June 2022

TAX ADVISER

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Chartered Institute of Taxation.

The long and winding road

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VAT savings for SMEs

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HELEN WHITEMAN
JANE ASHTON

A BIG thank you to all our volunteers

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From 1 to 7 June, we are celebrating Volunteers' Week. This is a time for us to say a BIG thank you to all our volunteers who play a key role in our organisations. During an exceptionally difficult couple of years, we are proud of the way our volunteers have adapted to keep our charities running smoothly and we thank them for their invaluable contribution.

Slowly but surely, we are resuming our face-to-face events and we were pleased to welcome 271 new Associate members of CIOT at the admissions ceremonies at the beautiful Drapers' Hall in April, alongside nine prizewinners, five Fellows and 36 Associates celebrating their 50 year membership with us. It was lovely to meet so many of you and your guests in person. We will be meeting many of the new ATT members at their admissions ceremonies in June.

The CIOT and IFS debate in the middle of May considered whether the government should introduce an online sales tax to pay for a reduction in business rates. This was a lively debate, and it was interesting to hear the different thoughts from our panel members.

Our next member events will be the ATT Annual Conferences in June and July. The live interactive sessions will cover topical tax issues and MTD. Attendees will also gain access to a further six recorded sessions including capital allowances, employment taxes, VAT, R&D, cryptoassets and electric cars – making a total of over six hours of CPD. Bookings are still open at www.att.org.uk/attcon2022.

Looking at expected developments in the second half of 2022, one with the potential to affect all members of both ATT and CIOT is the promised HMRC consultation which will explore 'options for improving the regulatory framework in the tax advice market'. This follows on from the wide-ranging March 2020 call for evidence on raising standards in the tax advice market and the more narrowly focused March 2021 consultation. That asked whether professional indemnity insurance (PII) should be made mandatory for all tax advisers and the linked question of how tax advice should be defined.

The key word in the previous paragraph is 'potential'. Discussions with HMRC and across the professional bodies on the inter-related issues of standards, regulation and protection of title have come and gone for well over a decade. It's easy to conclude that HMRC's files on the subject always get re-stamped *too difficult for now*. There is, however, one development which might increase the likelihood of this year's round of consultation and discussions significantly influencing the structure of the tax advice market. HMRC's November 2021 response to the PII consultation referred to 'the government's decision to consider the case for moving further towards statutory regulation, in line with our commitment to Lord Morse's recommendation that government establishes a more effective system of oversight for tax advisers.'

We have been actively involved in the debate so far and will continue to work to achieve a more unified tax advice market with high standards and in which consumers can trust.

Junior Tax Facts

As an educational charity, one of the objectives of both the ATT and CIOT is to advance public education in tax. While tax is something that affects all of us at some point, it does not generally feature in the curriculum and tax is not a topic that all teachers feel confident in tackling. Prior to the pandemic, we developed some lesson plans based on HMRC's Junior Tax Facts for members to use in the classroom (www.att.org.uk/hmrcs-junior-tax-facts). These visits were always well received, and we are starting to get requests again from schools now that they are allowing visitors in. If you would be interested in supporting your local school and running a session please let us know.

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Regulars

ONLINE PICKS OF THE MONTH

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SUSAN BALL
PRESIDENT

#thislittlegirlisme

> It has been estimated that 70% of females feel more confident about their futures after hearing from female role models.

Susan Ball
President
president@ciot.org.uk

For my first President's page, I would like to tell you a story about the little girl in the picture and about how she ended up as the President of the Chartered Institute of Taxation. Some of this story has never been told before – or at least not publicly. She struggled at a state school because she couldn't communicate on paper the things she wanted to say; she picked up some things very quickly, but others were a massive challenge. She could not understand why.

She never wanted to read aloud in front of others. When stressed, even her speech got muddled, whilst her written work didn't match what her teachers knew she knew. Finally, aged 13, she was told she was dyslexic. Dyslexia wasn't as well known and recognised then and, as her school didn't recognise the condition, she continued to hide it from the world. She hated getting schoolwork back with red pen all over it. This made her unhappy and depressed, and gradually her handwriting got worse – making it harder for someone to check the spelling!

She survived in education until A levels and then joined the world of work. She learned how to do the things she wanted and worked hard to achieve them, probably helped by being a type A personality (something Peter mentioned in his last President's Page in May).

She taught herself ways of coping and how to master some of the things she struggled with – technology helped. She found that working as a team – along with the 'four eyes' (i.e. two different people) review processes that are often found in professional firms – helped to fill in the gaps. She realised that she was pretty good at creative thinking and problem solving. When she focused intensely, she could read legislation and once she understood it could quickly apply it to lots of different situations and make connections others sometimes didn't see. She could also explain it clearly to others.

Why am I sharing this now? Because it is estimated that up to one in ten of us have some degree of dyslexia. The number of neurodivergent people is estimated to be around 20% of the global population. It has also been estimated that 70% of females feel more confident about their futures after hearing from female role models. So sometimes it just feels like the right time to come out and tell people stuff. Plus, this has helped to make me what I am today.

Back in 2007, I had the opportunity to help set up the Institute's Suffolk branch (with Helen Brookson, Rachel Skells and Andre Roden) and to be one of the first chairs. Then, as now, I thrived on talking tax with like-minded people and found it a great way to cement my knowledge and challenge my own thinking. This led to joining CIOT's Employment Taxes Forum and Employment Tax Committee, then Council and finally standing to be a member of the Presidential team. (Thank you in particular to Ray McCann for helping to convince me to stand.)

Which reminds me: Volunteers' Week is 1 to 7 June and I would like to personally extend my thanks to all of you who volunteer. Across Council, committees and the branches network, there are more than a thousand of you. Thank you for the tremendous amount of work you've put in. Volunteers deserve immense praise. Being a volunteer is a demanding task, so thank you for contributing so much of your time, energy, and efforts – it all helps the Institute thrive.

So, there you have it. I am very humbled and honoured to be the 57th President of the Chartered Institute of Taxation and the fourth female to take the role. Whilst undoubtedly we could (and hopefully will) improve that statistic, I am immensely proud that I am taking up the role at a time when both the CIOT and ATT have female CEOs in Helen Whiteman and Jane Ashton. I am very much looking forward to meeting as many members as I can over the coming year.

I am also fortunate to have an excellent Presidential Team working with me until May 2023 – Gary Ashford (Deputy President), Charlotte Barbour (Vice President) and Peter Rayney (as immediate Past-President). And before I sign off this piece, a couple more thanks. Firstly to my firm, RSM, for supporting me in taking on the role, and finally thank you to Peter for your support. A huge amount of respect to you, our outgoing President, for your 18 months of service largely in the Covid-19 pandemic, but also for being such a warm, generous and unflappable role model for me to try and follow.

#thislittlegirlisme is part of inspiring-girls.com/thislittlegirlisme #MADEBYDYSLEXIA

DAVID BRADSHAW
DEPUTY PRESIDENT

The 6.5 Special's steamin' down the line

> The ATT President's Reception at the London Postal Museum was a glorious evening and as always targeted at rewarding the many volunteers and supporters of the association.

I am writing this Welcome page at approximately 125 miles per hour – now that would impress even Don Lang and his Frantic Five.

I am heading south on a LNER train, again. It is always a delight both for the views of the countryside and for the anticipation of what is to follow. There is a little Bradshaw heritage on this line as another branch of the family pilot these magnificent pieces of engineering up and down the country. Indeed, my grandfather Bradshaw was a well-known mainline driver in the days of the Flying Scotsman and the Mallard. For those of you who are speculating about the connection to Bradshaw's Guide and Michael Portillo, I can confirm that has nowt to do with us northern Bradshaws.

To function as Honorary Treasurer of such an august body you need to practise what you preach. On this journey the splendours of First Class were a ridiculously reasonable £27.50 (you will need a full search of the LNER website and a senior railcard to achieve that glory).

Another memorable trip was from Newcastle to Cardiff to attend a Joint President's Luncheon at the Town Hall. Faced with an extortionate direct flight from Newcastle, I discovered a cheap ticket flying from Edinburgh for £20. I hopped on a train north and flew from Scotland to Wales. The problem was that the return journey required me to travel back to England by train and bus to Bristol to hop on another £20 flight back to Newcastle. *Trains, Planes and Automobiles*. Bargain. The only moment of doubt was when I boarded the airport bus to Cardiff city centre, and the driver addressed me in a broad Scottish accent.

Anyway the reason for my trip south was to represent the ATT at the Tolley's Taxation Awards 2022. I would like to congratulate Peter Rayney, the CIOT President, on receiving the award for Outstanding Contribution to Taxation 2021-22 by an individual. This was very well deserved.

At the beginning of May, we hosted another of our ATT Fellows' Webinars. Like the previous two, the event was led by ATT's three technical officers and again it was very well received. After the President's welcome, Emma Rawson gave a presentation on basis period reform. Fellows then had a choice of three discussion groups, 'The Trust Registration Service', 'The future of tax in a digital world' and 'Why don't we make better use of Statutory Reviews?' The feedback from Fellows at these sessions will be passed on to HMRC.

I was also delighted to attend Richard's President's Reception at the London Postal Museum, which was a glorious evening and as always targeted primarily at rewarding the many volunteers and supporters of the association. Among the highlight was a not quite white-knuckle ride on the Mail Rail, a subterranean network of tiny trains that used to deliver mail beneath the feet of the residents of the capital. Not one for the claustrophobic and we somehow emerged where we started without changing direction?

There is still work to do in my dual roles as Deputy President and Honorary Treasurer before handing over to Simon Groom and Katharine Lindley respectively.

Firstly, Katharine, my apologies for not explaining fully the many and various duties of the role of Honorary Treasurer. You might never have accepted the position which you are uniquely qualified to hold if you had known, but you will steer the finances with admirable caution.

And Simon, time to sharpen your pencil. This is my last welcome page as Deputy President, and I hope you have not minded my habit of reminiscence. Mine has been a long (and not necessarily illustrious) career starting in January 1974 listening to Arnold Homer explain the vagaries of the tax system in the early seventies and culminating in the massive honour of becoming the Association's President in July – 48 years later. I am quietly confident that I have two or three years left in me to make 50 years. I was recently bequeathed a gold watch from an uncle who ascended to a higher place last year. Perhaps I can present that to myself in 2024.

Or should I wait until 2026 to mark 50 years since I pitched up in the Birmingham office of KPMG in my gloriously flared trousers and jacket with massive lapels – think Noddy Holder only without the sideburns.

David Bradshaw
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How to reduce the burden

Make better use of technology

The time has surely come to reduce the burden of tax returns on millions of taxpayers.

by Bill Dodwell

One of the best series of events – at least in my view(!) – is the History of Tax events run by the Worshipful Company of Tax Advisers and often hosted by the CIOT (see bit.ly/3lCfLxn). It was here I learnt about the precedent value of the Magna Carta (Professor Jane Frecknall-Hughes) and in October 2011 about the invention of the PAYE system, from John Pearce.

The PAYE system was introduced in 1944 as the Inland Revenue was very concerned that the growth in incomes during the Second World War could mean that many might not be able to pay their tax. Before WW2, about 10% of adults paid income tax; by the end of the war that had risen to about 30%. The idea of withholding tax from payments to employees should mean that far fewer people would have an unexpected tax bill, many months after they had received the income.

Time for the next step

The PAYE system defines the UK tax system for individuals. Employers and pension payers do the work for most of us by calculating the correct amount of tax due, deducting it and sending it off to HMRC. The point of the clever but impenetrable tax code is to personalise the deductions from or additions to taxable income, so that for millions of people the PAYE deductions represent their final tax liability. All this means that out of about 31 million income tax payers, only 12 million are required to complete a tax return.

Surely the time is approaching when we should consider using technology to reduce the burden of tax returns for millions of taxpayers?

HMRC data based on the Survey of Personal Incomes shows that in 2019/20 about 2 million individuals received rental income; 13.9 million received bank/building society interest; and 4.2 million received dividends (see bit.ly/3MK9yeP). In the same year, about 5.3 million received self-employment income (see bit.ly/3sTsYWG), with 1.5 million of those also having rental, interest or dividend income.

Two reports in 2019 and 2021 from the Office of Tax Simplification have discussed extending the reporting system to cover some or all of these income sources (see bit.ly/3PFIsXW and bit.ly/3sS24hT). The 2021 report found a broad welcome for more reporting, both from taxpayers and from potential data providers. Both groups had some reservations. For taxpayers, it was making sure that there is a suitable way to manage errors. For data providers, such as banks, the key issue is to specify the data needed and the manner of providing it well in advance, so that new systems could be designed – and additional data obtained from individuals.

The essential elements

One vital aspect of data reporting will be having a unique taxpayer reference in a digital format, so that data can be accurately provided to HMRC, whose systems can then automatically populate the correct taxpayer account. The national insurance number is what is used for PAYE and it must be the main contender for broader use. A decision from government would be needed in this area and additional systems introduced to ensure that every adult had a personal tax identifier (at present, not everyone has an NI number). Data providers would need time and systems to collect and verify these identifiers.

HMRC will need time to develop the forthcoming Single Customer Account, underpinned by the single customer record, which will gather the necessary data from different HMRC systems. This vital programme has been funded by the Treasury for the next three-year spending cycle.

Perhaps the big question for ministers and HMRC is how we should best use technology. Should it be a background reporting aid, reducing administrative tasks for individuals and increasing overall accuracy of reporting, or should it take over the management of the system? This apparently simple question has implications for general understanding of the tax system, error correction and ultimately trust in our tax system and tax authority. Work at the Exeter-based Tax Administration Research Centre highlights that we are all too accepting of figures presented to us (see bit.ly/3sRx9lI). However, its research shows that this can be mitigated by carefully designed 'nudges' tailored to the individual (see bit.ly/3Ny291Y). 'Nudges shown inappropriately to individuals lead to an increase in filing errors, while correctly shown nudges lead to substantial reductions in errors only if they are prescriptive in nature; generic nudges lead individuals to replace one filing error with another.'

Greater involvement of technology and third parties in tax reporting brings benefits and is inevitable. However, we need to work hard on transparency, presentation and error correction to promote broad understanding of and trust in the tax system.

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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.

The long and winding road
The rules on travel and subsistence

As our working patterns shift and more of us move to hybrid working, what impact will this have on claiming tax relief for travel and subsistence expenses?

by Susan Ball and Lee Knight

The coronavirus pandemic has significantly changed the way we work. Homeworking has become the norm for many more employees who previously spent all or almost all of their time in offices. Millions of us are now working from home for two or three days each week and spending the rest of the working week in the office. Homeworking and hybrid working appear to be here to stay.

That all sounds familiar and straightforward but the nub of the problem is that, for travel and subsistence expenses, even though more employees work remotely and/or are much more mobile than they used to be, the current tax rules covering employee travel and subsistence have not changed substantively since April 1998.

It was widely hoped back in 2016, when the last review of the travel and subsistence rules took place, that some of the shortcomings in the rules might be addressed. But the fact they were not should come as no real surprise, as the 1998 amendment itself aimed to change rules that had dated back some 140 years.

While travel and subsistence is an area of compliance that seems straightforward on the face of it, it can actually be extremely complex for employers to understand and get right. It is no coincidence that HMRC has issued a guidance booklet with over 70 pages to help explain the rules, and that it focuses on travel and subsistence during its reviews of employer records.

In the past, HMRC has undertaken detailed reviews of situations where employees have a workplace at home but also another elsewhere (such as their employer's headquarters) and the employer meets the cost of journeys between their home and the other workplace; or where the employer is paying travel and subsistence expenses for what they believe is a move covered under the 'detached duty' rules allowing for the amounts to be paid tax free. With the move to widespread hybrid working, we expect to see HMRC increasing its focus on these types of travel and subsistence expenses.

Within the current system, there are two main things to bear in mind relating to travel and subsistence.

The first (under the Income Tax (Earnings and Pensions) Act (ITEPA) 2003 s 337) is that tax relief is provided for 'travel in the performance of the duties of the employment'. In other words, relief is given for travel that is an intrinsic part of an employee's job and may include journeys between two workplaces. This rule is generally well understood by employers and often applied correctly in practice, but this could change going forward as more employees work from home and employers incorrectly

conclude that their employees' homes are workplaces for tax purposes.

However, it is in relation to the second rule (under ITEPA 2003 s 338) – which provides tax relief for necessary journeys to workplaces that employees must attend for work purposes, apart from those amounting to 'ordinary commuting' – that problems most often arise.

Key terms and considerations

The key terms and considerations needed to understand the rules are summarised below. Note that the rules for subsistence are similar to those for travel. If a business journey is allowable for tax purposes, the subsistence cost attributable to that journey generally is also allowable, unless there are issues around excessive expenditure, dual-purpose trips, and round sum or benchmark allowances.

