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July 2020

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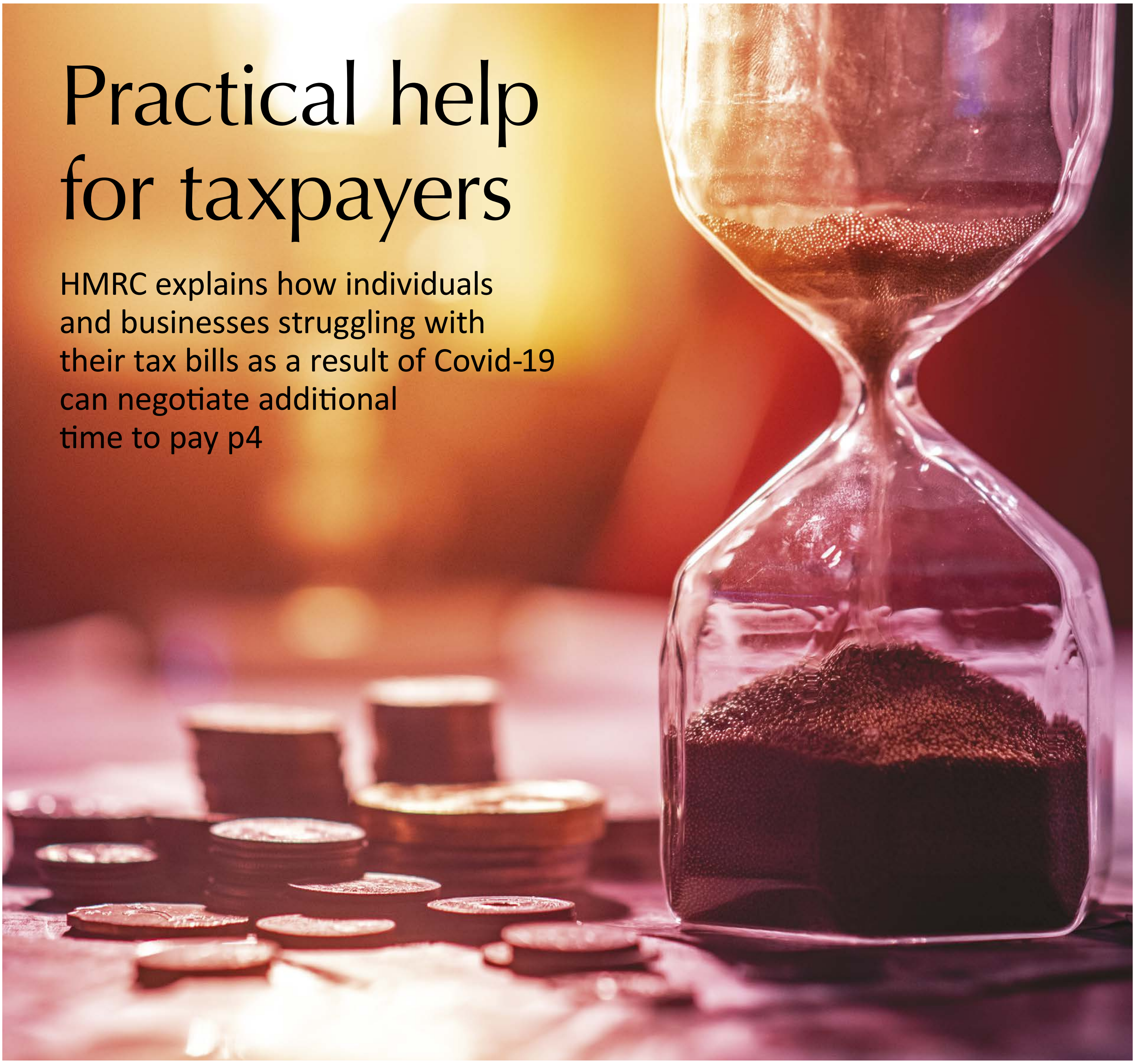
TAX Adviser

Practical help for taxpayers

HMRC explains how individuals and businesses struggling with their tax bills as a result of Covid-19 can negotiate additional time to pay p4



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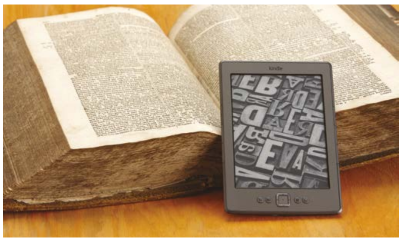

Chartered Institute of Taxation

A joint welcome from

We are committed to ensuring that all our members, students and volunteers feel welcomed, valued and supported, regardless of their background or identity. We will reconfirm at every opportunity our values of diversity, inclusion and equality.

The light of transparency can be very powerful in tackling conscious and unconscious bias. We encourage every member who is responsible for managing a workplace to regularly review the diversity of that workplace, from all angles; and to audit all relevant matters, such as employee satisfaction, supplier selection and their marketing to customers.

This month, and in the August and September issues, we will celebrate diversity amongst our members, staff and volunteers; the thoughts of some members are included in this welcome. But first, some personal remarks from each of us...

Glyn Fullelove

The most thought-provoking event that I have attended as President was not directly to do with tax. It was the Women in Tax event last October focusing on intersectionality called 'Eye can't see a problem'. The most memorable part of the evening, for me, was a video in which a large group of diverse young people lined up for a race. However, before the race started, a list of social advantages and disadvantages was read out. Each time an advantage that a participant had enjoyed was read out, they took a step forward. Each time a disadvantage was read out that they had not suffered from, they also took a step forward. The starting line was thus converted to a starting grid. At no time in this process was ethnicity specifically mentioned. However, by the time the grid was fully formed, those at the front of the grid were overwhelmingly white; and those at the back, overwhelmingly black.

That led me to question my perception of my own privilege. I entered the workforce in the mid 1980s. It was undoubtedly a more inclusive workforce than the one my father entered in the 1950s. However, the 1980s workforce, even in the professions, was dominated by, and largely designed around, white males. Although, yes, I had to work hard, study and pass exams to succeed, I was working in a culture to which I, as a white male, did not have to adjust; unlike my female and BAME colleagues. I do not think I recognised at the time the level of unfairness that this very basic difference represented.

The workforce of today is different from the one I joined. Governments and employers have made changes to encourage greater equality of opportunity. Anyone attending a CIOT Admissions Ceremony cannot fail to be struck by the diversity of those entering our profession. At the last ceremony, the only group receiving certificates which was dominated by white males, was those receiving 50th anniversary of membership certificates.

The leading employers in tax are also recognised as leaders in promoting equality, diversity and inclusion. However, the very fact that Equality, Diversity and Inclusion policies are required is proof of the fact that there is still much to do.

In this article and the two to follow, we will celebrate the diversity of our profession; but we will also reflect on what more needs to be done so that no-one needs to make a 'cultural adjustment' of any kind on entering the profession or progressing through it. We are already in the process of making some changes, such as how people are appointed to Council, which will be covered in later articles. However, I am certainly aware that I need to be doing more listening than talking on this subject.

I am looking forward to hearing our members, staff and others tell us what we, as Institutes, need to change, and for them to lead us in such change.

Jeremy Coker

Both our organisations understand the importance of being part of a team where equality, diversity and inclusion are valued by all. We must promote an environment that welcomes and values diverse backgrounds, thinking, skills and experience, and which allows members and staff to thrive and fulfil their potential.

In recognition of this, last year we set up a Joint Equality, Diversity and Inclusion Committee, chaired by Tina Riches. This small step was an acknowledgement that

KIRET SINGH

Kiret Singh's passion for tax led him to study for the CTA exams before spending three years at Wilkins Kennedy. He is now into his sixth year at Grant Thornton, advising banks and asset managers on the tax aspects of financial transactions.

Is a career in tax what he expected? When asked, Kiret said: 'I have found that there are so many connections to the outside world in the work we do as tax professionals.'

Kiret finds the need to do 'deep dives' into complex matters 'thrilling' for a proactive and intellectually curious mind. He suggests that firms should look to recruit and develop talent with a focus on countering the 'unconscious bias' that is prevalent in certain pockets of the profession.

Kiret, a member of the ATT CIOT Harrow Branch, said: 'We should keep talking about diversity because we want merit, talent and work ethic to prevail and to principally drive success in the profession. Everyone should have the same platform to develop and succeed; and by focusing on countering "unconscious bias", we should eradicate any residual injustices. This, in turn, should promote excellence, which is what drives us as a tax profession and what the CIOT stands for.'

RUTH PUNTER

Ruth Punter is a Director in PwC's Tax Reporting and Strategy team, working with organisations to deliver tax digitally, strategically and operationally. She joined the CIOT as an associate in 2002, having taken up a 'Big 4' graduate position in tax, based on its fit with her degree in economics and the opportunity to study for a professional qualification.

Ruth says she has not experienced any particular challenges in the tax profession as a gay woman. She does believe though that having 'out' role models early in her career, and an open-minded (if not particularly diverse

the Presidents of ATT and CIOT

we should always be conscious of providing equal opportunities to our members, volunteers and staff, as well as doing everything that is within our power to protect them from being discriminated against.

We understand that we need to try harder to recognise, respect and value the differences in people, and to increase consciousness among ourselves that this is not always immediately apparent. We want to continuously improve our policies so that our members, volunteers and staff feel valued both within their own workplaces and in the wider society at large. Recent events make us even more confident that this is the right decision.

Implementation, though, will come with challenges. As Glyn writes above, we would really appreciate your input in helping us move this in the right direction.

We hope that you have found this Welcome both informative and thought provoking. Next month, we will focus on diversity among our staff. We would appreciate your comments. Please send them to: membership@att.org.uk or membership@ciot.org.uk.

Jeremy

Glyn Fullelove

Jeremy and Glyn

Jeremy Coker
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SOFIA THOMAS

Sofia Thomas pursued a different path to a career in tax by studying for her CTA and ATT qualifications at PWC through their school leaver programme. Sofia worked hard to balance her early career alongside raising her son. After five years with PWC, she branched out to create a niche business providing tax advice to family law firms. Her book *Tax Implications on Family Breakdown* was published by Bloomsbury this summer. Sofia also sits on ATT's Technical Steering Group. Sofia said: 'Being a part of a technical committee has highlighted to me how much tax affects a cross section of society.'

On diversity in the tax profession, she said: 'Diversity gives more depth to policy. We need more people that make policy to reflect the public which, I believe, would lead to better outcomes.' She finds the CIOT and ATT have 'excellent' speakers but would like to see more speakers from BAME backgrounds and from people with disabilities.

Having used a coach to gain confidence in public speaking, Sofia suggests that the CIOT could schedule training in public speaking as part of their offerings to members. This could encourage more speakers from diverse backgrounds who may have had fewer opportunities to gain experience in this area.

at that time) group of colleagues, has encouraged her 'to be myself' and has been hugely important.

On the imperative for diversity within the tax profession and business more widely, Ruth's view is that it is not simply 'good for business' or even just 'the right thing to do'. She said: 'Diversity shouldn't just be about bringing different perspectives to the same old questions but also asking entirely new questions. The tax system can be a lever for change but we must also accept that it is part of the artefacts and assumptions of the paradigm we currently operate within, which narrow our view of what change is needed or possible.'

LAKSHMI NARAIN

Lakshmi Narain suspects that in the early 1970s when he started out, he was the first person of colour with a graduate training contract in an accountancy practice in Bradford, something remarkable given the multicultural community in the Yorkshire city then and the popularity of accountancy among the British Asian community now. The applied physics graduate stumbled into tax while training as an accountant at Thornton Baker and went on to take his CTA in 1977 (and Fellowship in 1979). He said: 'Colleagues treated me as one of them and I was involved in all aspects of the company, including the social life. Throughout my career, I have found people in tax to be incredibly supportive.' Membership of CIOT has been pivotal in terms of both the technical and personal support: members across the country have been generous in sharing their experiences.

He said: 'Organisations which have really taken diversity to heart create inclusive working environments and reap the benefits. It allows them to manage their staff, arguably their most valuable resource, in an efficient and effective way. Businesses are part of a diverse society and by embracing diversity, firms can provide services that people want, in the way they want it.'

Practical assistance for struggling taxpayers

HMRC explains how individuals and businesses struggling with their tax bills in these challenging times can negotiate additional time to pay

KEY POINTS

- **What is the issue?**
The government launched a well-publicised series of support measures in response to the Covid-19 crisis, including the Coronavirus Job Retention Scheme and the Self-Employment Income Support Scheme. However, HMRC is seeing increased demand for Time to Pay, a pre-existing support option for those struggling to pay their tax.
- **What does it mean for me?**
HMRC typically has around 600,000 TTP arrangements in place covering about £2 billion of debt. Since March, the organisation has assisted over 60,000 businesses in agreeing some form of TTP.
- **What can I take away?**
Before pursuing TTP, it may be necessary to have an honest discussion with clients as to the predicted viability of their business, particularly in those cases where the performance was not strong before the pandemic hit.

The financial implications of the Coronavirus pandemic continue to affect individuals and businesses, many of whom find themselves seeking support in ways they've never had to consider before.

The government launched a well-publicised series of support measures in response to the Covid-19 crisis, including the Coronavirus Job Retention Scheme and the Self-Employment Income Support Scheme. However, HMRC is also seeing increased demand for a pre-existing support option for those struggling to pay their tax – the Time to Pay arrangement, frequently abbreviated to TTP.

HMRC typically has around 600,000 TTP arrangements in place covering about £2 billion of debt. Since March, the organisation has assisted over 60,000 businesses in agreeing some form of TTP. As the name indicates, TTP is an arrangement which can be entered into if any taxpayer can't pay their tax bill in full and on time because of temporary financial difficulties. Agreeing TTP allows them to pay the amount owed over time by set instalments instead.

TTP arrangements can cover any amount owed to HMRC that has become overdue. There is no standard length or amount as each is specific to individual circumstances and completely bespoke, created on a case-by-case basis.

The application process

Anyone having difficulty paying a tax bill should contact HMRC as soon as possible, calling the HMRC's Payment Support Service on 0300 200 3835. At the time of writing, the Coronavirus helpline (0800 024 1222) is also live, providing access to similar support.

Some Self-Assessment taxpayers can apply for TTP online through a self-service portal. For everyone else, the negotiation takes place over the phone with HMRC. The focus of this conversation will be on the caller's financial position, establishing whether the TTP arrangement will represent the best payment solution and, if it will, setting that up. Clients should be advised to carefully prepare the information they will need for the discussion. This will include details of income, disposable assets and expenditure, the reference number of the specific bill they are concerned with and a record of any other debts outstanding to HMRC.

The taxpayer or their adviser (where designated) will firstly discuss, over the phone, whether TTP is needed. It must be determined that the arrangement is required given the caller's financial


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circumstances; e.g. if they have no assets they can realise to cover the debt.

Having established that TTP is required, the next stage is to negotiate how long this will be for and how much will be paid regularly. During the conversation, a direct debit will be set up for the payments, so even if they are represented by an adviser, the taxpayer themselves will need to be on the call. The instalments will last for as long as the individual or business needs, but as quickly as they can pay with the details of their income taken into account.

If the HMRC adviser establishes that the taxpayer is able to pay quickly in just a few instalments, this whole conversation could be quite short. If the situation is more complex, or less certain, the call could take much longer. A client should be advised to make the call when they have plenty of time to discuss their circumstances in detail, and given the private nature of the information that will be covered, in a suitable location.

Considerations for businesses

Where a business is concerned, the key factor in determining eligibility for TTP is not based on the sector or industry they operate in; rather, it is based upon the specific business's ability to pay and their unique circumstances.

HMRC will examine a business's entire tax position to assess the appropriateness of TTP. The more debts that a business accrues, the higher the risk of the business not being viable in the long term, which is exactly how any creditor would see it. TTP is not a tool to support businesses that are not viable in the long term. The financial difficulties the business is experiencing must be temporary.

In the current climate, the economic uncertainty caused by Covid-19 makes that judgement much harder to make. As a result, viability is being presumed in more cases, with the situation to be reviewed as the economic environment changes.

Before pursuing TTP, it may be necessary to have an honest discussion with clients as to the predicted viability of their business, particularly in those cases where the performance was not strong before the pandemic hit. Even where TTP is granted, it will not provide an indefinite solution to such problems.

How a TTP arrangement proceeds

In almost all cases, the payments will start immediately (on the day the arrangement is agreed), but in exceptional cases that first payment can be delayed. It is also rare for the negotiation itself to be deferred until a future date, as this is usually done when there just isn't enough certainty to know if a payment arrangement entered into is sustainable.

The payments are collected through direct debit and all monthly payments will be of the same value. Ensuring the plans are viable and sustainable is key to the conversation when setting them up. The monthly amount agreed is not just concerned with the repayment of the debt; it must ensure that it is possible for the individual or business to keep paying their upcoming tax charges while TTP is in place.

When TTP is agreed, one of the conditions is that future tax payments are met on time. The aim is to help businesses get back into regular payment of their tax as soon as they can, while having TTP set up for their accrued debts in the background, gradually paying it off.

Interest is always payable on the debt owed. This accrues from the due date to the end of the TTP arrangement.

If circumstances change, the individual responsible for a TTP arrangement should contact HMRC with details as soon as possible. If there is a positive change financially, the regular monthly charge may be increased to clear the debt faster. If the situation worsens, it may be possible to reduce them. Early contact is key to managing TTP effectively through any changes, and while there is not an assigned case worker for individual accounts, colleagues at HMRC will have immediate access to a full case history and be able to advise taxpayers based on up to date information on their specific arrangement.

On the whole, these arrangements work well for both parties and 90% of TTP arrangements complete successfully.

If it doesn't work

If HMRC is not able to agree a TTP arrangement for the individual or business applying or they fail to honour one once it is in place, e.g. by cancelling the direct debit, then it may proceed with some sort of enforcement activity. This could be court action, possible recovery through assets or insolvency proceedings. Such action will be taken only after HMRC has made earlier attempts to contact the customer and arrange collection of the debt. It will always be HMRC's preference to agree payment without the need for enforcement action.

In conclusion

TTP arrangements can provide vital relief for individuals and businesses facing a tax bill they are unable to pay. HMRC is handling an increased number of TTP agreements in the wake of the Covid-19 crisis and is acting with sensitivity to business needs given the level of uncertainty caused by the pandemic.

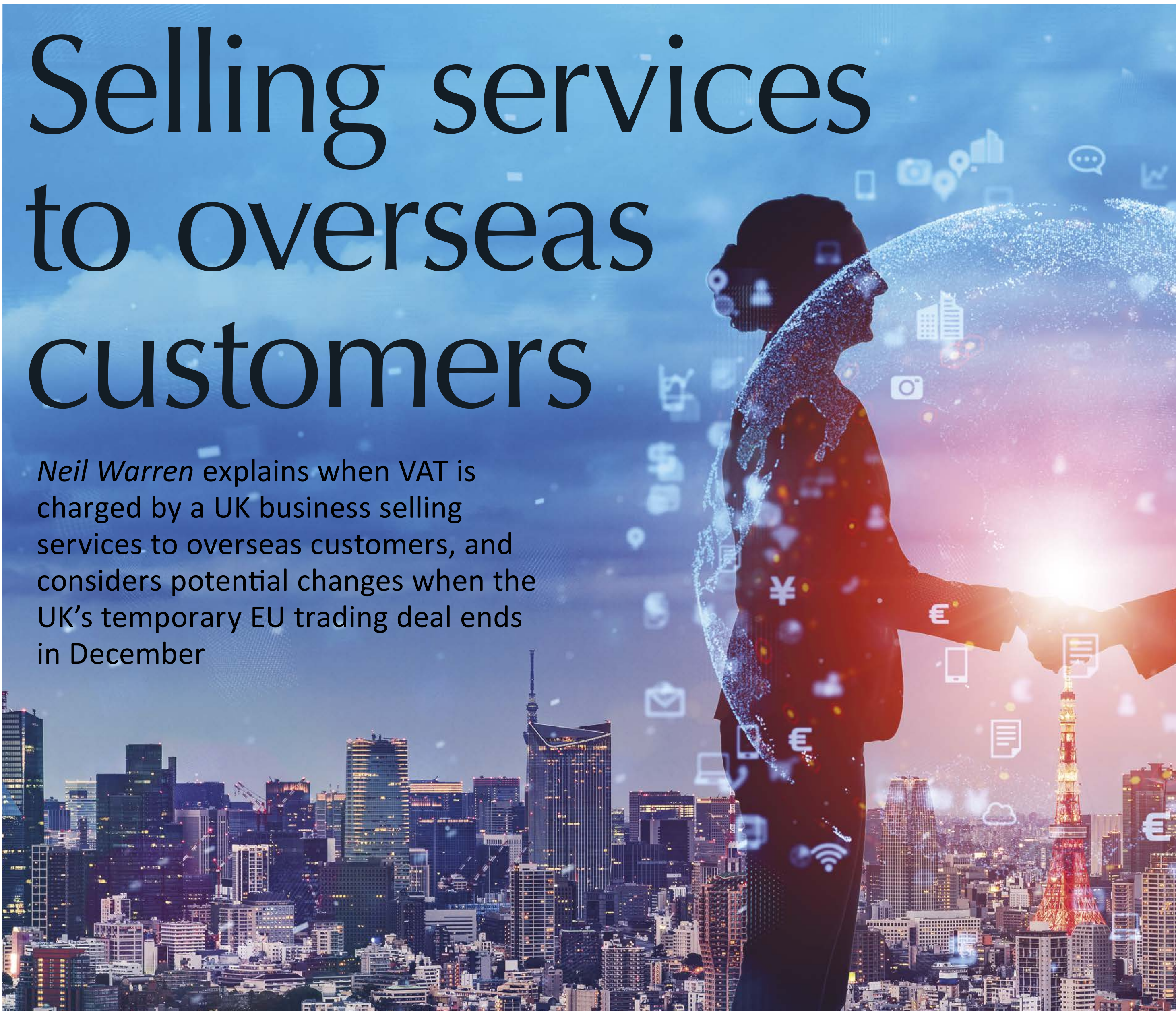
However, this solution should not be seen as a quick and easy fix. Advisers should highlight to their clients, both individuals and businesses, that a TTP will only be agreed if they can demonstrate their need for it and it clears the debt in an acceptable period. They should also encourage business customers to recognise that, while they are more likely to be accepted for the arrangement due to uncertainty caused by Covid-19, this not an indefinite solution to a struggling enterprise.

Interest is paid on the outstanding debt, so this is also not a 'free' solution. It is vital that agreed payments are made, as failure to continue these may force HMRC to instigate formal action to recoup the debt.

Clients should be encouraged to be proactive in monitoring their financial affairs with respect to the TTP arrangement, and to contact HMRC promptly if their situation improves or deteriorates. This will keep payments manageable with the aim of clearing the debt as quickly as possible.

Prompt contact and the supply of accurate information is key and will help ensure a successful outcome to any TTP request.

Selling services to overseas customers



Neil Warren explains when VAT is charged by a UK business selling services to overseas customers, and considers potential changes when the UK's temporary EU trading deal ends in December

KEY POINTS

- **What is the issue?**
The general B2B and B2C VAT rules apply for most supplies of services but there are important exceptions where they are overridden. The article considers some of these exceptions with practical examples.
- **What does it mean to me?**
If errors are made with the place of supply rules, HMRC will be able to raise an assessment for the last four years to correct any underpayments of VAT. It is important to get the full facts about every transaction if asked by clients.
- **What can I take away?**
The rules for VAT and services will be unchanged in most cases after Brexit but it will be important to note any potential changes for services where the 'use and enjoyment' rules apply.

Time passes very quickly. And somewhat surprisingly, it is now ten years since a radical change was made to EU laws regarding the VAT treatment of services supplied to overseas customers. These changes have stood the test of time but will they still apply when we finally part company with the EU at the end of the year? I'll consider that question in this article but also explain why you can never be complacent when dealing with this tricky subject because there are important exceptions to the general business to business (B2B) and business to consumer (B2C) rules that apply in most cases.

Place of supply

The phrase that is quoted in most guidance on this subject is 'place of supply'. In other words, which country in a transaction must deal with the VAT? If the place of supply is outside the UK, then no UK VAT is charged. But will the place of supply depend on the supplier's country, the customer's country or where the work is performed? And in a final twist, could the place of supply be a fourth country; namely, where the service is being 'used and enjoyed'?

The basic rules since 1 January 2010, and which are relevant in 99% of cases (well, let's say 95% to be conservative) are set out in VAT Notice 741A para 6.2 and 6.3 and are as follows:

- B2B sales: the place of supply is the customer's country; and
- B2C sales: the place of supply is the supplier's country.

Performance services or where the customer is outside EU

It would be fantastic if we could just apply the general rules quoted above to every

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PROFILE

Name **Neil Warren**
Position Independent VAT consultant
Company Warren Tax Services Ltd
Profile Neil Warren is an independent VAT author and consultant, and is a past winner of the Taxation Awards Tax Writer of the Year. Neil worked at HMRC for 13 years until 1997.

overseas transaction involving services. However, there are a number of exceptions where they are overridden. As a starting point, there is a list of services in the legislation where B2C supplies are taxed where they take place. These are known as 'performance services' and include cultural, artistic, sporting, scientific, educational, entertainment and similar activities (VAT Notice 741A s 9). See **Example 1: Celebrity birthday bash**.

A key fact is that a business making supplies in EU countries other than its own is not entitled to receive the domestic VAT registration threshold in that country; in other words, a zero threshold applies. Joe in Example 1 would need to register for Italian VAT even if his fee was £1.

As a further twist, there are certain services where B2C supplies are taxed where the customer belongs if the customer is resident outside the EU. These tend to be professional type services and are listed in VAT Notice 741A s 12. The relevant legislation is VATA 1994 Sch 4A para 16. A simple example is an accountant completing a tax return for a private individual living in America. The general B2C rule would make this supply subject to UK VAT but the services of accountants are listed within para 16, so the place of supply is America; i.e. no UK VAT is charged.

