	www.tax.org.uk/ref1140	May 2023
Finance (No.2) Bill 2023 Alcohol Duty	www.tax.org.uk/ref1141	May 2023
Finance (No.2) Bill 2023 Abolition of the OTS	www.tax.org.uk/ref1142	May 2023
Non-Domestic Rating Bill 2023	www.tax.org.uk/ref1138	May 2023
Draft regulations: VAT provisions for drink deposit return schemes	www.tax.org.uk/ref1118	23/05/2023
VAT energy saving materials relief: improving energy efficiency and reducing carbon emissions	www.tax.org.uk/ref1106	31/05/2023
Disclosure: sharing information on business rate valuations	www.tax.org.uk/ref1114	02/06/2023
Expanding the cash basis	www.tax.org.uk/ref1107	06/06/2023
Simplifying and modernising HMRC's Income Tax services through the tax administration framework	www.tax.org.uk/ref1108	07/06/2023
ATT		
Expanding the cash basis	www.att.org.uk/ref419	16/05/2023
Simplifying and modernising HMRC's Income Tax services through the tax administration framework	www.att.org.uk/ref420	02/06/2023
LITRG		
Finance (No2.) Bill 2023 Clause 332 Right to repayment of income tax to be inalienable	www.litrg.org.uk/ref2760	17/05/2023
Expanding the cash basis for the self-employed	www.litrg.org.uk/ref2769	06/06/2023
Simplifying and modernising HMRC's Income Tax services through the tax administration framework	www.litrg.org.uk/ref2770	07/06/2023

News from CIOT and ATT

Event

Helpline closure a sign HMRC 'can't cope', MPs told

CIOT President Gary Ashford lamented HMRC's decision to temporarily close its self assessment helpline in remarks to the CIOT's Annual Parliamentary Reception at the Houses of Parliament on 12 June.

Overcast skies and rumbling thunder earlier in the day might have been a metaphor for the troubles that have beset the tax authority in recent months, but it was a sunny evening by the time more than 80 guests, including MPs, journalists and tax professionals, gathered at Parliament's Terrace Pavilion for the annual event which seeks to strengthen links between parliamentarians and the tax profession.

Ashford said that the decision to shut down the helpline was 'another flashing indicator that HMRC can't cope with everything it is being tasked with'. He continued: 'Surely the first rule of tax compliance has to be that you make it as easy as possible for those trying to comply?'

The Institute's unhappiness at the helpline closure was also emphasised to Financial Secretary to the Treasury Victoria Atkins at the event. The minister joined us for the earlier part of the evening but had to leave before speeches. Nevertheless she thanked CIOT for its engagement with the tax policy process and looked forward to future meetings to discuss areas of interest to the profession, building on a previous discussion on simplification.

In his remarks, Gary Ashford said he regretted the decision to axe the Office of Tax Simplification, telling parliamentarians that in the following week, there was a final chance for Parliament to reprieve the OTS. 'But if, as I fear is likelier, its abolition goes through, then the government must deliver on their commitment to "embed tax simplification into the institutions of government" … We will be keeping up the pressure. I hope others – including parliamentarians – will too.'

The simplification agenda and current HMRC travails were also on the mind of the event's parliamentary sponsor, Craig Mackinlay MP CTA, who said the authority 'needs to up its game'. He was critical of past decisions to close local tax offices and said the tax system could do more to solve social problems like housing, suggesting that reform of capital gains tax could help to free up large numbers of properties and bring the housing market to life.

Lord Leigh of Hurley, who is also a CTA, shared his experience of tax scrutiny in Parliament and encouraged the Institute and its members to contribute to the work of the House of Lords Finance Bill Sub-Committee, which he chaired this year.

Guests also heard from the Shadow Financial Secretary to the Treasury James Murray, who praised the 'absolutely invaluable' support given by CIOT, ATT and LITRG to the parliamentary scrutiny of tax policy. Murray remarked that the job of opposition required MPs to be across any and all issues. Because of this, he said, the support of outside experts such as CIOT helped MPs focus on holding government to account while supporting efforts to deliver a simpler and fairer tax system.

Tax minister Victoria Atkins in discussion with current CIOT President Gary Ashford, Immediate Past President Susan Ball and the Institute's Head of External Relations, George Crozier

Left to right: Craig Mackinlay MP, Gary Ashford, James Murray MP

Left to right: Lord Davies of Brixton, Gary Ashford, Lord Leigh of Hurley

Political update

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

It has been a busy time for CIOT and ATT's political engagement. In addition to the parliamentary reception (see above) and Finance Bill (see opposite), we have been active on topics ranging from business rates to crypto currencies.

Two representatives from the joint CIOT/ATT Crypto Assets Working Group met up with SNP MP Lisa Cameron, chair of the crypto and digital assets all-party parliamentary group, in May to discuss the taxation of crypto assets, and in particular the need for crypto assets to be recognised as unique, and therefore needing their own tax rules.

The Non-Domestic Rating Bill currently going through Parliament is aiming to reform the business rates system in England by increasing the frequency of valuations and introducing a new relief for improvements to properties. In a briefing, CIOT said there is much to welcome in the Bill, but we suggested that a new, consolidated Business Rates Act, simplifying and laying out all the legislation, would have been better than amending the existing Local Government Finance Act. Speaking during debate on the Bill, Conservative MP Peter Aldous backed this view, saying a new consolidated bill 'would have sent the message to businesses both large and small that real change was on the way'.

ATT and CIOT both provided written evidence to the Public Accounts Committee for their short inquiry into Making Tax Digital. This fed into some of the questions put to HMRC senior officials at an evidence session held on 19 June. The National Audit Office's damning report of 12 June made this an uncomfortable session for the officials.

Legislation

Finance Bill – supporting scrutiny

CIOT and ATT evidence on topics ranging from pension top-ups to abolition of the Office of Tax Simplification (OTS) was cited during debate on this year's Finance Bill.