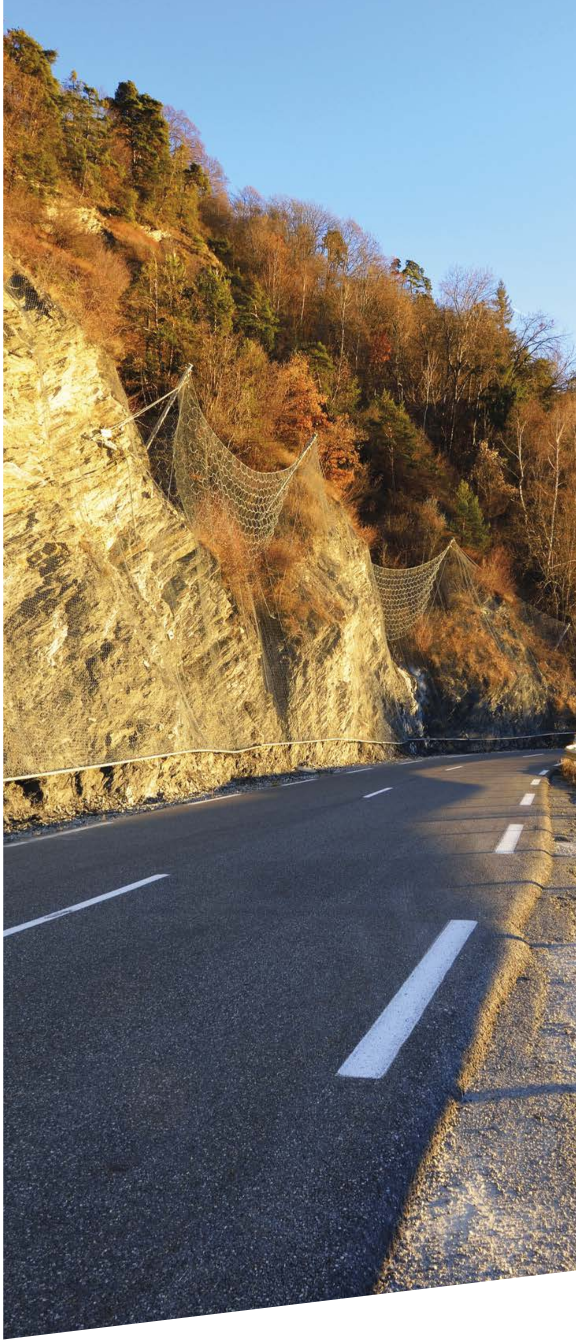
Travel and subsistence expenses which attract tax relief and satisfy the exemption for paid or reimbursed expenses (ITEPA 2003 s 289A) do not need to be reported to HMRC.

Any travel expenses paid by the employer which do not attract tax relief, and which are not exempted by ITEPA 2003 s 289A, will (depending on the circumstances and subject to a PAYE Settlement Agreement being in place to cover such costs) either need to be:

- reported and dealt with at the tax year-end on forms P11D and P11D(b);
- reported and subjected to tax and Class 1 National Insurance Contributions (NIC) under PAYE at the time of payment; or
- reported and dealt with at the tax year-end on forms P11D for tax purposes and subjected to Class 1 NIC under PAYE at the time of payment.

HMRC penalties for non-compliance can be costly. For example, if incorrect P11Ds are filed negligently, a penalty of up to £3,000 per form can be levied by HMRC (although normally only in the most serious cases).

It could also mean that employers are liable for any tax and NIC that has been underpaid, potentially on a grossed-up basis, plus late payment interest. This can get expensive and large settlements have been seen on HMRC compliance reviews covering travel and subsistence expenses, particularly for large businesses. Settlements are often in relation to homeworkers having another permanent workplace and being paid for their travel expenses between their homes and those permanent workplaces; and travel from home to places which are not considered to be a temporary workplace.



WHAT ARE KEY STEPS EMPLOYERS SHOULD TAKE TO GET IT RIGHT?

- Undertake a review and record where employees are based for travel and subsistence purposes, and where they regularly claim travel and subsistence expenses.
- Make sure that key people in the organisation understand the rules in the context of their own workforces.
- Make sure policies are clear on what travel and subsistence expenses employees can claim.
- Regularly review patterns of work to ensure it is clear which expenses can be claimed and what tax treatment needs to be applied.
- Ensure that adequate information is provided when expenses forms are completed, so that the correct tax treatment can be applied.

1. Permanent workplace

A 'permanent workplace' is considered to be somewhere that an employee works regularly to perform their duties of employment. In many instances, it can be clear whether or not somewhere is an employee's permanent workplace and, therefore, whether a journey to it can be deemed ordinary commuting. It is also possible for an employee to have more than one permanent workplace at the same time.

Travel to or from a permanent workplace and an employee's home is generally treated as private rather than business travel, and so tax relief is not due on any related costs that are paid or reimbursed by an individual's employer.

Necessary travel which takes place between one permanent workplace and another while an employee performs their duties of employment during the working day is treated as business travel and attracts tax relief.

2. Temporary workplace

A 'temporary workplace' is somewhere the employee attends to perform a task of limited duration or for a temporary purpose. So even if they attend it regularly, it may still not be classed as a permanent workplace.

There is, however, a special rule which treats a workplace that would otherwise be a temporary workplace as a permanent workplace, where an employee spends or is likely to spend more than 40% of their working time at that workplace over a period that lasts or is likely to last more than 24 months (known as the '24 month/40% rule').

Bear in mind that the 24 month/40% rule treats locations that would otherwise be 'temporary workplaces' as 'permanent workplaces'. If the workplace is not temporary in the first place (as it does not meet the definition laid out in the Employment Income Manual at EIM32075), the workplace would already be treated as a permanent workplace.

Travel to or from a temporary workplace and an employee's home is generally treated as business rather than private travel; and so tax relief is due on any related costs that are paid or reimbursed by an individual's employer, unless it is substantially the same journey in which case no deduction is allowable (ITEPA 2003 s 338(2)).

Such distinctions can be confusing – and as highlighted above, this is one of the areas of travel and subsistence on which HMRC focuses its attention. Employers often fail to consider the task involved or the purpose for working at a given location, which is what the legislation requires.

The employee's attendance is not in question; the issue is whether the task itself will be undertaken for a limited duration or whether it is performed for a temporary purpose. The trouble is that many employers fail to look too deeply at the matter and simply consider the '24 month/40%' rule, without first considering whether the workplace is capable of being a temporary workplace.

HMRC may ask for contracts, diaries and job descriptions in order to determine whether the locations visited meet the definition of a 'temporary workplace'. Covid-19 has also presented a particular issue in that HMRC's view is that the clock remained ticking even when government gave instructions to work from home where possible, so many employers are likely to find the 24 month period has expired during the last few years while employees have been working from their homes.

It should also be remembered that the word 'task' is not defined in the legislation. As a result, the normal dictionary definition applies. Here a 'task' is something specific; for example, a piece of work, rather than a group of things to do, which is the nature of a job more generally.

3. Ordinary commuting

For most employees, 'ordinary commuting' is the journey they make most days between their home and permanent workplace. Travel and subsistence expenses would normally be taxable here if the costs of ordinary commuting were paid for or reimbursed by their employer, or if travel facilities were provided.

But for some staff, the situation is more complicated. For example, if the journey to a temporary location is broadly the same as an employee's ordinary commute to their permanent workplace, tax relief would be denied on the basis that the journey is normally treated as private travel.

This rule applies generally if the journey is in the same direction or on the same route, and amounts to less than 10 miles extra each way than the normal commute. This area is rarely explained in most employers' travel and expenses policies but is again something that HMRC is increasingly focusing its energy on, particularly in major towns and cities.

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4. Working from home

A key consideration when moving to a homeworking arrangement is whether the employer will meet the cost of the employee's travel between their home and the office when they do travel into the office. This is of particular relevance to hybrid working arrangements.

HMRC recently updated its guidance covering employees who work from home (EIM01471) to cover hybrid working. It now includes 'Travel in the performance of the duties: travel to and from home where it is a place of work' at EIM32370. The clear challenge with hybrid working is that when employees do travel into the office, often the statutory conditions in ITEPA 2003 s 337 will not be met for home to be a workplace for tax purposes, and under ITEPA 2003 s 338 the office will remain a permanent workplace.

Employers must therefore be clear when agreeing hybrid or homeworking arrangements which travel and subsistence expenses can be paid tax and NIC free and which cannot.

Employers need to be clear which travel and subsistence expenses can be paid tax and NIC free and which cannot.

EIM32174 covers 'Travel for necessary attendance: employees who work at home: a hybrid working: example'.

In rare cases, ITEPA 2003 s 337 may apply, allowing for tax relief between the home (as a workplace) and another permanent workplace, as covered in EIM32370. The problem with applying ITEPA 2003 s 337 to hybrid working is that in many cases the location of the home isn't dictated by the requirements of the job. HMRC notes: 'For most people, the place where they live is a matter of personal choice. So the expense of travelling from home to any other place is a consequence of that personal choice, not an objective requirement of their job.' The relief in ITEPA 2003 s 337 is therefore unlikely to apply to the majority of homeworking and hybrid working arrangements. It is worth noting that HMRC's guidance says:

> 'Most employers provide all the facilities necessary for work to be carried out at their business premises. So where employees work at home, they usually do so because it is convenient rather than because the nature of the job actually requires them to carry out the duties of their employment there. However, where it is an objective requirement of an employee's duties to carry out substantive duties at the home address, then his or her home is a workplace for tax purposes.'

ITEPA 2003 s 338 then needs to be considered. This allows tax relief for travel expenses for the necessary attendance at any place in the performance of the duties of employment. To determine whether tax relief is due under s 338 for journeys between an employee's home and their employer's business premises, we need to consider whether the employee is travelling to a permanent or temporary workplace (see definitions above).

HMRC often quotes the case of *Kirkwood v Evans* [2002] EWHC 30 when looking at a 'working from home' situation. It concluded that although Mr Evans went to the Leeds office for only one day a week, it was a permanent and continuing part of his duties to do so. The judgment dealt with the situation briefly in a single paragraph, also stating that Mr Evans had conceded that the Leeds office was not his temporary workplace, even though the General Commissioners had concluded it was. The judge justified this view by saying: 'This attendance was both regular and was not for the purpose of performing a task of limited duration or for some other temporary purpose.'

Perhaps Mr Evans was ill-advised to admit that Leeds was a permanent workplace. It could be argued that he undertook certain specific tasks each time he went there that were of limited duration; namely, delivering work he had performed since his last visit, taking new work with him, and downloading information from a database. On the other hand, HMRC seemed to argue that the word 'task' refers to doing these things each week on a continual basis.

There are, of course, also other special rules to consider on top of the above that cover areas relating to international trips, area-based and depot-based employees together with emergency call-outs.

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Student loan repayments
You'd better get planning!

The repayment of student loans is becoming increasingly complex due to the growing number of repayment plans. We consider the different plan types, how and when student loans are collected through the tax system and how repayments work if the borrower has more than one type of loan.

by Claire Thackaberry

From 1998 onwards, income-contingent student loans are usually collected by HMRC on behalf of the Student Loans Company either through a deduction via the PAYE system or through self-assessment tax returns. This article explains about the different plan types, how and when student loans are collected through the tax system and how repayments work if the borrower has more than one type of loan. It also discusses some quirks within the repayment process.

The Student Loans Company's online repayment service is evolving with increasing options to make changes online. The 'more frequent data sharing' process between HMRC and the Student Loans Company should mean that loan balances are updated after every PAYE deduction.

Income-contingent student loans fall under various 'plan' types and repayments differ according to which loan (or loans) the borrower has. A new loan repayment type, Plan 4, was introduced in 2021/22 for students who received loans from the Student Awards Agency Scotland. Borrowers on Plan 4 loans include new borrowers who started their repayments after April 2021 and Scottish Plan 1 borrowers whose loans have been moved to being repaid under Plan 4.

The 2021/22 self-assessment tax returns will be the first time Plan 4 loan repayments are included. Taxpayers filing their tax returns using HMRC online services should have any loan repayments deducted through the PAYE system automatically pre-populated on their self-assessment tax returns.

Student loan repayments

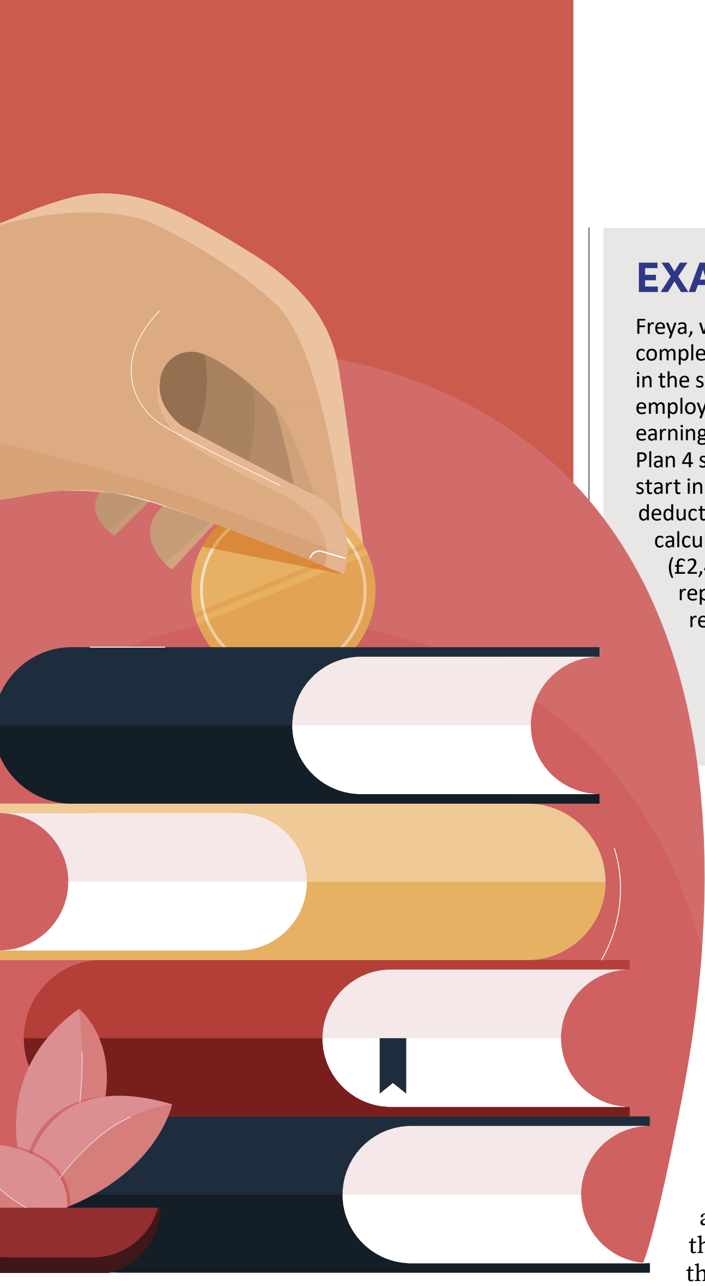
Student loan repayments usually start from the April after graduating or leaving the course if the borrower is earning above the relevant repayment threshold. So, if graduating in the summer of 2022, the first time a loan repayment will be made is April 2023, assuming that earnings are above the repayment threshold for the relevant plan type and there are no other income-contingent loans from previous courses.

Key Points

What's the issue?
Many student loan borrowers repay their loans through the UK tax system (under The Education (Student Loans) (Repayment) Regulations 2009). The number of borrowers repaying student loans through the tax system will continue to increase each year and the introduction of the 'lifelong loan entitlement' will mean even more people repaying their loans through PAYE and/or self-assessment.

What does it mean for me?
Tax advisers completing self-assessment tax returns need to understand how loan repayments through the tax system work for the various plan types and in different circumstances, such as working overseas or changing jobs.

What can I take away?
The importance of obtaining complete information from individuals on their student loans and understanding how repayments work, especially if they also have a postgraduate loan, unearned income or are working abroad.



EXAMPLE: FREYA

Freya, who has a Plan 4 loan, completed her undergraduate course in the summer of 2021 and started employment in September 2021, earning £29,000 per annum. Her Plan 4 student loan repayments would start in April 2022 with monthly deductions of **£27.18**. This is calculated as monthly earnings (£2,416.66) less the monthly Plan 4 repayment threshold at the 9% repayment rate.

£2,416.66 – £2,114.58 = £302.08
£302.08 x 9% = **£27.18**

EXAMPLE: HARVEY

Harvey, who has a Plan 1 student loan, is self-employed and makes profits of £32,000 in the 2022/23 tax year. He also has rental profits of £6,500 (note that for residential lets, this is before deducting finance costs – see tinyurl.com/yyzswx2h). His student loan repayment for the 2022/23 tax year would be **£1,647.45**.

This is calculated as:

£32,000 + £6,500* = £38,500
£38,500– £20,195 (Plan 1 threshold) = £18,305
£18,305 x 9% = **£1,647.45**

*Note: The full amount of unearned income is included as it is above £2,000.

Employees

Employees will have their earnings for student loans purposes calculated in the same way as they are for National Insurance contributions (NIC), as shown in ***Example: Freya*** above. The repayments are deducted through PAYE so it is important that the correct plan type is used by the employer – the employee should state the correct loan plan on their starter checklist.

If student loan repayments are not due at the point of starting a job, no such box will be ticked on the starter checklist. If repayments are then due to begin from the following April, HMRC should send a start notice to the employer at the appropriate time.