Level playing field

The reason for the twist with performance services is to ensure that a level playing field is achieved between domestic and international suppliers. Imagine the outcome if Joe could avoid paying VAT on his £50,000 fee; it would give Mario a big incentive to use a non-Italian performer who would not charge him VAT. You might argue that it would make more sense for the place of supply to follow the general B2C rule; i.e. according to where the performer is based (the UK in Joe's case). However, this would give Mario an incentive to hire a performer based in an EU country with a low VAT rate, such as Malta, rather than countries with higher rates, such as Denmark and Sweden.

B2B sales

For B2B sales covered by the general rule, the EU customer will deal with the VAT on his own return by doing a reverse charge calculation. As an example, if I invoice a firm of accountants in Ireland for VAT consultancy services, say £2,000, the accountants will account for output tax on their return based on the Irish rate of VAT:

£2,000 x 23% = £460.

They will claim the same amount as input tax because my services relate to their taxable activities as accountants. If my services related to any exempt, private or non-business activities, they would have to restrict the input tax entry in the same way as they would with a domestic purchase invoice.

To continue the level playing field theme, another VAT quirk with international B2B supplies is that the buyer of a service must treat the supply as part of his own taxable turnover as far as the VAT registration threshold is concerned. This rule prevents a business that only makes exempt supplies from gaining a financial advantage by buying VAT free services from abroad. See **Example 2: Insurance company using an overseas computer consultant.**

Land supplies

I sometimes get emails from accountants who ask a question along the lines of: 'We've got a client who is doing some work for a business in Russia. Am I right in saying that he doesn't need to charge UK VAT on his fee?'

EXAMPLE 1: CELEBRITY BIRTHDAY BASH

Mario is a wealthy man living in Italy and is having a big party in Rome to celebrate his 50th birthday. He has asked the top UK-based comedian Joe Best to perform at the party for a fee of £50,000. This is a B2C sale of a performance service, so the place of supply is where it takes place; i.e. Italy. Joe will need to register for VAT in Italy and charge Italian VAT on his fee or treat it as inclusive of Italian VAT.

EXAMPLE 2: INSURANCE COMPANY USING AN OVERSEAS COMPUTER CONSULTANT

ABC Insurance Brokers is based in the UK and only makes exempt supplies of insurance related services, so is not registered for VAT. It has decided to use the services of an Indian computer business to help with its IT issues and will pay £20,000 per month for its services from March 2020.

ABC must treat the payments to the Indian business as taxable turnover, meaning that it will exceed the £85,000 VAT registration threshold at the end of July 2020. It must register for VAT 30 days later, i.e. from 1 September 2020, and apply the reverse charge to future invoices/payments made to the Indian supplier. This will produce an annual output tax payment of:

£20,000 x 12 months x 20% = £48,000.

However, no input tax can be claimed with the reverse charge because the expense directly relates to exempt supplies and is blocked under partial exemption.

BOX 1: SERVICES WHERE THE USE AND ENJOYMENT OVERRIDE APPLIES

These rules apply where the normal place of supply rules would mean they take place outside the EU and escape UK VAT but are actually used inside the UK. Alternatively, they would be subject to UK VAT under the place of supply rules but are actually consumed outside the UK and EU. The services are as follows:

- hiring of goods, including means of transport;
- electronically supplied and telecommunication services (B2B only);
- repairs to goods under an insurance claim (B2B only); and
- radio and telephone broadcasting services.

VAT Notice 741A s 13

My answer will always be: 'It depends. What exactly is the work he is doing?'

An important exception to the general B2B and B2C rules is that the place of supply for a land service depends on where the land or building is based. So, if a UK builder is building an extension for a Russian business on a property that the Russians own in Manchester, the fees will be subject to UK VAT. Land services include both professional and construction services; for example, architects, surveyors and estate agents, as well as plumbers, electricians and bricklayers.

Brexit issues

Most VAT rules will be unchanged for supplies of services when our transitional deal with the EU ends in December 2020. This will include the general B2B and B2C rules. The major VAT changes will mainly relate to supplies involving goods. This will obviously depend on the terms of any final deal agreed with the EU.

To give the heads up, however, there could be important changes to the rules for services where the place of supply depends on where they are 'used and enjoyed.' See **Box 1: Services where the use and enjoyment override applies.** It is worth noting this list and watching as the EU trading deals unfold.

To give an example, consider an American based photographer (in business) who is touring the UK taking photos of our stately homes for an American magazine that has commissioned his services. He has hired a camera from a UK shop for a fee of £2,000. The general B2B rule would mean that no UK VAT is charged on the fee (the place of supply being America); however, the use and enjoyment rules for the hiring of goods means that the place of supply is the UK where he is using the camera. He must therefore be charged 20% UK VAT.

If the photographer was based in an EU country, however, the general B2B rule would apply. The photographer would apply the reverse charge on his own VAT return and would not be charged UK VAT by the camera shop. This outcome is likely to change after 1 January 2021, however.

To reverse the scenario, if a UK business photographer currently hires a camera in Ireland to take photos there, he will not be charged Irish VAT by the camera shop under the general B2B rule; i.e. the UK photographer applies the reverse charge on his UK VAT return. However, when our EU deal ends on 31 December 2020, the Irish supplier will charge Irish VAT on the fee because Ireland also applies the same 'use and enjoyment' rule for the hiring of goods to non-EU customers. In this situation, the UK photographer will need to recover the Irish VAT he has paid by submitting a non-EU VAT refund claim to the Irish tax authorities. What a nuisance that will be!

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Operational Transfer Pricing

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A better business landscape?

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Rob Keogh and *Sarah Goodman* consider changes announced to the intangible fixed assets (IFA) regime and amendments to research and development (R&D) relief

KEY POINTS

- **What is the issue?**
Changes announced at the Spring Budget to the intangible fixed assets (IFA) regime and amendments to research and development (R&D) relief seek to continue to drive the government's aim of reinforcing the attractiveness of the UK as a place to do business.
- **What does it mean for me?**
Intangible fixed assets acquired by a company on or after 1 July 2020 will now be subject to the Part 8 regime, which will also apply where an IFA is brought into the UK corporation tax net after that date without there being an acquisition event.
- **What can I take away?**
Finance Bill 2019-21 introduces a further increase in the rate of the RDEC from 12% to 13% for qualifying expenditure incurred on or after 1 April 2020. The government also announced its intention to consult on widening the definition of qualifying R&D expenditure on software and IT costs.

This article considers how the changes announced at the Spring Budget to the intangible fixed assets (IFA) regime and amendments to research and development (R&D) relief continue to drive the government's aim of reinforcing the attractiveness of the UK as a place to do business.

The intangible fixed assets regime

The intangible fixed assets regime at Corporation Tax Act 2009 Part 8 ('the Part 8 regime') is now over 18 years old. In general, the IFA regime provides that debits and credits relating to IFAs are taxed as income in line with the underlying accounting treatment. This means that companies can be entitled to relief for amortisation and impairment debits relating to IFAs.

Whilst the fundamental mechanics of the regime have remained largely unchanged, there have been some significant practical changes; for example, the removal of relief for expenditure on goodwill (and other relevant assets) for assets created or acquired from 8 July 2015, and then the (partial) reinstatement of relief from 1 April 2019. However, the commencement provisions are core aspects of the regime that have remained throughout. Specifically, where IFAs were created prior to 1 April 2002, these assets continue to be grandfathered out of the Part 8 regime unless acquired from an unrelated party after that date. These 'pre-FA 2002' assets are generally taxed in line with the provisions set out in the Taxation of Chargeable Gains Act 1992, under which no relief is allowed for amortisation or impairment and costs incurred on acquiring IFAs are only deductible in computing the capital gain/loss on disposal.

In 2018, the government consulted on various aspects of the regime, including whether to remove the '2002 borderline'. Respondents noted that the existence of parallel tax systems appeared arbitrary, created considerable compliance costs, and made the UK less attractive as a location for holding IFA; however, at the end of the consultation period the government decided against changes to the commencement provisions. Yet only 18 months later, the government has now made a move towards removing the '2002 borderline'.

The scope of Part 8

The draft legislation contained in Finance Bill 2019-21 extends the scope of Part 8 in two significant ways.

First, assets created prior to 1 April 2020 acquired from a related party on or after 1 July 2020 (the 'commencement date') will now be subject to the Part 8 regime. This is a significant and welcome change, making the UK a more attractive location for multinationals to hold their IFAs where some (or all) of those IFAs were created by the group pre-2002. A foreign-parented group, for example, transferring an IFA created prior to 1 April 2002 to a UK tax resident subsidiary after the commencement date will (subject to the restrictions set out below) now be entitled to relief against income on an ongoing basis for the acquisition expenditure.

Second, the scope of Part 8 is also extended where an IFA is brought into the UK corporation tax net after the commencement date without there being an acquisition event. The most common situations in which this will apply include where a foreign company either migrates

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to the UK or allocates an IFA to its UK permanent establishment.

The draft legislation also introduces a new concept of 'restricted asset' into Part 8. Several 'cases' or transactions can give rise to a restricted asset but it is worth noting two examples here. An asset will be a restricted asset where, in very broad summary, it is acquired by a company from a related party and:

- on the commencement date the asset was a pre-FA 2002 asset (i.e. within the charge to UK corporation tax, but outside the scope of the IFA regime); or
- the asset was created prior to 1 April 2002 and immediately before the commencement date it was held by a person other than a company (for example, a foreign partnership).

Where a transaction involves a restricted asset, amortisation relief is denied. This is achieved by deeming it to have acquired the asset at no cost for the purposes of computing tax relief outside of a realisation. The government's rationale for the introduction of this rule is to prevent related party transactions being used to 'obtain a tax advantage by bringing assets into Part 8 at market value'.

Whilst the broadening of these rules is welcome, some may observe that an opportunity was missed to open the IFA regime to all acquisitions of intellectual property into the UK and put the UK on a par with other major economies as regards the availability of tax relief for acquisitions of intangibles. Alongside the changes made in respect of the IFA regime, the chancellor also announced a number of measures relating to the R&D landscape.

The R&D regime

Respective governments have constantly sought to improve the R&D regime since its introduction in 2000, in order to encourage greater R&D spending in the UK. Both the small and medium-sized enterprises (SME) and large company regimes have seen increases in the rate of relief over the years, and in 2013 there was a move to recognise the R&D benefit 'Above the Line' with the introduction of the Research and Development Expenditure Credit (RDEC).

Finance Bill 2019-21 introduces a further increase in the rate of the RDEC from 12% to 13% for qualifying expenditure incurred on or after 1 April 2020. The RDEC is a taxable credit that can be offset against a company's tax liability, or paid as cash in certain circumstances. Whilst the anticipated reduction in the corporation tax rate to 17% was repealed, the positive news is that the increase in the RDEC rate does leave claimants better off with an increased post-tax benefit of 10.53%. This would have been 9.96% had the RDEC rate remained at 12% and the corporation tax rate dropped to 17%.

The government also announced its intention to consult on widening the definition of qualifying R&D expenditure on software and IT costs, under both the SME and RDEC regimes. Currently, it is possible for companies to claim costs related to software used either wholly or in part to support R&D activities, as defined in Corporation Tax Act 2009 s 1125. However, this excludes any data or cloud computing costs.

The provision of software and IT services to customers has changed substantially since software was first introduced as a qualifying cost category in Finance Act 2002; a consultation on expanding the definition to include data and cloud computing is a positive step in supporting innovation.

While these changes show the government's commitment to R&D, it is also recognised that the generous nature of the R&D regimes may be open to tax abuse. The reintroduction of a PAYE cap on the payable tax credit receivable by SMEs has been subject to ongoing consultation. The proposed cap would limit the SME repayable cash credit to three times the PAYE and NIC paid by the company in respect of employees during the relevant accounting period. The reintroduction of a cap is intended to prevent R&D claims from entities with little or no employment activity in the UK.

The chancellor announced that the cap is intended to be applicable to accounting periods beginning on or after 1 April 2021, to allow more time for consultation on the design of the measure. The government wants to stamp out abuse, whilst avoiding inadvertently penalising businesses that rely more heavily on third party resources than employees.

Whilst there were no specific measures relating to the patent box in the Spring Budget, a more joined-up approach to the management of intangible property will be required when the new patent box nexus regime becomes mandatory for all companies from 1 July 2021. From this date, the patent box benefit will become dependent on where and how R&D is carried out, and R&D and patent box claims further aligned.

Summary

The Spring Budget included clear signals from the government that it wishes to continue to support the innovation lifecycle in the UK. Bringing more IFAs within the scope of the Part 8 regime is clearly a welcome step towards making the UK a more competitive tax regime. Some complexity still remains, as the limitation of amortisation relief where a restricted asset is involved (such as transactions involving foreign partnerships) means that some groups will continue to have to keep track of whether their assets were created pre or post 1 April 2002. Together with the measures restricting relief for acquired goodwill (and other relevant assets) in Finance Act 2019, this may continue to deter some foreign-parented groups from bringing their IP to the UK.

The changes to the scope of the Part 8 regime may represent, in part, a missed opportunity to make the UK a significantly more attractive jurisdiction for groups to locate their IFAs. However, various other measures in the Spring Budget and Finance Bill take broader steps to encourage investment in innovation in the UK through a number of positive announcements in respect of R&D tax relief.

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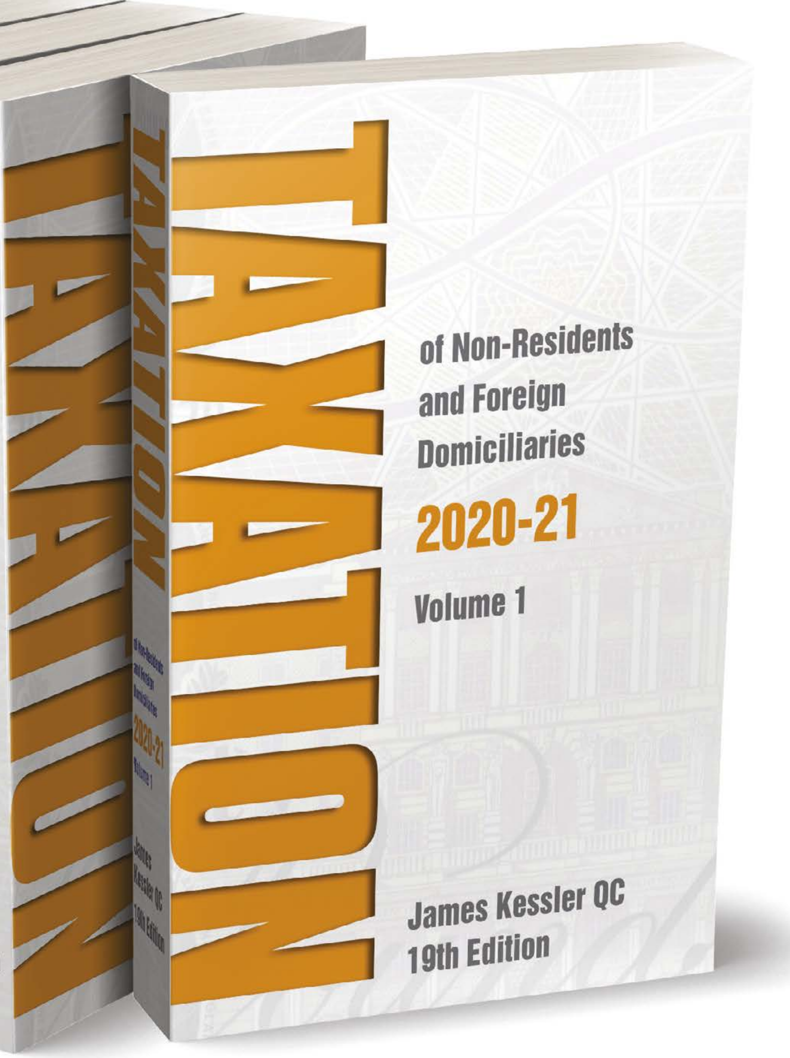

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James Kessler QC

2020/21 Edition

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James has received the Shindler Award for Outstanding Contribution to the Profession.

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Fixing the furlough headache

Carolyn Brown and *Susan Ball* examine the details of what you need to know about implementing the Coronavirus Job Retention Scheme

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KEY POINTS

- **What is the issue?**

On 7 June, 8.9 million employees from 1.1 million employers were furloughed at a cost of £19.6 billion. This eight month scheme is in two parts: one for four months from 1 March to 30 June; and then another on different terms from 1 July to 31 October 2020.

- **What does it mean for me?**

New CJRS from 1 July 2020 is intended to operate more flexibly to support those employers getting their employees back to work. Furloughed employees will be able to actively work for part of the period but be on furlough for the rest of the period, for example.

- **What can I take away?**

Unless the furloughed employee will be fully furloughed, a new or varied furlough agreement is needed. If this includes a change of working hours, this will either need to be agreed with the employee individually, by collective agreement or imposed by a dismissal and offer of reengagement on the changed basis.

On 20 March 2020, the Coronavirus Job Retention Scheme (CJRS) was introduced to provide a support grant for all employers who could not maintain their workforce because their operations had been affected by Covid-19. On 7 June, 8.9 million employees from 1.1 million employers were furloughed at a cost of £19.6 billion.

This eight month scheme is in two parts: one for four months from 1 March to 30 June; and then another on different terms from 1 July to 31 October 2020. From 30 June, employers will only be able to furlough those they furloughed for a full three-week period prior to 30 June, requiring them to have furloughed employees by 10 June, sparing some caveats to accommodate those where this would be hard to achieve.

Subject to that, the employer can use the scheme at any time during this period. Claims can be started from the date that the employee finishes work and starts furlough.

HMRC would not expect to agree a Time to Pay Arrangement that includes the NICs (employer and employee) and PAYE payments due on monies received through the furlough scheme.

The legislative framework is covered in:

- 15 April 2020 The Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Coronavirus Job Retention Scheme) Direction (under powers conferred by the Coronavirus Act 2020 ss 71 and 76);
- 20 May 2020 Revised Direction effective for claims made from 22 May 2020; and
- 29 May 2020 published Taxation of Coronavirus Support Payments – Draft (Finance Bill) legislation.

Old CJRS up to 30 June was to support employers who could not operate during lockdown. Furloughed employees could not work at all, with limited exceptions. New CJRS from 1 July 2020 is intended to operate more flexibly to support those employers getting their employees back to work (see bit.ly/2N8tGtT). Furloughed employees will be able to actively work for part of the period but be on furlough for the rest of the period.

The maximum CJRS grant

1 March to 30 June: The maximum grant reclaim value is 80% of a furloughed employee's wages up to a cap of £2,500 per person per month plus employer's NICs and employer's auto enrolment minimum pension contributions on those wages.

1 July to 31 July: As above, but only for furloughed hours, thereby allowing employees to work part time.

1 August to 31 August: 80% of a furloughed employee's wages up to a cap of £2,500 per person per month.

1 September to 30 September: The taxpayer will contribute 70% and the employer 10% of furloughed employees' wages during furlough periods.

1 October to 31 October: The taxpayer contribution will be 60% and the employer contribution will be 20%. (In August, September and October, the employer will be required to contribute employer's NICs and employer's pension contributions.)

How will hours worked and furlough hours interact?

When making a claim from 1 July, normal hours worked will need to be recorded, as well as hours worked and furlough hours. Normal hours worked will be on the same basis as 'reference pay', where we consider:

- for fixed rate employees: the last pay period before 19 March; and
- for variable pay employees: the higher of the average for 2019/20 or the same period last year.

The challenge for employers and those assisting with completing claims is access to information for fixed rate employees where the payroll system only records hours worked in bandings and not the actual hours. This is going to need employers to pull records from other sources.

In April 2019, the payslips of workers whose pay varies depending on the number of hours they have worked were required to show the number of hours paid on this basis (i.e. the amount of time worked), so these can be used for variable pay employees.

Pensions and salary sacrifice

Employers need to check the rules of the scheme to determine what contributions are due and how they fall during furlough (for normal hours not worked). For example, must they be calculated by reference to the pay that the employee actually receives during furlough, the employee's normal pay or some other amount? The problem is that many are set up to convert a percentage of pay. Salary sacrifices for pension payments create an added complication. The Pensions Regulator has issued detailed guidance, stating that it is intended for large employers but applies to all with such schemes.
This impacts:

- reference pay under the legislation (which is the amount after the salary sacrifice), unless the employee opts out as a life event change (where HMRC has agreed that Covid-19 is a reason for a life event change);
- pay to the employee as salary sacrifice, which cannot be deducted from furlough grant pay (and where deducted from top-ups, employers need to make sure employees are still paid NMW for training or working hours); and
- the pension contributions paid over to the scheme, which need to be correct as per the pension scheme rules, might be different again from what's been paid.

This has created complications for those making grant claims, and making sure that both the payroll and the pension contributions are correct. It could result in incorrect grant claims and possible employment claims.

Other key features

From 1 July, the maximum number of furloughed employees that an employer can claim for cannot be higher than the maximum number it has claimed for previously. This would appear to prohibit one obvious way to get more of the workforce back to work through furloughing more personnel on short-time flexible furloughed hours in the same pay period(s).

From 1 July, employers cannot claim for overlapping pay periods but only for one pay period at a time.

Employers have until 31 July to make a claim for any periods of furlough up until 30 June. This applies to both employees furloughed for the first time in June and those previously furloughed.

Employers who overclaimed in error in a previous claim should inform HMRC and reduce the amount of a new claim to take account of a previous error.

Deductions from grant received

The employer must pay the employee all the grant they receive for an employee's gross pay in the form of money. Authorised deductions their salary can continue while they are furloughed, provided that these deductions are not charges, fees or other costs in connection with the employment.

The employee will still pay income tax, NICs, student loan repayments and any other deductions (such as pension contributions) from their wages.

Annual leave

Statutory holiday entitlement continues to accrue during furlough leave. The Department for Business, Energy and Industrial Strategy (BEIS) issued guidance on 13 May outlining how employers can operate workers' holiday entitlement and holiday pay during the pandemic. If a furloughed employee takes holiday, the employer should pay their usual holiday pay in accordance with the Working Time Regulations or contractual pay, if higher.

Redundancy costs

Employers can claim under CJRS for employees given notice of termination by reason of redundancy (in its widest definition) serving notice during the period for which a furlough scheme claim is made. Furlough pay may also support wages during collective and individual consultation redundancy periods. Pay in lieu of notice, statutory or contractual redundancy payments cannot be claimed.

National minimum wage

As usual, national minimum wage (NMW) pay rates increased from 1 April 2020. Where employees were furloughed under old CJRS, NMW rates needn't have been paid. However, employers of furloughed employees who undertake permitted activities should ensure they meet NMW requirements.

From 1 July, employers using flexible furloughing need to ensure their NMW and national living wage (NLW) obligations are met. HMRC has announced that it is resuming NMW and NLW enquiries.

Furlough agreements and employment contracts

Employment contract changes by the employer during furlough, such as a reduction in wages, should have been agreed with the employee and any existing workforce collective consultation agreements met. Equality and discrimination laws apply.

CALCULATING FLEXI-FURLOUGH PAY IN PRACTICE

The employer brings the employee off full-time furlough and they return to work part time from 1 July, working 70 hours in July. The employee works full-time but has variable hours.
Step 1: Work out the reference pay and hours: The equivalent pay period in 2019 was July 2019: 220 hours, gross pay £2,200. The average monthly hours across the whole 2019/20 year was 192.5 hours with average gross pay £1,925.
Step 2: Take the higher amount: The higher of the two figures is July, so £2,200 for 220 hours. The employer must use the same method to calculate the employee's usual hours for each period as they have used to calculate the employee's reference pay.
Step 3: Deduct hours worked to calculate furloughed hours: The furloughed hours are the difference between the usual hours for the period and the hours worked in that period. In July, this amounts to 220 usual hours minus 70 hours worked, amounting to 150 furloughed hours.
Step 4: Calculate furlough pay: Per month, this amounts to:
Reference pay x [furloughed hours/usual hours] x the percentage CJRS grant entitlement.
In July, this is: £2,200 x [150/220] x 80% = £1,200.
Furlough pay is therefore £1200.

Step 5: Calculate the pay for the hours worked: Employers are responsible for paying employees for hours worked. This is calculated by applying the hourly rate to the hours worked. In July, this is 70 hours at £10 per hour (amounting to £700).
Step 6: Calculate the NIC/pension: This is calculated on a siimilar basis as before (see bit.ly/3hEWI2g). Total gross pay for the employee is the sum of the working pay and furloughed pay In July, this is £1,200 of furlough pay plus £700 working pay (amounting to £1,900).

	NI liability	NI grant	NI employer	Pension liability	Pension grant	Pension employer
July	£161.18	£96.73	£64.45	£41.40	£25.63	£15.77

Claims made from 22 May require that the employer and employee have agreed or confirmed in writing (or email) the terms and conditions on which the employee will cease all work, and that that agreement is incorporated in the employee's contract of employment. Such agreement can also be made by collective agreement with a recognised trade union.

In terms of new CJRS, unless the furloughed employee will be fully furloughed, a new or varied furlough agreement is needed. If this includes a change of working hours, this will either need to be agreed with the employee individually, by collective agreement or imposed by a dismissal and offer of reengagement on the changed basis. Where larger numbers of employees are in scope, prior collective consultation obligations may be triggered.

Record keeping

An employer must keep a written record of all communications with the employee regarding the furlough arrangement, including all copies of the agreement, for five years. Where a claim is made under the second Treasury direction, the agreement or confirmation of furlough must be retained by the employer until at least 30 June 2025.

An employer must also keep a record of the claims for reimbursement it makes for furloughed employees' wages under the CJRS. An employer should keep a copy of all claims records for six years, including:

- the amount claimed and claim period for each employee;
- the claim reference number for your records; and
- the calculations used, in case HMRC need more information about the claim.

Where an employer claims more than it should have done in a claim period, it should keep records of any notification to HMRC and records of the adjusted amount for six years.