The Bill, which cleared its House of Commons stages on 20 June, contains a number of measures advocated by the two bodies, including clause 41, which extends the no gain/no loss tax treatment for transfers between separating spouses, and clause 29 and schedule 2, which provide greater simplicity in respect of estates. But it also contains measures that the bodies are unhappy about, most notably the scrapping of the OTS.

CIOT, ATT and LITRG together provided 11 briefings and representations to the MPs considering the bill, to support the scrutiny process and highlight possible flaws and areas of uncertainty. During debate on the Bill the three bodies were mentioned a collective total of 45 times, with our evidence cited on eight different aspects of the Bill as well as in the debate on the Programme Motion, where SNP spokesperson Kirsty Blackman once again made a call for tax experts to be invited to give oral as well as written evidence to the committee.

Clause 25 of the Bill introduces pension top-up payments for low earners in net pay pension schemes. Shadow Financial Secretary James Murray commended the efforts of LITRG and others in campaigning for this measure. He also put forward a number of amendments suggested by LITRG aimed at improving the legislation.

In reply, Economic Secretary Andrew Griffith was able to provide reassurance that HMRC would provide people with details of how their payment was calculated, as LITRG had asked. LITRG got less satisfaction on a bid to permit challenges to HMRC's determinations, though the minister told Murray that those who feel a payment is incorrect will be able to contact HMRC who will be able to 'correct the situation' if necessary.

Another measure in the Bill which can be attributed in part to work by LITRG is clause 332, which prevents taxpayers from reassigning their right to an income tax repayment to a third party repayment agent. Murray said that while LITRG broadly welcomed the clause, the group had highlighted that issues remain around the nomination process – the alternative way of enabling an agent to receive a payment.

While supportive of the relaxation in clause 41, CIOT pointed out to officials when the Bill was published that the clause was flawed as the period during which separating spouses and civil partners would be able to transfer assets between themselves on a no gain/no loss basis would end, illogically and possibly catching people out, a day before the end of the tax year. The government passed an amendment to remedy this.

CIOT, ATT and LITRG provided 11 briefings and representations to the MPs considering the bill.

ATT and CIOT both made committee stage submissions opposing the abolition of the OTS. These were drawn on heavily by Labour and SNP spokespeople. James Murray (Lab) observed that CIOT had pointed out that almost every Finance Act of the last decade has included measures that owe their genesis to the OTS. Douglas Chapman (SNP) highlighted the ATT's belief 'that there are many benefits to maintaining independent advice to the government on tax simplification' and called on the minister to 'at least give the OTS a stay of execution until further evaluation is carried out'. The minister gave no ground.

Other clauses on which CIOT evidence was cited during committee stage included R&D relief, the multinational top-up tax, estates in administration and trusts and share exchanges involving non-UK incorporated close companies.

A fuller review of this year's Finance Bill can be read on the CIOT website at: tinyurl.com/bddznvcy

In the news

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

'Speaking at an event in Edinburgh hosted by the Chartered Institute of Taxation and the Association of Taxation Technicians, she said the SNP has previously taken "difficult but necessary decisions on tax".'

Press Association syndicated article published by The Independent, Evening Standard and others, on Scottish Finance Secretary Shona Robison's tax plans, 12 May

'The Scottish Conservatives have claimed that most Scottish workers are now paying more income tax than people in the rest of the UK... [T]he Chartered Institute of Taxation confirmed £27,850 was the threshold where Scots start to pay more in income tax than in the rest of the UK.'

The Scottish Sun, 15 May

'Some foreign companies may not be aware of [the new Register of Beneficial Owners of Overseas Entities] yet, while others could be struggling to identify and verify all their beneficial owners, according to John Barnett from the Chartered Institute of Taxation.'

BBC News Online, 18 May

'A number of our members have reported that delays in processing returns were causing problems for self-employed clients as, until returns are accepted by HMRC's systems, it is not possible to generate the tax overview documents needed to prove income to mortgage providers.'

Helen Thornley, technical officer at the Association of Taxation Technicians, in the Daily Telegraph on HMRC service levels, 23 May

'Poor service levels at HMRC are not just a pain for taxpayers and advisers, they harm tax compliance, hinder business activity and hammer away at trust in the tax system. A strong economy needs an effective tax system.'

Gary Ashford, President of the Chartered Institute of Taxation, quoted in the Daily Telegraph on HMRC service levels, 6 June

AGM

New CIOT President highlights service levels, simplification and crypto

CIOT President Gary Ashford gave his inaugural speech at the Annual General Meeting on 30 May 2023.

Gary began his speech by thanking his predecessor Susan Ball, his family and his colleagues past and present. He observed that his own career had included not just firms of different shapes and sizes but also 17 years at HMRC.

Tax administration

My own journey means I am acutely aware that the tax system is a three way partnership – tax *payers*, tax *advisers* and tax *authorities*.

Taxpayers must pay the right amount of tax at the right time.

Tax advisers must give accurate, honest advice to their clients and their employers to support them in being compliant.

And tax authorities must provide a framework that makes it as easy as possible for taxpayers to be compliant.

That doesn't feel the case right now. I will always defend HMRC, as I know there are lots of great people there, doing some very important work, but when people can't get prompt answers to queries that makes it more likely they'll get things wrong.

When people are stuck on phone lines for hours on end – taxpayers *and* their advisers – that adds to compliance costs. When people can't get timely repayments that harms cashflow and threatens business viability.

Poor service levels at HMRC are not just a pain for taxpayers and advisers, they harm tax compliance, hinder business activity and hammer away at trust in the tax system.

A strong economy needs an effective tax system. HMRC have 6,000 fewer customer service staff than they did five years ago.

Now I'm a true believer in the power and the potential of technology. But cutting staff numbers *now* – in anticipation of efficiencies from digitalisation which have not yet arrived – seems to me to be putting the cart before the horse.

Ministers must resource HMRC properly for the job it has to do.