If an employee's monthly wages vary and they earn above the monthly repayment threshold in some months, then the student loan repayments will be deducted, even if their annual earnings are below the annual threshold.

If an employee has two unconnected jobs which individually pay below the repayment threshold but cumulatively are above the repayment threshold, no student loan repayments should be deducted through PAYE as each job is looked at separately. However, this position changes if a self-assessment tax return is filed (see below).

> **Taxpayers filing a self-assessment tax return will have their student loan repayments calculated as part of the self-assessment process.**

Self-assessment

Taxpayers filing a self-assessment tax return will have their student loan repayments calculated as part of the self-assessment process. Payments will be due on 31 January following the tax year and are not included in payments on account. There are some additional points to be aware of when completing a self-assessment tax return:

- If the taxpayer has changed jobs during the tax year, their P60 will only have the student loan

THE DIFFERENT PLANS

The table below shows some of the principal features of the various plans:

Loan type	Borrowers generally included	Repayment threshold (2022/23 tax year)	Repayment rate
Plan 1	• Northern Irish undergraduates and postgraduates • English and Welsh undergraduates if they started the course before 1 September 2012	£20,195	9%
Plan 2	• English and Welsh undergraduates if they started the course on or after 1 September 2012 • Advanced Learner Loans from 1 August 2013	£27,295	9%
Postgraduate	English and Welsh postgraduate loans where repayments started after 5 April 2019	£21,000	6%
Plan 4	Scottish borrowers after April 2021	£25,375	9%

EXAMPLE: ISHY

Ishy is employed and earns £45,000 per annum and has both a Plan 1 and Plan 2 loan. She will only see one student loan deduction on her payslip. For the entire 2022/23 tax year, repayments total **£2,232.45** (or £186.03 per month). These repayments will be split between her two student loans as follows:

Plan 1 loan:
£27,295 (Plan 2 threshold)
– £20,195 (Plan 1 threshold) = £7,100
£7,100 x 9% = **£639**

Plan 2 loan:
£45,000 – £27,295 (Plan 2 threshold)
= £17,705
£17,705 x 9% = **£1,593.45**

Total repayment:
£639 + £1,593.45 = **£2,232.45**

> **If the individual is working and being paid abroad, then upon evidence of their salary they will probably make repayments directly to the Student Loans Company.**

repayments from their most recent employment, and details of loan repayments through a previous job will not be shown on their P45. Individuals in this position need to check payslips from their previous employments to include the correct amount of loan repayments on their self-assessment tax return.

- Student loan repayments will be calculated on all earned income (employment income and profits from self-employment). So, if an individual has more than one employment, their repayments will be calculated on the cumulative earnings even if the jobs are unconnected and individually pay below the relevant repayment threshold.
- Where there is earned income above the relevant loan repayment threshold and the taxpayer has unearned income above £2,000 per tax year, then the *whole amount* of the unearned income is included in the loan repayment calculation (see ***Example: Harvey***).

EXAMPLE: MILES

Miles is self-employed and is repaying both his Plan 2 and postgraduate loans. For the 2022/23 tax year, his profits from self-employment were £33,750 and his annual loan repayments calculated on completion of his self-assessment tax return are **£1,345.95**. This is calculated as follows:

Plan 2 loan:
£33,750 – £27,295 (Plan 2 threshold)
= £6,455
£6,455 x 9% = **£580.95**

Postgraduate loan:
£33,750 – £21,000 (postgraduate threshold = £12,750
£12,750 x 6% = **£765**

Total repayment:
£580.95 + £765 = **£1,345.95**

Nearing full repayment

When coming to the end of repaying student loan(s) there can be a risk of overpaying, so the Student Loans Company recommends that borrowers in the last 23 months of expected repayments switch to paying them directly by direct debit rather than continue paying via HMRC. The Student Loans Company should contact affected borrowers, so it is important that they have up to date contact details for the taxpayer.

More than one student loan

Some borrowers will have more than one student loan. As explained above, loan repayments usually start the April after finishing a course, so if a borrower starts earning above the relevant repayment thresholds upon completion of a second course, then they will start loan repayments for the earlier loan immediately. However, repayments for the second loan will start from April.

Except for postgraduate loans (see below), one repayment is deducted through the tax system but this is split between the loans. This allocation is best shown in ***Example: Ishy***.

However, when paying back both graduate and postgraduate loans the repayments are calculated and, if applicable, repaid concurrently. This is illustrated in ***Example: Miles***.

Other points to note

This article touches on some of the basic points regarding how student loan repayments are calculated and collected through the tax system but below are a few additional facts that may be helpful.

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Cancelling student loans on death

The Tell Us Once process of notifying a death to various government departments such as HMRC does not include the Student Loans Company. It will have to be notified separately to cancel any outstanding student loan debts.

Going abroad

If going abroad for more than three months, the taxpayer must notify the Student Loans Company. Also, if the individual is working and being paid abroad then upon evidence of their salary they will probably make repayments directly to the Student Loans Company through a direct debit, so no longer via HMRC. There are different repayment thresholds for different countries, which are calculated by considering relative costs of living.

On returning to the UK after paying the Student Loans Company directly, there may be an issue when completing the relevant self-assessment tax return. Loan repayments are usually calculated on worldwide income but the overseas income has already been accounted for by the direct repayments to the Student Loans Company. HMRC should be contacted to make sure the taxpayer does not make overpayments.

Future changes for borrowers in England

There have been some recent announcements affecting student loans such as a new loan plan (Plan 5) from September 2023. There are also new Higher Education short course loans available from September 2022 (treated as Plan 2 loans for repayments) and the development of the 'lifelong loan entitlement', which aims to allow people to study either full time or in shorter intervals over a longer period. These new loans will continue to be repaid through the tax system and further details will be published in due course.

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The time is nigh
The Register of Overseas Entities

Legislation for the Register of Overseas Entities will require the registration of overseas legal entities that acquire UK land, as well as many existing holdings. Information will be due within six months of the Register coming into force.

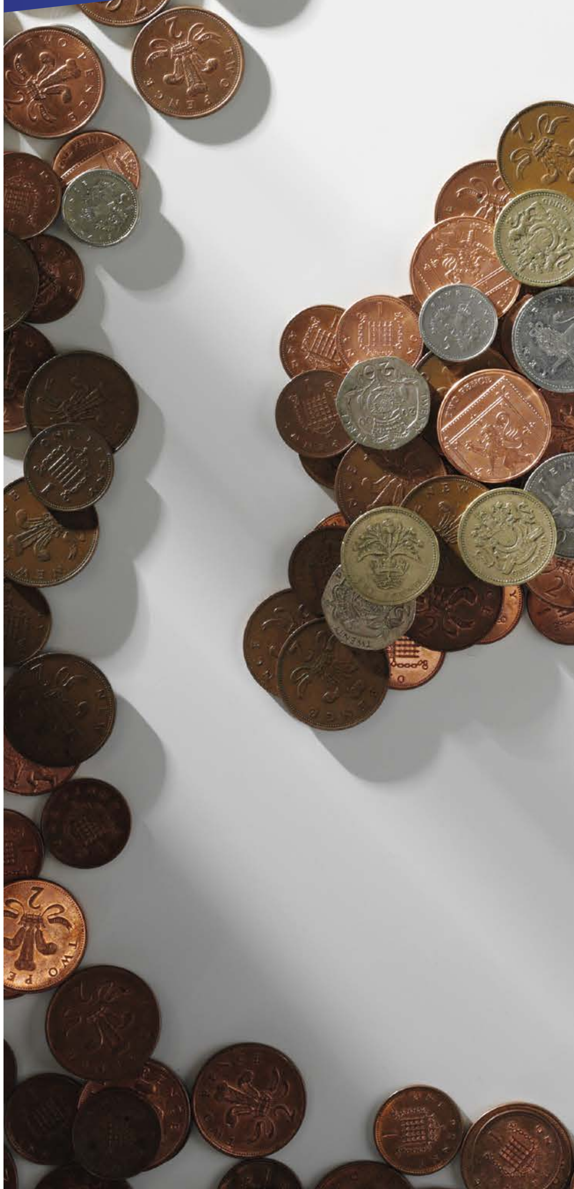
by Michelle Robinson

Key Points

What is the issue?
The Economic Crime (Transparency and Enforcement) Act 2022 legislates for the introduction of a publicly accessible register of overseas legal entities that own UK land and their beneficial owners – the Register of Overseas Entities.

What does it mean for me?
Registration will be required in relation to both newly acquired UK land and many existing holdings of UK land. There will be a transitional six month period for registrations to be completed once the register comes into force.

What can I take away?
Failure to comply with the registration requirements will affect an overseas entity's ability to buy and sell UK land, and to create a charge over land. Failing to update the register will also be a criminal offence which may result in financial penalties and imprisonment.



The Economic Crime (Transparency and Enforcement) Act ('the Act') became law on 15 March 2022. Among other matters, the Act legislates for the introduction of a publicly accessible register of overseas legal entities that own UK land and their beneficial owners – the Register of Overseas Entities ('the register'). This article provides a high-level overview of the register which will be maintained by Companies House.

Overview of the register

Registration will be required for many existing holdings of UK land, as well as new acquisitions. There will be a transitional six month period for registrations to be completed once the register comes into force. Disposals by overseas entities between 28 February 2022 and the end of the transitional period will also need to be notified.

Failure to comply with the registration requirements will affect an overseas entity's ability to buy and sell UK land, and to create a charge over land. Failing to update the register or provide required information will be a criminal offence which may result in financial penalties and imprisonment.

The Act enables the Secretary of State to specify a date from which the register will come into existence. A written ministerial statement issued by the Department for Business, Energy and Industrial Strategy on 26 April 2022 confirmed that the government is working to ensure the register is in place as soon as is reasonably practicable, taking account of the need for secondary legislation and Companies House systems.

Definition of overseas entity

'Overseas entity' means a legal entity that is governed by the law of a non-UK country or territory. 'Legal entity' means a body corporate, partnership or other entity that is a legal person under its governing law. Tax residence is not taken into account, which means that registration will be required by non-UK incorporated but UK tax resident companies, where the other conditions for registration are met.

Trusts do not typically have the legal personality needed to be required to register. However, registration may be required by overseas legal entities owned by trustees, which could lead to the disclosure of information about the trust and associated individuals.

While trusts do not need to register on the Register of Overseas Entities, most UK trusts and certain non-UK trusts, including non-UK trusts that acquire UK land after 5 October 2020, will need to be added to the UK's separate trust register. Members of the public can access beneficial ownership information about registered trusts if they have a 'legitimate interest' in the information held, or more widely in certain cases where a trust controls a non-EEA entity.

Overseas entities that must register

Beneficial ownership information will need to be provided before an overseas entity can register the legal title, a long lease or a charge against UK land.

Unregistered overseas entities may be restricted from registering a disposal of UK land and an offence may be committed if an unregistered overseas entity disposes of UK land.

Overseas legal entities will need to register if they already own:

- land in England or Wales that was acquired on or after 1 January 1999; or
- Scottish land that was acquired on or after 8 December 2014.

For England and Wales, 'land' ownership for this purpose is a freehold estate or a leasehold estate granted for a term of at least seven years. Northern Irish land may trigger a registration requirement if it is a freehold estate or a leasehold estate in land granted for a term of at least 21 years. Scottish land must be registered if it is a registrable deed which is a standard security or a 'qualifying registrable deed', which is defined as being a registrable deed which is a disposition, a standard security, a lease or an assignation of a lease.

Overseas entities will need to provide information to Companies House if they dispose of land between 28 February 2022 and the end of the six-month transitional period.

Registering overseas legal entities

Registration applications

Registration applications from overseas entities must include:

- a statement concerning the information provided about registrable beneficial owners and, where obtained, the required information (see below);
- a further statement that the overseas entity has complied with its duty to take steps to identify beneficial owners;
- any further information required under separate regulations that have not yet been laid relating to the verification of registrable beneficial owners and managing officers; and
- the name and contact details of a person who may be contacted about the registration.

The Secretary of State may make further regulations about statements to be made and information to be provided.

Registration applications that are made within the six-month transitional period following the introduction of the register must also contain either confirmation that there have been no dispositions of UK land between 28 February 2022 and the end of the six-month period, or will need to provide the statements and the information specified below as it stood or stands at the date of disposal. The date of disposal and

STATEMENTS AND REQUIRED INFORMATION

Overseas entities must submit one of three statements to Companies House and supply required information. Information must always be submitted concerning the overseas entity itself, with the additional information required varying depending on which statement is submitted. The three statement options and required information are as set out below:

Statement	Required information
Statement 1: The overseas entity has identified one or more registrable beneficial owners, has no reasonable cause to believe there are other registrable beneficial owners and is able to provide the required information about each registrable beneficial owner it has identified.	• The required information about the overseas entity. • The required information about each registrable beneficial owner that the entity has identified.
Statement 2: The overseas entity does not have reasonable cause to believe it has any registrable beneficial owners.	• The required information about the overseas entity. • The required information about each managing officer of the entity.
Statement 3: The overseas entity has reasonable cause to believe that there is at least one registrable beneficial owner it has not identified and/or the entity cannot provide the required information about at least one registrable beneficial owner it has identified.	• The required information about the overseas entity. • The required information about each managing officer of the overseas entity. • The required information about each registrable beneficial owner that the entity has identified, or so much of that information as it has been able to obtain.

In addition, if a registrable beneficial owner is a trustee, the application must also include:

- a statement as to whether the overseas entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain; and
- the required information about the trust, or so much of the required information as has been obtained.

registered title number of the land (or title number of the title sheet for Scottish property) will also need to be provided. Exceptions from this requirement apply in some circumstances, such as where the disposal is or was required due to a court order.

Updating the register

Annual updates or confirmation that there are no reportable changes will be required. The deadline for this is 14 days within the end of each year based on the anniversary date of the overseas entity first registering, unless the overseas entity changes the due date by shortening an update period and providing information by an earlier date.

Each annual update must include the information required as set out in the box above to register. The entity must also either:

- confirm it has no reasonable cause to believe that anyone has become or ceased to be a registrable beneficial owner during the update period; or
- provide details and relevant dates of each person who became or ceased to be a registrable beneficial owner during the update period, or as much information as the entity has been able to obtain.

Registrable beneficial owners

The definition of 'registrable beneficial owner' is intended to align with that which applies to the UK's separate People with Significant Control (PSC) register that applies to UK legal entities. Individuals, legal entities, governments and public authorities can be registrable beneficial owners. Governments and public authorities are not considered further in this article.

Individuals and legal entities are registrable beneficial owners if they meet one or more of the below conditions:

- They directly or indirectly own more than 25% of the shares in the overseas entity.
- They directly or indirectly own more than 25% of the voting rights in the overseas entity.
- They hold the right, directly or indirectly, to appoint or remove the majority of the board of directors.
- They have the right to exercise, or actually exercise, significant influence or control over the overseas entity.
- Where trustees of a trust or members of a partnership, unincorporated association or other entity that is not a legal person under its governing law meet the above listed conditions in their capacity as trustees, etc. and have the right to exercise, or actually exercise, significant influence or control over the activities of that trust or entity.

Legal entities are not registrable beneficial owners if they are subject to their own disclosure requirements, as defined. This includes companies that must register on the PSC register and eligible Scottish partnerships which are within the scope of the Scottish Partnership (Register of People with

INFORMATION TO BE PROVIDED

Overseas entities
The information that must be provided about an overseas entity itself is its: a) name; b) country of incorporation or formation; c) registered or principal office; d) service address; e) an email address; f) its legal form and the law by which it is governed; and g) details of any other public register holding details of the entity and any registration number.

Registrable beneficial owners
Where the registrable beneficial owner(s) is an individual, the information that must be disclosed is their; a) name, date of birth and nationality; b) usual residential address; c) service address; d) the date on which the individual became a registrable beneficial owner of the entity; e) specification of which of the beneficial ownership conditions are met; f) whether the individual is a registrable beneficial owner by virtue of being a trustee; and g) whether the individual is a designated person under the Sanctions and Anti-Money Laundering Act 2018, if that information is publicly available.

Similar information is required in relation to legal entities such as companies that are registrable beneficial owners, except that companies do not have to provide date of birth or nationality and instead of providing a usual residential address companies must provide a registered or principal office.

Trusts
Where information must be provided about a trust, the information to be provided is: a) the trust's name if it has one, or a means by which it can be identified if it does not; b) the date the trust was created; c) in relation to each registrable beneficial owner who is a trustee, the person's name and the date the person became and (where applicable) ceased being a registrable beneficial owner due to their trustee role; and details of: d) all trust beneficiaries; e) settlors or grantors; and f) each 'interested person' with rights over the appointment or removal of trustees or the exercise of the trustees' functions, which may include trust protectors.

The information that must be provided for trust beneficiaries, settlors or grantors and interested persons is, in the case of individuals, their: a) name; b) usual residential address; and c) service address. For legal entities, the information to be provided is the legal entity's: a) name; b) registered or principal office; c) service address; d) legal form and law by which it is governed; and e) any public register in which it is entered, and its registration number, if applicable.