Penalties for getting it wrong

HMRC reportedly received around 1,900 reports of potentially fraudulent claims under CJRS to the end of May and will be investigating claims.

The government has tabled Finance Bill amendments legislation to claw back funds claimed in error or fraudulently. The draft clauses present a problem to employers and agents, as they require the correction or notification to HMRC of errors with previous claims within 30 days; i.e. 30 days of Royal Assent and then 30 days after a claim is made.

As well as being entitled to the furlough-related payment, the employer must have paid the funds to furloughed staff within 'a reasonable period' which has not yet been defined. If the criterion is not met, a 100% tax rate is applied, rather than the usual corporation tax or income tax due on the receipts. Lobbying is ongoing to extend the notifications deadline for errors made beyond 30 days. Claims already made should be checked carefully to make sure they were valid. Where possible, overpayments should be corrected ahead of the penalty legislation deadline.

Additionally, while the draft legislation contains no specific penalties for errors or mistakes in any claim for support from the government, it does contain rules to penalise those who don't notify HMRC of their error within the time limit explained. The 'failure to notify' penalty has been used by HMRC in other tax enforcement campaigns. The penalties charged assume that the failure is deliberate and concealed, thereby triggering the highest penalty loadings.

Potentially employees may have a claim for breach of contract or unlawful deduction from wages, depending on the issue.

Ultimately, the Treasury Directions take precedence over the HMRC guidance where the guidance deviates from it. From HMRC's perspective, its functions in respect of the CJRS are defined by the Treasury Direction. It remains to be seen what happens where there is conflict. However, what is certain is that this is not something that will be forgotten about any time soon!

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WHAT PROBLEMS HAVE WE SEEN?

- Use of incorrect number of days (working days rather than calendar days).
- Salary sacrifice pension arrangements not correctly applied in relation to pay whilst on furlough and incorrect amounts paid over to the pension scheme.
- Staff working for the employer whilst on furlough up to 30 June and/or after 1 July when it's a furlough day.
- Not factoring top-ups or additional payments into the NIC element of calculations, claiming when no NIC is due or not capping based on the furlough grant element when making a claim for employer's NIC.
- Claims made for ineligible employees (employees not on the last RTI/payroll before 19 March or not previously furloughed before 10 June).
- Staff called back from furlough before 21 days, yet included in claim(s).
- Grant payments not paid over to employees, HMRC and the pension scheme (as appropriate).
- A lack of understanding of employment contracts and the different components through which an employee is paid, as well as of furlough agreement terms, meaning that grant pay under CJRS is incorrect.
- Furlough agreements don't clearly identify how pay and benefits will continue during furlough; for example, pension, salary sacrifice or net pay benefits under flex schemes.
- A lack of understanding about how to deal with holidays when on furlough.
- Approved training days not being recorded nor working days after 1 July, therefore leading to potential employee underpayments as they are entitled to NMW or contractual pay.
- Inadequate documentation of furlough start and end dates and flexi-furloughing being applied.

Perils of an unauthorised payment

Keith Gordon looks at a case which considers the sanctions for making unauthorised payments from registered pension schemes

KEY POINTS

- **What is the issue?**
The company Bella Figura Ltd was both the sponsoring employer and scheme administrator of a registered pension scheme. The scheme had made a loan which, by the time of the Upper Tribunal, was agreed to be an unauthorised employer payment.
- **What does it mean to me?**
Under Finance Act 2004, only certain payments from pension pots are permitted under the legislation (authorised payments); while other (unauthorised) payments are subject to a scheme of charges of 40% (with some attracting a supplementary 15% surcharge).
- **What can I take away?**
The Upper Tribunal's decision on carelessness will have repercussions which are far wider than the context of the present case: indeed, it will be relevant to many discovery assessments, as well as cases involving penalties for errors on tax returns. Most importantly, it emphasises the need for the alleged carelessness to be the cause of the loss of tax complained of.

The taxation of pension schemes was thoroughly overhauled in the Finance Act 2004 with the new rules coming into force on 'A-Day' (though because of the extent of the changes this was postponed by a year to 6 April 2006). Although many of the provisions are undoubtedly complex, there is some advantage in having them in more or less one place.

The central tenet of the code is that funds can be transferred (tax efficiently) into a separate pot, with the proviso that those funds remain out of a worker's reach until pension age. This tenet will be undermined if funds within a pension pot can leak to the worker prior to the worker reaching the requisite age. Accordingly, only certain payments from pension pots are permitted under the legislation (authorised payments); while other (unauthorised) payments are subject to a scheme of charges of 40% (with some attracting a supplementary 15% surcharge).

Except where otherwise stated, all statutory references are to provisions in the Finance Act 2004.

The facts of the case

In the case of *HMRC v Bella Figura Ltd* [2020] UKUT 120 (TCC), the company Bella Figura Ltd (Bella) was both the sponsoring employer and scheme administrator of a registered pension scheme. The scheme had made a loan which (by the time of the Upper Tribunal) was agreed to be an unauthorised employer payment. Bella was thus prima facie liable to both:

- as scheme administrator: a scheme sanction charge (under s 241); and
- as the sponsoring employer: an unauthorised payments charge (under s 208) and an unauthorised payments surcharge (under s 209).

HMRC issued assessments to Bella in respect of these charges. However, the First-tier Tribunal had set aside the assessment for the scheme sanction charge, saying that HMRC did not have the power to assess Bella for that charge. HMRC appealed against the First-tier Tribunal's conclusion in this respect.

Conversely, Bella appealed against the First-tier Tribunal's conclusion in relation to assessments for the unauthorised payments charge and surcharge. It challenged the First-tier Tribunal's view that the company's conduct was careless, therefore permitting the assessments to be made up to six years after the relevant tax year.

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Finally, Bella challenged the First-tier Tribunal's refusal to allow it to be discharged under s 268 from some its liabilities. Section 268 permits unauthorised payments surcharges and scheme sanction charges to be discharged if 'it would not be just and reasonable for the person to be liable' to the respective charges. In cases concerning scheme sanction charges, there is a further condition to be met for a discharge: this is that the scheme administrator reasonably believed that the unauthorised payment was not a scheme chargeable payment.

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The Upper Tribunal's decision

The case came before Mr Justice Nugee and Upper Tribunal Judge Jonathan Richards.

Issue 1: Statutory basis for assessment of the scheme sanction charge

The tribunal noted that scheme sanction charges are taken outside the ordinary self-assessment regime by the Taxes Management Act (TMA) 1970 s 9(1A). Accordingly, the starting point for any income tax assessment must be the discovery provisions in TMA 1970 s 29.

Bella, however, argued that s 29(1) is expressly limited to cases where HMRC is seeking to tax '***income*** which ought to have been assessed to income tax ***or chargeable gains*** which ought to have been assessed to capital gains tax' (emphasis added); whereas a scheme sanction charge relates to neither income nor a chargeable gain, but is a stand-alone charge. Bella recognised that this would on its own render HMRC unable to assess for scheme sanction charges. However, as Bella also noted, Finance Act 2004 s 255 permits regulations to be issued so as to 'make provision for and in connection with the making of [such] assessments'.

The parties' cases then turned on the interpretation of regulations 4 and 9 of the Registered Pension Schemes (Accounting and Assessment) Regulations 2005. Regulation 4 provides a table identifying a number of scenarios (including an unauthorised payments charge, surcharge and scheme sanction charge) and, corresponding to each scenario, a description of the person to whom an HMRC officer 'must issue an assessment to tax'. In turn, regulation 9 modifies TMA 1970 s 29 so as to provide that unauthorised payments charges and surcharges are matters that can be assessed under that section (by extending the assessable scenarios beyond income and chargeable gains). However, regulation 9 makes no provision for scheme sanction charges.

Bella argued that, when read in combination, HMRC can use s 29 (as modified) in respect of unauthorised payments charges and surcharges, but not in respect of scheme sanction charges.

The Upper Tribunal, however, disagreed. It considered that regulation 4 provides a standalone power of assessment, so that recourse to TMA 1970 s 29 is not needed.

Issue 2: Carelessness

It was common ground that the usual time limits conferred by TMA 1970 s 34 (as extended by TMA s 36) were applicable to the assessments for the unauthorised payments charge and surcharge. Because the assessments were made more than four (but fewer than six) years after the end of the relevant tax year, HMRC had to show that Bella's carelessness had caused a loss of tax.

In this regard, Bella was going to have an uphill struggle, as findings of carelessness are inherently ones of fact which are not susceptible to challenge on appeals against decisions of the First-tier Tribunal. The Upper Tribunal noted that the First-tier Tribunal had considered the steps that Bella's director had taken to check whether the loan gave rise to an unauthorised payment, comparing those with the steps which the hypothetically reasonable taxpayer in the same position would have taken. As the First-tier Tribunal's approach was the right one to follow, Bella's appeal on this point was very likely to fail. Indeed, the Upper Tribunal considered the First-tier Tribunal's conclusion on carelessness to have been 'tough' but not perverse. And only a perversity finding would allow a factual conclusion to be overturned.

Nevertheless, the Upper Tribunal considered that the First-tier Tribunal had made certain procedural errors. In particular, the First-tier Tribunal had observed that Bella had sought professional assistance in drawing up the loan documentation, yet failed to consider whether that professional assistance gave the company an implicit reassurance that there were no adverse tax consequences arising. Related to this, the First-tier Tribunal was held to have failed to consider whether the careless conduct it had identified (which was the lack of explicit advice) had *caused* the loss of tax. We must remember that the extended time limits operate when there is not mere carelessness, but only if that carelessness causes a loss of tax. In this case, there was a reasonable chance that the operative carelessness was inherent within the professionally drafted documentation, rather than the lack of advice obtained by Bella. Although HMRC argued that there were other possible outcomes, the Upper Tribunal noted that the burden of proof for carelessness lies on HMRC.

Accordingly, the Upper Tribunal concluded that the First-tier Tribunal's finding on this point was tainted by an error of law. This would ordinarily lead to the case being transferred back to the First-tier Tribunal for a fresh determination; though where the Upper Tribunal considers it has enough information to remake the decision itself, it can substitute its own decision.

Before explaining how it would proceed, however, the Upper Tribunal went on to consider the third issue.

Issue 3: Discharge of the scheme sanction charge and the unauthorised payments surcharge

This third issue turned on two matters:

- for the scheme sanction charge: whether Bella had a reasonable belief that the loan was authorised; and
- for both the sanction charge and the unauthorised payments surcharge: whether it was just and reasonable to set aside the charges.

In respect of the first matter, the Upper Tribunal considered that its prior conclusion on carelessness led to this point being similarly determined in Bella's favour. However, that led to the second point being critical. Indeed, as noted, for the unauthorised payments surcharge, it was the only live issue.

The Upper Tribunal held that the First-tier Tribunal had focused almost exclusively on what it considered to be Bella's carelessness and ignored the fact that Bella had at least tried to comply with the legislation and the fact that the unauthorised loan was fully repaid. As the First-tier Tribunal had failed to take into account these relevant considerations, the Upper Tribunal allowed the appeal on this ground as well. This led to the Upper Tribunal deciding how to dispose of the appeal.

Disposal of the appeal

The Upper Tribunal felt that it had sufficient information to allow it to remake the First-tier Tribunal's decision and so avoid the costs and delay that a remittal would involve. In respect of the carelessness issue, it felt that the additional considerations which the First-tier Tribunal had overlooked meant that HMRC had not discharged the burden of proof. Thus, the unauthorised payments charge and surcharge were both set aside as having been assessed too late.

Had the scheme sanction charge been discharged as well, Bella would have had no adverse repercussions for making the unauthorised loan. The Upper Tribunal considered this to be contrary to the purposes of the legislation and, for this reason, declined to discharge the scheme sanction charge.

Commentary

There are undoubtedly difficulties with the 2005 regulations, as the Upper Tribunal itself recognised. Notwithstanding its analysis, I think that the position in relation to issue 1 remains unclear. Had the Parliamentary intention been that all assessments be made under s 29, as argued for by Bella, then a number of provisions in the regulations would have been otiose. For one, the provision in regulation 4(2) determines when the assessed tax becomes payable (generally, 30 days after the notice of assessment). Furthermore, the wording in regulation 4(1) imposes an obligation on HMRC to make an assessment, and such wording would be inapposite if the regulation were merely facilitating the use of provisions elsewhere.

However, I recognise that in both cases it is possible to read the provisions differently. For example, the compulsion in regulation 4(1) could be said to reflect the fact that the 2004 code often makes more than one person liable for the various charges; and regulation 4(1) merely determines which of those various persons is to be assessed. As for the point about payment dates in regulation 4(2), one retort could be that the remainder of the regulation provides for exceptions to the general 30 day rule and, in the interests of clarity, all such payment dates are contained in a single provision.

On balance, I think that the tribunal reached the right conclusion. However, for me, the clincher is the wording of regulations 4(2) and 5 which both refer to assessments ***under*** regulation 4. Nevertheless, it is unsatisfactory that such a fundamental point can be determined only by looking for cryptic hints across the regulations, with judges having to decide which pointers positively determine the meaning of the regulations and which are of no more than anecdotal relevance. Indeed, the tribunal recognised that its conclusion led to the obvious question as to why regulation 9 (which modifies TMA 1970 s 29) would be needed at all, given that assessing power is given under regulation 4. It proceeded to suggest partial answers to this, and its conclusion was that 'regulation 9 does … give rise to difficulties for HMRC's interpretation of regulation 4'; however, the tribunal ultimately shied away from giving any formal determination of the matter, saying that its task was 'to construe regulation 4 and not to provide a comprehensive explanation for why regulation 9 is drafted as it is'.

Such a lack of clarity in the code is unhelpful and it would be sensible for these provisions (and the interface with the TMA 1970) to be the subject of a comprehensive review.

I found the tribunal's decision on whether or not to discharge the scheme sanction charge particularly interesting. As well as containing an eminently readable summary of the overall regime, it took the view that Bella ought to pay a 40% charge as a consequence of the transaction it had entered into. Because two assessments were set aside on grounds of delay, the tribunal felt that it was appropriate to maintain the scheme sanction charge. On the other hand, had the other assessments been upheld, the tribunal would have discharged the scheme sanction charge as otherwise the financial penalty on Bella would have been excessive.

I would not go so far as to say that the tribunal's approach was erroneous, but I think it definitely merits further consideration by the Court of Appeal and/or academic consideration. In particular, why should the incidence of a time limit which is there to protect taxpayers be a factor that mitigates against the exercise of a discretion in relation to a different (albeit related) tax charge? Furthermore, what would the situation be if, unlike the present case, the various charges were imposed on different persons?

What to do next

The tribunal's decision on carelessness will have repercussions far wider than the context of the present case: indeed, it will be relevant to many discovery assessments, as well as cases involving penalties for errors on tax returns. Most importantly, it emphasises the need for the alleged carelessness to be the cause of the loss of tax complained of.

In the meantime, for anyone interested in pensions taxation, it is worth reading paras 72–74 of the tribunal's decision, which succinctly set out the Upper Tribunal's overview of the code.

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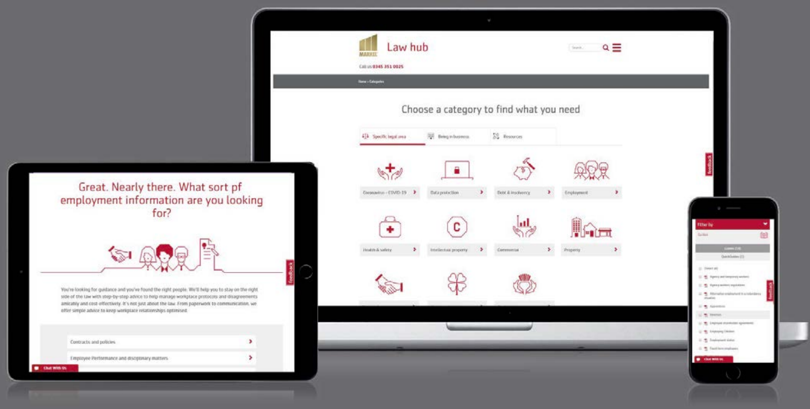

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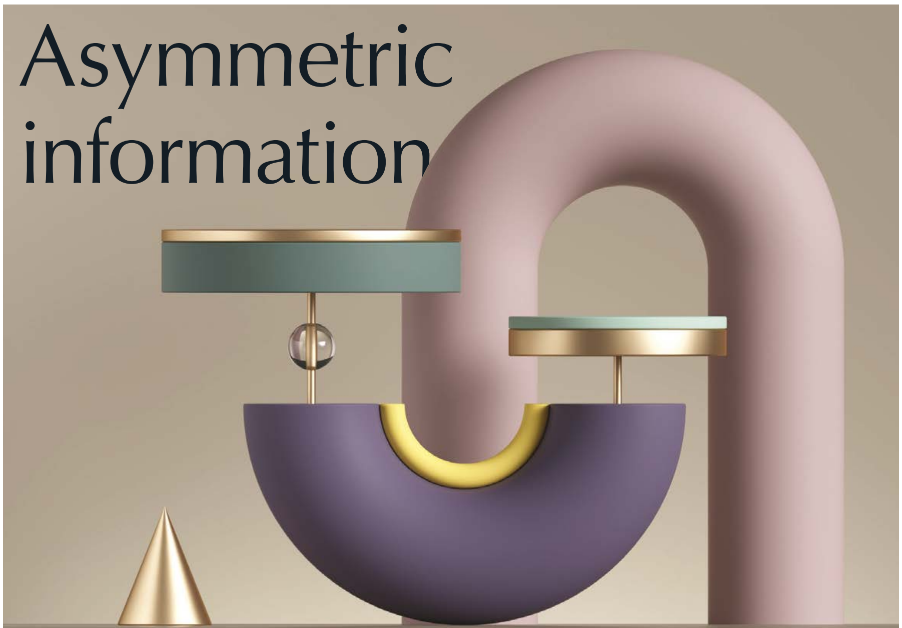
Asymmetric information



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Bill Dodwell considers how third-party data can be utilised to increase compliance and reduce the tax gap

PROFILE

Name **Bill Dodwell**
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Profile Bill is 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.

One of the key topics for tax administrations concerns what academics might call asymmetric information. What this means is that taxpayers should know what their taxable income and gains are – but that tax authorities don't have this data. They need to get it from taxpayers or from others. The key bridge for tax authorities is through accessing third-party data. The most obvious source of UK third-party data is of course PAYE data, supplied every month by over 2 million employers.

The US Internal Revenue Service, like HMRC, analyses the tax gap. This is the difference between the tax due under the law and the tax ultimately collected. In the UK, much of the analysis focuses on behaviours and on taxpayer groups. However, the US produces analysis which looks at the tax gap based on whether or not third parties supply the tax authority with data.

The IRS estimates that there is a tax gap of just 1.2% on wages and salaries, due to both reporting and withholding (see bit.ly/2BhoX6o). Items subject to substantial information reporting (but no withholding), such as interest and dividend income, have a 4.5% tax gap. The gap is nearly doubled to 8.6% where there is just some information reporting. However, where there is little or no information reporting, the tax gap jumps to 53.9%. The main US income in this category is self-employment and farm income, rents and royalties.

Making tax compliance easier

The Office of Tax Simplification (OTS) has done some recent work in this area. Of course, the OTS's focus was on making tax compliance easier for individuals, who often find it hard to understand how and when they should report to HMRC.

The OTS Tax reporting and payments review recommended that HMRC should invest in improving the personal tax account and making the business tax account part of it (see bit.ly/2UW6t29). Having two accounts can mean that taxpayers don't understand the difference between the two. The income reported under each one isn't joined up and there's no easy mechanism for taxpayers to upload expense data, get a mid-year tax calculation, or pay tax earlier if they wish.

The second recommendation was that work should be done on those sectors where there is a third party, or intermediary, involved in the chain. Where most of a sector does involve third parties, there is a much stronger case for requiring reporting by those third parties. However, where third party involvement is not significant, or those third parties do not have sales information, reporting is not easily possible. One sector with lots of intermediary involvement is taxis, mini-cabs and private hire. If those intermediaries uploaded monthly data to HMRC, it could be presented to taxpayers on a monthly basis for validation – and for the taxpayers to add expense information, whether by Making Tax Digital or otherwise. In that way, HMRC, taxpayers and their agents could stay on top of monthly net income and potential tax liabilities.

Platform operators

The OECD is also working in this area. This initiative is limited to the OECD and not the wider BEPS Inclusive Framework. In February this year, the OECD's Working Party 10 released for comment draft model rules for reporting by platform operators with respect to sellers in the sharing and gig economy (see bit.ly/2YL7awp).

The issue here is that exchange of information between countries will almost certainly be needed, as platform operators are unlikely to have a physical presence in every country where they offer services. Without that physical presence, enforcement of information requirements will rely upon exchange of information under double tax treaties or global conventions. Platform operators will need some global agreement on the data fields which they should collect and provide; it would be unduly burdensome for there to be significantly different requirements for every country. Operators currently do not gather tax identification numbers; they will need notice so that they can set up the systems to do this and ensure that the data provided can be properly and easily matched with individual taxpayers.

Ultimately what is needed is a fixed set of data fields, both internationally and nationally, so that data can be collected relatively easily, passed to the tax authority and then be transferred as seamlessly as possible into the taxpayer records. In the UK, we would want data to appear every month in the Personal Tax Account, for example. Today, banks and building societies pass interest received data to HMRC; however, it then takes some time for it to appear in the individual taxpayer records, probably because there is no tax identification number attached (such as the NI number).

Updating systems to deal with this type of issue will take some time – but the prize of accurate and up to date taxpayer accounts is well worth the effort.

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Wednesday

- Off-payroll working and IR35
  Susan Ball, RSM UK Tax and Accounting Limited
- Principal private residence update and UK residential property capital gains tax compliance
  Meg Saksida, Meganomics
- Panel session: COVID-19 tax measures
  Chaired by Jeremy Coker, ATT President
  Heather Self, Blick Rothenberg
  Helen Thornley, Association of Taxation Technicians
  Sharron West, Low Incomes Tax Reform Group
  HMRC panellist TBC

Thursday

- Topical fiscal share valuation issues and negotiating with HMRC Shares and Assets Valuation
  David Bowes, Bruce Sutherland & Co
- Employee ownership trusts – an alternative exit route for OMB owners
  William Franklin, PettFranklin LLP
- Panel session: The future of UK tax in a post-COVID-19 world
  Chaired by Glyn Fullelove, CIOT President
  Julia Cockroft, Bristows
  Dr Stephen Daly, King's College London
  Pete Miller, The Miller Partnership
  Heather Self, Blick Rothenberg

Social event

Wednesday 18.30 - 19.15
Quiz night to raise money for Bridge the Gap

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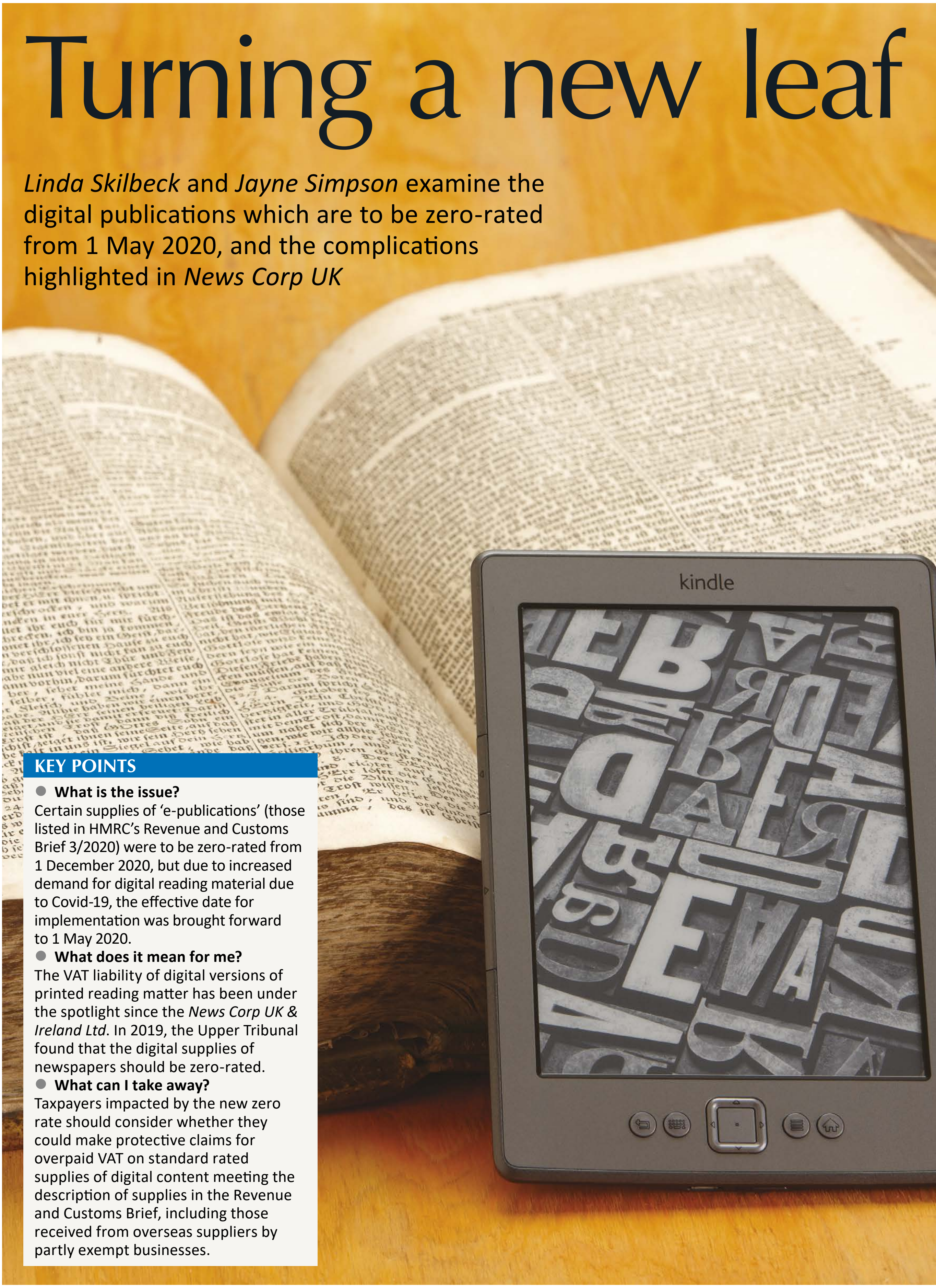
Turning a new leaf

Linda Skilbeck and *Jayne Simpson* examine the digital publications which are to be zero-rated from 1 May 2020, and the complications highlighted in *News Corp UK*



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KEY POINTS

- **What is the issue?**
Certain supplies of 'e-publications' (those listed in HMRC's Revenue and Customs Brief 3/2020) were to be zero-rated from 1 December 2020, but due to increased demand for digital reading material due to Covid-19, the effective date for implementation was brought forward to 1 May 2020.
- **What does it mean for me?**
The VAT liability of digital versions of printed reading matter has been under the spotlight since the *News Corp UK & Ireland Ltd*. In 2019, the Upper Tribunal found that the digital supplies of newspapers should be zero-rated.
- **What can I take away?**
Taxpayers impacted by the new zero rate should consider whether they could make protective claims for overpaid VAT on standard rated supplies of digital content meeting the description of supplies in the Revenue and Customs Brief, including those received from overseas suppliers by partly exempt businesses.