Engaging with HMRC

What is the Institute's role here? It is surely to be a candid friend to HMRC. Sometimes critical. But always constructive.

We engage with HMRC every day. Last year alone more than 200 consultation responses, and more than 600 meetings.

This delivers results:

- administrative changes like the more sensible timetable for the roll-out of MTD;
- policy changes like the capital gains tax and trust and estate measures in the current Finance Bill; and
- a crackdown on rogue tax refund companies.

Noting that the latter was one of the many achievements of the Institute's Low Incomes Tax Reform Group, Gary paid tribute to LITRG ahead of its 25th anniversary in July. He also spoke of the importance of the tax advice charities, Tax Aid and Tax Help for Older People, and encouraged all tax professionals to support them.

Regulation

Now, as I said earlier, the tax system is a three way partnership – taxpayers, the tax authority and tax advisers. The relationship between these partners is crucial. That is why the issue of regulation of tax professionals is so important.

In November, the Financial Secretary told Parliament that regulation of tax agents is something she is 'considering actively'.

If the government decides to move forward in this area, there are two broad directions they can go – government regulation or a solution based around professional bodies.

Government regulation would likely be costly and ineffective. The standards imposed would likely be lower than those already required of our members. Better by far would be to build on what we have now, by requiring anyone providing tax advice on a commercial basis to belong to a recognised professional body.

Our rules already protect taxpayers, by making it clear that there is no place in our profession for those who devise, promote or sell avoidance schemes. They make it clear that, as professionals, our members have obligations – yes, to their clients, but also to wider society, and to the reputation of the Institute and the tax profession as a whole.

Chartered Institute of Taxation.

> **Digital assets in their broadest form will play an essential part in the development of financial services.**

Public benefit role

Our high professional standards are just one of the ways in which we fulfil our mission to deliver public benefit.

Most obviously, we have our qualifications. But our educational role is wider than this. It stretches to *public* education too:

- the work we do through the media to publicise tax rules and obligations;
- the wonderful guidance produced by LITRG; and
- the work we do supporting parliamentary scrutiny of tax laws.

And, of course, we are a powerful voice in the tax policy debate:

- pointing out unintended consequences;
- arguing for a fair balance of powers and rights; and
- making the case for those much neglected qualities of certainty, clarity and simplicity.

Simplification

Now I can't mention simplicity without mentioning the Office of Tax Simplification. Scrapping the OTS is a


Gary Ashford

mistake. Instead, the government should have *strengthened* it – giving it a louder voice, a wider remit and greater resources. This is what we argued for.

But if it must go, then the government must be held to their promise to 'embed … simplification into the institutions of government'. Alongside other bodies, we've suggested some ways they could make a start on this. We met with the Financial Secretary earlier in May to discuss these, and we'll be keeping up the pressure.

Technology, crypto and AI

One route to simplifying compliance is through technology.

We've been critical of some of the aspects of MTD – the pace of change and underestimates on costs, to name just two. But the idea that digital tools can increase both compliance and customer experience in the tax system is a sound one.

Technology is also a big part of HMRC's plans to reduce the 'tax gap', though we remain doubtful that MTD will reduce taxpayer error by anything like as much as HMRC think it will.

Then there's crypto. In my view, digital assets in their broadest form will play an essential part in the development of financial services, in both the UK and the world. I sit on HMRC's crypto taxation working group. Whilst I am pleased with some of the technical work being undertaken behind the scenes and the excellent tax technical guidance, I think HMRC, and other government departments, could say more publicly to help the general population understand this area better, rather than simply repeat the message about risk! This is an area where a policy vacuum will simply be filled by bad actors, and scams and fraud will proliferate.

In my view, we need to recognise crypto assets and the broader decentralised finance sector as unique, and therefore needing their own specific and clear set of legislation for how you tax them. The government's new consultation looks to be edging down this road, which is welcome. But wherever we end up, there will have to be a huge awareness campaign to make owners of crypto aware of their obligations.

Then there is AI. First, some reassurance. I don't think we are all about to be replaced by Chat GPT and Bard. In the words of my predecessor Peter Rayney: 'We survived the calculator. We survived the spreadsheet. And we can survive the AI revolution too.'

But we're going to have to adapt. There isn't a lot of space in the profession these days for people who can't use a spreadsheet or the internet. In a few years' time, it could be the same with AI.

I've heard it said that AI is best thought of as a graduate researcher: smart and articulate, but you need to check their workings. That's a good approach.

This is a powerful tool – for research, writing basic text and coming up with ideas. It could suggest, for example, which reliefs might be available to our clients. It can free up *our* time to let us provide more tailored support.

Even more than now, successful *future* tax professionals will be those who go beyond simply crunching numbers and ensuring compliance to become their clients' trusted advisers.

This is where our new Diploma in Tax Technology comes in. It's our response to the changing demands on tax professionals. We've worked with tech specialists and firms of all sizes to produce a qualification which matches the needs of the profession. It's the first of its kind.

I encourage you to take a look.

International

Turning to international tax, Gary looked ahead to the following week's CTA Address (see page 56) and reflected upon the greater role he expects environmental taxation to play.

The international dimension of tax has long been an interest of mine. For me, understanding our tax system in an international context is key not just to the success of my clients, but to the success of the whole UK economy.

When I travel overseas, I want to be able to promote UK PLC as a location for investment and other business activity. I want to be able to promote a world class tax system that encourages entrepreneurship – a framework that supports the scientists and technologists who we need not just for our economic success, but to address those huge challenges like climate change. Also, our world leading financial services, creative industries and entrepreneurs, throughout our four amazing nations.

Conclusion

To conclude, I am deeply honoured to be your President for the year ahead.

This AGM may be online but I'm looking forward to getting out and about, meeting as many of you as possible, face to face, at our debates, branch meetings and other events.

See you there!