Managing officers
Where information must be provided about managing officers, the information to be provided is each individual's: a) name, date of birth and nationality; b) (usually) any former name; c) usual residential address; d) a service address; e) business occupation (if any); and f) a description of the officer's roles and responsibilities for the overseas entity.

For managing officers other than individuals, the information to be provided is the managing officer's: a) name; b) registered or principal office; c) service address; d) legal form and governing law; e) any public register on which the managing officer is entered and, if applicable, its registration number; f) a description of the officer's roles and responsibilities for the overseas entity; and g) the name and contact details of an individual who can be contacted concerning the managing officer.

Significant Control Regulations) 2017. Exemptions can also apply where individuals or legal entities own their beneficial interests through one or more legal entities if at least one legal entity in the chain is subject to its own disclosure requirements. The Act also contains provisions such that limited partners in non-UK partnerships may not be considered to be registrable beneficial owners in certain circumstances to be defined in Regulations to be laid by the Secretary of State.

Where shares are held by nominees, it is the person on whose behalf the nominee legally owns their interest in the overseas entity who will need to be named on the Register, where the registration conditions are met.

Obtaining information

Overseas entities must take reasonable steps to identify and obtain information about registrable beneficial owners. This includes giving an information notice to anyone the entity knows or has reason to believe is a registrable beneficial owner in relation to the entity.

Information notices must require recipients to state within one month whether or not they are a registrable beneficial owner in relation to the entity. If so, they must confirm or correct any information that is specified in the notice and provide any information that the notice states the overseas entity does not already have. If the registrable beneficial owner is a trustee, they must confirm or correct any of the required information about the trust that is specified in the notice and supply any information that the notice states the overseas entity does not already have.

Information notices may also be issued to persons that an overseas entity believes knows the identity of a registrable beneficial owner and to legal entities that are beneficial owners of overseas entities but do not meet the definition of a registrable beneficial owner. Such notices must ask the recipient to supply any information they have that might help the overseas entity to identify its registrable beneficial owners and to state whether that information is being supplied with the knowledge of the person to whom it relates. Recipients of these notices are not required to disclose information that is subject to legal professional privilege or, in Scotland, is subject to confidentiality of communications.

Removal from the register

Registered overseas entities will remain on the Register until they have successfully applied to be removed once they are no longer the registered owner of UK land. The Act does not provide a specific deadline by which applications for removal should be made, so presumably removal applications will need to be made in line with the usual annual deadlines for updating the register.

Next steps

Registrations can be made once the Secretary of State has specified a date for the Register to come into force. Where registration is required, it will be due within six months of the Register coming into force. Overseas legal entities may wish to consider whether they will be required to register or submit information to Companies House about disposals that occur between 28 February 2022 and the end of the six-month transitional period once the Register comes into force.

Overseas legal entities that need to register can consider to whom information notices should be issued once the Register is in force, and what information should be requested in information notices that are to be issued.

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Stemming the rising tide

VAT savings tips for SMEs

At a time of rising costs for business owners, here are some practical tips about how a small business could reduce its VAT bills or improve its cash flow.

by Neil Warren

Key Points

What is the issue?
If a business cannot fully claim input tax – because it is not registered for VAT or is partially exempt – check opportunities to reduce VAT on expenses. For example, ask a property landlord if they can revoke their option to tax election with HMRC and not charge VAT on future rental invoices.

What does it mean for me?
It is important to review VAT issues affecting businesses at least once a year. For example, could they adopt and benefit from VAT schemes such as cash accounting or might it be worthwhile for them to leave a particular scheme?

What can I take away?
If a business is VAT registered and imports goods, make sure it elects for postponed VAT accounting, which is a cash flow winner for any business and also speeds up the process of importing goods into the country. Finally, be prepared to challenge penalties issued by HMRC if they are unreasonable.

VAT is often the forgotten tax. Charge VAT on your sales and claim it back on your expenses. Submit and pay a return once a quarter. End of story.

However, there are many concessions and opportunities in the legislation to reduce the VAT bill at the end of a period and also to improve the VAT cash flow for a business. An obvious example is the cash accounting scheme, available to a business with annual taxable sales of £1.35 million or less excluding VAT, where output tax is not declared on a return until customers have paid their dues. Input tax cannot be claimed until suppliers have been paid but it is a winner in most cases because debtors usually exceed creditors.

In this article, I'll consider some potential VAT savers and cash flow opportunities.

Saving VAT on premises rent

For any business or organisation that is either not registered for VAT or is registered but partially exempt, then VAT paid on overheads will be a cost to the business. A major overhead is usually the rent of an office or other trading premises, where the landlord will often charge VAT because they have opted to tax their interest in the building.

However, there is potential good news for tenants: if a landlord opted to tax their interest in a building more than 20 years ago, they can revoke it in most cases by submitting form VAT1614J to HMRC. Future income they earn from the building – rent and selling proceeds – will be exempt from VAT. The priority is to ask landlords if they made their election more than 20 years ago – tenants could perhaps offer to pay some extra rent as an incentive. The option to tax rules were introduced in 1989, so many elections have been in place for more than 20 years and can be revoked.

RAJ AND RACHEL: INPUT TAX WINDFALL

Raj and Rachel have purchased a house and must spend £30,000 plus VAT on building work before renting it out to tenants. They are already VAT registered as a partnership, trading as florists.

If all of the building work is incurred in one VAT quarter, input tax will be blocked because £6,000 exceeds the quarterly de minimis test; i.e. exempt input tax is more than £1,875. However, all quarterly calculations are superseded by an annual adjustment. The main test with the annual calculation is that exempt input tax must be less than £7,500 and also less than 50% of the total input tax for the business. A partial exemption tax year ends on 31 March, 30 April or 31 May, depending on the VAT periods of the business – it is 31 March for a business on monthly returns. So, hopefully Raj and Rachel will fully claim input tax on the building work when they carry out their annual adjustment calculation.

Note: don't forget that exempt input tax also includes a proportion of input tax on general overheads. Hopefully, this annual figure will be less than £1,500 for Raj and Rachel, so not a problem (see VAT Notice 706, section 4).

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Input tax: staff benefits

There are many opportunities to claim input tax on staff-related expenses. For example, input tax can be claimed on the costs of entertaining staff but not for non-employees; e.g. suppliers or customers.

As a VAT saving tip – particularly relevant to the construction industry – input tax can also be claimed on the subsistence expenses of subcontractors paid for by a business, as long as the subcontractors are treated the same as employees (see VAT Notice 700/65, para 2.3).

However, there are many other staff expenses where input tax can be claimed, for example:

> **There are many concessions and opportunities for businesses to reduce the VAT bill at the end of a period.**

- accommodation provided to employees in many cases;
- gym memberships available to all staff;
- relocation expenses; and
- protective clothing and staff uniforms, such as wigs and gowns for a barrister to wear in court.

Here is a potential VAT trap: even though input tax can be claimed on the costs of entertaining staff – for example, the office Christmas party – there is an input tax block where the role of staff at an event is to act as host for the guests (see VAT Notice 700/65, para 3.3).

Save VAT by deregistering?

A recent VAT query I dealt with involved a retail business with annual sales of £90,000 including VAT. Turnover had been consistent at this level for many years. All sales are standard rated, so VAT exclusive sales are £75,000. I asked the client's accountant if deregistration was an option on the basis that taxable sales in the next 12 months are expected to be less than the deregistration threshold of £83,000: 'They wouldn't be,' he said, 'because they will still be £90,000. The client sells her goods on a VAT inclusive basis.'

The accountant is correct but if the client reduced her prices by 10% when she deregistered, her gross sales will now be £81,000 – and therefore less than £83,000. The VAT saving is being shared with her customers, although her loss of input tax must be considered.

Many service businesses might be able to reduce their turnover below the deregistration threshold by working fewer hours. The benefits of a four-day working week are being well publicised at the moment. Again, this strategy would only have potential gains if customers are unable to claim input tax and if prices are increased to offset the loss of input tax caused by deregistration.

Note: don't forget about a potential output tax liability on the final VAT return for stock and assets still owned by a business on the deregistration date, where input tax was claimed when they were purchased.

Annual windfall: partial exemption de minimis limits

If a partially exempt business qualifies as de minimis in a VAT quarter or tax year, it can claim input tax on costs that relate to its exempt activities. The main de minimis test is that exempt input tax (including the proportion of input tax not claimed on general overheads and mixed costs) must be less than £625 per month on average and also less than 50% of total input tax – a potential annual bonus of up to £7,500.

The impact of partial exemption can be wider than is often realised. See ***Raj and Rachel: input tax windfall.***

Note: a property purchased in joint names is always classed as a partnership (see VAT Notice 742A, para 7.3).

Outside the scope income: register for VAT?

Imagine that you have taken on a new client, a lawyer, who only provides legal services for businesses in America. Her annual fees are £100,000 and she is not VAT registered.

The reason why she does not need to register for VAT is because her fees are outside the scope of VAT under the general place of supply rule for B2B services – and not taxable – as the place of supply is America where her customers are based. However, there is a potential VAT saver here:

- A UK business can still register for VAT and claim input tax if the services they provide for overseas customers would be VATable if supplied to UK customers; i.e. subject to VAT at 0%, 5% or 20%. Legal services are standard rated, so tick this box. This outcome is often known in VAT speak as 'outside the scope with recovery'.
- The VAT registration will be voluntary and the legislation allows it to be backdated by up to four years if requested by a taxpayer. This produces an excellent outcome for our lawyer because no output tax is payable on her past income but there is a four-year input tax windfall on her UK expenses.
- On the first long-period VAT return, she can take advantage of another concession and claim input tax on some pre-registration expenses – stock and assets bought by her business in the previous four years and still owned on her registration date, with a six-month window for services.

Postponed VAT accounting

The message has got around – hopefully – that postponed VAT accounting is a 'win win' for all imports of goods as a VAT cash flow saver for a business. It means that no import VAT is payable when goods arrive in Great Britain from outside the UK (or outside the EU in the case of a Northern Ireland business) and a reverse charge entry is made on the next return by the importer. The reverse charge entries are based on the VAT shown on monthly import VAT statements, which can be downloaded from HMRC's Customs Declaration Service. An election is made for postponed VAT accounting on each shipment of goods.

Note: the Box 4 entry of the reverse charge must take account of any input tax reduction needed for exempt, private or non-business use of the goods in question.

Challenge VAT penalties

Human error; careless error; deliberate error. Underpayments of VAT on past returns are categorised into one of these behavioural groups by HMRC officers issuing an assessment. The penalty for underpayments is based on a percentage of the tax underpaid, and the penalty rate rises according to the severity of the taxpayer's behaviour. There is no penalty for human errors but a maximum penalty of 100% for underpayments that are deemed to be 'deliberate and concealed'.

As well as being prepared to challenge HMRC's categorisation of an underpayment if it is unfair, advisers should also ask HMRC to suspend a penalty in the case of careless errors, if it relates to weaknesses in the accounting system that can be corrected. And, finally, make sure that the mitigation allowed by HMRC for co-operating with their enquiry is reasonable. The reductions in the maximum penalty percentages are often known as the 'telling, allowing and giving' concessions.

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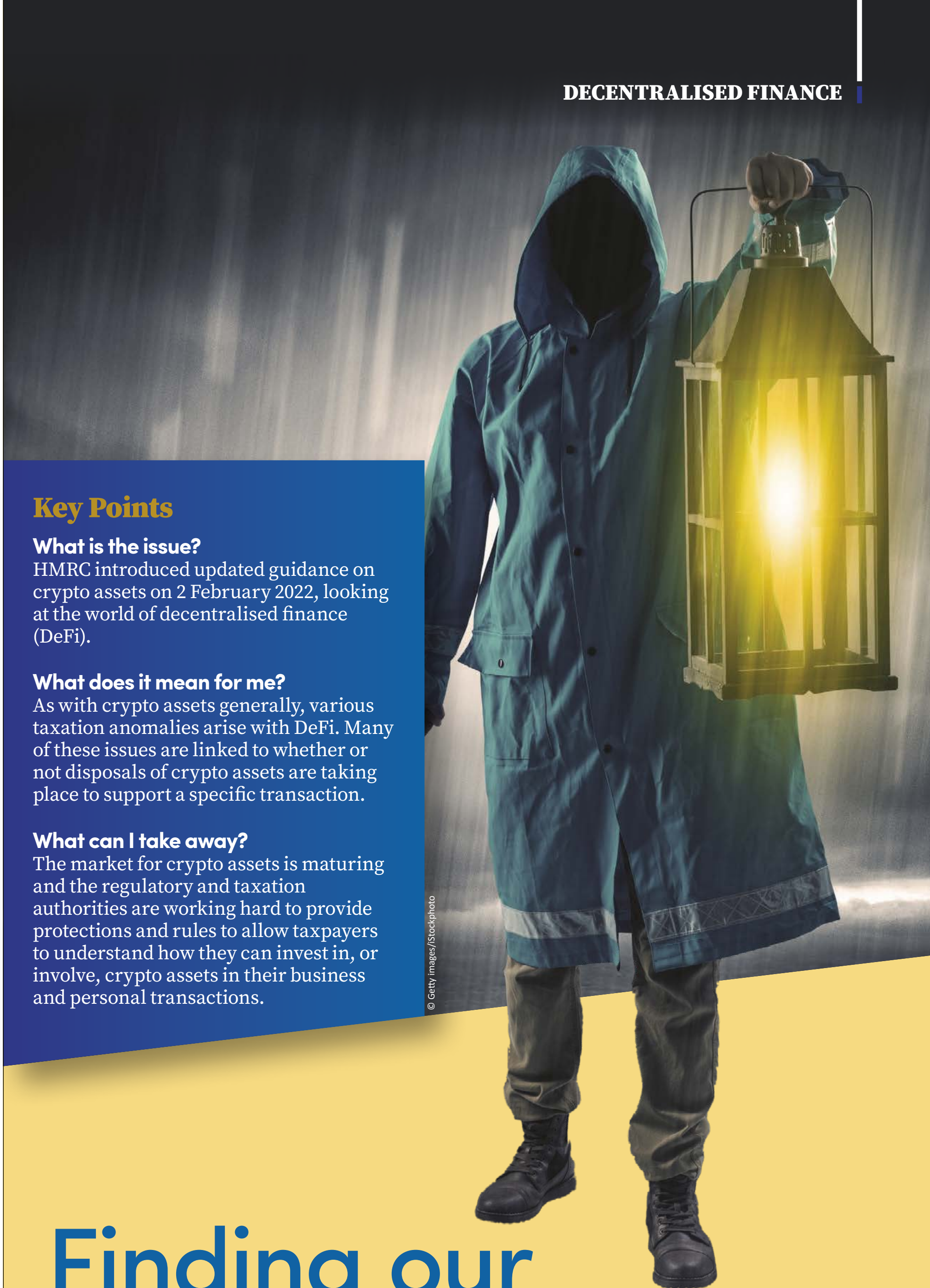

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Finding our way through

The demystification of decentralised finance

Decentralised finance (or DeFi) is growing rapidly. In the UK, we are seeing various government proposals towards creating the early stages of a framework, as well as HMRC guidance on the taxation aspects of DeFi.

by Gary Ashford

Key Points

What is the issue?
HMRC introduced updated guidance on crypto assets on 2 February 2022, looking at the world of decentralised finance (DeFi).

What does it mean for me?
As with crypto assets generally, various taxation anomalies arise with DeFi. Many of these issues are linked to whether or not disposals of crypto assets are taking place to support a specific transaction.

What can I take away?
The market for crypto assets is maturing and the regulatory and taxation authorities are working hard to provide protections and rules to allow taxpayers to understand how they can invest in, or involve, crypto assets in their business and personal transactions.

HMRC introduced updated guidance on crypto assets on 2 February 2022, looking at the world of decentralised finance (DeFi) (see CRYPTO61214 at bit.ly/36LQPj8).

In my last *Tax Adviser* article on crypto assets, 'The crypto revolution' (December 2021), I referred to comments made by Sir Jon Cunliffe, Deputy Governor for Financial Stability at the Bank of England, who stated that between 2020 and 2021 DeFi had grown ten times in size to $100 billion and was continuing to grow quickly.

The world of crypto is at the best of times volatile, but in recent weeks this has especially been the case, with significant challenges arising in the area around stablecoins, which were designed to reduce that volatility. That said, this does not point towards the end of 'crypto'. Crypto is on a journey, and some of what we have seen is just part of that journey.

John Glen, the Economic Secretary to the Treasury, in his speech of 4 April 2022 set out the government's aims to make the UK the pre-eminent location for financial services, with crypto playing a key part, including DeFi.

What is DeFi?

DeFi is not one single thing. In simple terms, it refers to financial services provided by applying computer algorithms, activities or arrangements via distributed ledger technology (DLT), usually blockchain, and without involving banks or other such intermediaries. In distributed ledger technology, there is generally no central control or central internet service provider – thereby further extending the lack of intermediaries. Whilst DeFi could feasibly cover all manner of financial activities, a significant part of the market currently relates to borrowing and lending activities.