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In the March 2020 budget, Chancellor Rishi Sunak announced that from 1 December 2020, certain supplies of digital reading content ('e-publications') would be zero-rated 'just in time for Christmas'. Within two weeks, lockdown rules came into effect in the UK in response to the global coronavirus pandemic. This saw a marked increase in digital reading at home, particularly for schoolchildren, so the implementation date for zero-rating was revised by statutory instrument on 30 April 2020, and The Value Added Tax (Extension of Zero-Rating to Electronically Supplied Books etc.) (Coronavirus) Order 2020 (tinyurl.com/yd929sw3) brought forward the effective date to 1 May 2020.

Revised VAT guidance

HMRC published its Revenue and Customs Brief 3/2020 (tinyurl.com/yadwbx8m) that lists which e-publications can benefit from zero-rating (whether supplying or lending), and these correspond to VAT Act (VATA) 1994 Schedule 8 Group 3 Items 1-3:

- books, booklets, brochures, pamphlets and leaflets;
- newspapers, journals and periodicals, including magazines; and
- children's picture books and painting books.

Items 4-6 of Group 3 are not included, so digital music manuscripts and electronically supplied maps/charts remain standard rated. Where a supplier sells products within Items 1-6, care will be needed to change the VAT rate only on qualifying products.

The qualifying product list excludes e-publications which are 'wholly or predominantly devoted to advertising', or those which wholly or predominantly consist of audio or video content; this includes audio books. For further products excluded from the zero-rating, the Brief refers the reader to gov.uk guidance, 'Zero rate of VAT for electronic publications'. Here, exclusions are listed for:

- intellectual property that is supplied electronically, including plans or drawings for industrial, architectural, engineering, commercial or similar purposes;
- e-publications that are predominantly intended for completing, unless it is an electronic version of a printed book which is already zero-rated; and
- e-reader hardware and software, unless otherwise zero-rated under the relief to assist older people and the disabled in VATA 1994 Group 12 Schedule 8.

The guidance also comments on single and multiple supply issues and sets out examples of where supplies are subject to single or different VAT rates. There appear to be as many areas of potential difficulty with interpretations and definitions here as there have been in the past for printed matter.

It should be noted that HMRC will only be updating VAT Notice 701/10 and the VAT manual VBOOKS by 31 July 2020, so care should be taken if using guidance that is superseded by Revenue and Customs Brief 3/2020.

Membership subscriptions for non-profit making bodies

Under HMRC's extra-statutory concession 3.35 (tinyurl.com/y7xjqdm9) certain non-profit making membership organisations, including clubs, charities and societies, may apportion their subscriptions into the individual components of the membership package, applying a separate VAT treatment to each. Many memberships include zero-rated printed matter and standard rated digital content, so membership apportionments should be revised to ensure that output VAT is not overdeclared from 1 May 2020. This change will be welcome news as it will allow membership bodies to employ more environmentally friendly e-publications to reduce waste and distribution costs, and to meet members' requests for digital versions of periodicals, reflecting the move away from printed versions, which has seen an increase in VAT declarable on membership subscriptions. There may be further cost savings with reduced printing and postage requirements.

Tax points for digital subscriptions

When buying an annual subscription for a monthly or quarterly e-publication, such as a digitally supplied magazine, you usually pay either a single upfront price for the year or opt for monthly payments. Customers paying by monthly instalments may expect to see a reduction in the monthly price for supplies of e-publications received from 1 May onwards. For customers paying annually, the picture is less clear. A lot depends on the tax point rules that apply to the supply (i.e. the date the tax is due), and whether the supplier chooses to adopt the rules applying on a change in the VAT rate. It also, of course, depends on whether a supplier decides to pass on the VAT saving to consumers at all.

HMRC's guidance on the rate change for e-publications is silent on tax points, so suppliers will have to consult the usual tax point rules, the 'change of rate' legislation in VATA 1994 s 88 and associated HMRC guidance. Unlike physical printed publications which are goods, supplies of e-publications are services. The basic tax point for a supply of services under UK law is the date when the services are 'performed' (usually meaning 'completed'). An 'actual' tax point overrides this basic tax point and is created when a payment is received or a VAT invoice is issued before the basic tax point, or when a VAT invoice is issued up to 14 days after the basic tax point.

For certain supplies of services, where all or part of the price is determined or payable periodically, from time to time, or at the end of any period, there is a tax point each time a payment is received or a VAT invoice is issued. This typically applies to leasing and rental payments. Such supplies are often referred to as 'continuous', although of course leasing and rental agreements are for a defined period, and not open ended.

Where a single 'one-off' supply of services spans the change of rate, and an actual tax point arising from receiving a payment or issuing an invoice falls on one side of the change and the basic tax point falls on the other, the change of rate rules in VATA 1994 s 88 allow a business to determine when its supplies are made by reference to the 'basic tax point' only; i.e. disregarding any 'actual tax point'. This means that the business can elect to treat the supply as having occurred on the 'basic tax point' date, and apply the 0% rate, if:

- for a single supply of an e-publication, an 'actual tax point' occurred before 1 May 2020 due to the issuing of a VAT invoice or receipt of payment in advance of the supply; and
- the 'basic tax point' falls on or after 1 May 2020.

Businesses can choose to apply the special provisions to all or some of their supplies and HMRC does not need to be informed. In that case, credit notes (and VAT refunds) are normally required to be issued to customers within 45 days of the rate change; however, with the impact of the coronavirus pandemic, if this deadline is missed it is worth contacting HMRC to see if this can be extended.

For continuous supplies, invoices issued or payments received on or after 1 May will be subject to 0% VAT, and where advance invoices have been issued for 20% these need to be corrected.

The tax point rules are straightforward for single supplies of e-publications. The position is more complex where subscriptions are concerned. If a subscriber chose to pay for an annual e-journal subscription by monthly instalments, there would be a tax point at each payment and the 0% rate could only apply to payments after 1 May. However, where an upfront payment for a 12 month subscription for monthly e-journals was made in full before 1 May but delivery or access to the 12th e-publication is not complete until some months later, the question arises as to whether the subscription is a single supply made over a 12 month period, or a 'continuous supply'.

Where there is a single payment (i.e. no periodic payments), a subscription would appear to be a single supply which is only 'performed' (i.e. complete) when the 12th edition is delivered; in which case, the supplier ought to be able to choose to zero rate the entire supply under the change of rate provisions. In VATTOS4320, HMRC states that where services are performed over a period of time and there is one consideration for the services as a whole, the basic tax point is when all obligations are fulfilled, which appears to confirm that analysis.

But in VAT Notice 700 para 8 s 30 (tinyurl.com/ycqe5hyl), HMRC guidance on single supplies apparently contradicts this. It uses an example of a decorator doing a single job that spans the rate change (which would seem to be a single supply), and who receives payment (creating an actual tax point) before the rate change. The basic tax point would appear to be the time when the job is finished, so the decorator could apply the lower rate to the entire job under s 88. HMRC, however, says that he is entitled to use the lower rate only for work 'performed' after the rate change, even though the service to the customer is not completed until after the rate change.

Some subscriptions may be longer than a year but have a break clause, which might suggest they are 'continuous'; and some may give other rights such as access to archives, or use of limited copyright where the zero rate may not apply. Whether one or the other argument is stronger is likely to depend on the exact nature of the obligations of the supplier under the contracts and the nature of the supply, and careful analysis of subscription contracts.

Mini One Stop Shop (MOSS) for international suppliers

Overseas businesses which sell e-publications to UK consumers and are registered for the VAT MOSS scheme (both union and non-union schemes) will need to ensure that the VAT rate is updated in the MOSS VAT return.

The European Commission's website publishes EU VAT rates in its MOSS section (tinyurl.com/yc6m4ccp) and a 'by country' EU VAT rate checker tool for electronically supplied services, broadcasting and telecommunications (tinyurl.com/yb2uarrl). At the time of writing, the UK's zero rate for e-publications had not been updated, so for all of May and at least part of June, some international suppliers may still be charging the standard rate of VAT for sales of e-publications to UK consumers. It is worth checking that overseas businesses using MOSS to sell e-publications to UK consumers are up to date. The CIOT has contacted HMRC to highlight this issue.

VAT liability dispute in *News Corp UK & Ireland Ltd*: what do I need to know?

The VAT liability of digital versions of printed reading matter has been under the spotlight since the First-tier Tribunal decision in March 2018 in *News Corp UK & Ireland Ltd* [2018] UKFTT 129 ('News UK') (tinyurl.com/yabvo5zt). News UK is the representative member of a VAT group whose publications include *The Times*, *The Sun* and their Sunday equivalents. Whilst News UK's printed newspapers were zero-rated under VATA 1994 Schedule 8 Group 3 Item 2, subscriptions for the equivalent online content were standard rated. The FTT concluded that digital versions of newspapers were not newspapers within the meaning of Item 2, HMRC won the case and the online content remained standard rated.

News UK subsequently appealed to the Upper Tribunal [2019] UKUT 404 and the court agreed that the digital supplies should be zero-rated, based on the following points:

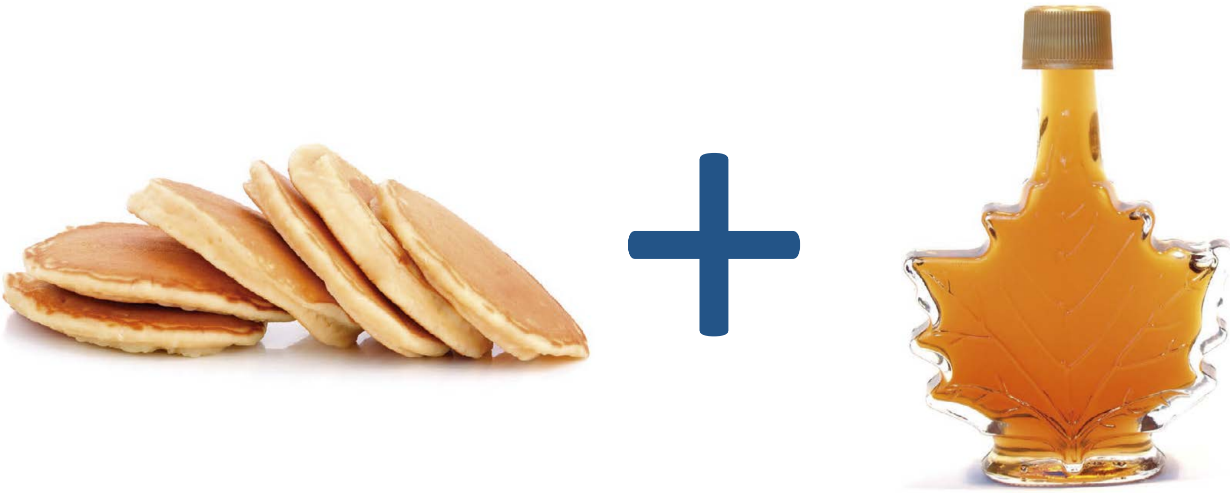
- VATA 1994 Schedule 8 Group 3 is not limited to goods, and so can include services.
- The digital newspapers were the same/very similar to the corresponding printed newspapers.
- The doctrine of 'always speaking' engaged to keep up with new technological developments.
- The supply of the digital newspapers was zero-rated within Item 2, even though they did not exist when zero-rating was introduced.

Following the loss at the Upper Tribunal, HMRC was granted permission to appeal to the Court of Appeal and it published Revenue and Customs Brief 1/2020 (tinyurl.com/wu5nluy), which stated that as it was appealing the *News UK* decision, taxpayers should continue to apply the standard rate to e-publications.

The new UK zero-rating for e-publications, effective from 1 May 2020, does not address the historical period of News UK's appeal, which ran from September 2010 to June 2014, and 28 January 2013 to 4 December 2016, so this must be considered in the ongoing litigation.

Taxpayers impacted by the new zero rate should consider whether they could make protective claims for overpaid VAT on standard rated supplies of digital content meeting the description of supplies in the Revenue and Customs Brief, including those received from overseas suppliers by partly exempt businesses which were subject to reverse charge. The claims, which are subject to the four year cap, would be held by HMRC until the litigation in *News UK* is finalised and the parties accept the outcome. Revenue and Customs Brief 1/2020 sets out the details of what should be provided to HMRC when making a protective claim.

BETTER TOGETHER



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Correcting the tax gap

Annis Lampard and *Mike Pape* on how HMRC investigates failure to comply with UK tax obligations

KEY POINTS

- **What is the issue?**
It's anticipated that HMRC's role in collecting unpaid tax will become of increasing importance to help fund the much-needed but costly Covid-19 government initiatives supporting individuals and businesses during the pandemic.
- **What does it mean for me?**
Events of the recent past give us some insight into how HMRC might look to recover funds for the Exchequer and methods for investigating those who do not fully comply with their UK tax obligations, including using the most serious powers at its disposal for investigating fraud.
- **What can I take away?**
With an anticipated increased focus from HMRC in mind, taxpayers should remain aware of their tax compliance responsibilities and, if necessary, act promptly to correct any non-compliance.

In these unprecedented times, Covid-19 has had a myriad impact on all of our lives. The UK government acknowledged the additional stresses on taxpayers early on in the pandemic when it acted swiftly to ease their burdens. For example, HMRC offered to suspend many enquiries, defer certain tax payments and extend certain statutory appeal deadlines.

HMRC also implemented costly but necessary support schemes to help those businesses and individual taxpayers most acutely impacted. These measures have been a lifeline for many, but it will come as no surprise that the vast sums required to fund them will ultimately have to be recovered, with HMRC acting as collector. It is currently unclear what, if any, measures the government will take to help recoup the Covid-19 related shortfall. However, prior to Covid-19, HMRC was already under ever increasing pressure to increase the recovery of underpaid tax and this is only likely to increase.

HMRC focus

Despite the Covid-19 pandemic being very different from the 2008 financial crisis, certain parallels can be drawn in the government's need to raise additional funds to help rebalance the books. In the wake of the previous crisis, additional scrutiny was placed on tax transparency both in the UK and worldwide, largely driven by public discourse. The new tax responsibility agenda led to a renewed HMRC focus on tackling tax evasion and avoidance, particularly on 'offshore' matters, as in HMRC's 'No Safe Havens' strategy, published in 2014 and refreshed in 2019. New approaches, including the Liechtenstein and Crown Dependency 'disclosure facilities', were introduced to put the onus back on the taxpayer to correct historic non-compliance. International cooperation in this area led to bilateral and multilateral automatic exchange of information agreements, culminating in the common reporting standard (CRS), which came onstream in 2017.

Additionally, since 2008 successive governments have regularly legislated to increase HMRC's powers, including further information gathering powers, the ability to assess historic tax, and levy increased penalties. We may well see further legislative measures to bolster these powers even further.

Wealthy individuals and large businesses have been subject to greater levels of scrutiny by HMRC in recent years in addition to those where avoidance or evasion is suspected. It would come as no great surprise if HMRC was to continue to push greater resources towards these areas and further still in identifying the small percentage of taxpayers that deliberately seek to underreport their taxable income and gains to HMRC. Focusing on those who deliberately underreport tax, through investigations under its Code of Practice 9 (COP9) in cases of suspected fraud, could have a significant revenue impact for HMRC, not least due to the greater penalties that can be levied.

Contractual Disclosure Facility

Where HMRC suspects tax fraud, it will first consider pursuing a criminal investigation. In many cases, it is determined that a criminal investigation is not appropriate and investigations then proceed on a civil basis through a specialist HMRC team, the Fraud Investigation Service (FIS).

Civil investigations of fraud are carried out under HMRC's Code of Practice 9, and you may hear the term COP9 used as a shorthand for these cases. However, since 2012 HMRC has also used the Contractual Disclosure Facility (CDF), which operates within COP9. We will refer to CDF rather than COP9 in this article. The first step is that HMRC writes to the taxpayer, offering the opportunity to admit to deliberate conduct resulting in a loss of tax and to commit to making a full disclosure via the CDF of all past tax irregularities. HMRC will not divulge the reasons for its suspicions which gave rise to the CDF offer. The taxpayer has 60 days to respond and if they accept HMRC's offer they will enter the CDF in order to make a full disclosure. In return, HMRC will not pursue criminal prosecution of matters included in this disclosure.

If the taxpayer accepts HMRC's CDF offer, an outline disclosure of past tax irregularities must also be submitted within the initial 60 day period with the view to submitting a more detailed, full disclosure report later. Should the CDF offer be rejected by the taxpayer, or indeed if the outline disclosure does not address the issues that gave rise to HMRC's CDF offer, the case will again be considered for criminal investigation or HMRC may commence its own civil investigation.

The process

HMRC will likely wish to meet with the taxpayer after the CDF outline disclosure has been submitted. These meetings can last many hours and in our experience the questions asked are wide-ranging and detailed. Taxpayers are not obliged to attend but HMRC may take this into account when considering penalty levels upon conclusion of the process. HMRC will then ask the taxpayer to produce a detailed disclosure report, which will be thoroughly reviewed and must satisfy all HMRC's concerns before any settlement agreement is made. A timetable will be discussed and agreed with HMRC for the disclosure report to be completed. This timetable will depend on the circumstances of the particular case and its complexity.

The CDF process is often lengthy and detailed, commonly extending to the taxpayer's personal tax affairs and the affairs of businesses with which they are associated. It is therefore important to agree a clear scope with HMRC and keep HMRC informed of the progress at all stages during the preparation of the report.

Typically, in civil fraud matters, HMRC can assess historic tax liabilities for the past 20 years, providing the loss of tax relates to deliberate behaviour by the taxpayer. Certain errors may be subject to reduced assessment time limits, depending on the behaviour which led to the error.

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Once HMRC has reviewed the final CDF disclosure, a financial settlement of the total additional tax, late payment interest and penalties will be agreed. Tax liabilities arising in these cases are frequently for significant amounts and therefore the tax-geared penalties can also be significant. The 'standard' penalty range for a deliberate inaccuracy is 20% to 70% of the tax liability, although the maximum penalty can be 200% of the tax liability where it relates to an offshore matter and where the 'Failure to Correct' provisions of Finance (No.2) Act 2017 Schedule 18 apply. In addition, where penalties arise as a result of deliberate behaviour and the tax exceeds £25,000, it may also result in the publication of the taxpayer's details on HMRC's website.

Whilst CDF disclosures are usually instigated by HMRC, taxpayers are able to approach HMRC to request to enter into the CDF in order to make a full voluntary disclosure of historic tax irregularities. Given the serious nature of the process, specialist advice should be sought before making any approach to HMRC relating to CDF and it should be reserved for cases relating to serious, deliberate irregularities. Other disclosure routes are referenced below.

The CDF process allows HMRC to collect tax over a period of up to 20 years and to challenge the most severe behaviour of a small number of taxpayers. As the taxpayer bears the burden of preparing a detailed and lengthy disclosure report, the process is relatively cost effective for HMRC. For these reasons, the CDF is an attractive route for HMRC in tackling a population that has a significant impact on the UK tax gap and we might anticipate more CDF offers in the near future.

Conclusions

Notwithstanding that HMRC has sought to temporarily ease the burden on taxpayers given current circumstances, this 'reprieve' of sorts is likely to be temporary. With responsibility to refill the Exchequer's coffers, it is anticipated that there will be a renewed focus from HMRC to ensure taxpayers are complying with their tax compliance obligations, and in pursuing those who do not.

Whilst this article focuses on HMRC's approach to those who deliberately seek to underpay tax, a large proportion of the 'tax gap' results from innocent errors, or errors resulting from careless behaviour. Taxpayers should keep on top of their tax affairs, to ensure all is up to date and nothing has been underreported to HMRC. If an error has occurred in the taxpayer's affairs, any delay in disclosing errors to HMRC could come at a greater cost to the taxpayer in the long run. If the disclosure of an error is prompted by HMRC, for example, the taxpayer will suffer higher penalty rates as a result.

Different routes are available to taxpayers who wish to make a voluntary disclosure to HMRC, depending on the severity and complexity of the error. As well as a voluntary disclosure under the CDF, the Worldwide Disclosure Facility (WDF) and the Digital Disclosure Service (DDS) are available. Taxpayers should discuss the most appropriate route with their tax adviser and, where needed, seek specialist advice, particularly where a CDF offer has been issued by HMRC.

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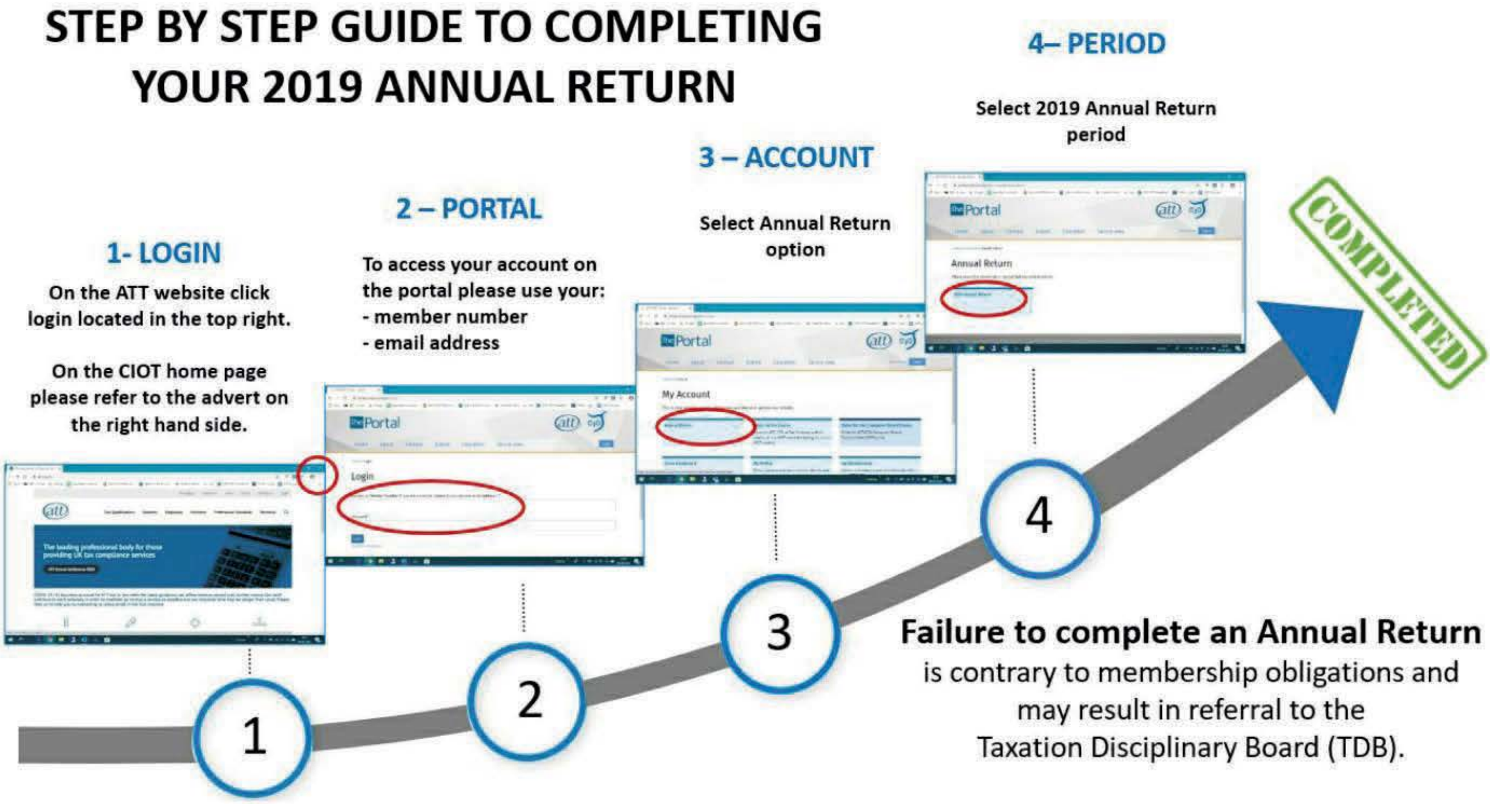

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Get ready for the new normal

KEY POINTS

- **What is the issue?**
Well prepared businesses can use the changes resulting from Covid-19 to be more effective, more profitable, and secure and keep the best staff and clients.
- **What does it mean for me?**
It's likely that you will have an opportunity to substantially reduce your capital overhead, but you will still need to invest time and money in thorough risk assessments if you are fundamentally changing the way your employees work.
- **What can I take away?**
Many employees will welcome the chance to work from home more often, but you have a duty of care and must address problems such as lack of space or possible mental difficulties for some employees, as well as ensuring collaborative working practices between home and office workers.