This speech has been slightly abridged. The full speech can be read or viewed at: www.tax.org.uk/gary-ashford-presidential-inaugural-speech

Event

CIOT/IFS debate: Carbon border adjustment

With the government consulting on plans that would help to prevent the taxation of greenhouse gas emissions leading to the movement of emissions-generating activities overseas, in May the CIOT and the Institute for Fiscal Studies held an online debate on proposals for a carbon border adjustment mechanism (CBAM).

Joining the chair of the event, IFS Deputy Director Helen Miller, were Michael Keen of the University of Tokyo, Alice Pirlot of the Geneva Graduate Institute, Jennifer Rowland of HM Treasury and Richard Woolley of the Chemical Industries Association.

A CBAM would tax imports to the UK based on their embedded and untaxed carbon content and is an idea gaining traction in policy making circles.

Jennifer Rowland said that a CBAM was among the options being considered by the government in its consultation (which closed on 22 June) on tackling carbon leakage. She emphasised that no decision had at that stage been taken on whether to introduce a UK CBAM but said that any mechanism would need to find the 'sweet spot' of simplicity and fairness.

Michael Keen argued that a CBAM would allow for more aggressive domestic carbon pricing and contribute towards more efficient and effective efforts to tackle carbon leakage globally. He said a levy like this would need to tackle carbon leakage and maintain competitiveness. While encouraging other countries to adopt similar carbon pricing schemes is often also given as an objective, this depends on how much of your domestic carbon emissions is embodied in your exports. For major emitters such as China, that is relatively low.

Alice Pirlot, while supportive of CBAMs in principle, warned that they were legally problematic. Under international trade law, you need to be non-discriminatory, treating imports the same as domestic production. Under the Paris agreement (climate change law), developed countries are supposed to take the lead and developing countries are permitted to do less. Moves towards a uniform carbon price such as through a CBAM conflict with this.

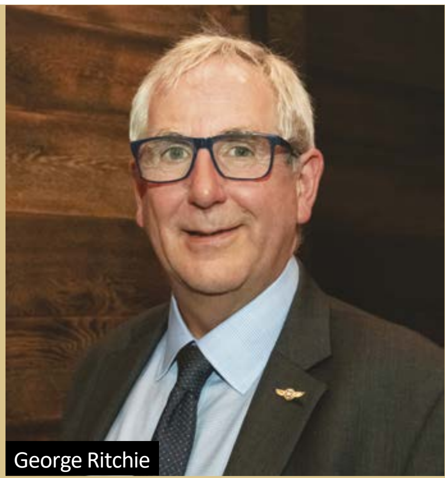
Richard Woolley argued that a CBAM could be a helpful tool but that to be successful it would need to be well-designed with input from industry. He said that it would need to align with the UK's existing Emissions Trading Scheme and be designed to ensure that it does not price UK products out of international markets. It must disincentivise companies from switching to pollutants that fall outside the scope of the scheme. He also argued that a UK scheme significantly different from the EU's could increase the risk of non-recognition.

In the Q&A session that followed, panelists considered questions including the legal and political challenges identified by Pirlot and Woolley and the challenge of taxing embedded carbon.

For a fuller write-up and recording of the debate, see: tinyurl.com/35dxwxd3

Appointment

New ATT Lay Person appointed


George Ritchie

At its meeting on 27 April, the ATT Council said a fond farewell to Diane Burleigh, its Lay Public Interest Council Observer since 2016 and welcomed George Ritchie as her successor. George tells us what motivated him to become the ATT's next Observer.

When I first investigated the ATT, I realised that its aims aligned closely with my personal values. I also believed that my past experience would be relevant but potentially offer a fresh perspective. So I wanted to have the opportunity to help Council members to deliver their mission.

I qualified as a solicitor in 1985, working as a criminal defence advocate and duty solicitor in police stations. In 1992, I moved to the Head Office of the Legal Aid Board where I became a public law lawyer, handling many of the judicial review cases brought against the Board.

In 1995, I joined BT. I was a regulatory and public law lawyer, first in the Retail arm and then in the Wholesale division. From 2009 to 2016, I was Chief Counsel, Competition and Regulatory Law for BT Group. In 2017, BT gave commitments to Ofcom to make Openreach a subsidiary company with its own board and financial, strategic and operational independence. I was appointed BT's Commitments Assurance Director – a unique independent oversight role to hold BT (especially its senior leadership team) to account to live up to its commitments. I was accountable to the BT Board committee responsible for overseeing BT's compliance and to Ofcom. I held that independent public interest role until my retirement in mid-2022.

I now have a broad portfolio. I am an Independent Member of the Health Research Authority Audit and Risk Committee, a Guernsey Competition and Regulatory Authority Board Member, and I have recently been appointed to a quasi-judicial role as a Lay Member of the Medical Practitioners Tribunal Service.

ATT's charitable objectives include the advancement of education in the field of tax, and promoting and enforcing standards of professional conduct. Helping others, especially young people, to develop and grow, and ensuring that those in positions of responsibility can be trusted to do the right things are important to me.

I enjoyed being a school governor, and in my last role at BT, I was an independent 'critical friend' to the business to ensure it was doing the right things and could be trusted. That was very similar to the Lay Observer role, and I like the ATT's commitment to equality, diversity and inclusion. It is so important to create a culture in which everyone feels included, valued and able to flourish.

I am a member of Westminster International Rotary Club, a wonderful club where we recently led a project to fund the construction of a field hospital in Turkey following the terrible earthquake. I am married with two adult children – one is an economist and an international rugby referee; the other has just bought her first home with high expectations of DIY Dad!

AGM

Susan Ball: 'My roller-coaster year'

Outgoing CIOT President Susan Ball reflected on the past year in her valedictory speech at the Annual General Meeting on 30 May 2023.

Gary Ashford and Susan Ball

It has been a roller-coaster of a year. In my AGM speech a year ago, I paid tribute to Her Majesty Queen Elizabeth on her Platinum Jubilee. Less than four months later, I was sending condolences to her son, the new King.