The nature of DeFi activities is akin to internet based financial services, where little or no regulatory framework exists. The same volatility exists in this market of financial services as in crypto assets in general. The market is moving fast, and the Bank of England or the Financial Conduct Authority (FCA) are trying to move quickly to introduce regulation, at least on some of the higher risk activities.

The first real FCA action in the area was the banning of crypto derivative services to the general public in October 2020 and requiring crypto asset businesses to comply with the money laundering regulations.

In January 2022, the government issued its response to a consultation on the regulation on crypto asset promotions, referring to DeFi at 4.26 to 4.29 (see bit.ly/3KeHnCz). Whilst not

specifically targeting DeFi, the proposed regulatory changes arising from that consultation may well cover DeFi activities. One would also expect HMRC guidance to develop over time, as DeFi activities expand and develop.

Finally, a significant part of the DeFi market involves many of the crypto asset exchange providers. Therefore, some of the services which form part of the DeFi market may also be available on a parallel centralised finance (CeFi) market.

With regard to the services themselves, a key aspect is the lack of human or intermediary involvement, which has been replaced by smart contracts automating transactions. In November 2021, Carolyn Wilkins, an external member of the Financial Policy Committee, set out some of the advantages of decentralised finance:

- Decentralisation reduces the reliance on intermediaries and their inefficient infrastructure.
- Smart contracts are enabled by the fact that DeFi protocols (the rules of the platform) can integrate with each other. Data is therefore easily shared, as opposed to traditional siloed platforms that do not talk to each other.
- DeFi protocols are open source, so the code is visible and auditable, and every transaction is visible on the blockchain.
- DeFi provides the technological opportunities for more creativity in financial services and within a swifter and more secure environment.

There is little doubt that those at policy level of financial services are supportive of crypto and blockchain developments, as long as they are properly regulated.

And so, to matters of taxation. As with crypto assets generally, various taxation anomalies arise with DeFi. Many of these issues are linked to whether or not disposals of crypto assets are taking place to support a specific transaction.

A quick refresher

It is worth understanding some of the important aspects which arise in terms of crypto and, by association, DeFi. In the administration of blockchain technology operations generally work by way of either Proof of Work or Proof of Stake.

Proof of Work

Proof of Work requires the various participants (nodes) to add new parts of the 'block' by way of undertaking complex computerised calculations. This is part of the reason why bitcoin, in particular, receives criticism for the level of energy involved.

The best known examples of Proof of Work blockchains are bitcoin and Ethereum 1.0. Ethereum is now the predominant blockchain on which DeFi protocols and applications function, with 70% of the worldwide DeFi value on the Ethereum blockchain.

Proof of Stake

Proof of Stake is an alternative to Proof of Work, with the aim of increasing the speed of transactions and reducing transaction fees. Instead of lots of miners vying with each other to add the next block on the blockchain, the work will be done by those who already have a stake in the blockchain. As with miners on Proof of Work blockchains, 'stakers' will receive coins or tokens for their efforts. Their stake will often act as a guarantee for the legitimacy of new blocks. In some circumstances, their stake can be cancelled or reduced; e.g. where things go wrong on the new block or transactions take too long.

> **The nature of DeFi activities is akin to internet based financial services, where little or no regulatory framework exists.**

Proof of Stake provides additional benefits by way of the 'liquidity' provided to the DeFi protocol. The blockchain process is currently more cumbersome than traditional investment marketplaces, where transactions can flow through central exchanges in seconds. DeFi requires a solution. One is for stakers to provide liquidity by way of staking some of their crypto in return (usually) for liquidity tokens. The DeFi site then has a ready flow of crypto to lend to borrowers.

Staking may have tax implications. Whether it is taxable or not will require an analysis of the facts, in particular whether the person staking crypto passes full legal control of the staked crypto to the DeFi site.

Lending to a DeFi platform

Some people will lend to a DeFi site for a return. The inclination of many would be to treat this return as 'interest'. However, returns on investment on crypto assets throw up a number of issues; in particular, whether that return meets the generally accepted definition of interest in law. The HMRC crypto guidance links to the Corporate Finance Manual (CFM33030), which itself sets out definitions of interest. The HMRC Savings and Investment Manual SAIM2060 also provides further reference to case law on the meaning of interest.

Perhaps the best known quotation on what interest is comes from Rowlatt J in *Bennett v Ogston* (1930) 15 TC 374. He described interest as 'payment by time for the use of money'.

The leading case on the 'interest of money' is *Re Euro Ltd Hotel (Belgravia) Ltd* (1975) 51 TC 293, in which Megarry J considered that two requirements had to be satisfied for a payment to amount to interest:

- There must be a sum of money by reference to which the payment which is said to be interest is to be ascertained. A payment cannot be 'interest of money' without the requisite money for the payment to be 'interest of'.
- Those sums of money must be due to the person entitled to the alleged interest.

As a result of the various case law around the definition of interest and the current status that crypto assets do not constitute money (see my article 'The crypto revolution' in *Tax Adviser*, December 2021), then in cases of DeFi lending, the return may well amount to a revenue, as opposed to capital, receipt, but it will not be interest as such. As a result,

HMRC will look instead to the miscellaneous income rules within the Income Tax (Trading and Other Income) Act 2005 Part 5 or, in the case of a company, Corporation Tax Act 2009 Part 10.

Transfer of beneficial ownership?

It is important to consider whether the lender (or liquidity provider) actually transfers their beneficial ownership of tokens to the borrower or DeFi lending platform. This will require an examination of the contract's terms and conditions.

Where the recipient of the tokens can deal with those tokens as they want, this will be a strong indicator that they have acquired the beneficial ownership of the tokens. Conversely, if the recipient is specifically restricted from dealing with the tokens, this will be a strong indicator that they do not have beneficial ownership.

HMRC has stated that where the beneficial ownership of the tokens is transferred to the borrower or DeFi lending platform, this will give rise to a disposal of the tokens, subject to the revenue and capital issues mentioned elsewhere. The receipt of such assets will amount to an acquisition for the purposes of capital gains tax. A future repayment, with any transfer of beneficial ownership of crypto assets, will be a disposal, against which that earlier acquisition will be set in terms of a capital gains tax computation.

Crypto assets as collateral

On various DeFi sites, there is a requirement to pledge crypto assets as collateral before someone can borrow.

As stated above, if that collateral involves a transfer of beneficial ownership of crypto assets, this will amount to a disposal and it will be necessary to determine relevant valuations for computational purposes. At the point of withdrawing the collateral, this will be an acquisition.

Conversely, where beneficial ownership is not transferred to the DeFi site, then no disposal will have occurred and the Taxation of Chargeable Gains Act (TCGA) 1992 s 26 applies.

Consequences of liquidation

Some DeFi sites, can seek to liquidate positions, as part of administration. This can involve those pledging crypto assets, having part of their holding liquidated as a result of various liquidation events. If liquidation takes place in circumstances where beneficial ownership has transferred, triggering a capital gains tax disposal, then there will be no capital gains tax effect at that point. However, if beneficial ownership has not passed to the DeFi site, the liquidation will result in a disposal for the purposes of capital gains tax.

> **The Crypto Assets Reporting Framework is a new proposal for international reporting.**

In cases of liquidation, the DeFi site can penalise the borrower by taking a proportion of the collateral, which can in turn be passed over to the liquidator.

HMRC has stated that in such cases, the market value of the tokens will not be an allowable deduction in calculating any capital gains tax, as they do not meet the requirements set out within TCGA 1992 s 38.

Crypto and international transparency

At the time of writing, developments are taking place to increase international tax transparency in crypto.

On 22 March 2022, the OECD published a public consultation on:

- the introduction of a new international framework to require the global reporting of crypto assets; and
- extending the Common Reporting Standard to include crypto assets within the definition of financial accounts.

The Crypto Assets Reporting Framework

The Crypto Assets Reporting Framework (CARF) (see bit.ly/3N3iVpx) is a proposal for an international reporting framework to be made up of four building blocks:

1. the scope of crypto assets to be covered;
2. the intermediaries subject to data collection and reporting requirements;
3. the transactions subject to reporting, as well as the information to be reported in respect of such transactions; and
4. the due diligence procedures to identify crypto asset users and the relevant tax jurisdictions for reporting purposes.

1. The scope of crypto assets

The OECD proposal looks to focus on 'cryptographically secured distributed ledger technology'. The definitions seek to ensure that assets covered under the CARF meet those within the scope of the Financial Action Task Force (FATF), so that the due diligence requirements can build on existing anti-money laundering/know your customer (AML/KYC) rules. (FATF is the independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, and the financing of terrorism and the proliferation of weapons of mass destruction.)

2. Intermediaries in scope

Under the CARF proposals, intermediaries facilitating exchanges between crypto assets and between crypto assets and fiat currency will be in scope. Again, much reliance is placed on the FATF's definitions so as to limit any gaps. It is anticipated that intermediaries providing booking and dealing services will also be in scope.

3. Reporting requirements

There are four types of relevant transaction reportable under the CARF:

- exchanges between crypto assets and fiat currencies;
- exchanges between one or more forms of crypto assets;
- reportable retail payment transactions; and
- transfer of crypto assets.

The CARF proposes that transactions will be reported on an annual aggregate basis by type of crypto asset and distinguishing outward and inwards transactions. It is anticipated that reporting will distinguish between crypto to crypto and crypto to fiat currency and will also categorise transfers by type; e.g. airdrops, income from staking or loan.

In terms of crypto to fiat, the fiat amount paid or received is to be reported as the acquisition amount or gross proceeds. In terms of crypto to crypto transactions, whether acquisition or disposal, this will also be in fiat currency. It will also be reported as two reportable elements: a disposal based on market value at that time; and an acquisition again based on market value.

4. Due diligence procedures

The CARF contains due diligence requirements to be followed by crypto asset service providers in identifying crypto asset users, determining the relevant tax jurisdictions for reporting purposes. It is envisaged that the CARF due diligence will build on the self-certification process of the Common Reporting Standard, as well as existing AML/KYC obligations.

One comment on the OECD proposals, is around the level of information to be gathered and exchanged. There is currently no international framework for the taxation of crypto and so countries are left to their own devices. Would it be better to agree on an international taxation framework ahead of data exchange, as otherwise there is a risk of collecting and exchanging data without, as yet, a clear purpose?

Amendments to the Common Reporting Standard

The Common Reporting Standard was introduced by the OECD in 2014 with first reports from 2017. It requires financial institutions to automatically report on account holders holding reportable financial accounts to their respective tax authorities for onward transmission through the relevant tax authority of the account holder. Over 100 countries have adopted the Common Reporting Standard (although the US has instead adopted and implemented FATCA).

The current OECD proposal seeks to extend the Common Reporting Standard to bring in new digital financial products, including electronic money products and central bank digital currencies. It is also proposed that the definitions of financial assets and investment entities will include derivatives that reference crypto assets and are held in custodial accounts and investment entities investing in crypto assets.

The way ahead

It is now clear that crypto assets, in some shape or form, are here to stay and are now becoming a greater part of our financial services landscape, as well as of our daily lives. The market is maturing, and the regulatory and taxation authorities are working hard to keep pace and provide protections and rules to allow us to start to advise clients on how they can invest in, or involve, crypto assets in their business as well as personal transactions.

As stated above, on 4 April 2022 John Glen, Economic Secretary to the Treasury, set out some of the UK government's plans for fintech and the role of crypto. He confirmed that the UK government will look to make stablecoins a part of the UK payment system.

The recent volatility and publicity around stablecoins might require pause for thought; however, with good regulation, one would argue that the concept is sound. Glen also stated that there would be a further review of DeFi, including of some of the staking rules. Such statements by senior politicians show the clear commitment to support and grow the crypto and blockchain environment.

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Inheritance tax penalties
Grappling with the anomalies

Inheritance tax administration, time limits and penalties bring their own unique complexities when compared to other direct taxes, which can have real consequences to the taxpayer.

by Charles Bradley

Key Points

What is the issue?
The provisions governing the administration and collection of inheritance tax differ in important respects from those applicable to the main direct taxes and are frequently obscure in meaning.

What does it mean for me?
This article concentrates on anomalies in the penalty regimes for 'inaccuracies in documents' and 'requirement to correct', which may mean these regimes are wholly or partly ineffective in the inheritance tax context.

What can I take away?
These apparently pedantic distinctions have real consequences, particularly where the distinctions have been ignored in the drafting of legislation applicable across a number of different taxes.

Recently, there has been much litigation about the procedural aspects of the tax code, including several decisions of the Supreme Court on the Taxes Management Act 1970 alone. The provisions governing the administration and collection of inheritance tax, by contrast, have in many cases been the subject of no judicial consideration at all. These provisions differ in important respects from those applicable to the main direct taxes and are frequently obscure in meaning.

Paradoxically, the position has in some ways been made more difficult by the (so far partial) homogenisation of time limit and penalty regimes across different taxes starting from the Finance Act 2007, since the drafting of the common regimes does not always take into account the unique procedural background applicable to inheritance tax.

The overall result is a number of apparent anomalies, some of which operate harshly on taxpayers, and some of which may work to their advantage. This article concentrates on anomalies in the penalty regimes for 'inaccuracies in documents' (Finance Act 2007 Sch 24) and 'requirement to correct' (Finance (No. 2) Act 2017 Sch 18), which may mean these regimes are wholly or partly ineffective in the inheritance tax context.

EXAMPLE 1: MR SMITH

Mr Smith, a UK domiciliary, dies with property worth £1 million situated in a category 2 territory. His executors carelessly omit to include it in the inheritance tax account. This is a category 1 inaccuracy, carrying a maximum penalty of 30%, because it involves an offshore matter and the tax at stake is a tax other than income tax or capital gains tax (para 4A(1)). But it is also a category 2 inaccuracy, carrying a maximum penalty of 45%, because it involves an offshore matter, the territory in question is a category 2 territory and the tax at stake is inheritance tax (para 4A(2)).

The reader of para 4A as currently in force might simply assume that there is a typo in their legislation. But this is in fact the law. The incoherence arises from the fact that Finance Act 2015 Sch 20 introduced two sets of amendments to para 4A, only one of which has so far been brought into force. While para 4A does contain a rule addressed to the situation where a single inaccuracy falls within more than one category (sub-para (6)), it is not workable where the reason the inaccuracy falls in more than one category is simply because the tax at stake is inheritance tax. It is suggested that on the facts of the example of Mr Smith, since we are dealing with a penal provision, his executors should be given the benefit of the ambiguity and be liable only to a maximum penalty of 30%.

In order to understand these anomalies, however, it is necessary to make some basic introductory points about the difference between administration and collection of inheritance tax and other direct taxes.

> **It is necessary to note the difference between the administration and collection of inheritance tax and other direct taxes.**

Inheritance tax is not an 'assessed' tax

In a well-known passage in *Whitney v CIR* (1924) 10 TC 88, it was said that there are three stages in the imposition of a tax: 'There is the declaration of liability, that is the part of the statute which determines what persons in respect of what property are liable. Next, there is the assessment. Liability does not depend on assessment. That, *ex hypothesi*, has already been fixed. But assessment particularises the exact sum which a person liable has to pay. Lastly, come the methods of recovery, if the person taxed does not voluntarily pay.'

In its essentials, this statement remains true of the main direct taxes. The existence of an obligation on the taxpayer to pay a sum in respect of income tax, capital gains tax or corporation tax depends on the existence of an assessment (self- or otherwise). Where the taxpayer has filed a self-assessment return and has not received notice of enquiry within the enquiry window, HMRC's ability to issue a further ('discovery') assessment is subject to the familiar time limits of four years in the ordinary case; six years in the case of a loss of tax brought about carelessly; and 20 years in the case of a loss of tax brought about deliberately.

If no assessment is made within these time limits, no debt is due, no matter what the taxpayer's true liability was under the substantive provisions of the Taxes Acts. If an assessment has been validly made, however, there is no limitation period applicable to an action by HMRC to recover the resulting debt (Limitation Act 1980 s 37(2)(a)).

None of this is true of inheritance tax. Liability to inheritance tax does not need to be particularised by assessment. For inheritance tax, in *Whitney* terms, only stages 1 and 3 exist. The closest inheritance tax equivalent to an assessment, in that it carries a right of appeal to the tribunal, is a notice of determination under the Inheritance Tax Act 1984 s 221.

Unlike assessments to other direct taxes, however, notices of determination do not themselves create a debt. The obligation on the taxpayer to pay HMRC (if any) already exists simply by virtue of the chargeable transfer in question and the provisions of the Act specifying who is liable to pay the tax thereon (ss 199-205). Their salience, rather, is that HMRC may not take *legal proceedings for the recovery of the debt* unless the amount has been specified in a notice of determination, or agreed in writing by the taxpayer (Inheritance Tax Act s 242). Further, there is no time limit for the issue of a notice of determination. The time limits in the Inheritance Tax Act 1984 s 240 do not apply to the issue of notices of determination, but rather to HMRC's ability to issue proceedings for recovery. In that sense, the time limits in s 240 operate more like conventional limitation periods than the assessing time limits in the Taxes Management Act 1970 ss 34 and 36.

These apparently pedantic distinctions have real consequences, particularly where the distinctions have been ignored in the drafting of legislation applicable across a number of different taxes.