Karen Eckstein examines how businesses must address the 'new normal' way of working to ensure their future profitability and sustainability

People are now becoming used to working at home and significant numbers have the necessary technology in place to enable them to do so successfully. Many like the flexibility which homeworking brings, and are being encouraged by government and society to continue to work in such ways. All of this means that we are unlikely to return to life as it was before Covid-19, with people working from 9am to 5pm in offices, with long commutes, crowded trains and buses, busy offices, and office space at a premium.

Well prepared businesses can, however, use the changes to their advantage to be more effective, more profitable, and secure and keep the best staff and clients. To do so, they have to identify and address risks and issues in four areas: property, people, processes and prospects. This article considers issues relevant to property and people. In a following article, I will consider issues relevant to processes and prospects.

Property

It's likely that you will have an opportunity to reduce your capital overhead by significant amounts. Spend on office space is one of the biggest expenses, and you may have the opportunity to reduce your overheads, thereby significantly increasing your profitability without affecting productivity and turnover.

While you may not want all of your staff to work at home on a full time basis, many staff will want some flexibility, which could include homeworking for at least half of their working week. Some firms are considering asking staff to work split shifts, which could halve the office space needed. There will not be a need for one desk for each member of staff – although there would need to be an investment in office design and proper cleaning between each employee using a desk. You will also need to invest time and money in ensuring that employees working from home have the equipment and support they need as a result of these changes.

Whether you own or rent your property, there will be issues to resolve; for example, is there a break clause in your lease or can you sublet? Property advice, including legal advice, will be needed at an early stage.

Common areas: If you are in a shared building, consider who is responsible for the common areas and who will take responsibility for ensuring staff and visitor safety in those areas. Offices must comply with all government guidelines and health and safety requirements.

Transport: Consider how your staff are going to get to the office, given government recommendations that people try to avoid public transport. If you provide parking, will you increase the number of parking spaces available so that staff can drive in if they want to? Could you introduce a cycle to work scheme?

Location: As so many meetings now take place virtually, would an out of town office with lots of car parking be better than a city centre office? I think there will be a lot of decentralisation, and firms should consider increasing staffing in regional offices at the expense of a more expensive London base for some or all of their services.

Office design: There may need to be substantial changes to the office layout to take in the current and future government recommendations, and specialist advice may be needed. Would it make sense to have larger, well ventilated meeting rooms with windows? There has been a move towards having 'pods' and breakout areas in offices, but will these work in the new normal?

Paperwork: You may already scan paperwork and store it digitally; but if not, then you could be facing a large task. There is little point in retaining archived files in your office. Consider your obligations under the General Data Protection Regulations and review whether the documents need to be retained. (It is amazing how many people retain files beyond the relevant date.) Destroy documents that can be safely destroyed and send papers that cannot be destroyed to an off-site archive. A properly managed 'clear out' of archived files could save you an awful lot of money over time, despite the upfront cost.

Workers in the office

First of all, you need to think about issues relevant to staff working in the office and the regimes that apply. Staff need to be trained on the new regulations relating to hygiene, social distancing and travel, but also on any policies specific to your firm's circumstances.

Staff may be nervous about returning to the office because of health issues, but they may also lack confidence because they have been out of the office environment for some time and may no longer feel part of the team. There may be changes; for example, to pay structures, to working practices and perhaps to how you communicate with your staff. Consider doing a 'return to work' appraisal. The flexibility that comes with the new normal will need to be taken into account, recorded and reflected in revised appraisal forms.

PROFILE

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Team morale: It is vital that the team does not become fractured. If teams are going to work largely or partly from home on an ongoing basis, it is unlikely that the whole firm will be in the office on any one day. Work needs to be done to ensure that the culture of the firm remains, and that teams work together as much as possible with communication across the firm as a whole. Office-based staff and homeworkers must feel part of 'one team' and receive the same levels of management and investment. You will need to supervise, monitor and train people who may not be in the office at the same time as you. This may require additional investment in skills and technology. Particular consideration will need to be given to helping new joiners become part of a team which may not meet regularly.

Employment contracts: Do employment contracts allow staff to work flexibly, both in terms of hours and in terms of working from home? A review of all staff contracts should be undertaken. The firm's flexible working policy also needs to be reviewed and probably needs to be rewritten, given recent changes.

Staffing levels: There may well be redundancies or staff location issues to consider. There may be a substantial decentralisation of your staffing. Why pay London salaries if the majority of your staff are choosing to work from home?

Physical presence: Consider issues such as introducing a staggered hours system and a staff rota, staggered lunch breaks, and how private conversations with individual staff members will be managed. Someone must be responsible for managing and monitoring who is working and when.

Storage: Even if you strive to work in a paperless office, people will still need to keep things they are working on. Each staff member will probably need an individual storage area. The use of cabinets can be a good way of creating space between desks, but make sure that storage areas are easily accessible and don't breach social distancing.

Homeworkers

We turn now to factors specifically for staff working at home. You owe the same duty of care to homeworkers as to office workers, whether this involves facilities management, IT, training, supervision, and health and social care. Most employers work hard to fulfil these responsibilities in the workplace, and have every intention of continuing to do so for homeworkers; however, the practicalities of this can sometimes be challenging.

Desk assessments: In the crisis, employees have been allowed to work from home but may not have had a proper workspace. We've all seen pictures of people working with a laptop on their knee or working at the dining room table. This is not viable in the long term. If employees are going to work from home on a regular basis, they need a proper workstation, at least a table that's at the right level. You owe a duty of care to your staff to ensure that they have a proper and safe working environment. You need a questionnaire that tests people on their working environment. It's worth taking advice from a health and safety specialist on these matters.

Confidentiality: Confidentiality is a major concern for homeworkers. You need very strict policies, which must be reviewed with a view to people working from home. For example, most people don't live on their own. Consider a couple, both accountants, who both work from home but work for different firms. How can they maintain confidentiality if they're working from different ends of the dining room table? If they need to take a phone call, how can they maintain client confidentiality?

Equipment: Most people just have a laptop, but that's not ideal if they are going to spend substantial time working from home. Do staff need a proper keyboard, monitor, and a printer/scanner? You may need to issue staff with a small home shredder and/or a locked cabinet to be used for all the firm's equipment and papers. This will increase your overheads, but show that you have given proper attention to confidentiality. You may also need to help people with home broadband and Wi-Fi; video conferencing and accessing some cloud systems or office servers can use up a lot of bandwidth.

Managing homeworkers: It is important to ensure that homeworkers remain part of the team and feel included and motivated when they are working from home. You must make plans to ensure that staff are included in online meetings and physical meetings (where appropriate) on a client basis and on a more 'social' basis so they feel part of the firm. There are a number of risk issues inherent with homeworking, including levels of work performance and the mental wellbeing of employees. Monitoring standards of work is important: would you know if an employee is not meeting deadlines or has not considered all the issues in a case.

Mental health: Perhaps even more important are the issues related to mental health. Inevitably, some employees will find homeworking difficult because they simply miss the community of being in an office environment. However, they may face other serious problems, such as difficulties with childcare and home schooling, living alone and a lack of access to outside space. You must monitor homeworkers for stress and other mental and physical health problems. They may even face basic practical difficulties, such as not being able to go shopping due to self-isolation. Would you know if someone is struggling or is just quite simply 'not themselves'? In an office environment, where you sit next to someone, you would notice if they were not quite right, and would pick up on it. When your only contact is remote, whether by email or video link, how can you tell if someone is in difficulties? Would you even know if they haven't started work on a particular day? Planned regular supervision and monitoring is needed to ensure that work is properly executed, and that staff are feeling well, and are properly managed, supervised and looked after. It may be appropriate for some staff members to be primarily based in the office.

Training: Whilst formal training can quite easily be undertaken digitally, a lot of training takes place informally. Junior employees largely working from home will not gain the breadth of experience they would have done if sharing an office with more experienced staff. Encourage regular informal chats, case discussions and perhaps case studies, and allow junior staff to 'sit in' on as many meetings as possible to gain that informal breadth of experience.

In the next article, I cover issues relating to processes and prospects to enable you to prepare for a return to the 'new normal'.

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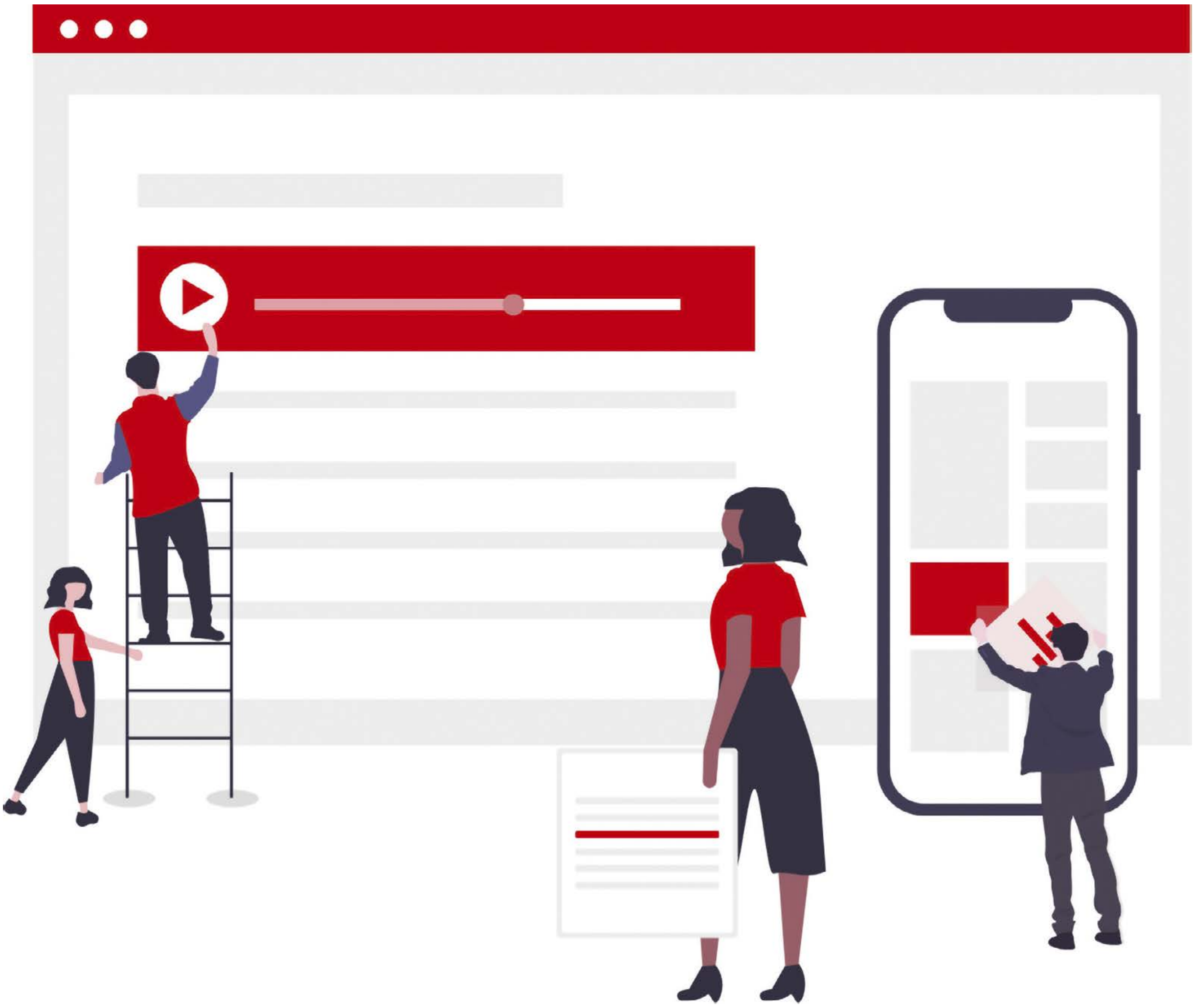

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Putting UK taxation in a global context

Chris Sanger considers the tax responses of governments around the world to Covid-19 in their battle to alleviate the financial and economic turmoil

KEY POINTS

- **What is the issue?**
With a need in to deliver immediate liquidity, solvency and income support for the economy in response to Covid-19, tax measures which can deliver support rapidly are now even more important than they were a decade ago.
- **What does it mean for me?**
The initial support phase has focused on successful administration and the adaptation of operational policy to fit the needs of governments. The majority of relief measures have been administrative, including filing postponements, penalty and interest waivers and tax payment deferrals.
- **What can I take away?**
For now, in the UK we are clearly seeing the beginning of the shift from support to stimulus. This is likely to see a significant reduction in the intensity of aid, and a reoccurrence of some of the stimulus packages of old.

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Governments around the world are acting decisively to protect their people and economies from the disruption being caused by the Covid-19 pandemic. Whether through tax cuts, incentives or administration changes, tax systems will play a significant part in helping to alleviate the financial and economic turmoil.

The level of fiscal intervention we have seen in recent months has been unprecedented in modern history: more akin to fiscal subrogation than fiscal stimulus, with governments stepping into the shoes of other actors in the economy. The last time the world faced a global recession, in the global financial crisis of 2008 and 2009, tax measures represented the biggest share of fiscal stimulus measures. Among OECD countries, 56% of total fiscal stimulus packages in the wake of the 2008-2009 financial crisis can be attributed to tax measures (see bit.ly/2zed5Bo).

With a need in the last couple of months to deliver immediate liquidity, solvency and income support for the economy, tax measures which can deliver support rapidly have been even more important than they were a decade ago. They are also being adapted to a far greater scale; the International Monetary Fund data indicate that total global support issued so far represents some 20% of global GDP – more than ten times as much as during the 2008-2009 financial crisis, when the figure was 2% (see bit.ly/2XJ4jEU and bit.ly/2MJAIoO).

The details of the UK's fiscal response to the crisis to date have been covered previously in detail in *Tax Adviser*. Instead, this article compares the UK's response to that of other countries, particularly in the G7, and considers the changes that may be yet to come.

A plethora of changes

At the start of June 2020, EY's 130+ jurisdiction *Global Stimulus Response Tracker*, a tool made publicly available on ey.com, identified well over 2,700 tax-focused support measures in place across the jurisdictions covered, and that number continues to grow rapidly. It is estimated that fiscal support in response to the Covid-19 crisis has reached more than $15 trillion across the 15 largest economies alone (see go.ey.com/3f2Teo7), and such support had been unveiled by governments from Albania to Zambia.

The tracker, alongside eight other trackers on ey.com, provides a wealth of information that allows comparison and the opportunity to query the data. So, what can we discern from the data about the patterns of responses? What are the most favoured tax measures? What is the relative importance of tax administration measures in providing support? And how does the UK's response compare to global trends?

An international framework: support, stimulus, revenue

To answer these questions, it is helpful to consider the phases of the response to the economic crisis. The OECD report 'Tax and fiscal policy in response to the coronavirus crisis' (see bit.ly/3f6iVUW), identifies four phases; the first two relate

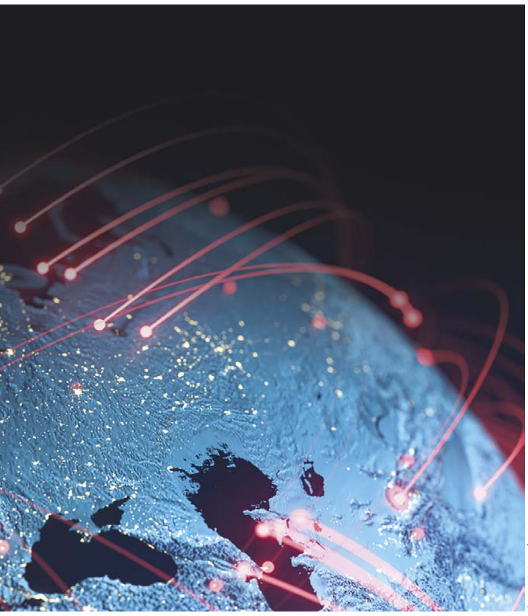

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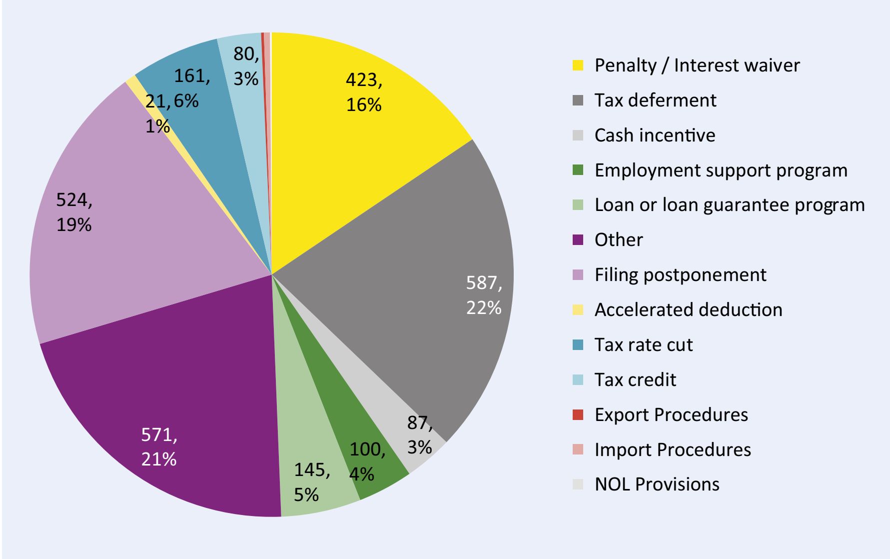
CHART 1: GLOBAL TAX MEASURES BY TYPE



to 'support' and are followed by stimulus and then 'revenue [raising]'. The OECD recognises that these phases may overlap. So against this framework, where are these countries today?

Support phase

The answer is very clear: we are still strongly in the support phase. During this initial support phase, the story has not been about high tax policy but about successful administration and the adaptation of operational policy (i.e. administration) to fit the needs of governments. At a global level, the Tracker shows activity across all countries, whether in corporate tax, personal tax, VAT or other indirect taxes.

The majority of relief measures have been administrative in nature. Indeed, the most numerous measures include: filing postponements (19%); penalty and interest waivers (16%); and tax payment deferrals (22%) (see chart 1). This is expected, as tax administration changes are relatively straightforward to implement, and they provide immediate cashflow relief, whilst leaving few concerns about the long-term fiscal impact. Tax obligations are deferred but not eliminated.

Even so, we are seeing a number of tax policy measures being introduced. Primarily, these seem to be about delivering upfront cash-tax benefits to taxpayers as quickly as possible. Tax rate cuts (across the tax types) have been delivered in the form of 161 incentives across 75 countries, though it should be noted that many of these cuts are targeted in specific areas, rather than necessarily being cuts to the rates of the largest taxes. Some 47 jurisdictions have implemented 'cash incentives', albeit the mechanism by which they do this varies: some through corporate income tax measures, some through VAT/GST measures, and some through personal income tax/payroll measures.

The type of tax measures introduced in the UK during the support stage has been consistent with this pattern (with deferral of taxes comprising half the measures). However, charts 2 and 3 show that the UK has introduced far fewer measures to date compared to other G7 countries. Of course, quantity is not the same as quality, nor is it a measure of fiscal impact. Federated countries like the US will clearly show many more measures as some reliefs will be introduced at the state level. Nevertheless, chart 4 shows that, consistent with US but in contrast to France and Germany, the largest part of the UK's immediate response has come through monetary rather than fiscal stimulus.

Stimulus phase

The tracker also indicates which governments have started to venture into the stimulus phase. EY research identified that fiscal stimulus following the 2008-2009 financial crisis included six key areas:

- accelerated depreciation;
- loss carryback/forward;
- corporate income tax rate reductions;
- research and development credit enhancements;
- indirect tax activity; and
- personal income tax measures.

The first of these, accelerated depreciation, has been adopted by 15 countries already, including Australia, China, New Zealand and the US. Of course, the stimulus measures of the crisis past may not be the right measures for crisis present and crisis future. However, they can be a good place to start.

Germany has announced a three percentage point cut in VAT rate from 1 July 2020, again replicating a stimulus measure of choice for the previous financial crisis, and in contrast with the VAT rise in Saudi Arabia, which is facing the twin challenges of Covid-19 and the slump in oil prices.

A third area is that of corporate loss relief. Historically this has been seen as well targeted, since it provides cash injections into businesses that, by definition, have a history of profits and paying tax. Even in the support phase, Germany introduced a specific measure for small businesses, which can claim a refund for tax amounts already paid if they are expecting a loss in 2020. In the US, under the CARES Act, a loss from 2018, 2019 or 2020 can be carried back five years. Loss-relief measures would seem like a valuable precedent from the last crisis that could be of benefit again.

Revenue phase

What is clear is that, wherever we get to with the stimulus measures, the scale of fiscal impact will be staggering. Returning to the UK, public sector net borrowing in April totalled £62.1 billion, up £51.1 billion on last year, and the largest in any single month. The Office for Budget Responsibility estimates public borrowing of almost £300 billion this year. At 15% of GDP, it will be the biggest deficit since the Second World War, and lead to public sector net debt surpassing 100% of GDP for a period of the 2020/21 fiscal year (see https://obr.uk/coronavirus-analysis). As we move to revenue phase of cycle, there will be calls to utilise all this change

CHART 2: G7 TAX MEASURES ACROSS ALL TAX TYPES

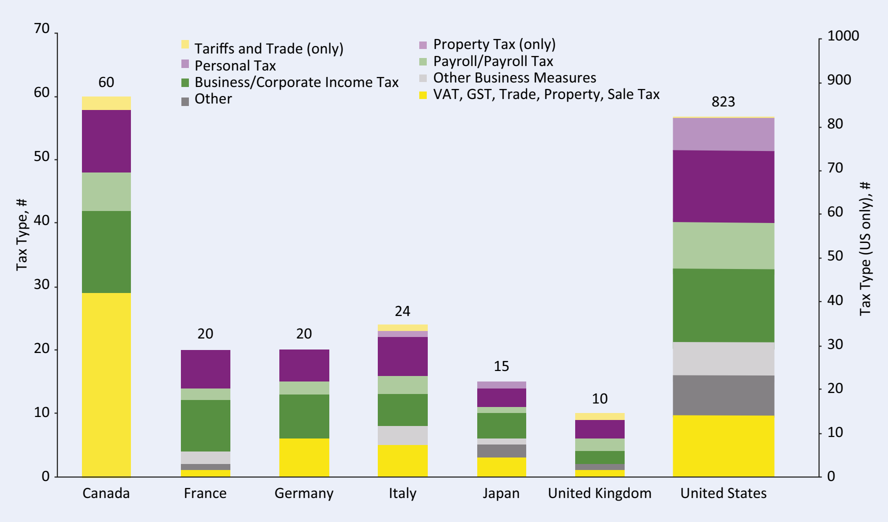


CHART 3: G7 BUSINESS/CORPORATE INCOME TAX MEASURES

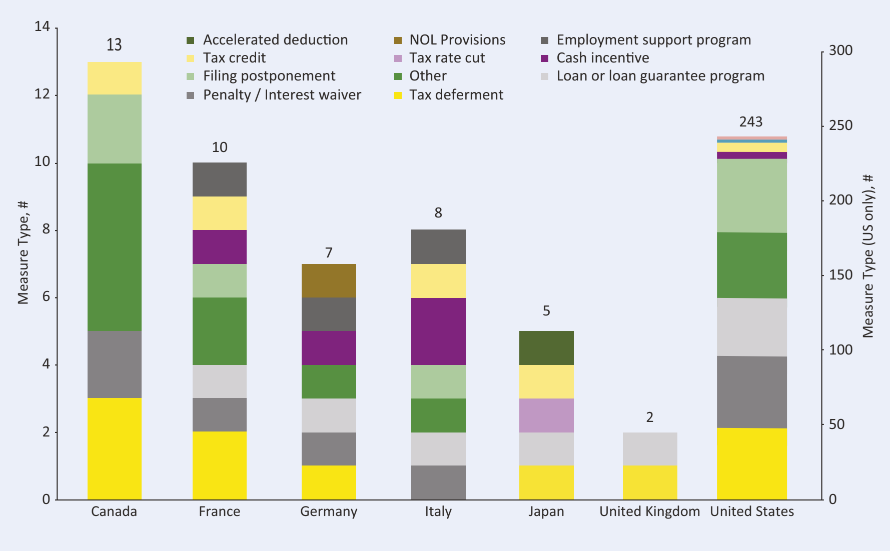
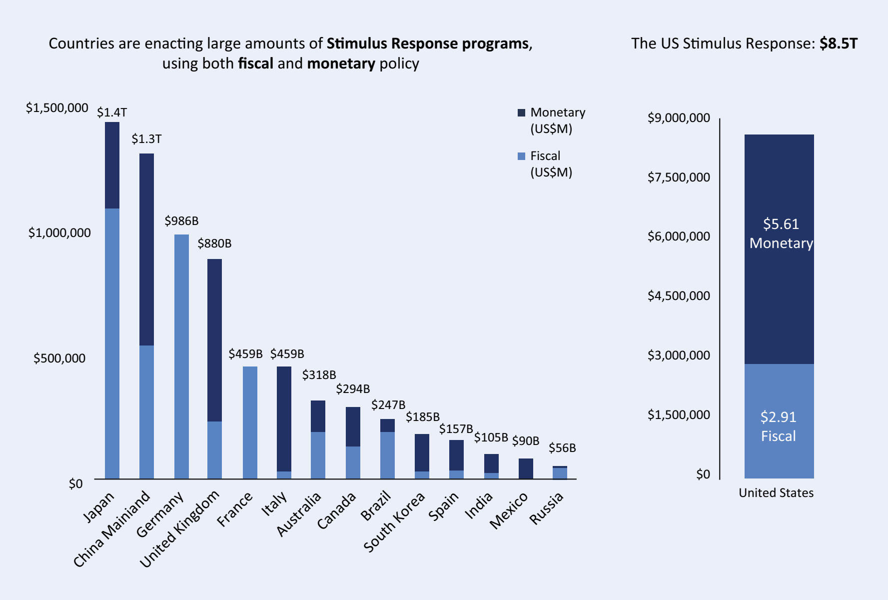


CHART 4: 15 LARGEST ECONOMIES' STIMULUS RESPONSES TO COVID-19



as a chance to recraft our tax system. It may be easier to change our tax system today amidst all this disruption than it has been for decades.