Then there was our parliamentary reception, held on the day the Conservative Party elected its new leader, Liz Truss. Our guest speaker was Financial Secretary Lucy Frazer, who said some very nice things about us. But two days later she was gone. (Was it something she said?)

Issues of concern

A couple of weeks after that I wrote to the *new* tax minister and Chancellor raising issues of concern to us:

- the need for action on HMRC service levels;
- the need for a review of Making Tax Digital and its implementation timetable; and
- the need for a more ambitious tax simplification programme.

Sadly, they weren't in post for long enough for me to get a reply – though it was long enough for one, possibly two, fiscal events and to abolish the Office of Tax Simplification.

Six weeks after that first letter, I sent a similar one to the ***next*** new tax minister.

Results on these three issues have been mixed.

We can be most positive about Making Tax Digital. The government's announcement in December that the roll-out of MTD for Income Tax would be delayed to allow more time for testing, preparation and reviewing the needs of the smallest businesses, was welcome.

Now we just need to make sure HMRC use the extension effectively, working with us and other stakeholders so we are not back in the same place again in two years' time!

On simplification, developments have been more disappointing. I regret the decision to abolish the OTS. But, notwithstanding this, I do believe that ministers are genuine in their desire to 'embed' simplification into tax policy processes.

And it was in this spirit that we joined with other professional bodies to write to the Financial Secretary last month setting out some potential first steps towards achieving this. Earlier this month, we met with the Financial Secretary to discuss our proposals.

It's far too early to declare success in 'embedding simplification' – let alone actually simplifying the system – but there is at least a willingness from the government to engage and listen in this area.

The third of the key areas I identified in my letters was HMRC service levels. This has been the area of greatest frustration for me over the year.

We put forward many examples from members of unacceptable delays to senior officials in the summer. We raised them with ministers, with Parliament and in the national newspapers.

In January, the Public Accounts Committee highlighted our evidence and asked HMRC to write to it setting out its plan to improve customer service to adequate levels.

In February, we joined with other bodies to write to the Chancellor ahead of the Budget urging him to invest properly in HMRC to improve customer service and efficiency. The reply came two weeks ago, and I have to say it was extremely disappointing.

Yes, it acknowledged poor service levels and apologised for them. But where was the plan for putting things right? The government's solution – to the extent that it has one – seems to be that HMRC is building a digital tax system and it will be in place by 2030.

I don't think that's good enough. I know that the Institute will not let this issue drop.

Highlights of the year

While some aspects of my year as President have been frustrating, others have been fun, even inspirational.

Being able to go to in-person admission ceremonies, talk to new members and their families, and hear what being a CTA means to them, really has been fantastic.

The branch events I've been to this year have been another highlight. And it was great to be able to launch our new Diploma in Tax Technology in November – which is one of our most exciting recent educational initiatives!

I was also pleased to be able to make some progress on the diversity and inclusion issues I raised in my speech at the start of the year, with us publishing our joint EDI Strategy with the ATT setting out our plans to embed EDI values across our organisations.

On the same theme, I am delighted that, after Gary, we have lined up not just one but two women in the line of presidential succession. I congratulate Charlotte Barbour on advancing to Deputy President today, and I welcome Nichola Ross Martin to the team as Vice President.

Gary, I wish you well for your presidential year. Mine has been a blast, that has passed all too soon.

Thank you to all those who have helped and shared it with me – my husband Richard or First Laddy, my mentors or cheerleaders, my colleagues at RSM, fellow Council members and everyone at the Institute – staff and volunteers – who has supported me over the year.

This speech has been slightly abridged. The full speech can be read at: tinyurl.com/2s46sfwj

Event

CTA Address 2023: The future of international tax reform

Former OECD tax director Pascal Saint-Amans gave this year's CTA Address on the future of international tax reform.


Pascal Saint-Amans

Pascal Saint-Amans told an audience of tax professionals that progress on the reallocation of taxing rights – Pillar One of the Inclusive Framework – will be hard but he believes his successor will be able to find a way through.

In his speech, Saint-Amans stressed the importance of getting United States backing for tax reform, saying that 'you can't move without them on tax matters'. This put him at odds with one of the respondents, tax justice campaigner Tove Maria Ryding, who argued that 'an alliance of progressive countries across the north [developed world] and south [developing world] could move forward as the US will always be a very tricky country'.

Reflecting on the OECD/G20 Base Erosion and Profit Shifting (BEPS) project which he had overseen, Saint-Amans judged that BEPS has had successes and failures. He considered 'interconnecting the tax sovereignties' (for example, dealing with hybrid mismatches) as the key success of the project. Failures included a lack of agreement on how to address the tax challenges of the digitalisation of the economy, and a failure to reform transfer pricing rules.

Saint-Amans indicated that he does not see any new major international reforms coming up soon as the world is 'fragmented' (referring to both north-south and east-west divisions). However, he identified the global mobility of work and, even more, carbon pricing as big issues needing to be addressed.

Ryding focused her remarks on the role that the United Nations could play on tax, describing it as 'the only place where you can get clarity and a real global agreement'. A group of African countries had tabled a resolution seeking a UN process and a UN convention on tax, she explained. To her great surprise, it was adopted by consensus but this did not mean that

Heather Self, Gary Ashford, Tove Maria Ryding and Pascal Saint-Amans

Saint-Amans indicated that he does not see any new major international reforms coming up soon as the world is 'fragmented'.

there actually is a consensus on having a UN convention on tax, and there is even less agreement on what that would actually mean. Nevertheless she thought agreement through the UN could eventually be achieved.

Saint-Amans agreed with Ryding that the only real, inclusive place for international policy agreements is the UN. But when he was at the OECD his priority was to 'stop the bleeding' – to reduce base erosion and profit shifting, and to increase transparency – and this had been achieved. While the UN can ease the negotiation process on international tax, he did not believe that it offered any prospect of a breakthrough.