Inheritance tax penalties under Finance Act 2007 Sch 24

Inheritance tax penalties comprise a mixture of 'common regime' penalties in various Finance Acts, and inheritance tax specific penalties in the Inheritance Tax Act 1984. The most important are:

- penalties for (careless or deliberate) inaccuracies in documents under Finance Act 2007 Sch 24, which are tax-geared; and
- penalties for delivering accounts late under Inheritance Tax Act 1984 s 245 of up to a maximum of £3,000.

The common regimes for late filing of returns and late payment of tax, in Finance Act 2009 Sch 55 and 56 respectively, do provide for tax-geared penalties but have not yet been brought into force for inheritance tax purposes. As long as this situation continues, it gives rise to one obvious piece of practical advice; namely, it is much better to file a correct account late (even very late) than an incorrect one on time.

There is more to say, however, because the application of the Finance Act 2007 Sch 24 regime to inheritance tax is not straightforward. Penalties are quantified as a percentage of 'potential lost revenue' (PLR). Para 5 provides that PLR 'in respect of an inaccuracy in a document ... is the additional amount due or payable in respect of tax as a result of correcting the inaccuracy'.

This applies straightforwardly enough to, say, income tax. Suppose a taxpayer has carelessly self-assessed in an amount of £100 and on the closure of an enquiry that amount is amended to £200. The effect of the amendment is that, subject to any appeal, an additional amount of £100 becomes due and payable (Taxes Management Act 1970 s 59B).

It breaks down, however, when applied to inheritance tax. As mentioned above, liability to inheritance tax does not need to be particularised by assessment. The filing of an inheritance tax account does not create a debt, and the correction of an inheritance tax account does not change the amount of any debt. It follows that, strictly speaking, no additional amount can become 'due or payable' as a result of correcting an accuracy in an inheritance tax account.

What is wrong with the drafting of para 5 emerges from comparison with its inheritance tax-specific predecessor, Inheritance Tax Act 1984 s 247. That quantified penalties for incorrect accounts as a percentage of 'the amount by which the tax for which that person is liable ... exceeds what *would be the amount of that tax if the facts were as shown in the account*' (emphasis added). The drafter of s 247 recognised that unlike in the case of the assessed taxes, the obligation on a taxpayer to pay sums by way of inheritance tax to HMRC is independent of what is stated in the account. The drafter of Finance Act 2007 Sch 24 apparently did not.

Now, you will have observed that the logical consequence of this argument is that the PLR in respect of an inaccuracy in an inheritance tax account will always be zero, and therefore that nobody could ever be liable to a penalty of more than zero. Needless to say, this is an argument that the courts would be slow to accept. But it is not immediately easy to identify what is wrong with it, and the courts do not always shy away from holding that an administrative provision of the tax code has, in particular circumstances, simply misfired. For a recent example, see *HMRC v Wilkes* [2021] UKUT 150 (TCC).

Other anomalies in Finance Act 2007 Sch 24 are starker. Fairly soon after its enactment, the Sch 24 regime was amended to create different 'categories' of inaccuracy, with a higher range of penalties applicable to higher categories. Categories 2 and 3 initially applied only to income tax and capital gains tax. They were then supposed to have been extended to cover inheritance tax with effect from 1 April 2016 – except that, because of an apparent drafting error, they may not have been.

- Para 4A(1) as amended provides that an inaccuracy is in category 1 if, inter alia, 'it involves an offshore matter and: (i) the territory in question is a category 1 territory; or (ii) the tax at stake is *a tax other than income tax or capital gains tax*' (emphasis added).
- Para 4A(2) then provides that an inaccuracy is in category 2 if, inter alia: '(a) it involves an offshore matter; (b) the territory in question is a category 2 territory; and (c) the tax at stake is *income tax, capital gains tax or inheritance tax*' (emphasis added).
- Para 4A(3) defines category 3 inaccuracies in similar terms to para 4A(2). This leads to the incoherent result that the same offshore inheritance tax inaccuracy may simultaneously fall within category 1 and category 2 or 3. See ***Example 1: Mr Smith***.

Inheritance tax penalties under requirement to correct

The oddities continue when one looks at the requirement to correct penalty regime so far as it applies to inheritance tax. The requirement to correct regime applies where a taxpayer had 'relevant offshore tax non-compliance to correct' as at the end of 2016/17. If non-compliance was not corrected by 30 September 2018, the taxpayer may be liable to penalties of up to 200%; critically, careless or deliberate conduct is not a pre-condition for the imposition of such penalties.

However, problems arise with the definition of PLR as applied in the context of inheritance tax. The quantification of PLR for the purposes of requirement to correct penalties depends on whether the non-compliance consists of:

- a failure to deliver a return or other document: the PLR is the amount of the liability to tax under the applicable provisions of Finance Act 2009 Sch 55 para 24; or, if the non-compliance took place before 1 April 2011, the amount of liability to tax that would have been shown in the return as defined in Taxes Management Act 1970 s 93(9); or
- delivering a return or other document containing an inaccuracy: the PLR is the amount of the liability to tax under the applicable provisions of Finance Act 2007 Sch 24 paras 5-8; or, if the non-compliance took place before 1 April 2008, the difference described in Taxes Management Act 1970 s 95(2).

The significance of 1 April 2011 and 1 April 2008 is that these were the dates from which Finance Act 2009 Sch 55 and Finance Act 2007 Sch 24 respectively became applicable for income tax and capital gains tax purposes.

Three points arise. The first is that the general problem that arises with the quantification of PLR under Finance Act 2007 Sch 24 in the inheritance tax context, discussed above, applies equally to the requirement to correct penalty regime insofar as the non-compliance consists of delivering an inaccurate account.

The second is that the amounts referred to in Taxes Management Act 1970 ss 93(9) and 95(2) are, by the terms of those provisions, amounts of income tax and capital gains tax only. It follows that offshore inheritance tax non-compliance earlier than a certain date cannot attract requirement to correct penalties, even if HMRC would be in time to recover the tax. See ***Example 2: Mr Jones***.

The third point is that, in the case of non-compliance consisting of failure to file a return or other document on or after 1 April 2011, the PLR is quantified by reference to the applicable provisions of Finance Act 2009 Sch 55 para 24. But, as already mentioned above, Sch 55 has not yet been brought into force for inheritance tax purposes.

In the case of failure to deliver an inheritance tax account, therefore, it is arguable that there were no 'applicable' provisions of Sch 55. Accordingly, even if the facts of Example 2 were such that Mr Jones's chargeable transfer took place in (say) 2015, it is arguable that he would still be liable to a requirement to correct penalty in an amount of zero.

EXAMPLE 2: MR JONES

In 2009, Mr Jones (who wrongly believes that he is non-UK domiciled) makes an immediately chargeable transfer of value to offshore trustees, but fails to file an IHT100 or to pay the applicable inheritance tax. This non-compliance has not been corrected by 30 September 2018. HMRC is in time to recover the tax by virtue of (at least) the 20 year time limit in Inheritance Tax Act 1984 s 240(7). Mr Jones is also prima facie liable to a requirement to correct penalty. However, since the non-compliance consists in failure to file an account that was due before 1 April 2011, the PLR is the amount defined in Taxes Management Act 1970 s 93(9) as in force at that time. Section 93(9) referred to the amount which, if a proper return had been delivered, 'would have been payable by the taxpayer under section 59B of this Act for the year of assessment'. In the present case, that amount would necessarily have been zero since inheritance tax is not payable under Taxes Management Act 1970 s 59B. It follows that Mr Jones is liable to a requirement to correct penalty in an amount of zero.

Further discussion of some of these topics may be found in *Dymond's Capital Taxes*, Chapters 28 and 29.

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AML ALERT

Important update on Late Registration Policy

If a firm has not registered for AML supervision by the date they commence trading or the date their registration with another supervisor ceased, their registration is late. Late registration of 3 months or more will be charged fees for all years for which a firm should have been registered (if relevant). From 1 June 2022 late registrations will also be considered for referral to the Taxation Disciplinary Board .

There will be an automatic referral where the registration is more than a year late. See late registration policy and guidance on the CIOT website https://tinyurl.com/472287xj and ATT website https://tinyurl.com/4tcptcrj

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Key Points

What is the issue?
Mr Drake, seeking to acquire a property under construction, paid the reservation fee and deposit but did not pay a later stage payment. When the contract was treated as repudiated, he claimed this as a capital loss, which HMRC found was not allowable.

What does it mean for me?
The judge was facing conflicting judicial precedents, which boiled down to a discussion of the 'ratios' of the various cases.

What can I take away?
For the time being, it must be assumed that tax relief will not be available on a lost deposit, even if the asset that was to be purchased would have become a chargeable asset in the purchaser's hands.

Judicial precedent – the obscure

The mists of UK tax law

In the case of *Drake v HMRC*, the First-tier Tribunal had to grapple with conflicting judicial precedents to decide a case concerning a lost deposit. We attempt to penetrate the obscuring mist.

by Keith Gordon

In the December 2016 issue of *Tax Adviser*, my article 'Return of the naïve' looked at the Upper Tribunal case of *Hardy v HMRC* [2016] UKUT 332 (TCC). That case concerned Mr Hardy's aborted purchase of a property, which led to him losing the £72,000 deposit he had paid on first entering into the contract. The Upper Tribunal concluded that the loss did not give rise to an allowable loss, essentially because Mr Hardy had not disposed of a chargeable asset in the process.

As my previous article explained, the case was consistent with earlier decisions which suggested that, despite the broad meaning given to the word 'asset' in the capital gains tax code, not all assets fall within the scope of the tax. Therefore, whilst a contract to purchase land gives rise to some beneficial interest in the land, that beneficial interest is not converted into a chargeable asset until such time as the purchase is completed. Nevertheless, in my commentary, I expressed some discomfort with the *Hardy* decision, the result of which I described as 'unfair and counter-intuitive'.

In December 2019, a broadly similar case came to the First-tier Tribunal: the joint appeals of Lady and Lord Lloyd-Webber (*Lloyd-Webber v HMRC* [2019] UKFTT 717 (TC)). The Lloyd-Webbers had purchased two villas (as yet unbuilt) in Barbados but eventually abandoned the purchase following financing difficulties encountered during the construction process. The Lloyd-Webbers each lost over £3 million, which they sought to set against capital gains.

Superficially, the *Lloyd-Webber* and *Hardy* cases seemed similar and one would expect them to have been decided the same way. However, HMRC took the view that *Hardy* had been wrongly decided, on the basis that the Upper Tribunal had not been referred to the Court of Appeal's decision in *Underwood v HMRC* [2009] STC 239. Therefore, the First-tier Tribunal was free to decide the case without the baggage of the earlier judicial precedent.

Applying what it considered to be 'an objective approach and having regard to all the circumstances', the First-tier Tribunal duly allowed the Lloyd-Webbers' appeals, also remarking that its conclusion 'corresponded with the "real world" approach of Lord Wilberforce in *Aberdeen Construction* and *Ramsay*' and was 'also consistent with the wider scheme of the Taxation of Chargeable Gains Act 1992'.

It was with this background that the case of *Drake v HMRC* [2022] UKFTT 25 (TC) came to the First-tier Tribunal.

The facts of the case

In July 2014, Mr Drake sought to acquire a lease in respect of a property still under construction. The premium (i.e. purchase price) was said to be £2.2 million. However, Mr Drake was required to lay out:

- an immediate £5,000 as a reservation fee;
- a deposit (stated to be 20% of the premium less the reservation fee, but from the decision it appears to be that it was just 10% of the premium less the reservation fee); and
- a stage payment of 10% twelve months later.

> **One of the advantages of the doctrine of precedent is that the wheel does not need to be reinvented each time a similar case comes before the courts.**

Mr Drake duly paid the £5,000 and the remainder of the deposit (£215,000) but he did not pay the stage payment in 2015. The contract was treated as repudiated, leaving Mr Drake down by £220,000.

Mr Drake claimed this as a capital loss.

Contrary to its stance in the *Lloyd-Webber* case, HMRC no longer considered *Hardy* to have been wrongly decided. Or, to put it another way, it considered that *Lloyd-Webber* was wrongly decided. Accordingly, HMRC argued that the principles of judicial precedent meant that the *Hardy* case had to be followed.

The First-tier Tribunal's decision

The case came before Judge Zachary Citron.

The judge recognised that he was bound by the judicial precedent of the Upper Tribunal decision in *Hardy* unless, as decided in *Lloyd-Webber*, the Upper Tribunal had wrongly overlooked the *Underwood* case.

However, as *Lloyd-Webber* was a decision of the First-tier Tribunal, the judge was not obliged to follow it. Accordingly, the first thing that the judge had to consider was whether *Hardy* had indeed wrongly overlooked the case of *Underwood*.

This boiled down to a discussion of the 'ratios' of the various cases – the ratio, or *ratio decidendi*, representing the statements of legal rules or principles that were the essential basis for reaching the respective decisions.

In *Underwood*, the case concerned two contracts between A and B: one for the sale of land and the other for the reacquisition of the same land. Rather than both contracts being completed (with a conveyance to B and a reconveyance to A), they were settled simply by A paying B the excess of the repurchase price over the sale price. The Court of Appeal considered that in the absence of any actual disposal of the land, the initial sale to B could not be treated as giving rise to any capital loss. This was a marginally different point from that in the *Hardy* case. Accordingly, the judge considered that *Underwood* did not decide the principle at the heart of the *Hardy* case and, therefore, the *Hardy* case could not be considered to have been wrong, merely for ignoring Court of Appeal authority.

This conclusion meant that the judge in *Drake* could not simply follow the First-tier Tribunal's decision in *Lloyd-Webber*. Accordingly, the judge then had to consider whether he was bound by the superior authority of *Hardy*. Ordinarily, this would be the case, unless there was a material fact distinguishing the two cases.

The only potentially material factual distinction was that Mr Hardy was unable to assign the benefits of his purchase contract, whereas Mr Drake had such a right but failed to exercise it. However, the judge considered that in *Hardy*, the non-assignability of the contract was not a material factor in that decision; and therefore the factual distinction between the two cases could not justify the judge departing from the binding precedent of the *Hardy* decision.

As a result, Mr Drake's appeal was dismissed.

Commentary

The decision did not attempt to consider afresh the rights and wrongs of the *Hardy* decision. And given my own thoughts about the wrong turn that I believe has been taken in this area, as set out in my 2016 article, I will not repeat myself here. Like the judge's analysis in the *Drake* case, I have chosen to limit myself to the question of judicial precedent.

Indeed, one of the stated advantages of the doctrine of precedent is that the wheel does not need to be reinvented each time a similar case comes before the courts and tribunals: if a litigant is unhappy with the previously decided case, then it is generally necessary to pursue the case on appeal sufficiently far up the judicial hierarchy so as to get the principle reconsidered at an appropriate level of seniority. The approach generally leads to a saving of costs, as established legal principles do not need to be re-argued every time. However, such cases do highlight a potential drawback.

> **For the time being, it must be assumed that tax relief will not be available on the money that is lost.**

Furthermore, it should be noted that the judge has possibly given a hint as to his own thoughts about the way that the case law has gone when he said: 'I am therefore regrettably unable to follow the FTT in [*Lloyd-Webber*].' It remains to be seen whether Mr Drake has the stomach to take things further.

Finally, a question mark must hang over HMRC's decision to back down from the *Hardy* approach in *Lloyd-Webber* only to return to it when it came to Mr Drake's case. It is unusual for HMRC to throw away a winning card – even if they did not particularly believe in it.

My own theory is that HMRC realised that the case law was on shaky ground and that there was enough money at stake in the *Lloyd-Webber* case for the taxpayers to consider taking the matter all the way to the Supreme Court so that the matters could be reconsidered afresh. Accordingly, it is my suspicion that HMRC felt that a tactical retreat in that one case might be the best way forward, even if the *Hardy* precedent was to be deployed in successive cases. However, even this theory has its own flaws: in particular, why would HMRC let the *Lloyd-Webber* case go all the way to the tribunal? Whatever the truth and however prosaic it might prove to be, it is a further example of how unpredictable UK tax law is in relation to what is not an uncommon situation and this is something that does need addressing. In the meantime, it will remain one of life's little ironies.

What to do next

No-one will plan to throw money away on a lost deposit. However, for the time being, it must be assumed that tax relief will not be available on the money that is lost, even if the asset that was to be purchased would have become a chargeable asset in the purchaser's hands. Taxpayers must therefore consider whether or not they can take steps to ensure that they do acquire and dispose of a chargeable asset so as to cushion the blow.

However, an eye should be kept out for any further litigation of this case in the Upper Tribunal and beyond. If the case law does get a fresh analysis, this could prove to be widely welcomed.

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Disposal of shares

Is the *BLP* test dead?

A series of legal judgments have questioned whether VAT relating to the disposal of shares really is irrecoverable, and whether the purpose of the sale could be the deciding factor.

by David Anderson and Michael Taylor

Key Points

What is the issue?
For more than 25 years, the *BLP* 'test' has held sway in the UK, and many businesses and advisors have automatically assumed that input tax relating to the disposal of shares has been irrecoverable.