A key question, however, will be: when is the best time to enter the revenue stage? The OECD's advice is that: 'The best way to boost tax revenue will be to support solid growth, including through sufficiently strong and sustained stimulus.' It also notes that 'efforts to restore public finances should not come too early'. What exactly constitutes 'early' will depend on the factors in each country. The ability to borrow at near nil or even negative interest rates may mean that some governments, such as the UK, can defer significant and potentially disruptive changes until it is clear what the post-Covid-19 landscape looks like. Nonetheless, despite this ability, the temptation to seize the moment may be hard for policy makers to resist.

Conclusion

For now, in the UK, with the transition from the first Coronavirus Job Retention Scheme into the new 'Furlough 2.0', we are clearly seeing the beginning of the shift from support to stimulus. This is likely to see a significant reduction in the intensity of aid, and a reoccurrence of some of the stimulus packages of old.

Environmental tax reliefs will likely play a part in any future stimulus, but beyond this there is much to consider. When people emerge from the lockdown, it is already clear the high street will look very different. Similarly, the use of commercial real estate (whether manufacturing, offices or other) may be heavily affected by the two metre (or potentially one metre) rule and attitudes to commuting.

All this points to the eventual recovery being different to others we have experienced and it will be important that the UK looks again at the tools at its disposal and identifies what type of economy it wants to create. That is a discussion in which we all should participate as, together, we shape a distinctive future for the UK.

The views expressed here are Chris Sanger's own and are not necessarily those of the organisations listed.

The EY Global Stimulus Response Tracker is part of a global suite of related Trackers. These include Trackers addressing the force majeure clause; global mobility-related issues; global trade considerations; global immigration policies; labour and employment law; tax controversy issue; transfer pricing; and US state and local stimulus responses.

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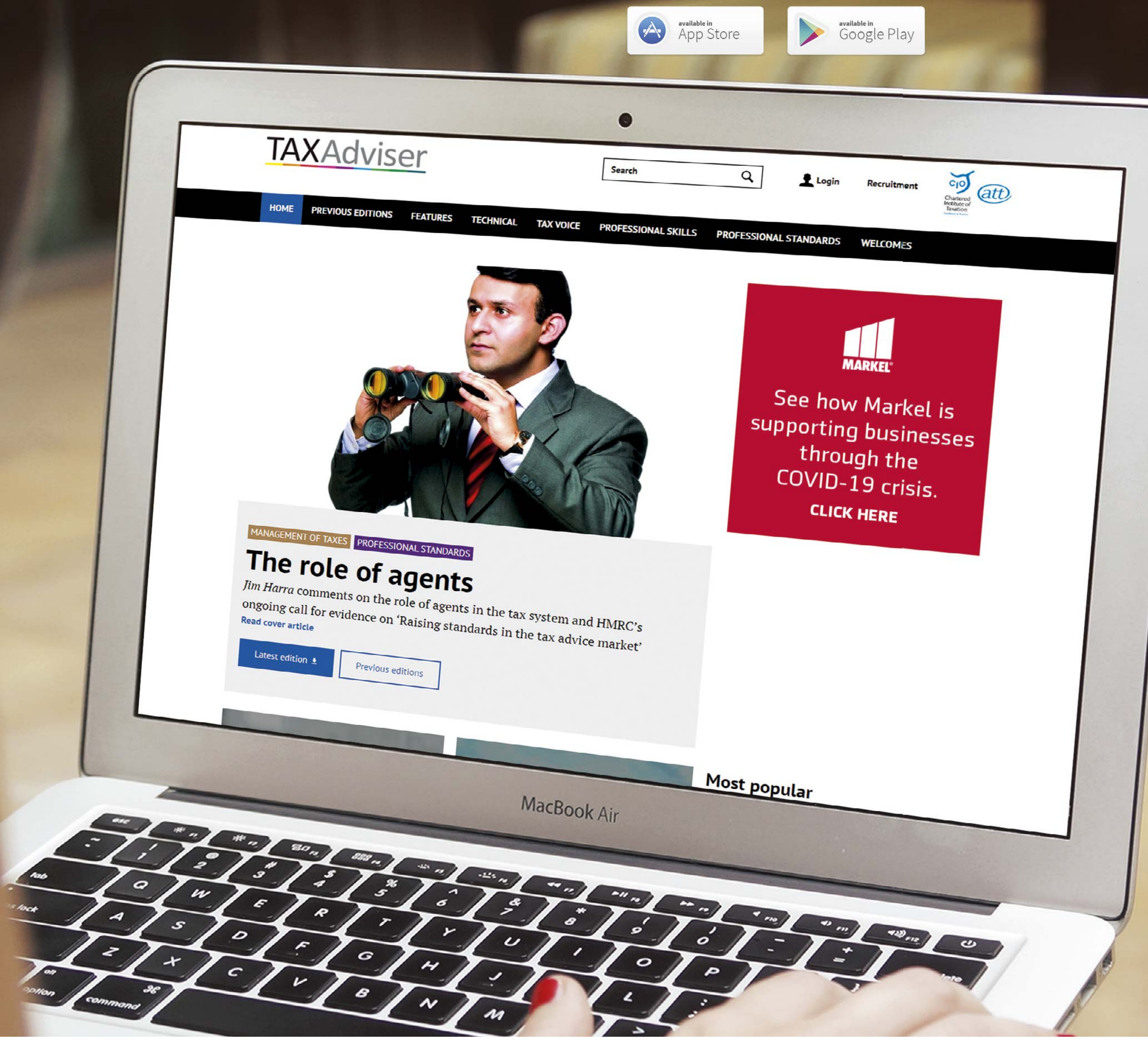

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A diverse message

Women in Tax aims to raise the voices of women working in all spheres of tax, writes *Georgiana Head*

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Women in Tax is quite simply a network for women working in tax – in the profession, in-house, HMRC or anywhere else. Founded in London in 2015 by Heather Self, who is a tax partner at Blick Rothenberg and former Chair of the CIOT Technical Committee, Women in Tax now has branches throughout the UK.

Initially, the idea of Women in Tax – or WIT as it is affectionately known – was to raise the voice of women working in tax, and to try and stop 'Manels' (all-male panels) at key events in the tax industry. I remember the event which kicked off the idea for the network. The Chair congratulated the panel for being diverse, as it included a tax lawyer as well as accountants and tax advisers. All the panellists were white and male!

The development of WIT

Heather Self knew that she couldn't force diversity on to the tax profession but felt that she might be able to help women to advance and have their voices heard – as she says, to 'feed the change'. A successful way of doing this was to encourage people to put women on their events organising committees. As Heather explained: 'Previously, people had been addressing the matter of whether the panel was diverse at the last minute. The mindset began to change.'

Next, WIT started doing small scale technical seminars as a way of encouraging their more junior members to 'practise the process' so that they would gain the skills to be able to present in public in the future. It became a 'safe space' for mentoring. It became apparent that although tax professionals had other ways of gaining technical training, what they really valued was somewhere that they could discuss their everyday worries, such as how to balance work and a family. As Heather said: 'It was an opportunity for women to ask other women about their personal questions.' They could discuss the sort of things that you wouldn't dare raise at work in case it meant you were viewed differently.

So whilst WIT had always been planned as a support network, it developed in a different way. The events that tend to be successful and highly attended throughout the country are those which have a professional skills focus, whether it be about coping with impostor syndrome, or how to feel more confident when conducting a meeting.

A chance to network

A key element of the events is time to network. Several branches do monthly breakfast networking. When technical or business skills seminars are run, there is the opportunity for networking before or afterwards. An example of a highly attended meeting was the Leeds Branch 2019 panel event called 'Demystifying HMRC', where female HMRC staff from a wide range of backgrounds and ages talked about their careers at HMRC.

WIT has strong links with the ATT and CIOT. Last year, they held a joint event for International Women's Day and they would like to work together to address the challenges women face after a career break. Increasingly, the WIT branches are building links with local ATT and CIOT branches to offer joint events to members.

Obviously, in the strange world of Covid-19 we have had to change the way in which WIT interacts with members. Current chair Rhiannon Kinghall Were, a chartered tax advisor with Macfarlanes, has begun to develop online seminars such as 'Find your strong: strategies to help you feel empowered, positive and resilient'. Rhiannon believes that supporting women is one aspect of creating an inclusive and diverse tax industry and is keen to collaborate with other groups. These seminars can be found on Eventbrite (search for Women in Tax) and are open to everyone – female or otherwise.

For details of your local group see:
http://womenin.tax
Twitter: @WomeninTax
Linkedin Group:
Women in Tax UK

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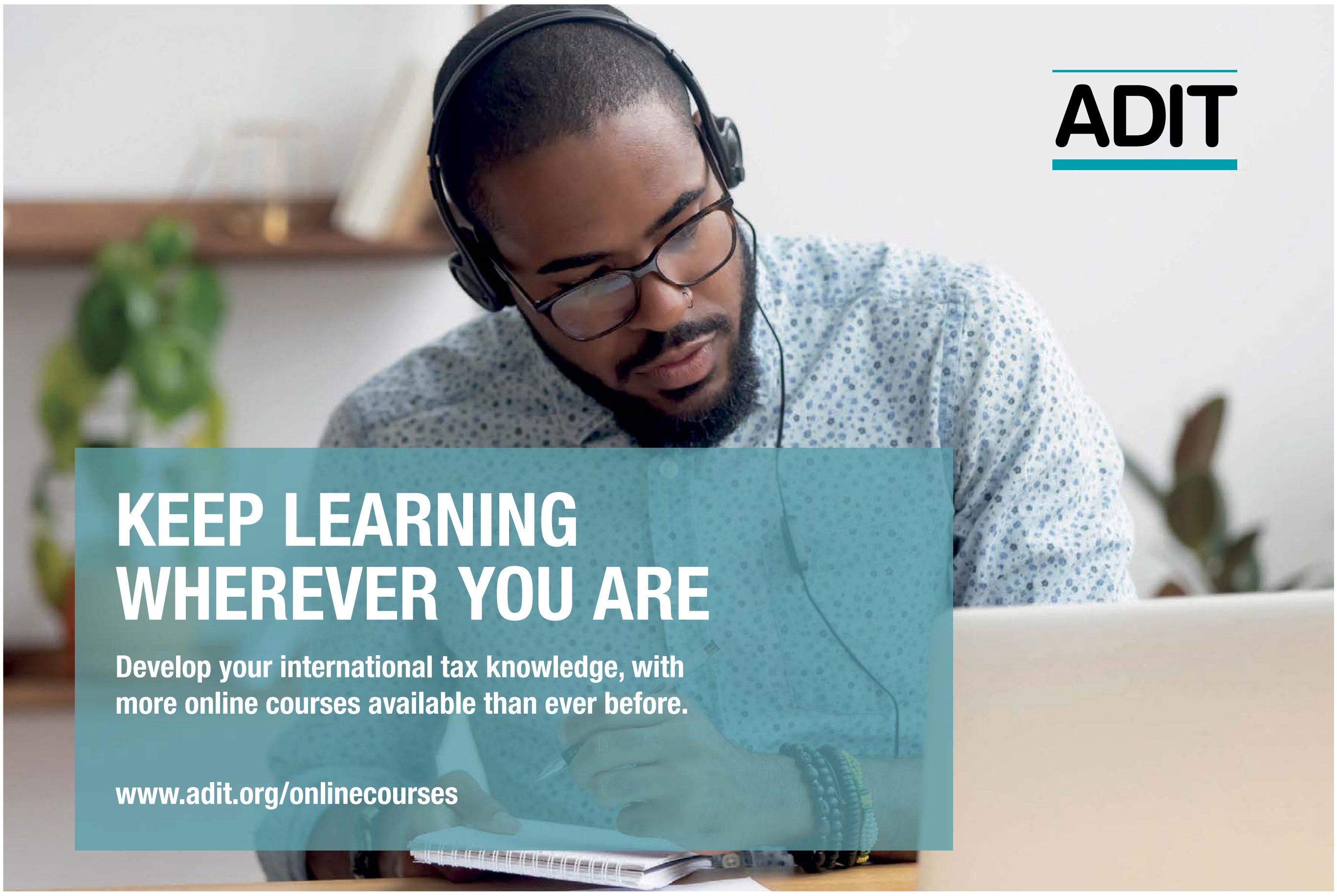
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• Keynote address
Michael Keen (IMF Fiscal Affairs Department)
• Tax aspects of future UK trading relations
Dan Neidle, Jeff Trinklein
Friday 10 July 12.30 - 15.15 BST
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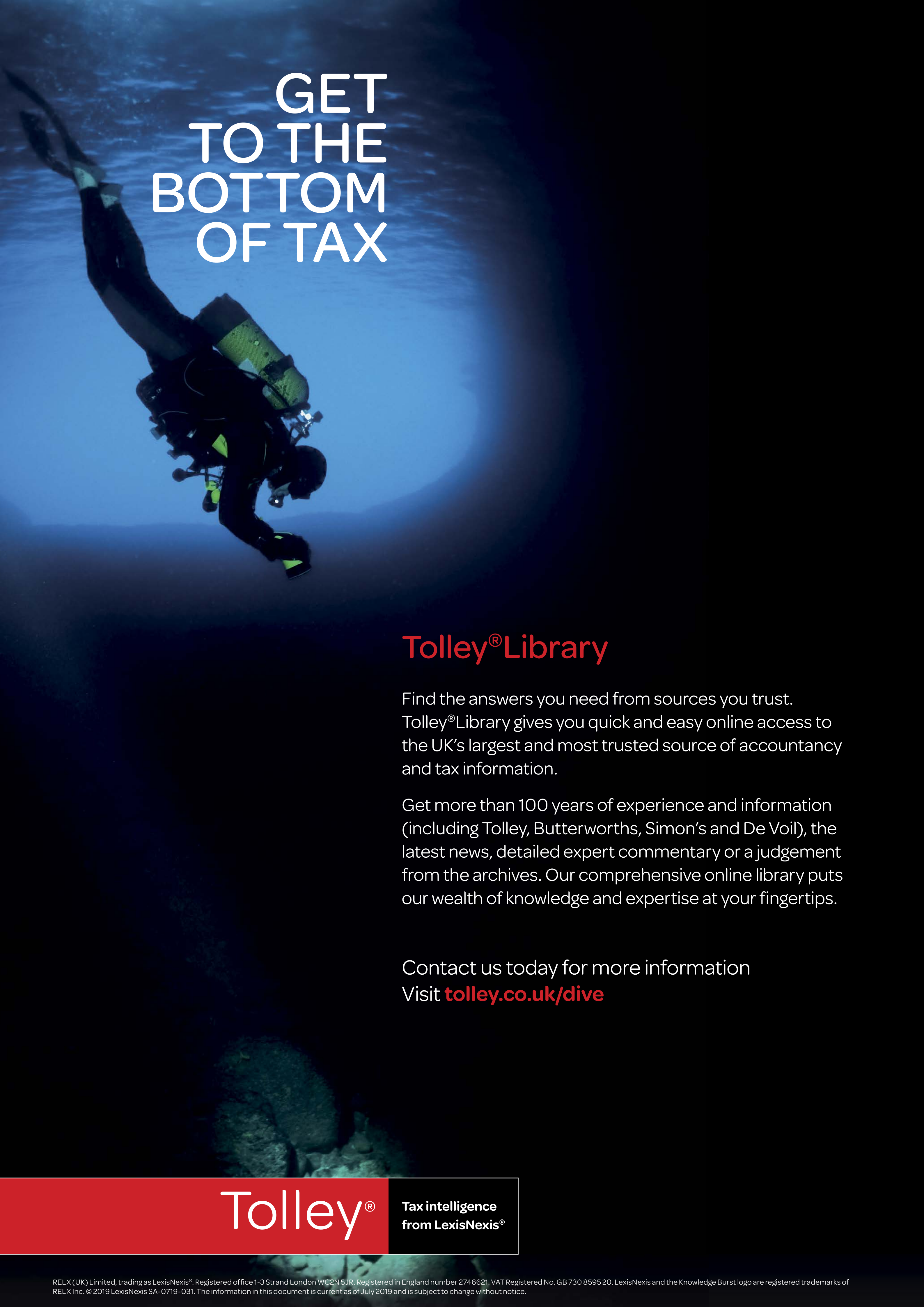
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Technical Team

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sdalton@ciot.org.uk

Welcome to the July Technical Newsdesk

1 July was the first day of what might be referred to as 'phase two' of the Coronavirus Job Retention Scheme (CJRS). Employers now have 'maximum flexibility' to bring employees back to work part time, and still qualify for the CJRS. The Chancellor's announcement on 12 May to extend the CJRS until 31 October was welcomed by employers and employees alike, and the announcement on 29 May provided further details of how this second phase would work. However, many employers and their agents could be in for a shock when calculating the amount of furlough pay an employee is entitled to receive, and the amount of CJRS grant the employer can claim.

HMRC committed to publishing detailed guidance on the second phase of the CJRS on 12 June. I am writing this introduction before that date, and I have no doubt that some guidance will be published on time. I am less confident that the guidance will be comprehensive enough to cover many of the likely complexities. I have set out below just a few of the questions and issues we have put to HMRC:

- The first phase of the CJRS requires an employee to be furloughed for a minimum of three weeks, but in the second phase there is 'maximum flexibility'. For how long must an individual be furloughed if their furlough period commences (say) on 20 June?
- Where an employee returns to work part time, the employer can claim the CJRS grant for the hours the employee is not working, calculated by reference to the employee's 'usual hours'. What are 'usual hours' if the employee is on a zero hours contract, or if their employment pattern changes (whether or not due to COVID-19)?
- Employers can still claim a reimbursement of employer's NIC and pension contributions for the month of July (after which no such reimbursement is available). How are these amounts calculated if the employee comes back to work part time?
- Second phase CJRS claims will not be able to span calendar months (no doubt due to the changing rate of reimbursement after the end of each month). How do you calculate the reimbursement for a member of staff whose pay period spans a month end (e.g. weekly paid staff)?

These and many other aspects will need to be covered (along with illustrative examples) in HMRC's guidance. We remain in regular contact with HMRC on this and we are inputting into their guidance, but inevitably we are left with the formula:

> Maximum flexibility + changing rates of reimbursement = significant complexity

On 29 May, the Chancellor also announced a welcome extension to the Self Employment Income Support Scheme (SEISS). We provide more details on this below. Whilst the SEISS is much more straightforward than the CJRS (with HMRC doing most of the heavy lifting regarding eligibility and the claims process), the announcement of a second phase also gives rise to further questions. In particular, over what period must your business have been 'adversely affected' in order to qualify for either the first or second or both grants? I would say 'answers on a postcard, please', but again HMRC are due to publish further guidance on 12 June, and again we continue to work closely with them on this.

Keep an eye on the COVID-19 pages of the CIOT, ATT and LITRG websites for up to date announcements and information on these and other COVID-19 related issues.

COVID-19: Self-Employment Income Support Scheme

OMB MANAGEMENT OF TAXES GENERAL FEATURE

The ATT and CIOT continue to work with HMRC to answer questions and update their online information on the Self-Employment Income Support Scheme.

The Self-Employment Income Support Scheme (SEISS) provides financial support in the form of a cash grant to self-employed workers affected by the COVID-19 outbreak.

The first payments were made in May 2020 and were worth 80% of average trading profits, paid in a single instalment up to a maximum of £7,500 in total, to cover three months' worth of profits. The claim period for the first three months will close on 13 July 2020.

The scheme was extended at the end of May with those eligible able to claim a second and final grant in August. The second grant is worth 70% of average monthly trading profits, paid out in a single instalment covering a further three months' worth of profits, and capped at £6,570 in total. Applications for the second grant will open in August.

The eligibility criteria are the same for both grants. A person does not need to have claimed the first grant in order to be eligible for the second grant.

The scheme has proved highly successful, with over 2.5 million claims having been made at the time of writing, worth a total of £7.2 billion.

Legislation to introduce rules on how grants received under the SEISS are to be taxed was published in draft for a short technical consultation during the first half of June (see https://tinyurl.com/yc8frlsh) and will be included in Finance Act 2020. The legislation also gives HMRC powers to recover payments to which recipients were not entitled, and to charge a penalty in cases of deliberate non-compliance.

Since the SEISS was first announced on 26 March 2020, the ATT and CIOT have worked with both members and HMRC to address queries on the scheme and provide support.

All the latest information can be found on the ATT and CIOT websites. The CIOT page covering the scheme (www.tax.org.uk/COVID19SEISS) is frequently updated as we receive more information, as is the ATT's detailed guidance note (www.att.org.uk/COVID19SEISS) and accompanying FAQs (www.att.org.uk/COVID19SEISSFAQ).

These pages cover issues including eligibility for the scheme, calculation of the grant, the application process, the role of agents, asking HMRC for a review and how to report the grant on your self-assessment return.

The ATT and CIOT also held an extremely popular webinar on the SEISS on 7 May. Over 600 people joined us on the day, with more than 1,700 people viewing the recording since. The recording and webinar slides can be found on the ATT website at www.att.org.uk/SEISSwebinar and the CIOT website at www.tax.org.uk/SEISSwebinar.

If you have any queries or feedback on the scheme please send these to technical@ciot.org.uk or atttechnical@att.org.uk, and do keep an eye on our websites for all the latest information.

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COVID-19: Working from home update

EMPLOYMENT TAXES

There are some points to note in relation to the temporary COVID-19 exemption for employer reimbursements of employee purchased home office equipment, and the Ministerial statement on claiming tax relief where employees incur additional household expenses as a result of working from home.

On 13 May 2020, Jesse Norman MP, the Financial Secretary to the Treasury (FST), announced a temporary tax exemption and National Insurance disregard where an employer reimburses an employee for the cost of home office equipment purchased in order to work from home during the COVID-19 outbreak (https://tinyurl.com/y9sr77hy). Prior to this, on 23 March 2020, the FST advised that employees who have been advised to work from home during the COVID-19 outbreak are eligible to claim tax relief on the additional costs of working from home (https://tinyurl.com/y7wfytwc).

Exemption for coronavirus related reimbursed home office expenses

As announced on 13 May 2020, legislation has been laid to 'support employees who are working from home and need to purchase home office equipment as a result of the coronavirus outbreak': see SI 2020/524: The Income Tax (Exemption for Coronavirus Related Home Office Expenses) Regulations 2020 (https://tinyurl.com/yavrs5ed); and SI 2020/525: The Social Security Contributions (Disregarded Payments) (Coronavirus) Regulations 2020 (https://tinyurl.com/y7yt7urr). Thus, where an employer reimburses the cost of purchasing equipment, the expense will not attract an income tax or NICs liability where the expenditure meets the following two conditions:

1. The equipment is/was obtained for the sole purpose of enabling the employee to work from home as a result of the coronavirus outbreak.
2. The provision of the equipment would have been exempt from income tax if it had been provided directly to the employee by or on behalf of the employer (under ITEPA 2003 s 316).

A tax information and impact note was published on 22 May 2020 (https://tinyurl.com/yapnd32k) and the exemption, which is temporary and is only in force until the end of the 2020/21 tax year, came into force on 11 June 2020. However, HMRC are exercising their collection and management discretion to backdate the exemption to include any reimbursed payments made from 16 March 2020.

This exemption has been laid under powers provided for by ITEPA 2003 s 210 (power to exempt minor benefits) (and NICs equivalents). Section 210 requires that any exemption is conditional on the benefit being made available to all an employer's employees generally on similar terms. Therefore, employers should ensure that similar reimbursement terms apply to all employees that need to work from home.

At the time of writing, HMRC's detailed guidance is awaited but where an employer has, or will, reimburse the cost of qualifying home office equipment, they need to make sure the employee is aware that for the benefit-in-kind exemption to apply, the asset must not be used for significant private purposes (as required by ITEPA 2003 s 316). It may be advisable to make any reimbursement subject to terms to this effect.

Our understanding is that provided the asset is being solely or mainly used in performing the duties of the employment at the time of reimbursement and while working from home, any change from business to private use of the asset when the employee returns to work at their normal workplace will not cause a tax liability to arise. Where the costs of home office equipment are not reimbursed, HMRC is clear that tax relief will only be available to the employee if the cost was incurred 'wholly, exclusively and necessarily in the performance of the duties of their employment'. Generally, it is unlikely that tax relief will be agreed under ITEPA 2003 s 336, as buying the equipment simply puts the employee in a position to perform their duties and is therefore not incurred in performance of their duties; however, the cost of any consumables (for example, printer paper or ink) may be deductible.

Remote working: Coronavirus

On 23 March 2020, the government was asked 'whether workers who have been advised to work from home during the COVID-19 outbreak are eligible to claim tax relief for: (a) heating and lighting the room they work in; and (b) the cost of business telephone calls.'

In answer, the FST advised:

> 'Employees who have been advised to work from home during the COVID-19 outbreak are eligible to claim tax relief for heating and lighting the room that they work in, and for the costs of business telephone calls. They can claim a fixed amount of £4 per week up to 5 April 2020, then £6 per week thereafter. This increase was announced at Budget. Alternatively, employees can claim relief on the actual amounts incurred, subject to being able to provide evidence, such as phone bills.'

Normally, an employee's ability to claim tax relief on the cost of additional household expenses arising from working from home (after taking into account any tax-free payment received from the employer under ITEPA 2003 s 316A) relies on the general rules for deduction of employee's expenses at ITEPA 2003 s 336. As noted above, this requires that the cost was incurred 'wholly, exclusively and necessarily in the performance of the duties of their employment', which is a notoriously difficult test to satisfy.