Saint-Amans and Ryding were joined by tax adviser Heather Self for the event, held at the RSA in central London on 8 June. Self suggested that it would be good to see withholding tax proposals coming from developing countries and 'get critical mass from enough other countries to be able to get a multilateral reallocation of tax resources'.

She also wondered why so much attention is paid to corporation tax, given it is not the largest source of revenue. (Saint-Amans agreed with her on this.) She urged more focus on indirect and carbon taxes.

Event

CIOT Admission Ceremony

On Wednesday 10 May 2023, the CIOT held a double admission ceremony for new members.

The President and Council of the Institute were delighted to welcome new members admitted in 2022, CTA examination prize-winners and Members who have reached 50 years of membership to the May Admission Ceremony.

Two ceremonies were held, one in the afternoon and one in the evening, on Wednesday 10 May in the splendid surroundings of Drapers' Hall in the City of London. 119 new Associates, eight 50 year members, 15 prize winners and a Fellow attended along with their guests.

The Institute holds a double admission ceremony each year for new members and their families; the next will take place on 14 March 2024 for members who have been admitted during 2023.

119 new Associates, eight 50 year members, 15 prize winners and a Fellow attended along with their guests.

The prize-winners in the bottom left photograph below are (from left to right):

Front row: Joseph Maughan (John Tiley Medal and Chris Jones Prize, May 2022), Helen Ashcroft (Institute Medal, November 2022), Emily Brown (Institute Medal, November 2021), Susan Ball (then CIOT President), Autumn Murphy (John Tiley Medal, May 2021, Gilbert Burr Medal and Croner-i Prize, November 2021, Institute Medal, May 2022), Jessica Measham (Spofforth Medal, November 2021), Connor Sheridan (Chris Jones Prize, November 2021) and Daniel Iles (Ronald Ison Medal, May 2022).

Back Row: David Hunt (Ronald Ison Medal, May 2021), Stephanie Eddy (Wreford Voge Medal, May 2022), Edward Hughes (Avery Jones Medal, May 2022), Shobana Narenthiran (Victor Durkacz Medal, November 2022), Christopher Beattie (Victor Durkacz Medal, November 2021), Amy Clarke (Avery Jones Medal, November 2021), Natalie Bowmaker (Gibert Burr Medal, November 2022) and Liam Foot (Avery Jones Medal, November 2022).

New Chartered Tax Advisers and the new Fellow at the afternoon Admission Ceremony.

New Chartered Tax Advisers at the evening Admission Ceremony.

The then President, Susan Ball, with the prize-winners from the May 2021, November 2021, May 2022 and November 2022 sittings for the Chartered Tax Adviser (CTA) examination. The winners are listed above.

The then President, Susan Ball, with Members who have reached 50 years of membership.

Technical Spotlight

CIOT and ATT's Joint Climate Change Working Group

The Climate Change Working Group is a joint technical committee of the CIOT and the ATT. Its inaugural meeting was in September 2020.

The remit of the Climate Change Working Group (CCWG) is to consider the implications of climate change and net zero for UK tax policy. This includes:

- ensuring that climate change issues are considered when the CIOT and ATT respond to consultations or discuss policy ideas;
- promoting and participating in debate on tax and climate change, both in public and privately with policymakers and third parties (academia, tax think tanks and campaign groups); and
- undertaking online and media activity in relation to tax and climate change to promote the work of the group and its objectives.

The group is chaired by Jason Collins, supported by the CIOT technical officer Jayne Simpson and the ATT technical officer David Wright. Our CCWG volunteers are from a wide range of backgrounds, including practice, legal, industry and the public sector, all of whom are working with climate change and tax policy on a daily basis.

In May 2021, in order to raise the profile of tax and climate change, the CIOT's CTA annual address (see tinyurl.com/3kpmkj8z) focused on the subject of environmental taxation and specifically the role that tax and other carbon pricing mechanisms play in helping the UK and other countries to meet commitments for reaching net zero carbon emissions. Sir Dieter Helm, a leading environmental economist, gave the address, with Jason and representatives from the IFS and DEFRA as panellists.

Following the publication of the government's report 'Powering up Britain: net zero growth and energy security plans' – setting out the triple objectives of energy security, net zero and green growth – the government launched its consultation on a possible UK carbon border adjustment mechanism, 'Addressing carbon leakage risk to support decarbonisation' (see tinyurl.com/2p57935f). The CCWG is currently preparing its response to this consultation. This topic became the focus of the joint CIOT and IFS Online Debate on 24 May: 'Carbon border adjustment: what approach should the UK take?' (see tinyurl.com/3t46m9nj).

The CCWG has asked HMRC to create new index pages on GOV.UK, listing the climate change and net zero tax incentives and considerations on a single accessible page. We have received an in-principle agreement that this will be taken forward in the medium term. The CCWG is also in contact with HMRC's own net zero team and hope to develop the relationship further.

At our quarterly meetings, we invite representatives with a net zero or climate

Conference Report

HMRC Director General questioned on service levels

HMRC's Director General for Customer Services, Myrtle Lloyd, was among the guest speakers at CIOT's Spring Virtual Conference on 27 April.

Myrtle Lloyd (right) being interviewed by CIOT Deputy President Charlotte Barbour at the Spring Virtual Conference.

Questioned by members about HMRC service levels, Myrtle Lloyd said she was 'really sorry' for recent poor service levels at HMRC and that continued partnerships with organisations such as CIOT were 'ever more important' in helping drive improvement. She added: 'You play such an important role with your membership and during the pandemic we have shown that working together delivers for our customers.'

Lloyd told the conference that extra resources alone would not solve service level issues at HMRC, making the case that customers must make the shift from traditional to online platforms to ease pressure. She said that many customers now prefer to engage with HMRC via online platforms, including mobile applications, and the growing customer base requires more automation to relieve the pressure on human agents. She added that resourcing was an issue due to increased demand and complexity of tax queries. 'This means not only more customers, but more customers with more complex tax affairs,' she said.

Measures to encourage customers to move to online platforms include QR codes on correspondence and removing the phone number from the website.