What does it mean for me?
The European Court of Justice has held that the *purpose* of a sale of shares is fundamental to its VAT analysis.

What can I take away?
Taxpayers and their advisors should no longer fear 'looking through' non-economic transactions to their ultimate taxable activity, or assume that selling shares will automatically 'break the chain' and prevent them from deducting input tax.

In 1995, the European Court of Justice issued its judgment in *BLP Group plc* (Case C-4/94). In that case, the taxpayer had sold shares in a company to raise funds for the purpose of paying down debts incurred while making taxable transactions. The taxpayer then attempted to recover the input tax associated with the sale of shares on the grounds that the VAT was linked to its taxable transactions.

HMRC rejected the claim on the basis that the sale of shares was an exempt transaction and that this exempt transaction had consumed the disputed VAT: of course, Article 135(1)(f) of the Principal VAT Directive, as it now is, exempts 'transactions ... in shares'.

Upon reference to Europe, the European Court of Justice agreed with HMRC, and the judgment in *BLP* gave rise to what is often known as the prohibition on 'looking through'. As HMRC puts it at VIT62100 of VAT Input Tax, *BLP* 'highlighted the idea of a "chain breaking" exempt supply that stops VAT flowing through the chain of one business's output tax being another business's input tax', *regardless* of whether the 'ultimate purpose' of the exempt transaction is taxable.

For over 25 years, the *BLP* 'test' has held sway in the United Kingdom, and many businesses and advisors have automatically assumed that input tax relating to the disposal of shares has been irrecoverable. But have they been right to do so?

The European Court of Justice moves on

In reality, it is arguable that the judgment in *BLP* is anomalous, even within the jurisprudence of the 1990s. In *Polysar* (Case C-60/90), for example, which was handed down four years before *BLP*, and then in *Sofitam* (Case C-333/91) in 1993, the court was clear that, although transactions in shares were exempt, 'the mere acquisition of financial holdings in other undertakings' did not amount to economic activity.

By the summer of 1996, the European court had concluded by way of its judgment in *Wellcome Trust* (Case C-155/94) that if merely acquiring financial holdings in other companies did not constitute economic activity, 'the same must be true of activities consisting in the sale of such holdings'. In other words, and in contrast with transactions 'effected as part of a commercial share-dealing activity' that were exempt, merely buying or selling shares were for VAT purposes non-economic activity.

The court confirmed this analysis in its judgment in *EDM* (Case C-77/01) in 2004, where it held that in order for transactions concerning shares to be exempt, they had to 'go beyond the compass of the simple acquisition and sale of securities, such as transactions carried out in the course of a business trading in securities'.

Thus it is the settled case law of the European court that a business whose corporate purpose is *trading securities* is engaged in exempt economic activity, whereas a business which has merely bought or sold securities has engaged in

non-economic activity. But where does this leave the issue of input tax incurred by selling shares?

Kretztechnik and after

In the case of *Kretztechnik* (Case C-465/03), an Austrian taxpayer had issued shares in order to fund its taxable transactions and sought to deduct the input related to the issuance of those shares. In its judgment of 2005, the European Court of Justice reiterated that the acquisition, holding and selling of shares do not amount to economic activity, before holding that the same analysis applied to the *issuance* of shares.

As for the question of whether taxpayers could deduct input tax that was incurred during non-economic activity but *for the purposes* of taxable activity, the court held that because the share issuance had been undertaken 'in order to increase its capital for the benefit of its economic activity in general', there was 'a direct and immediate link with the whole economic activity of the taxable person'. The input tax was therefore deductible.

The issue of whether non-economic activity could give rise to the right of deduction has appeared before the court several times since *Kretztechnik*. In *Sveda* (Case C-126/14), *Iberdrola* (Case C-132/16) and *Hartstein-Industrie* (Case C-528/19), the court each time reaffirmed that wherever non-economic activity was undertaken for the purposes of economic activity, this created the link that was necessary to make any such VAT deductible.

Yet in *SKF* (C-29/08), the court went even further. Here, it was common ground that the taxpayer's selling of shares was 'more than a mere sale of securities'. In other words, it amounted to exempt transactions concerning shares. Nevertheless, the court concluded that on account of the principle of fiscal neutrality such a taxpayer still had the right to deduct input tax incurred during exempt sales of shares:

> '[I]f the consultancy costs relating to disposals of shareholding are considered to form part of the taxable person's general costs in cases where the disposal itself it outside the scope of VAT, *the same tax treatment must be allowed if the disposal is classified as an exempted transaction.*'

The EU jurisprudence has therefore made it clear that, wherever a taxpayer sells shares in order to raise funds for its overall taxable activity, the material input tax is properly deductible *regardless* of whether the sales of shares are treated as exempt economic activity or outside-the-scope non-economic activity.

Perhaps more importantly, the court has also held that the *purpose* of a sale of shares is fundamental to its VAT analysis.

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In contrast with the earlier conclusion in *BLP* that 'the ultimate purpose' of a transaction was irrelevant to VAT analysis, the court recently concluded in *C&D Foods Acquisition* (Case C-502/17) that the taxpayer would have been entitled to deduct input tax incurred on a share disposal if 'the *direct and exclusive reason* [for it had been its] taxable economic activity'.

Far from forbidding taxpayers, advisers and tax authorities from 'looking through' to the ultimate purpose of a transaction as in *BLP*, the European Court has performed what appears to be a *volte face*, the result of which is that 'the direct and exclusive reason' for undertaking non-economic activity is in fact determinative of whether the material input tax is deductible.

Applying EU case law in the UK courts

The UK courts' development of these principles is entirely consistent with the European jurisprudence and throws further doubt on *BLP's* future application. In *Frank A Smart & Son Ltd* [2019] UKSC 39, the Supreme Court considered the taxpayer's acquisitions of units under the single farm payment (SFP) scheme. HMRC had denied recovery of the VAT incurred on the acquisition of SFP units on the ground that such activity was non-economic, which merely enabled the taxpayer to claim subsidies. However, the taxpayer claimed that the SFP units related to its holding of land which, in turn, bettered and improved its overall (taxable) farming business; in other words, the taxpayer's inputs had a direct and immediate link to its overall taxable activity.

The Supreme Court dismissed HMRC's appeal and upheld the decision of the Court of Session. Indeed, in consideration of *BLP*, Lord Hodge noted that 'more recently, the European court has called into question its ruling in *BLP* in the light of its developing jurisprudence'; and so he founded his judgment on the European judgments handed down only after *BLP*.

By doing so, the Supreme Court alighted on the principle that any material input tax remains deductible where:

- there is a direct and immediate link between non-economic activity and downstream taxable activity; and
- the VAT incurred by way of that non-economic activity forms a cost component of downstream taxable supplies.

Bringing us right up to date is the First-tier Tribunal's decision in *Hotel la Tour* [2021] UKFTT 451 TC. Helpfully, this case aligns closely to the facts in *BLP*. Here, the taxpayer sold shares in a subsidiary in order to raise funds for the development of its hotel business, and subsequently sought to deduct as input tax thus incurred. HMRC refused recovery on the basis that the disputed VAT related to the exempt sale of shares. However, relying heavily on the Supreme Court in *Frank A Smart*, the FTT held that because the VAT had been incurred for the purpose of downstream taxable activity, it was properly deductible.

Lessons and opportunities

Hotel La Tour is the first occasion on which the tribunal has applied the European court's reasoning, by way of *Frank A Smart*, to the sale of shares; and the first time the UK courts have been willing to depart from the 'chain-breaking' analysis laid down in *BLP*. (HMRC, it must be noted, has sought leave to appeal to the Upper Tribunal.)

So while *BLP* may not be 'dead', does the Supreme Court precedent in *Frank A Smart*, mean that it is no longer 'good law'? This remains a point for debate, but what is clear is that taxpayers and their advisors should no longer fear 'looking through' non-economic transactions to their ultimate taxable activity, nor assume that selling shares will automatically 'break the chain' and prevent them from deducting input tax.

From pilot to implementation
Will we fit it all in?

The roadmap for implementing Making Tax Digital for Income Tax Self Assessment leaves little margin for error. What could we do to focus on the essentials and allow more time to get things right?

by Andrew Jackson

I have been following the progress of Making Tax Digital (MTD) with considerable interest, and have recently been involved with the CIOT's development of a roadmap for MTD which is informing their discussions with HMRC.

I was slightly worried that, seven years after the end of the tax return was heralded, we don't seem to have a workable model for MTD for Income Tax Self Assessment (ITSA), so I decided to amuse myself by expanding the roadmap to chart the MTD pilots in more detail. The result is more than slightly worrying.

From pilot to mandatory implementation

The current pilot of MTD for ITSA is for a restricted set of taxpayers – those with 31 March or 5 April year ends and only a single source of income – so I have started there. The first full year end for these taxpayers ends on 31 March 2023, and they will file their last quarterly report by the end of April 2023. They then have to file an end of period statement, a fifth and final report to make all the necessary adjustments to the accounting figures, to finalise their taxable business or rental income by 31 January 2024.

MTD for ITSA is mandated for the majority of self-assessment taxpayers from April 2024. That gives two months from the first end of period statement due date for HMRC to learn the various lessons from the pilot and make appropriate adjustments; for software developers to integrate any technology changes in their systems; and for taxpayers and accountants to adopt the updated processes. That's a tight deadline. Even if the pilot generates some end of period statements from mid-2023, we only have six or eight months to get it right.

The pilot for more complicated taxpayers is due to start in April 2023. (More complicated, of course, means anyone who has more than one source of income, or a non-March accounting date – which is most of the target population for ITSA.) This means that the complex pilot starts before the last quarterly report of the simple pilot has been filed. At the point that MTD is mandated, the complex pilot taxpayers will have submitted only three of their four quarterly reports and no end of period statements. The partnership pilot has similar timelines.

Errors are inevitable, but mandation will happen before the end of the amendment window, even for those in the simple pilot. I am not aware that a pilot of the error correction process has even been announced. Taxpayers will therefore be committed to asserting that their figures are correct, with no guarantee of being able to make sure they are.

No margins for error

The point of a pilot is to identify problems with a process and allow them to be rectified, but the timescales available for these pilots simply do not allow for this. The greatest margin we have for resolving issues is the six to eight months available for the simple pilot – assuming that enough end of period statements are submitted early. The complex pilot has time to resolve issues identified with the first couple of quarterly reports, but later ones – and the whole end of period statement system – will have to suck it and see.

There is also still considerable uncertainty over what an end of period statement consists of, even for the simple pilot.

I am concerned that we have two years before mandation in which to test a process which takes at least three years to complete. I would very much welcome a clear statement from HMRC setting out how it proposes to get a quart into a pint pot.

Possible approaches

Rather than landing this conundrum in HMRC's lap and walking away, I have done some thinking as to how it might be resolved. I can see a number of possible approaches:

1. **Delay development of the end of period statement process:** If no mandated statement is needed until January 2025, arguably we have a year to develop the process. This assumes that the quarterly report process can be finalised for mandation before the end of period statement process is known, which could create serious problems if it turns out to be wrong. (And if the two *can* be separated, the quarterly one seems heavily devalued.)
2. **Delay mandation:** Given that April 2024 is already nine years after the announcement, this seems unlikely to be acceptable politically.
3. **Accelerate testing:** Instead of real taxpayers submitting data in real time, set up a toy system allowing the whole process to be simulated in a matter of weeks. There are obvious limitations to

this in terms of interaction with other systems.

4. **Parallel running:** Run MTD in parallel with the existing return process, so the consequences of errors in submission are minimised. This would cast some doubt on the value of the system.
5. **Rethink the shape of MTD:** This last is my favoured option. It seems to me that quarterly reporting has become an end in itself, and the original purpose of MTD has been lost.

Stepping back to 2015 and HMRC's document announcing the end of the tax return, the vision for MTD was that taxpayers would be able to:

- view and manage information online;
- deal with their tax affairs quickly and easily with simple, clear and personalised support;
- pay the tax they owe without having to resubmit information that HMRC already holds;
- link their business accounting software to their digital tax account;
- give authorised agents access to their digital tax account; and
- access a wider range of government services.

Some of this has been achieved – I can see my NIC record on my digital tax account, for example. A large part of this is still to be done, however. Linking accounting software to the digital tax account is only one such element, and it should not crowd out the other objectives.

Accounting software

In recent discussions concerning MTD for corporation tax, HMRC has indicated that the key point is to ensure that company accounts are digitised, rather than the tax returns. The same is true, in my opinion, for income tax: the main benefit of having quarterly returns made via accounting software is that it obliges businesses to use accounting software.

There is much debate about whether mandatory accounting software is a good thing for small businesses. In my view, the benefit is that it imposes a discipline on their tax reporting, much as the senior accounting officer rules impose discipline on large companies. It obliges taxpayers to be able to demonstrate that their tax returns are complete, and in a rather more concrete form than the requirement to keep records.

Accounting software is one way to provide that assurance but it is not the only way or necessarily the best way. I consider that this objective would be better achieved by broadening the requirement to have 'accounting software submitting quarterly returns' to an obligation to have 'a demonstrably robust accounting process'. Adopting accounting software is an easy way to demonstrate robustness, but allowing alternatives which meet the same quality assurance criteria would remove many of the problems associated with MTD while still achieving the goal.

Note that quarterly returns are not essential in the way that an end of period statement is. End statements without quarterly returns can replace a tax return, but quarterly returns without an end of period statements cannot.

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The benefits of these proposals

The quarterly return process takes 12 months and is tied to 5 April. The key point is to remove this from the timeline. Instead, the current pilot could focus on the end of period statement, meaning that:

- the pilot could apply to years ended 5 April 2022, rather than starting then;
- the first end of period statement would be due by January 2023, giving a whole year more to test the system;
- businesses could join the simple pilot at any point;
- the complex pilot also gains a year, again with flexibility over joining date; and
- partnerships and error correction could be tested before mandation.

There would be more time for businesses, HMRC, software developers and agents to prepare for the pilots, more time to learn from them, and more flexibility over who could take part. It should also release resources to look at the other aspects of MTD.

A major issue with the pilots is that the end of period statement process is being left until last because it's perceived as less urgent than quarterly reporting. However, as it actually feeds into the calculation of the tax liability it absolutely must work correctly, so it must be robustly tested.

The current roadmap allows for only simple end of period statements to be tested, in the few months before mandation, and by taxpayers who are signed up to the pilot now. The roadmap outlined above would allow a softer and more flexible entry to the pilot, with a smoother transition to more complex taxpayers, and more time to test and adjust the system. The solution is simple: don't try to do it all at once.

Andrew Jackson is Vice Chair of the CIOT Digitalisation and Agent Services Committee.

WELCOME

June Technical newsdesk

While writing this introduction, we are putting the final touches to our responses to the consultation exploring the proposal for an online sales tax (OST). As fans of the tax consultation framework, we are pleased that this is an early-stage consultation, and we are assured that no decisions have yet been taken on whether an OST will be introduced.

This can only be a good thing because my initial thoughts about how an OST would work do not seem to reflect those of HMT and HMRC. My perception of an OST was that it would apply on a transaction-by-transaction basis, and be a percentage applied to each sale within its scope. As a customer, I thought that I might typically see ‘online sales tax’ or similar wording on my online receipt, which would explain the (potentially) higher price I would pay in lieu of travelling to the store to buy the goods (even though I may pay a delivery charge too). As it was seemingly intended to be a transactional tax (and as I was a VAT specialist for many years), it seemed odd to me that adding one or two per cent to the rate of VAT on online sales had been ruled out.

But having delved into the consultation in greater detail, and discussed it with HMT and HMRC, they hope that an OST will work quite differently. An OST is not designed to change customer behaviour and get people back onto the high street. So, my idea of possibly buying a product cheaper by going into the store, as opposed to buying online, might be misconceived. Secondly, the possible approaches to levying the tax – on a totality of online sales (either as a percentage of such sales or a flat fee per sale) – reflect an intention that the OST would be absorbed by the seller, rather than being directly charged on.

If the consultation process works as it should, the characteristics of any OST – if introduced at all – will depend on the outcome of the various issues being consulted upon. For example, the consultation addresses things like what transactions would be in scope. Should it define an online sale as goods only or as goods and services, and focus on business to consumer sales or also on business to business sales ? These concepts require decisions on a transaction-by-transaction basis, perhaps making it more likely that the tax will be disclosed to the customer, and passed on. However, to minimise the inevitable compliance burden that an OST will bring, there are calls for a high threshold to take small businesses out of scope. This might indicate the tax applying at a macro level, and either being absorbed by the seller or forming another cost component passed on indirectly to the customer.

The recent CIOT and IFS debate ‘Should the government introduce an online sales tax?’ (tinyurl.com/bdfv24w) provided an illuminating discussion over how complex an OST would be, and on whom the burden of business rates falls. I will not pre-empt our responses to the consultation, as we will report on them next month. Save to say that an OST would mean 21 new taxes have been introduced since 2000 (www.tax.org.uk/pr21newtaxes). Do we really need another one?

NEWSDESK ARTICLES

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PERSONAL TAX INDIRECT TAX
GENERAL FEATURE

Round up of engagement on Making Tax Digital

CIOT, ATT and LITRG continue to engage with HMRC on Making Tax Digital, both in relation to VAT and income tax.