We understand, however, that where an employee is working from home as a direct consequence of the COVID-19 outbreak, an employee will be able to submit a claim for tax relief on unreimbursed additional costs of heating and lighting. HMRC can no doubt expect an influx of claims for tax relief! Note that the HMRC Manuals (at paragraph EIM32815) confirm that, for ease of administration, HMRC accept that employees who satisfy the conditions for relief can claim a deduction of £4/£6 per week (exclusive of the cost of business telephone calls) for each week that they are required to work at home, without having to justify that figure.

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COVID-19: Research and development tax credits and state aid

LARGE CORPORATE

HMRC have provided further details of developments in relation to COVID-19 measures and how these apply in respect of research and development tax relief.

On 28 May 2020, HMRC sent out an email which provided an update in respect of developments in relation to COVID-19 measures and how these apply in respect of research and development (R&D) tax relief. The areas covered in the email were state aid, and how that applies in respect of the various grant and support schemes being provided by the government to businesses; and the set off of R&D credits against outstanding tax liabilities.

HMRC confirmed that the Bounce Back Loans (BBL), Coronavirus Business Interruption Loan Scheme (CBILS) and Coronavirus Large Business Interruption Loan Scheme (CLBILS) are all notified state aid, meaning that Corporation Tax Act 2009 (CTA 2009) s 1138(1)(a) could potentially prevent a claim for SME relief. Helpfully, HMRC has confirmed that they would only expect this to happen where the loan relates specifically to the company's expenditure incurred on an R&D project, rather than providing general support for the company. But HMRC also notes that this will depend on the facts, and, for example, a loan used entirely for R&D might lead to s 1138(1)(a) applying.

HMRC have also confirmed that the Future Fund, which provides convertible loans that are commercial, are not state aid. Therefore, they are not caught by CTA 2009 s 1138 and need not be considered when looking at the state aid cumulation rules.

HMRC also said that further loans and grants and other support measures are still under development. These will be state aid, and CTA 2009 s 1138(1)(a) will apply to all of those which are provided through the EU Temporary Framework relating to state aid or through the Grant Block Exemption Regulations.

HMRC also expanded on the information previously given in relation to the set off of R&D credits against outstanding tax liabilities. HMRC have now confirmed the following:

- Where ministers have agreed that tax can be deferred for a specific regime to support businesses in the COVID-19 period, in relation to corporation tax, this means that the VAT quarterly payment deferrals, RDEC or R&D payable tax credit will not be set against any of those amounts before the revised due date.
- Where tax has been deferred as part of a Time to Pay (TTP) arrangement, HMRC will follow existing policy and set any R&D tax credit off against any TTP liability, not just the amount owing at the point in time the credit is paid. This would include informal deferrals offered in advance of TTP arrangements being put in place.

HMRC also point out that it is a legislative requirement that any RDEC remaining at Step 6 (CTA 2009 s 104N(2)) is set-off against any liability owed to the Commissioners for HMRC. HMRC does not have the power to provide for a temporary relaxation of this rule and there are no plans at present to legislate to provide a temporary relaxation of this rule.

In addition, HMRC says that credits under FA 2008 s 130, including credits under the R&D SME scheme, will continue to be applied on a discretionary basis. HMRC will consider the particular circumstances of a customer on a case by case basis if they have objections to the credit being set off against other liabilities.

Further details can be found on the Business Tax page of our COVID-19 pages on our website at www.tax.org.uk/COVID19BUS.

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COVID-19: Indirect tax round up

INDIRECT TAX

Our articles in the May (www.taxadvisermagazine.com/COVID19ITX) and June (www.taxadvisermagazine.com/FCOVID19ITX) editions of Tax Adviser looked at the COVID-19 developments and easements for indirect tax. We set out below points to consider as certain temporary measures come to an end, including managing the repayment of deferred VAT return payments, as well as looking at what indirect tax assistance is still available.

End of the VAT deferral period

VAT payments due between 20 March 2020 and 30 June 2020 could be deferred until 31 March 2021. As this deferral period has now come to an end, taxpayers with a monthly or quarterly VAT return period ending on or after 31 May 2020, with a corresponding payment due on or after 7 July 2020, should ensure that this is still paid on time. This is the case even where the VAT return was submitted in June. If a direct debit mandate was cancelled for the deferral, it should be reinstated urgently and at least three working days before the VAT return is submitted, otherwise it risks the payment not being taken on time.

Paying deferred VAT back to HMRC

From 1 July 2020, taxpayers can start to make payments to HMRC to repay any deferred VAT debt and the balance must be cleared by 31 March 2021. It is possible to pay the VAT as a single lump sum or, alternatively, part payments can be made throughout the period so that it is paid in full by the deadline.

It should be noted that payments of VAT will be allocated to any pre-existing VAT debt that was on the account prior to the VAT deferral announcement, so this may need to be factored into the repayment schedule. Taxpayers who envisage financial difficulties in making a full repayment of pre-existing VAT debt, plus the deferred VAT, should contact HMRC at the earliest opportunity.

End of other temporary indirect tax COVID-19 measures

At the time of writing, the following easements have ended or are due to end:

- temporary licence for exporting personal protective clothing (PPE) ended at midnight on 25 May 2020 (https://tinyurl.com/yb9vx5nh);
- temporary zero-rating of PPE on domestic supplies ends on 31 July 2020 (https://tinyurl.com/yb8uhrq9); and
- temporary zero-rating for imports of PPE and certain medical equipment ends on 31 July 2020 (https://tinyurl.com/qws6qjl).

Discretionary waivers for time limits on exports and removals of goods

HMRC has updated its guidance (https://tinyurl.com/yashalnj) setting out the criteria where HMRC may grant a discretionary waiver on the time limits for export and for the removal of goods to EU member states where the goods have not left the UK due to the COVID-19 crisis. If a waiver is granted by HMRC, it will expire by the earliest of the following dates:

- one month after any government-imposed restrictions are lifted;
- one month after any COVID-19 impediment to the export or removal ceases; or
- when there is no longer an intention to export or remove the goods from the UK.

Financial assistance

If taxpayers are still experiencing financial difficulties due to the COVID-19 pandemic, they should contact HMRC about VAT on the COVID-19 helpline on 0800 024 1222. For importers, contact the Central Deferment Office at cdoenquiries@hmrc.gov.uk or by phoning 03000 594243.

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Looking ahead at indirect tax after the Brexit transition period

INDIRECT TAX

The government has published its policy paper, 'The UK's approach to the Northern Ireland Protocol' (https://tinyurl.com/ybzod6l3), which sets out commentary on issues including VAT, customs and excise. The approach will be taken in the event that the UK and the EU do not negotiate a free trade agreement prior to the end of the Brexit transition period on 31 December 2020. It is of note that the Protocol alignment provisions could be temporary, as they will be subject to a vote in Northern Ireland every four years. Should a free trade agreement be agreed, further revisions may be applicable.

VAT rates

After the end of the transition period, Northern Ireland remains bound by EU rules for VAT rates. However, as the UK's current VAT rates are all compliant with the EU rules, this means that existing UK VAT rates will continue in Northern Ireland as for the rest of the UK post-transition; they will not be changed to match VAT rates in the Irish Republic.

There is a provision in the Protocol which allows the UK government, at its discretion, to apply in Northern Ireland VAT exemptions and reductions, including zero rating, corresponding to those applicable in Ireland, so it is possible (but not mandatory) that the UK government could change a VAT rate that is only applicable to Northern Ireland, which could be for specific reasons such as competition or tax-avoidance.

An example of how the VAT rates may apply in the future can be demonstrated by the intended changes in the UK to the taxation of sanitary products from 1 January 2021. The UK will remove its 5% reduced VAT rate on specified products, which will become zero-rated thereafter. As these products are also zero-rated in the Irish Republic, the UK zero-rate will still be applicable to Northern Ireland.

Customs and excise duties

Article 4 of the Protocol sets out that Great Britain and Northern Ireland are a single customs territory, including for excise. This means that, as set out in paragraph 17 of the policy paper, trading between Northern Ireland and the rest of the UK where the product remains within the UK customs territory will remain as it is now, though there are some limited additional rules for live animals and agri-food. Goods sourced from the rest of the UK that are transported to Northern Ireland for onward transport to the Irish Republic or the rest of the EU (or at 'clear and substantial risk') may be subject to tariffs. The policy paper sets out a four point plan on how the UK's customs union will be delivered in paragraphs 14 to 39, although it is clear that further guidance is still needed for the administrative procedures.

Further parliamentary actions for indirect tax involving transactions with Northern Ireland

There is a parliamentary inquiry being held by the Northern Ireland Affairs Committee called 'Unfettered Access: Northern Ireland and customs arrangements after Brexit' (https://tinyurl.com/y9lngnaq) that is considering UK and Irish/EU customs issues. The oral hearing was held in April and the committee has published the 12 written submissions received (https://tinyurl.com/y9dpo4ot). We will be monitoring the outcome and publishing further information as it becomes available.

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Stamp duty land tax house builder relief for part-exchanges

INDIRECT TAX | LARGE CORPORATE

HMRC responds to the CIOT's request for clarification of the way stamp duty land tax house builder relief operates for a limited liability partnership.

Under Finance Act 2003 Sch 6A para 1, there is an exemption from stamp duty land tax (SDLT) where a 'house-building company' acquires an individual's existing house in exchange for the individual buying a new house from the house builder. The policy intent of the relief is to facilitate liquidity in the housing market and assist with mobility of labour. Part exchange schemes for buyers of residential homes are routinely operated by the larger house builders.

House builders are often constituted as limited liability partnerships (LLPs), rather than as companies as part of joint venture arrangements between commercial developers and, for example, a local authority, a financial institution or a housing association to facilitate residential development.

As previously reported, there was a lack of certainty in respect of HMRC's view of the availability of the reliefs for an LLP house builder operating a qualifying part exchange scheme. Therefore, the CIOT has asked HMRC to clarify their view in two respects.

Does an LLP qualify for the relief as 'a house-building company' within FA 2003 Sch 6A para 1 by virtue of its status as a body corporate?

HMRC indicated that as a result of FA 2003 Sch 15 para 2, the legal status of a partnership is to be disregarded for SDLT purposes, so its body corporate status cannot be taken into consideration.

Would relief be available where the members of the LLP or the partners in a partnership are all house-building companies?

HMRC confirmed that relief would be available where the members of the LLP, or the partners in a partnership, are all house-building companies as a result of the 'look through' provisions contained in FA 2003 Sch 15 para 2.

A remaining area of uncertainty that was also raised in the CIOT's letter is whether partial relief would be available where the members of the LLP or the partners in a partnership consist of qualifying and non-qualifying house-building companies following the Court of Appeal decision in *Pollen Estate Trustee Co Ltd v HMRC* [2013] EWCA Civ 753. We hope to clarify this point in further discussion.

The CIOT's letter to HMRC, and HMRC's response can be read in full at: www.tax.org.uk/ref608.

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Scottish Taxes Update

GENERAL FEATURE

CIOT and LITRG have made a number of written submissions to consultations and calls for evidence published in Scotland. They have also engaged with the Scottish government on amendments to the Land and Buildings Transaction Tax (Scotland) Act 2013.

Land and buildings transaction tax

Representatives of CIOT's Scottish Technical Committee joined a call with the Scottish government, together with ICAS representatives. The purpose of the call was to discuss the Scottish government's proposals for amending the time limits for eligibility to claim repayments of the Additional Dwelling Supplement for Land and Buildings Transaction Tax in light of the coronavirus pandemic. The required legislation was included in the Coronavirus (Scotland) (No. 2) Bill.

In addition, CIOT submitted a response to the COVID-19 Committee of the Scottish Parliament's inquiry on the Coronavirus (Scotland) (No. 2) Bill. The submission focused on the provisions to extend the eligibility period for claiming repayment of Additional Dwelling Supplement for Land and Buildings Transaction Tax. The original proposed amendment would have extended the period within which taxpayers may sell their previous main residence from 18 months to 27 months for certain taxpayers. It should be noted that after the closure of the call for evidence, the extension was changed to 36 months following an opposition amendment. The Bill was passed, becoming the Coronavirus (Scotland) (No. 2) Act 2020, in May 2020.

The submission is available on the CIOT website: www.tax.org.uk/ref679.

Carer's Allowance Supplement

LITRG submitted a response to the COVID-19 Committee of the Scottish Parliament's inquiry on the Coronavirus (Scotland) (No. 2) Bill. The LITRG submission focused on the provisions to make an additional payment of Carer's Allowance Supplement in June 2020 to those unpaid carers who are in receipt of UK Carer's Allowance and Scottish Carer's Allowance Supplement. The proposed additional payment effectively doubles the amount of Carer's Allowance Supplement that carers would expect to receive in June. This was enacted as proposed in May 2020.

The submission is available on the LITRG website: www.litrg.org.uk/ref379.

The impact of COVID-19 on the public finances and the Fiscal Framework

The Scottish government made plans to publish a Summer Budget Revision towards the end of May. In preparation for this, the Finance and Constitution Committee of the Scottish Parliament sought views on the impact of COVID-19 on the public finances and the Fiscal Framework. The CIOT response focused on the implications and considerations for the Fiscal Framework and Scottish taxes.

In response to the coronavirus pandemic, both the UK government and Scottish government have established programmes of financial support for various sectors. We think there needs to be an examination of the fiscal impacts of these support programmes and how funding announced by the UK government has translated into funds available for the Scottish government, via the block grant. This will help to establish whether the Fiscal Framework has operated as expected and whether it has worked appropriately in these exceptional circumstances.

The situation created by the coronavirus pandemic has also highlighted the importance of being able to make necessary tax changes quickly, without sacrificing scrutiny. As a member of the Devolved Taxes Legislation Working Group, the CIOT has been considering alternative legislative processes, including an annual

Finance Bill, for Scottish taxes. We noted that tax legislation often needs changing on a regular basis for much more mundane matters too, to ensure the credibility and integrity of the tax system. So, in order to ensure Scotland is positioned as well as it can be, in the aftermath of the coronavirus pandemic, to make best use of its devolved tax powers, we emphasised the importance of taking forward the work of the Devolved Taxes Legislation Working Group.

The submission is available on the CIOT website: www.tax.org.uk/ref678.

Call for Views: Advisory Group on Economic Recovery

The Scottish government established the Advisory Group on Economic Recovery to provide independent expert advice on supporting sectors and regions of Scotland's economy to recover from the impact of COVID-19. This is with the aim of developing a strategy, not simply to return the economy to the status quo, but to set out possible options to create paths towards a more robust and resilient Scottish economy.

The CIOT and LITRG made separate submissions. Both submissions broadly focused on the Fiscal Framework and Scottish taxes, with slightly different emphases.

The CIOT submission reiterated points made in response to the Finance and Constitution Committee call for evidence detailed above. In particular, it highlighted that the scheduled review of the Fiscal Framework in 2021 provides an opportunity to consider possible changes to the Fiscal Framework to ensure that it supports the Scottish economy appropriately. In addition, it stressed the importance of the work that the Scottish government has carried out over the past year or so in relation to exploring methods of improving the tax policy-making process and the legislative processes for taxes in Scotland. The CIOT view is that it will be necessary to see this work through to fruition in order to ensure that Scotland's tax system is in the best position possible to support its economic recovery.

The LITRG submission endorsed the CIOT position. In addition, it noted the work that the Scottish government has been carrying out to improve communications about tax in Scotland. LITRG noted that improved communications could help to raise awareness and understanding of the Scottish tax system, thereby improving its credibility and accountability – also important factors in supporting Scotland's economic recovery.

The CIOT submission is available on the CIOT website: www.tax.org.uk/ref682.

The LITRG submission is available on the LITRG website: www.litrg.org.uk/ref381.

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Welsh Revenue Authority guidance for Land Transaction Tax

LARGE CORPORATE | PERSONAL TAX | OMB

Building on an earlier paper to the Welsh Revenue Authority on attributes of good guidance, the CIOT considers the land transaction tax guidance post-implementation.

In December 2017, the CIOT, LITRG and ATT set out attributes of effective guidance that we hoped would assist the Welsh Revenue Authority (WRA) in the development of tax guidance and digital systems ready for April 2018. More than two years have passed since the successful implementation of land transaction tax (LTT) and landfill disposals tax (LDT). Comments received from our members on the WRA's guidance have been very positive. The LTT guidance is well developed with regular updates. It includes meaningful examples and illustrations, including the diagrams in the higher rates for purchases of residential property: technical guidance. The summary of main differences between LTT and stamp duty land tax (SDLT) is valuable.

Building on the earlier submission, the CIOT has made the following suggestions to enhance the existing guidance:

- Greater use of embedded links between the subject-matter guides to allow for easier cross-reference, and hyperlinks to the fully updated devolved Welsh legislation.
- Highlighting the relevance, or otherwise, of decisions on SDLT to LTT and WRA practice (noting the need to point out the different context, even if the wording of the legislation is the same). This might be effected via guidance and/or a communication strategy to alert stakeholders.
- There are limited references in the current WRA guidance to the extent to which a user of the guidance can rely upon it. The question of reliance is an area that could be further developed by the WRA in line with the WRA Charter standards and the recommendation of the Office of Tax Simplification (OTS) in *Guidance for taxpayers: a vision for the future.* (OTS Recommendation 11: HMRC should undertake a consultation on the circumstances in which a taxpayer can rely on published guidance and the extent to which a taxpayer will be subject to interest, penalties and the tax in dispute where guidance is found to be incorrect.)
- Our strong preference is for archived guidance to be easily accessible on the website (without the need for a specific request) with the caveat that it is clearly designated as archived and the dates during which it reflected the WRA's view are readily apparent.
- We reiterate that dating of all guidance should be the default position.
- The ability to provide feedback is clearly positive. In the interests of encouraging and directing feedback, we suggest that an indication of which of the two current feedback routes is best for the purposes of (i) general comment and (ii) for technical feedback would be helpful.

The CIOT's submission is at: https://www.tax.org.uk/ref673.

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Tax credits claimants: understanding the implications of claiming universal credit

PERSONAL TAX | GENERAL FEATURE

LITRG warns that tax credits claimants might see their existing claim stopped if they claim universal credit.

Universal credit is gradually replacing working tax credit and child tax credit, as well as income support, income-based jobseeker's allowance, income-related employment, and support allowance and housing benefit (together known as legacy benefits).

Since the start of the coronavirus pandemic, LITRG has been made aware – both from members of the public contacting our websites, and, indirectly, from welfare rights advisers – that there has been a spike in cases in which existing tax credits claimants have claimed universal credit and had their tax credits claim stopped.

In this situation, HMRC and the Department for Work and Pensions (DWP) state that claimants are then not able to go back to tax credits, unless they are:

- people who are entitled to the severe disability premium in income support, income-based jobseeker's allowance, income-related employment and support allowance or housing benefit or have recently been entitled and although the benefit has ended, continue to meet the entitlement conditions for the severe disability premium; and
- people who are 'frontier workers'. Frontier workers are people who are 'in Great Britain' (under Welfare Reform Act 2012 s 4(1)(c)) or 'in Northern Ireland' (under Article 9(1)(c) of Welfare Reform (Northern Ireland) Order 2015) but do not reside in either GB or NI. Crown servants or members of HM Forces who are posted overseas (as defined under the UC Regulations 2013) are not frontier workers.

To some extent, HMRC have been flexible with the tax credits rules in the short term; for example, confirming that tax credits claimants who temporarily cannot work their normal hours will still receive their usual tax credits payments.

However, despite this, some people might still face a reduction in their income and find they need to access further financial support. One example of this is if they require support with housing costs which would have previously been provided through housing benefit, but which is now only available through universal credit in most cases. A claim for universal credit to access rent support will lead to the termination of the tax credit claim.

In other cases, we have seen people who have claimed universal credit based on government communications that led them to believe it would provide support equivalent to statutory sick pay for the self-employed. They erroneously thought it would be paid in addition to their existing tax credits.

A particularly important factor for tax credit claimants to bear in mind is that capital is not taken into account for tax credits, but it is for universal credit (by means of a tariff income based on the capital amount) if you have more than £6,000. You have no entitlement to universal credit when capital reaches £16,000. Some people will therefore have to dip into savings to see them through the adverse effects of coronavirus on their finances.

Some tax credit claimants may have to claim universal credit, irrespective of their wishes, if there is a change of circumstances which ends their tax credit claim; for instance, the break-up of a relationship meaning they have to move from a joint claim to a single claim. Or indeed the reverse, if a new relationship is formed by a previously single claimant.

The fairness of this household assessment of entitlement to means-tested benefits has been the subject of a number of queries to the LITRG website by members of the public over recent weeks. People – perhaps especially those who have missed out on state support under the coronavirus-specific support schemes for various reasons – have felt it somewhat unfair that they are obliged to rely on their partner to support them at this difficult time.

Those who have paid sufficient National Insurance contributions might, however, be entitled to contributions-based benefits such as new-style jobseeker's allowance or new-style employment and support allowance, so it is important to check all avenues of support. It is also important to be aware that in some cases, people can be better off on universal credit compared to tax credits, especially in the shorter term. Anyone claiming legacy benefits should seek specialist advice before they claim universal credit to ensure they make an informed decision.

More information, targeted at advisers, on tax credits and the transition to universal credit can be found on LITRG's www.revenuebenefits.org.uk website. We have also published a section on our main website giving information on what support might be available to those affected by coronavirus. See www.litrg.org.uk/coronavirus.

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The economics of universal credit

PERSONAL TAX | GENERAL FEATURE

LITRG reflects on its response to the House of Lords Economic Affairs Committee call for evidence on universal credit.

Universal credit was brought in to simplify the benefits system by combining support for those in and out of work, who may also have housing and childcare costs, with additional payments for people who have disabilities or caring responsibilities.

LITRG's response to the call for evidence outlined some problem areas in the system.

Universal credit was intended to be administratively simple (and also to limit claimant error) by taking PAYE real-time information (RTI) collected by HMRC and sending it to the Department for Work and Pensions (DWP) to assess employees' entitlement to universal credit. However, the definition of earned income for universal credit does not always neatly match up with the tax data.

The first problem outlined in our submission focused on timing of pay. Workers paid four-weekly or monthly can experience a 'double-pay' problem, due to the claimant's pay dates not always matching the universal credit monthly assessment period. In some cases, this problem has been exacerbated by coronavirus; for example, with some employees being furloughed but their employer paying them later than usual on receipt of a Coronavirus Job Retention Scheme grant.

One might assume that the claimant should not be any worse off overall because although they will receive a lower universal credit payment in one assessment period, where two pays are taken into account, they will correspondingly receive a higher universal credit payment in the next, where there is no reported pay information. The answer depends on the circumstances of the case. Some people may be better off in the longer term, whereas others could lose out due to:

- losing out on the work allowance in the months where the RTI indicates no earnings;
- hardship caused by an unexpected missed payment of universal credit;
- extra pay which might end the universal credit claim, meaning that the claimant will have to claim again; and
- potentially triggering the benefit cap and surplus earnings rules.

If an objective of universal credit was to combat poverty by improving claimants' ability to manage their money, in such cases precisely the opposite effect has been seen.

Another issue is that RTI data does not always give the DWP the full picture for universal credit employed earnings, particularly with regards to unreimbursed expenses. Claimants might be able to deduct expenses that they have necessarily incurred and that their employer has not reimbursed, yet this is not clear in the claim process or in DWP guidance for their staff.

Somewhat surprisingly, even the net-of-tax income figure that the DWP receives through RTI may not reflect the claimant's true net income for universal credit. The universal credit regulations state that, from the earnings figure, income tax and primary class 1 contributions **in respect of the employment** are to be deducted. This is rather odd, because HMRC do not calculate tax separately on individual sources of income. Instead, the data received by DWP from HMRC may show tax deducted that isn't necessarily in respect of the employment. This can occur if the claimant's PAYE code includes other tax debt which is coded out.

A mismatch can also arise if the claimant's PAYE code is incorrect, meaning that the claimant is paying too much or too little tax. If paying too much, a later tax refund can (if certain conditions are met) be treated as earned income for universal credit when it is received from HMRC. If paying too little, the claimant should be able to have the tax underpayment in respect of the employment deducted from universal credit earnings in a later assessment period if they settle it with HMRC direct (or it would be automatically taken into account if 'coded out' and they still claim universal credit when that PAYE code is operated).

However, HMRC do not notify DWP of PAYE tax refunds (nor, we assume, PAYE underpayments). The claimant should declare them to DWP, to be factored into their universal credit award. It is not clear to us how the claimant would know to do this. Furthermore, the claimant will probably not know to what the tax refund relates as HMRC do not give a breakdown of refunds in their P800, Simple Assessment or Self Assessment tax calculations. Therefore, although one reason for using RTI was to 'design out' opportunities for claimant error, hidden errors may remain.

The self-employed also face mismatches between tax and benefits. Take, for example, the introduction of the £1,000 a year 'trading allowance' for income tax. For welfare benefits, these amounts are still assessed as income. This can cause confusion, as people could easily believe that they need not report amounts up to £1,000 to government at all.

As universal credit stands, it seems administratively to work best for those with a single job, steady income and stable personal circumstances. However, in our experience, such 'idealised' circumstances are not typical. The self-employed are likely to see peaks and troughs in their income throughout the year, yet universal credit works on a strict monthly assessment basis. It would be fairer to have a system which allowed income to be smoothed across the year, for example by averaging.

LITRG's full response to the call for evidence can be found at www.litrg.org.uk/ref376.

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Professional Conduct in Relation to Taxation and Research and Development

PROFESSIONAL STANDARDS

The Professional Conduct in Relation to Taxation bodies (AAT, ACCA, ATT, CIOT, ICAS, ICAEW and STEP) issued topical guidance covering the application of professional standards to the provision of research and development tax credit services on 1 June 2020.

Professional Conduct in Relation to Taxation (PCRT) sets out the principles and standards of behaviour that all members and students of the PCRT bodies must follow in their tax work. The latest version of PCRT came into effect on 1 March 2019 and is supported by supplementary help sheets.