Lloyd said that simplification was at the heart of HMRC's administration strategy and they will 'work closely' with the CIOT and others 'to get this right'. 'We know that transforming the tax system has got to be about simplifying,' she added, as complexity increases mistakes by taxpayers, which leads to non-compliance.

Responding to comments from the audience that the root of service issues at HMRC is a lack of staff, Lloyd said there was a 'fine balance' between government funding for more resourcing and the need for customers who can 'go digital' to do so to relieve pressure. She said recent figures show around 65% of phone enquiries relate to information available online. Helping those customers to use the digital platforms would increase capacity for phone agents.

change focus to discuss wider environmental tax policy, both domestic and overseas. We have had updates on Canadian carbon tax and the UK car fuel duty, and we will host a speaker from the OECD's environmental tax policy team this summer. We have also engaged with external projects with environmental charities and universities with climate change and tax research over the last two years.

The CCWG's work interacts with other CIOT and ATT committees, particularly with the CIOT's indirect tax committee, where CCWG representatives engaged with HMRC on the plastic packaging tax, and with the ATT's Natural Capital Working Group that looks at the tax implications of the peatland and woodland code, biodiversity net gain and carbon credits.

Our volunteers regularly contribute net zero and environmental tax articles for *Tax Adviser,* including commentary on the importance of a governmental long-term tax strategy for green investment, the plastic packaging tax, and 'green' guidance.

Jayne Simpson jsimpson@ciot.org.uk

She added that service problems are exacerbated by spikes in customer contacts, often around deadlines for tax returns, with HMRC still 'chasing' after the delays and disruption caused by COVID-19.

Specifically addressing long delays for VAT applications, Lloyd said HMRC has only just returned to usual service levels following last year's cyber-attack, but that it was a good example of where most applications will not require human interaction and can be automated. Lloyd said that failing to properly utilise digital channels would only amount to a 'sticking plaster' on service levels. She said some of the results from new platforms have been 'phenomenal' but appreciated that they can take time to get up and running.

Those with a member login can watch at: https://ciotspring23.tsc.events

The CIOT's Autumn Residential Conference will take place at Queens' College, Cambridge on Friday 15 to Sunday 17 September 2023. The Institute's first residential conference for almost four years will feature a line-up of topical and practical lectures by leading tax speakers, along with a group session and displays of tax books and software. The conference is open to members and non-members. Find out more at: www.tax.org.uk/arc2023).

Members can send in feedback on service standards to technical@ciot.org.uk and atttechnical@att.org.uk.

A MEMBER'S VIEW

Nicola Midgley

Chartered Tax Adviser, Irwin Mitchell LLP

This month's member spotlight is on Nicola Midgley, Chartered Tax Adviser at Irwin Mitchell LLP and member of ATT and CIOT. Here she talks about her ATT journey

How did you find out about a career in tax?

I did my school work experience at HMRC and later worked for HMRC after leaving education. I think it was there that I learned to love tax returns! From there, I decided the ATT qualification would be a great starting point in my tax career and I was able to join a private client tax team within a law firm that offered this training.

Why is the ATT qualification important?

It's a great introduction into tax. It covers the main taxes with an option to choose a specialist paper which will often complement your practice area. The best thing about the exams for me were developing the skills to write to various audiences. One question could be writing to a client and the next writing to a tax partner. You would therefore need to adapt your approach and language accordingly.

Why did you pursue a career in tax?

Initially, because I enjoyed working with numbers. Quite quickly, I realised that working in tax was less about the numbers and more about applying legislation and case law to practical situations. Also, helping clients with their tax problems is hugely satisfying.

Who has influenced you in your career so far?

There are too many people to mention but working in a law firm I get to work with a variety of hugely talented individuals. My line manager, Liz Beadsley, has been a great support throughout my career and has often pushed me out of my comfort zone.

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

Do it! The ATT provides a huge amount of knowledge that really complements the work tax professionals do. It requires a lot of hard work and therefore you will need to make sacrifices which are all worth it in the end. A tax apprenticeship is a great opportunity to study for the ATT, whilst gaining practical experience. It also provides training around soft skills and behaviours. My firm recently took on its first ATT tax apprentice. Having seen the course materials, whilst there is a lot of work to complete in two years, by the end point assessment you are in a great position to take the next step in your tax career.

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

Digitalisation of the tax system will obviously play a huge part in how we work in the future. Digital assets are also becoming increasingly popular and we can therefore expect to see increased reporting and new legislation. In addition, environmental, social and governance (ESG) is now of vital importance for businesses. For tax advisors, as the tax net widens there is likely to be a need to support more taxpayers, some of which may be vulnerable or who have little knowledge of the tax system. Providing pro bono services may therefore become a part of the work we do.

How would you describe yourself in three words.

Happy, thorough and adaptable.

What advice would you give to your future self?

It's a cliché – but don't sweat the small stuff.

Tell me something that others may not know about you.

I recently joined a committee within the ATT, having been involved with my local branch for the last few years. I have really enjoyed learning more about the important work both the ATT and CIOT are involved with.

Contact

If you would like to take part in 'A member's view', please contact Salema Hafiz at: shafiz@ciot.org.uk

ALLIOTTS

JOIN US

Alliotts LLP is an independent firm where the owners have embedded values rooted in a desire to create the right conditions for people to perform at their best, cultivate their talent and feel fulfilled and confident in their work.

We care about our employees, with many having been with the firm for extended periods of time, so we strive to create a safe, inclusive working environment that is protective of peoples' humanity and celebrates an individuals' uniqueness.

Our culture strives for excellence in everything we do. We welcome individuals from all backgrounds that take pride in their work and who are prepared to work hard to achieve their full potential.