On 1 June, the PCRT bodies issued topical guidance covering the application of professional standards to the provision of research and development (R&D) tax credit services. This project arose initially through the impetus of a group of mainly CIOT and ATT volunteers who were specialists in the area of R&D and who felt it important to make the application of the standards clear to their area of work. The guidance produced was then considered and adopted by all of the PCRT bodies.

The new guidance is available on the Professional Standards sections of the CIOT website (www.tax.org.uk/PCRT) and the ATT website (www.att.org.uk/PCRT)

In addition, there is a new help sheet entitled 'C2 dealing with errors – members in business'. This includes guidance for employees attending to the tax affairs of their employer, and members in practice dealing with their own business's tax affairs.

If members have any queries in relation to PCRT and the application of it to the services they provide, they should email the Professional Standards team (standards@tax.org.uk or standards@att.org.uk).

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CIOT	Date sent
Coronavirus (Scotland)(No.2) Bill www.tax.org.uk/ref679	14/05/2020
Impact of COVID-19 on the public finances and the Fiscal Framework www.tax.org.uk/ref678	27/05/2020
Advisory Group on Economic Recovery www.tax.org.uk/ref682	28/05/2020
LITRG	
Coronavirus (Scotland) (No. 2) Bill: Carer's Allowance Supplement www.litrg.org.uk/ref379	19/05/2020
Advisory Group on Economic Recovery www.litrg.org.uk/ref381	01/06/2020
Government's coronavirus financial package www.litrg.org.uk/ref380	02/06/2020

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CIOT

Welcome to your personal brand experience

TRAINING

A new blog series by Joanne Herman

The Covid-19 pandemic has brought with it many global changes to the way we live. One positive change we've seen is an increased level of online social engagement. Each one of us is producing much more content than ever before. Whether we are updating our status on Facebook, sharing a post on LinkedIn, making videos using Tik Tok or tweeting, we're all producing fresh content. And I'm not just talking about tech-savvy twenty-somethings with an established online presence. Only a few months ago, our grandparents hadn't heard of Zoom. Yet today most of them are Zooming their grandchildren daily. Similarly, stalwarts Carole and John in the corner of the office who were resistant to using SharePoint have been forced to make the transition now that they are working from home and are now actively advocating Teams to others! After this sea-change, life will never be the same again!

However, if this results in more online content, activity and engagement, we also need to consider what our communication and overall online presence says about us as individuals. How we portray ourselves online and how we are perceived professionally and as individuals directly relates to our professional and personal reputation. This is known as personal branding.

Who is this written for?

This is aimed at anyone who is interested in improving their online reputation. Yes – that means you! Whether you're a school leaver or student, employee or employer, a loyal member of an awarding body or volunteer, personal branding is relevant to all of us. Everyone has a story to tell so, whether we like it or not, we are all born with a brand. However, exactly how we craft our individual profiles and what we choose to do with them is up to us.

Just as companies have their own online presence and invest significant time in creating and maintaining their reputation, it is up to each one of us to do the same for ourselves.

Why now?

With more students studying at home, some employees furloughed and others facing redundancy, and small and large businesses operating from their homes, taking care of our online personal profile has never been so important. That 8pm comment you just made whilst sitting on the sofa with a G&T will very likely be seen by your future employer and could prejudice your chance of an interview!

It's important not to neglect our online profiles so that our social activity continues to tick along while we are all still in a state of partial lock down. It's the best way to maintain our presence in the minds of our personal and professional audiences and remain there for when things start to pick up later in the year.

It's easy and fun!

Embarking upon your personal brand experience is exciting. It's your opportunity to simultaneously learn more about yourself and make decisions and plans that can support your

career development. It also gives you an excuse to spring clean and refresh your online profiles that you've been putting off doing for the past year.

Over the coming weeks I will be exploring why, when and how you can benefit from personal branding. I'll also be sharing practical tools to help you build and monitor your online profile. I'll be recommending quick fixes and interviewing a successful influencer so you can see first-hand how they did it. In part 2 – which can be accessed here: www.tax.org.uk/why-you-should-make-your-personal-brand-priority – I will be focusing on why it is important for students to create a personal brand plan, why they should act now and how it can benefit everyone, so look out for the bonus content.

- Think about what social media profiles you tend to use on a daily basis.
- Make a note of them.

Joanne Herman is the Business Development & Marketing Manager for CIOT. In her new mini blog series, Joanne explains why it's important to improve your personal brand during the current crisis and how you turn a seemingly unhelpful situation to your advantage.

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CIOT & ATT

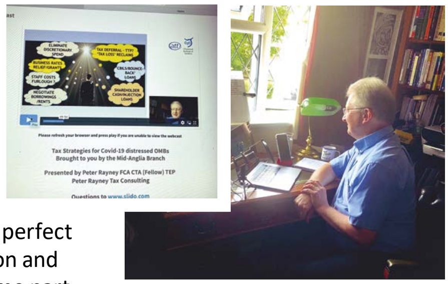
Is everything online?

BRANCHES FORUM

It definitely seems that everything is online at the moment. Branches Forum was held on 19 May and 70 volunteers joined the event, a larger proportion of volunteers than usual. Nearly 5,000 members have obtained their requisite CPD online since lockdown, and that's a lot of engaged members! The Branch Network has produced 27 events so far, contributing to a national programme of CPD that is set to continue for the remainder of 2020. Look out for a relaunched programme beginning in September 2020. Regular branch event goers will not be surprised to see the usual array of top flight speakers and deep dive topics, as well as general/ broader tax issues being covered throughout the programme.

One benefit of producing events online is that you don't need to justify travel time to a venue by offering two or three hours. You can put on a webinar that lasts 45 minutes, so along with our longer sessions we also have incorporated some 'lunchtime learning' and the odd breakfast session too. We are working with the Joint Branches Sub-Committee and volunteers throughout the Branch Committee Network to ensure the programme remains affordable, accessible and truly excellent.

Another benefit of going online is to be able to consider newer speakers who we can give a first platform to in a safe and supportive space. We can rehearse and work with them to perfect their online presentation and perhaps they will become part of the circuit when face to face resumes.



We know everything online cannot possibly compensate for seeing each other but we know that for some members online is as close as they will ever get to 'joining' an event – and we celebrate that engagement and inclusivity.

We will resume face to face in 2021, it will be different and the safeguarding measures needed to protect each other will be a big part of that endeavour. We anticipate continuing our online presence. We've been forced into it but having taken the step, we are modestly excited about our success and we will continue to work with members to get the balance of online and face to face right in 2021.

Please send your suggestions for topics and new speakers to: branches@tax.org.uk.

Thank you all for your support, and stay safe.

Emma Barklamb,
Head of Member Services

TAX CHARITIES

Tax charities in a Covid-19 world

UPDATE

Alison Lovejoy explains how the tax charities have responded to the needs of a Covid-19 world.

The tax charities, TaxAid and Tax Help for Older People, became aware of the problems caused by Covid-19 early on, as it highlighted the relevance of the tax charities to the needs of those on low incomes. They responded swiftly to meet people's urgent needs to access government income support with the Coronavirus Support Service. The businesses of many tax advisers' clients have been very significantly affected by Covid-19. Many of those who have suffered most are already on very low incomes and those whose businesses have gone – at least in the short term.

To access government support, people need to have submitted tax returns. Some may have wrongly believed tax returns were not needed if their income was below the personal tax threshold. They may struggle to produce their own tax return and cannot afford to pay for the necessary professional help.

Working together, the tax charities rapidly developed and launched a service to support self-employed people access the government support available. This involves a Coronavirus helpline (9am to 5pm); and, where needed, call backs were made to people who needed further help to prepare tax returns. The charities' websites were also updated with dedicated Covid-19 pages providing step by step guidance on all aspects of claiming. Videos were placed on YouTube and a live Facebook session was held to answer questions. The service was subsequently extended to cover the Job Retention Scheme.

Marketing

The new service was marketed through social media, Twitter and an email campaign to community and professional partners. Support was received from Martin Lewis in his newsletter. Most receive the help they need through social media and online materials, rather than calling, including Facebook and YouTube, as well as website engagement. In the first phase of the campaign, Tweet impressions increased by 3,072% with profile visits increasing by 400% and tweets rising by 1,460%. Facebook reach increased by 1,761% with post engagements increasing by 381% and page likes by 367%. This shows how much help is currently needed.

The future

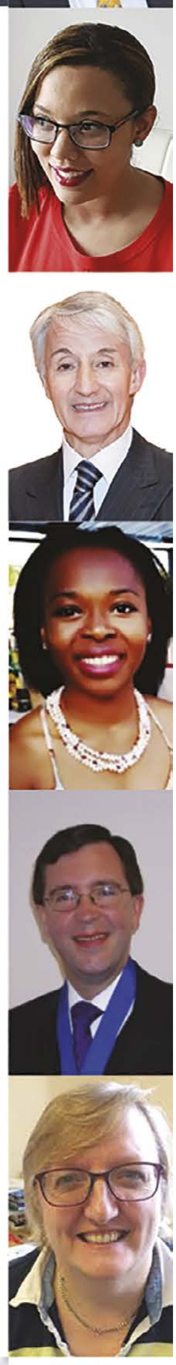
The ability of the charities to help in the future, as new needs appear, has been hugely enhanced by the innovation and pace at which these services were developed. This is a great achievement given that both small charities had to switch – overnight – to homeworking (supported by Deloitte supplying new laptops and routers where needed). Thanks and congratulations to Valerie and all her team for all of this. Following the government's extension of the self-employment grant and Job Retention Scheme, tax charities are continuing to support people to access the help available in this challenging time.

Fundraising

The tax profession has offered incredible support by fundraising to keep services open to help as many people as possible, whether by a private dinner or quiz. Some are taking part in a remote precursor to the London Legal Walk (now in October), the 10,000 Steps for Justice on 8 June. Offer support by emailing rose.over@taxvol.org.uk. With the generous support of the CIOT, Rebecca Murray, Emma Chamberlain and Emma Pearce raised £15,000 at their Private Client event on the 2020 Budget.

In response to the rescheduling of the Kilimanjaro Challenge, Tina Riches is leading the #notKili2020 challenge, where you can make the climb on stairs at home or during your local lockdown exercise by 16 September 2020. You can find more details at bit.ly/3f6p7fB.

Please contact Alice Devitt on alice@taxaid.org.uk if you have any more fundraising ideas!



Thank you to our volunteer community!

From everyone on the ATT and CIOT Councils and teams at CIOT and ATT. We truly appreciate and value the contribution that you make. We couldn't do what we do without you!

681 volunteers contributed at least **19,719 hours** of their time in 2019 across committee, Council and Branch activities and meetings!

If you would like to find out more about how you can get involved at CIOT and ATT, please bookmark these pages for upcoming roles:

www.tax.org.uk/volunteering
and
www.att.org.uk/volunteering

CIOT & ATT

Volunteers' Week 2020

Chartered Institute of Taxation

UPDATE

National Volunteers' Week runs from 1 June to 7 June. This year we thanked the hard work of our volunteers via a social media campaign – here are some of the reasons why they provide their time.

"I have been thoroughly impressed with the way that the CIOT and ATT value and respect their volunteers, whilst simultaneously communicating the high standards they expect. Their collegiate approach to the volunteers in the network means that we clearly feel valued and give freely of our time and expertise."

Laura Tomlinson, Chair,
Joint Audit and Risk Committee

I chose to volunteer because…
"It has been and continues to be an amazing journey. It has taught me things I would not have learnt elsewhere. It has taken me to places I would never have visited."

Jeremy Coker, ATT President

"I am really pleased to be associated with such a well-respected organisation as the CIOT and feel that my contributions do make a difference improving tax policy making across the country."

John Barnett, Chair,
Technical Policy and Oversight Committee

I chose to volunteer because…
"I had started my own business and knew I needed to have some 'outside' contact where I could get to know like-minded people."

Tracey Easman, Council Member

"I am happy to contribute to a professional organisation that helps me."

Debbie Marston,
Cumbria and South West Scotland
Branch Chair

I chose to volunteer because…
"I wished to involve myself with other tax professionals because being the sole tax person in a local firm can be lonely. Joining the branch more than fulfilled this role. I have built up a wide range of colleagues and friends in the tax world."

Keith Bell, CIOT Council

"I'm really, really enjoying it – and I think it's very worthwhile. The enthusiasm is breathtaking."

Derek Francis, Edinburgh Branch Chair

I chose to volunteer because…
"I was asked and thought, why not! I have continued to volunteer as I really enjoy being part of a collective effort with lovely people which has a real impact on the local and national communities."

Zoe Roberts, Joint Branch Network Chair

Your Branch Network Online Seminars

The Branch Network delivered 33 online webinars between March – June 2020 with engagement from over 5,000 registered members, students and non-members.

We intend to continue to deliver an online National Programme of Technical CPD brought to you by your local Branch Network for the remainder of 2020 due to the uncertainty surrounding face to face events.

Members, students and non-members are welcome to attend all our events, so check our online listing at www.tax.org.uk/online-branch-seminars and www.att.org.uk/branch-network

Upcoming seminars for July include:

Transfer of Assets Abroad: Key considerations for asset structuring
Presented by James Heathcote
Brought to you by CIOT/ATT Leeds Branch
1 July 2020 | Free

Fast track your career without wasting your valuable time
Presented by Jo Maughan
Brought to you by CIOT/ATT Bristol Branch
6 July 2020 | Free

Corporate Tax Update
Presented by Martin Bell
Brought to you by CIOT/ATT Edinburgh Branch
8 July 2020 | Free

SDLT
Presented by Peter Rayney
Brought to you by CIOT/ATT Mid-Anglia Branch
13 July 2020 | £25

Coming to work in the UK - Early years
Presented by Megan Saksida
Brought to you by CIOT/ATT Harrow and North London Branch
16 July 2020 | £30

MAGNETIC NORTH

GUIDING YOU TO THE BEST TAX JOBS IN THE NORTH OF ENGLAND

IN-HOUSE GROUP TAX FULL OR PART-TIME

LEEDS Circa £70,000 FTE + benefits

Corporate & employment taxes, VAT, international tax, and wider governance including SAO – make this a terrifically interesting opportunity. This role is ideal for a confident, broadly skilled, generalist tax professional who has experience of working in industry in a similar stand-alone position. You will work with senior finance colleagues and be encouraged to tackle inefficiencies and processes head on – taking ownership of the challenge. REF: **S3058**

TAX MANAGER

CHESHIRE To £45,000 dep on exp

Managing a small team, you will take responsibility for reviewing personal and corporate tax returns and managing the firms tax work including some tax advisory projects. This is a great opportunity for an experienced mixed tax specialist who is looking to join a small and friendly team with a great working environment and play a key part in the delivery of tax services. A great long-term role. REF: **A3097**

PERSONAL TAX MANAGER

LANCASHIRE To £45,000 dep on exp

This independent firm, with an outstanding client base, continues to go from strength to strength. It now seeks to recruit an experienced personal tax manager. You will manage your own portfolio of clients including taking responsibility for the compliance process and providing support on areas of advisory work such as CGT and IHT. Would ideally suit someone CTA qualified. Part time considered. REF: **A3063**

PERSONAL TAX COMPLIANCE M'GER

LEEDS To £35,000 dep on exp

If you enjoy personal tax compliance work and want to join a small and friendly tax team then this opportunity is tailor-made for you. Based in Leeds, this independent firm is looking for a personal tax manager to manage the compliance work on a varied portfolio of clients, as well as working with the tax partner on ad hoc assignments. Candidates who are qualified by experience are encouraged to apply as well as those who are ATT or CTA. REF: **S3105**

TAX ADVISORY SENIOR MANAGER

MANCHESTER To £55,000

Pure tax advisory role with a fast growing and forward-thinking independent firm based in central Manchester. You will play a key role in the delivery of interesting and varied tax advisory work including transactions, reorganisations, and property tax planning. This role offers a great chance for rapid progression through to Tax Partner. REF: **A3104**

IN HOUSE VAT ANALYST

MANCHESTER £excellent dep on exp

Truly exciting opportunity for a VAT Accountant with strong compliance skills to join the VAT compliance team at this global, household name. You will need to have several years VAT compliance experience, strong communication and organisation skills and the ability to work well under pressure. REF: **R2995**

VAT MANAGER / SENIOR MANAGER

LEEDS To £70,000

Great opportunity for an experienced and market facing VAT specialist to join this leading regional practice in a key position. Perhaps you are currently working for a Big 4 or Top 10 firm yet would relish the chance to join a high calibre tax team where you will be the driving force and key person in the indirect tax team. REF: **S3103**

GROUP HEAD OF TAX

CHESTER To £100,000 dep on exp

Senior position that would suit an experienced Head of Tax with strong direct tax knowledge and also a broader awareness of other taxes including indirect tax. You will oversee a small team to ensure all compliance obligations are met in addition to providing key strategic tax advice in this complex group. REF: **R3061**

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Mike Longman FCA CTA: mike@taxrecruit.co.uk; Ian Riley ACA: ian@taxrecruit.co.uk; Alison Riordan: alison@taxrecruit.co.uk; Sally Wright: sally@taxrecruit.co.uk

Georgiana Head Recruitment

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ALISON TAIT

Director

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Personal Tax Manager
Skipton, Yorkshire – £market rate

Our client is a small local independent firm in Skipton, North Yorkshire. They seek an experienced personal tax specialist to take ownership of the compliance cycle for the practice for private clients and some business tax cases. This is ideally a full time role but the firm will consider a 4 day week or flexible working – the current crisis has meant that our client now has scope for home-working. Alongside compliance, you will provide high level technical advice to clients on a broad range of tax issues, focussing on income tax, capital gains and inheritance tax planning. You may be ATT qualified or qualified by experience. **Call Georgiana Ref: 2867**

In-house Tax Senior – Leeds or Sheffield
£24,000 to £28,000 + bens

Our client is a large corporate group seeking a junior tax specialist to join their in-house tax team. It is likely that you will be ATT qualified or part way through ACCA - study support is available for you to complete a relevant qualification. It is likely that you will have a background in either corporate tax or partnership tax. There is the opportunity to get involved in international tax work, and clear scope for development in the role. You will deal with both the corporate entities and partnerships within the business, and will develop tax accounting skills. This position could be based in Leeds or Sheffield, with some travel to Sheffield. **Call Georgiana Ref: 2935**.

Corporate Tax Manager
Southampton – c. £55,000 + bens

You will manage a portfolio of owner managed and private equity backed corporate clients with complex tax affairs. The role will involve working on a variety of advisory projects and technical assignments. In addition, you will take an active role in business development opportunities, proposals and networking events. Much of the advisory work centres on international group structuring, transfer pricing, tax due diligence and group financing. The role comes with very real career progression prospects. **Call Alison Ref: 2950**

Mixed Tax Manager
Manchester – to £45,000

You will manage a portfolio of corporate and personal tax compliance clients, and will also assist the directors with a variety of project work. Your responsibilities will have a personal tax bias, but you will be an all round business tax adviser managing work including succession planning, IHT advice., R&D and capital allowances. You will also assist in mentoring junior team members. You should be CTA/ACA qualified. This role is based in Manchester city centre and offers the opportunity for progression to the senior management team. **Call Alison Ref: 2876**

Technical Tax Director
Manchester – £excellent + bonus + bens

A Technical Tax Director who is passionate about tax is sought by fast growing entrepreneurial tax practice. Ideally someone with an all round OMB background who can help develop a team of more junior staff and who can advise on a wide range of tax planning work and act as a technical resource for the business. You will deal with ultra-high net worth individuals, their families, businesses and property empires, and will assist clients with business advice and tax planning. Full time, part time or flexible working considered, also a mix of office and home working. **Call Georgiana Ref: 2956**

Private Client Senior Manager/Director
Leeds – £excellent

This role has an emphasis in trust and IHT work, so the ideal candidate will be CTA and STEP qualified. You will provide tax advice covering IHT planning, non-domicile and residence issues, the use of UK and offshore trusts and income tax planning. You will also be involved in business development, man management and working closely with the wealth management team to ensure a joined up approach to tax and financial planning. This role has fantastic career progression opportunities. **Call Alison Ref: 2919**

www.georgianaheadrecruitment.com

Tax Advisory Senior Manager
Manchester – £excellent + bens

This is a newly created role that comes with clear progression to partnership. In addition to man management and business development responsibilities, you will work on technical assignments including restructuring, shareholder tax planning, employee share schemes, dividend planning, tax efficient share structures, tax due diligence, management buy outs and estate planning. You must have a broad knowledge of corporate, personal, business and capital taxes and be experienced in delivering tax planning projects. **Call Alison Ref: 2906**

R&D Tax Manager – Manchester
£38,000 – £45,000 + bens + bonus

A great opportunity to join one of the fastest growing accountancy firms in the UK. Our client is a large independent firm, head-quartered in Manchester, It has a strong and growing R&D tax practice which works on both a UK and international level, dealing with a range of technical tax reliefs. This business seeks a tax professional or former engineer with experience of R&D tax work. It may be that you currently work in a larger accountancy firm and are looking for scope for progression. Flexible working, a mix of home and office working available. **Call Georgiana Ref: 2954**

Tax Senior
Leeds – to £28,000

You will have a portfolio of circa 300 personal tax clients including HNW Individuals, company directors and partnerships. Work is a mix of compliance and advisory responsibilities including the completion of tax returns, dealing with client and HMRC queries, the preparation of P11D's and PAYE Settlement Agreements and the provision of PAYE advice. You will also assist the manager with corporation tax compliance work. You should be ATT or CTA qualified, but candidates who are qualified by experience will also be considered. **Call Alison Ref: 2946**

VAT Manager
Leeds – part time – £excellent

This is a key role in a large Leeds based practice. It would suit an experienced VAT manager or senior manager who is looking for an interesting role but on a part time or flexible basis. At this firm, you will deal with indirect tax for a wide variety of clients including owner managed businesses, charities and large professional partnerships. You will help build and develop the practice, and there is scope for promotion, as part of the reason for the vacancy is succession planning. Great flexible working and systems for home working. This is a lovely practice and a really good role. **Call Georgiana Ref 2953**

R&D Tax Senior Manager or Director
Manchester – £excellent + bens + bonus

Looking for something a bit different? An opportunity with progression? Our client is one of the fastest growing accountancy firms in the UK. Head quartered in Manchester this firm has a strong and growing R&D tax practice which works on both a UK and international level dealing with a range of technical tax reliefs. This business seeks an experienced R&D tax professional (you may be CTA qualified a former engineer or scientist) . On offer is, flexible working, a mix of home and office working, a fantastic entrepreneurial culture. **Call Georgiana Ref: 2955**

Personal Tax Specialist – North Leeds
£28,000 – £34,000 + flexitime + parking

This small accountancy practice in North Leeds is looking for a personal tax specialist to manage the firm's portfolio of personal tax clients. Reporting directly to the partners, this is a predominantly compliance based role, but will also involve some ad-hoc advisory work. Clients are predominantly HNW individuals and directors of local OMBs, so this role would suit someone currently working in a small or medium sized practice. This is a 35 hour week with flexitime and free onsite parking. **Call Alison Ref: 2952**

We all need a bit of light relief during Lockdown, so why not follow the adventures of **Hetty the Newfoundland** (*The Tax Hound*)?

www.linkedin.com/in/georgiana-head-7a339417/

Georgiana Head@GeorgianaHead

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Tax Partner / Partner Designate Lancashire £excellent dependent on experience longman tax recruitment	An opportunity has arisen to join one of the region's leading independent firms as a tax partner or partner designate. The firm, which is both long established and yet still successfully growing is highly rated and has a strong reputation in the OMB marketplace. Our client is willing to consider applicants who want to progress to become a future partner or those who prefer to remain as a highly valued and well rewarded director. The primary objective of the role will be to work closely with the tax partner and enhance the firm's tax advisory capabilities and help the continuing development of the tax practice. You will be expected to play an important role in the firm's marketing and business development activities and will be highly motivated, a great communicator and must be a committed team player.
Senior Tax Business Partner Edinburgh £50,000 – £60,000 Rutherford Cross	Our client is a market leading organisation based in central Edinburgh undergoing significant and sustained growth. An opportunity has arisen for a high calibre tax professional to join an established function that is responsible for all tax issues across the business, including business partnering, corporate structuring and corporate risk. Reporting directly to the Senior Tax Manager, the Senior Tax Business Partner will work with the finance function and partner with the business to deliver tax efficient and risk balanced acquisitions, divestments, developments and business integration projects.
Corporate Tax Advisor London £55,000 – £70,000 ct creative tax recruitment	I am recruiting for a ranked, award winning firm that always generate interest in the market. The practice is a tax focused business, with an outstanding record of growth. The role will involve you providing bespoke advice to a diverse range of client and working closely with the best partners in the business. The big "sell" with this role is the prospects. You don't have to "jump through hoops" to get promoted. The position is with a top, award-winning firm of chartered accountants who mainly work with entrepreneurial businesses and not-for-profit organisations. The company has a long history many of their clients are long standing. They believe in offering real value and an authentic relationship with their clients, regardless of their situation.
Group Tax & Treasury Manager Leeds Competitive financial package + benefits QA	Are you looking for an opportunity where you can truly own and grow our Tax and Treasury function? A. We have a niche opportunity to join our ambitious, market leading organisation, where results and ownership are key attributes to hold……come join our journey! As Group Tax and Treasury Manager you will oversee the Group's corporate tax and treasury responsibilities. Responsible for tax compliance, tax structuring, and cash management/ forecasting - working closely with the Group Controller, CFO & Senior Stakeholders.
Personal Tax Assistant Manager Cambridge To £45,000 + benefits HOWELLS CONSULTING	One of Cambridge's prominent accountancy firms is keen to grow its Private Client Tax team with the appointment of a personal tax advisor at Assistant Manager level. The individual will join a highly-respected team, advising HNW individuals including serial entrepreneurs, business owners, partners and landed wealth, on all areas of their personal taxation. The firm discourages long hours and has built a reputation for embracing work/life balance, without compromising careers. Full support will be provided with development towards Manager grade, with excellent prospects for progression into senior management in due course.

www.taxation-jobs.co.uk