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GEORGIANA HEAD
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MSA LAW
MCILROY SUTHERLAND & ASSOCIATES

Tax Lawyer 2–6 years' PQE or CTA with law degree Manchester Full time, part time or remote

MSA Law are a specialist tax law firm with a focus on advice for owner managed businesses and the individuals behind them on business tax issues, in particular those associated with organisational change and business succession. It was established 11 years ago by Bernard McIlroy and Fiona Sutherland, two very experienced partner level individuals with big firm backgrounds, who decided that they wanted to offer tax legal services outside the traditional structure and confines of a large commercial law firm.

The practice is expanding and looking to hire a qualified tax lawyer ideally with a minimum of 2 years' post qualification experience. Unusually for a law firm, MSA is able to offer part time roles, flexible and remote working.

This practice would also consider applications from CTA qualified individuals who have a law degree, the LPC and experience of transactional corporate tax work. If you have always wanted to work as a tax lawyer and currently work in an advisory role in a large accountancy firm, this represents a rare opportunity to refocus your career and potentially qualify as a lawyer.

You will assist with a broad range of advisory work and tax support work, assisting both clients and other legal firms. Ideally, candidates will have a broad experience of advising on corporate taxes, property taxes and employee incentives, but there is flexibility on the type and mix of experience offered.

MSA are also open to discussions with candidates at all levels, including more senior (partner level) individuals who may be looking to step down a little and take on a role without the responsibility of partnership.

For further information please contact our retained consultant Georgiana Head on 07957 842 402 or at georgiana@ghrtax.com

www.georgianaheadrecruitment.com

VITA GROUP

Corporate Tax and Employment Senior Tax Manager
Alderley Edge
£60,000 to £65,000 + benefits

Vita Group is a global developer and operator of market-leading property brands. Since the launch of our flagship student accommodation brand Vita Student in the UK and internationally, we've quickly become a respected industry leader known for our innovative approach to the marketplace. Challenging convention to re-imagine the way people live, work and socialise, we create relevant living spaces and authentic experiences which resonate with a clearly defined, emerging or currently under-served demographic.

As well as growing Vita Student, our journey so far has seen the creation of other customer-focused brands including CitySuites, our luxury serviced apartment model – Vita Living, build to rent brand Affinity Living and Union; an exciting new live-work concept. With global offices across Spain, Hong Kong, China, India and Dubai the group has an inclusive, international, forward-thinking culture.

We're an ambitious company with big plans made up of a talented group of like-minded individuals determined to achieve them. We have high expectations of our team and, in return, we offer a vibrant working environment, competitive salaries, as well as a strong track-record for celebrating and rewarding success.

The opportunity

In line with our plans for growth we are currently seeking a commercial Corporate & Employment Tax Senior Manager to join our Finance Team in our Head Office in Alderley Edge. Reporting to the Group Tax Director, the Senior Tax Manager will have ultimate responsibility for the compliance and governance process across all taxes, including managing overseas jurisdictions, and will also be involved in a wide variety of advisory projects.

Working as part of a supportive and talented finance team in an exciting, dynamic, and rapidly expanding company, this is an exciting and important role to the business, with a good balance of compliance and advisory. For the right candidate, the role represents a unique opportunity to get exposure to a significant amount of complex project work, as well as exposure to cross border issues, across a variety of different types of businesses, together with an awareness of other taxes and specialisms.

Job role

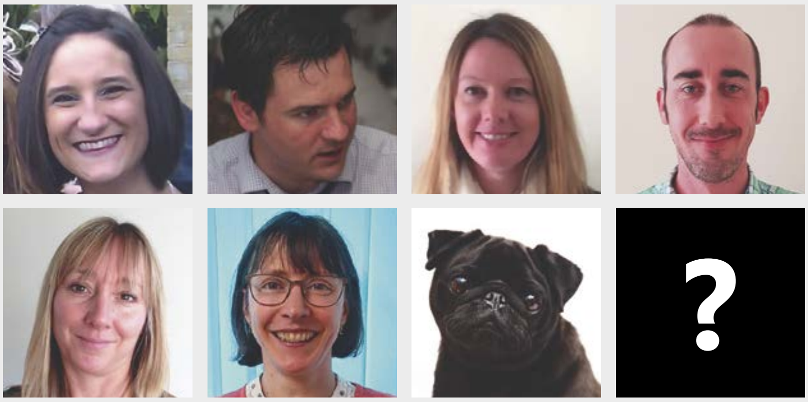
To oversee all aspects of corporation tax, including both compliance and advisory, across the Group including internationally. In collaboration with other team members, to accurately review/prepare group corporation tax returns, research technical issues and to maximise group tax efficiency. To provide tax input into statutory audits, including consolidations and to provide robust processes around forecasting and payments.

To provide corporate tax advice on site acquisitions & developments and financing transactions, and input into projects such as international expansion/transfer pricing, corporate interest restriction rules, capital allowances. To provide ad hoc employment tax advice.

We're passionate about helping people thrive. This is encompassed in our values and feeds everything we do from our approach to the people we employ to the way we design our buildings. If you are a UK qualified tax professional with a background in corporate tax from a Top 10 accounting firm or who has worked in industry this could be exactly the right role for you. This role may be partially hybrid worked.

For further information contact Georgiana Head on 07957 842 402 or at georgiana@ghrtax.com

Gander Tax Services



We are a small but dynamic practice based in Petersfield, providing very high-level tax advice to individuals and businesses in the UK and abroad, as well as being a go-to tax department for small accountancy practices, financial advisers and solicitors.

We are specifically looking for a **CTA qualified individual** with **report writing experience in advising on private client work, including IHT, estate planning and trusts**. A good legal knowledge would be desirable but not essential.

We are **also interested in hearing from CTA qualified or experienced individuals in international tax planning or corporate tax planning**. We have more than one position available. The work is interesting, different every day and you will have a team to back up the advice with compliance services.

Competitive salary for the local area, option of private medical insurance, **a friendly office** with a laid-back approach.

One other requirement: you must like dogs as there are two in the office!

To apply, contact **nickygander@gandertaxservices.co.uk**.

www.gandertaxservices.co.uk

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