A round up of recent activity and engagement with HMRC

There was a time when you could not turn to Technical Newsdesk without seeing an article on Making Tax Digital (MTD). Such articles have been less frequent recently, and we want to reassure readers that this is not due to a lack of action on our – or HMRC's – part.

VAT

MTD for VAT became mandatory for 'voluntary' VAT registrations from their first VAT return period starting on or after 1 April 2022. In our March issue, we highlighted the VAT sign up illustration (tinyurl.com/5y5mjtsy) to help businesses and agents sign up for MTD for VAT at the right time.

We continue to work with HMRC to encourage compliance with the MTD requirements, particularly regarding around 10% of those businesses mandated in April or October 2019 that still have not signed up, as well as HMRC's future plans to close the VAT submission portal.

Income tax

We continue to meet with HMRC, both on an ad hoc basis, and through regular engagement groups.

The MTD Advisory Forum, comprising HMRC, professional bodies and agents, meets on a quarterly basis as part of a cycle of engagement which HMRC undertake with professional bodies, large agent firms and software developers. The Forum also does occasional 'deep dives' into specific issues, and recently we discussed the income types in scope of MTD and whether they count towards the £10,000 threshold, focusing on qualifying care relief, rent a room, and the trading and property allowances. The ATT's technical article (tinyurl.com/msksmnh5) provides a helpful explanation of the key points. The Forum has also looked at HMRC's proposed communications around taxpayers' obligations.

The MTD Digital Implementation Forum comprises HMRC, professional bodies, agents and software developers, bringing together all stakeholders into one meeting to discuss cross-cutting issues. During these meetings we have discussed the forthcoming MTD for Income Tax Notice, progress on the pilot, the new 'Update and Submit an Income Tax Return' service (which will eventually replace the current self-assessment model), choosing MTD software and HMRC's communications plans. We also recently had the first 'sub-working group' meeting of this forum, which gave us the opportunity to provide feedback on information packs which HMRC are developing for those agents, taxpayers and software providers who may be interested in joining the MTD pilot.

It is fair to say that in both forums, views were freely aired concerning the uptake of the pilot, the lack of general awareness, and the large number of outstanding questions and concerns.

Separately, we have also discussed with HMRC the need for a road map or timeline, outlining the steps necessary to get to a successful implementation in April 2024. Earlier this year, we submitted a timeframe outlining what we believe should be the milestones in the rollout of MTD, including publication of guidance, software availability and status of the pilot. HMRC have been discussing these milestones with us and providing updates. The hope is that the submission of our timeline, along with these ongoing discussions, will lead to HMRC producing a timeline of their own. This will help answer many of the outstanding questions and act as a catalyst in prompting necessary action by agents or their clients.

Save the date

There is still a lot to be thrashed out over the summer months. In the expectation that the MTD for Income Tax Notice will have been published, and the pilot firmly under way, we will be running an MTD webinar on Thursday 22 September. Watch this space for more information.

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INDIRECT TAX

International indirect tax policy: CIOT input into EU consultations and projects on VAT

As part of its international tax policy focus, the CIOT is a member of the CFE Tax Advisers Europe, an association of European tax advisers with members from 26 European countries. Through this membership, the CIOT can participate in EU consultative groups in relation to VAT and also input into consultations published by the EU Commission that still have relevance to countries outside of the EU.

CFE Tax Advisers Europe (CFE) aims to contribute to the coordination and development of tax law in Europe by sharing member insights with European institutions, and promotes the co-ordination of national laws governing the tax adviser profession. The CIOT's membership in the CFE is unaffected by the UK leaving the EU.

The CIOT's Indirect Tax Committee has two representatives on the CFE's indirect tax committee, which allows the CIOT to contribute to relevant international indirect tax policy work; one of the CIOT representatives is chair of the CFE's indirect tax committee. Through the CFE, the CIOT provides views on indirect tax consultations carried out by the European Commission, which still seeks contributions from businesses or advisers in third countries for issues impacting those outside of the EU. One such consultation on VAT in the digital age is discussed below.

The CFE is represented on the EU VAT Forum and the EU VAT Expert Group and one of the two CIOT representatives is currently the CFE's alternate representative on the VAT Expert Group. The EU VAT Forum (tinyurl.com/yckzp87v) is the EU body that brings together indirect tax advisers and members of national tax authorities to discuss how to improve the implementation of EU VAT legislation in practice. The VAT Expert Group is a combination of practitioners and academics that the Commission consults about proposals to reform the VAT system. The CFE, and through that, the CIOT, regularly contributes to indirect tax projects run by these groups.

In the case of the EU VAT Forum, this has included providing feedback on the 'VAT Quick Fixes', the rules that harmonise the position for call-off stock, chain transactions, exemption for intra-community supplies of goods, and proof of transport in the EU. A recent project has focused on the proof of transport rules and the CIOT was able to contribute to the CFE's feedback on the position taken prior to the implementation of the quick fixes rules, highlighting the position post implementation, and comment on practical problems that businesses have experienced. Other subjects that the Forum has recently looked at include sanctions and cross-border rulings.

The VAT Expert Group, through sub-groups, has looked at issues connected with fixed establishments and tripartite

PERSONAL TAX GENERAL FEATURE

Homes for Ukrainians: tax implications: LITRG briefing

On 14 March 2022, the government announced the Homes for Ukraine sponsorship scheme. LITRG have published an article explaining how participating in the scheme might affect lower income taxpayers.

Under the Homes for Ukraine scheme, sponsors hosting refugees of the conflict in Ukraine will receive £350 as a monthly 'thank you' payment. These payments will be administered by Local Authorities and will be paid on a per property basis, and so will be unaffected by the number of refugees hosted at a single residential address.

When announcing the Homes for Ukraine scheme, the government confirmed that the £350 payments made to sponsors would be tax-free and would not affect means-tested benefits or council tax status. Over the past few weeks, further information has been provided about these interactions.

As regards the tax position, the Financial Secretary to the Treasury, Lucy Frazer, released a statement (tinyurl.com/yc6ceyz3) confirming that the government intends to legislate within Finance Bill 2022-23 such that any payments made under the Homes for Ukraine scheme will be exempt from income tax and corporation tax, and this will be with retrospective effect from the date of the first payment. The statement further confirms that the payments will not be chargeable to National Insurance contributions and will be disregarded as income in the calculation of tax credits. The disregard for tax credits purposes was confirmed by SI 2022/346. Our understanding is that the payments will not be counted as income, and will be disregarded as capital for 12 months, for the purposes of calculating universal credit.

The position for council tax is slightly more complicated and details published by the House of Commons library can be found at tinyurl.com/2p9yrtap. The council tax regulations were amended by SI 2022/439 and came into force on 12 April 2022. The amended regulations ensure that households do not lose out on council tax discounts if they participate in the Homes for Ukraine scheme. However, for those in receipt of reductions to council tax under local council tax support schemes the position is less certain. Billing authorities are not able to simply disregard the £350 thank you payments when assessing income levels. However, the government is encouraging local authorities to give discounts on a discretionary basis and has taken steps to ensure that the local authorities will not have to make a payment to the council tax collection fund if discretionary discounts are provided.

The LITRG article can be found at: tinyurl.com/yckpxyjk.

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supplies, including in particular the use of fuel cards. In addition, the VAT Expert Group work has recently been focused on the Commission's proposals for VAT in the digital age (tinyurl.com/2p8x669h). This has included members attending a meeting where these proposals have been discussed with representatives of member states' tax authorities.

In response to this EC consultation on VAT in the digital age, the CFE submitted an opinion statement (tinyurl.com/yc3cc93p) that the CIOT representatives contributed to. This raised points under three main headings.

Digital reporting requirements

The key point raised in this section is the concern surrounding the introduction of non-harmonised digital reporting requirements and e-invoicing. It acknowledges that having a single system that must report variances in data for VAT compliance for different member states can become expensive and administratively burdensome, particularly for small and medium sized enterprises. It does, however, acknowledge that an upfront investment in VAT systems can have benefits in the longer term.

The submission also acknowledges the interaction of digitalisation and combatting fraud. Focus must be paid by tax authorities to domestic transactions that precede intra-community carousel fraud. It is also noted that there are still variances between member states in the information provided to users of the VAT Information Exchange System online tool (tinyurl.com/5c6wvbx8) where EU VAT numbers can be verified.

VAT treatment of the platform economy

The submission highlights that due to discrepancies between member states on whether it is the platform or individual making the supply, this creates risks of non-taxation and double taxation, with the added complication of the varying VAT registration thresholds in different countries. There are circumstances and sectors where individuals using platforms would not be required to be registered for VAT so it should not be assumed that they will be. There are particular issues for the supply of accommodation, as there can be multiple resellers in a chain for hotels, unregistered users for home-swaps, tourist agents, and the position of non-EU sellers.

Single VAT Registration in the EU and Import One Stop Shop (IOSS)/ One Stop Shop (OSS)

The CFE's suggestions for the IOSS/OSS include:

- extending the OSS to include supplies with installation;
- allowing the inclusion of chain supplies;
- allowing business to business transactions to be included where the reverse charge does not apply;
- raising the transactional threshold of the IOSS, which would also mean allowing the system to include customs duty reporting for eligible transactions; and
- the introduction of a good faith clause for intermediaries, which may particularly assist with compliance by non-EU sellers.

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INDIRECT TAX

An Independent Customs Regime: CIOT response to call for evidence

As announced at the Autumn Budget in 2021, the policy teams at HM Treasury and HMRC ran a joint consultation looking at the UK's customs border. The call for evidence focused on three areas: the Simplified Customs Declarations Process; the customs intermediary sector; and transit facilitation. The CIOT responded.

The call for evidence 'An Independent Customs Regime' (tinyurl.com/yyh8rnxx) asked a wide range of questions, some of which were quite specific to industry or customs intermediaries, but as HMT and HMRC welcome partial responses, feedback on specific questions is still useful.

Simplified Customs Declarations Process

The Simplified Customs Declarations Process (SCDP) (tinyurl.com/bdhd5tyd) is a two-step procedure that allows taxpayers importing eligible goods to declare a reduced data simplified declaration at the time the product is imported, so that the goods can be moved efficiently, whilst delaying the obligation to declare the full import customs data to a later period. In 2021, this applied to movements of goods into Great Britain from the EU, though from 1 January 2022 it is only available for certain transactions between Ireland, Northern Ireland and Great Britain.

In the call for evidence, HMRC stated that in 2021, there had been more simplified declarations made at the border than full declarations. However, the feedback received by the CIOT was that for some businesses and their advisers, the two-stage process of the SCDP is perceived to take more time in the long run.

The retrospective exercise of reconciling transactions that had fallen within the simplified declaration at the time of making the later full declarations meant that the SCDP was often not used by larger businesses. But it was noted that the taxpayers providing feedback to us were experienced in importing non-EU goods prior to leaving the EU and had engaged customs advisers; therefore, completing a full declaration at the time of import would be manageable.

We recognised that it would be a different experience for those taxpayers who, before the UK left the EU, only purchased goods from the EU and accounted for them by means of self-assessed acquisition VAT in the VAT return. This latter group of taxpayers would be declaring customs data for EU imports for the first time from the date that the UK left the EU. For these taxpayers, the use of SCDP would have been more attractive in order to ensure that the goods could be moved efficiently.

Customs intermediaries

Although most of the questions on customs intermediaries were specific to the sector, the CIOT received feedback on the question around customs intermediary capacity. Several VAT advisers who advise on import and export clients, but where their firm has no in-house customs specialists, said that their roles had evolved with an increasing amount of customs-based work. Sometimes this was due to a lack of customs specialist resource, though it was mainly due to the adviser previously dealing with all the acquisition and despatch work for their clients which had now changed to also requiring import and export procedural knowledge.

To continue to assist these clients, these advisers had to increase their own awareness of customs processes and outsource where a customs specialist was needed. For VAT advisers with clients operating in both Great Britain and Northern Ireland since Brexit, they had to understand three sets of import/export compliance rules – Northern Ireland-EU, Great Britain-EU and Great Britain-Northern Ireland – in order to provide the taxpayer with the right support.

We received feedback from an independent customs intermediary, stating that they have had to regularly turn down work as they are operating at full capacity. An in-house VAT specialist told us that they have had to recruit several in-house customs staff post-Brexit.

Transit facilitation

Again, the questions in the call for evidence about transit were mainly focused at service users. The CIOT would like to see greater certainty for taxpayers when applying for transit registrations; for example, if you are accepted for one transit process and have evidence of compliant trading, this could provide an ‘in principle’ pre-approval for other transit applications. This would reduce the risk of incurring costs, such as bank guarantees, when it is not certain that a transit application will be accepted.

Anything else?

The call for evidence also asked for any other feedback to consider for the UK’s customs border. The CIOT would like HMRC to consider that new border taxes may be introduced in the future; therefore, any new systems, processes and border innovations that are developed as a result of the ongoing consultation should be designed so that they can easily be adapted to accommodate new tax measures.

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MANAGEMENT OF TAXES

Tax checks for taxi, private hire and scrap metal licences

Since 4 April 2022, all individuals renewing a taxi, private hire or scrap metal licence in England and Wales need to complete a ‘tax check’ with HMRC before they can renew that licence. The tax check cannot be carried out by an agent on the taxpayer’s behalf, but agents can play a role in explaining what their clients need to do. The rules also apply, with the necessary modifications, to those operating their business through a company or partnership.

The government has introduced ‘tax conditionality’ in these sectors to try and tackle the hidden economy. By making the relevant licence renewals conditional on demonstrating that the individual is properly registered for tax, HMRC hope that it will be more difficult for businesses to evade taxes.

The rules, found in FA 2021 Sch 33, prevent licensing authorities from renewing certain licences unless they have confirmed that the person renewing the licence has completed a tax

GENERAL FEATURE

UK no longer recognises the Moscow Stock Exchange

As of 5 May 2022, the Moscow stock exchange is no longer designated as a recognised stock exchange by the UK, as the Recognised Stock Exchange (MICEX Stock Exchange)(Russia) Designation Revocation Order 2022 comes into force. The move was prompted by the invasion of Ukraine and meant as a further way of conveying the UK government’s disapproval of Russia’s actions and hindering the flow of investment into the country.

HMRC had issued the draft Order on 19 April 2022, along with a two-week consultation. Five responses to this consultation were received, with only a stamp duty reserve tax amendment being made to the final Order.

The effect of this change is that shares acquired on or after 5 May 2022 on Moscow’s stock exchange will not be regarded as ‘quoted’ for UK tax purposes. This will have a knock-on effect with tax treatments and reliefs for fulture investments by UK taxpayers, although any stocks and shareholdings acquired before 5 May 2022 on the Moscow exchange will remain quoted and unaffected.

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check with HMRC in the previous 120 days. A tax check is a process where HMRC check whether an individual is compliant with Taxes Management Act (TMA) 1970 s 7 (notice of liability to tax) for the most recent tax year that ended more than six months before the tax check is started.

For example, tax checks started now will consider the 2020/21 tax year. If the individual filed a tax return for the year being checked, they will need to confirm whether they included information relating to the authorised activity income.

In most cases, a tax check should be a straightforward online check and can be completed through GOV.UK at tinyurl.com/4kwjhsfp. The individual must usually create a Government Gateway account if they do not already have one, and answer a few questions about their circumstances. However, we are aware of some taxpayers having difficulty creating a Government Gateway account because they do not hold the necessary identity documents (at present, foreign passports and driving licences issued in Great Britain cannot be used).

If a Government Gateway cannot be created, or if the individual is otherwise digitally excluded, it is possible to complete a tax check over the telephone. At the end of the tax check process, the individual receives a nine character code which should be passed to the licensing authority as part of the licence renewal application.

The requirement to undertake a tax check applies even if there is no obligation under TMA 1970 s 7. This might apply if the individual is an employee, or if there is no tax or National Insurance owed on their trading profits (for example, if the gross trading income is within their trading allowance for the year).

For first-time licence applications, there is no requirement to undertake a tax check but the licensing authority must draw the applicant's attention to information about tax compliance.

LITRG has published guidance at tinyurl.com/yc5trpx2 for individuals who need to complete a tax check.

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GENERAL FEATURE

Senedd Committee's cautious backing for power to change Welsh devolved taxes

The cross party Senedd Finance Committee has given a cautious backing to the Welsh Tax Acts (Power to Modify) Bill, which will give a new power to quickly change Welsh devolved taxes. The changes will be made through secondary legislation.

The Welsh Tax Acts (Power to Modify) Bill is intended to allow changes to be made quickly to the Welsh devolved taxes. The changes would be made through secondary, as opposed to primary, legislation.

A reason is that Wales does not yet have a procedure equivalent to the UK Finance Bill for making changes to the Welsh Tax Acts. The Senedd Finance Committee recommends that the Senedd agrees the Bill, subject to the recommendations it makes in a report – some of which reflect warnings that the CIOT gave in a witness session and in written evidence (see www.tax.org.uk/ref905). The report was detailed, but it reached clear conclusions on retrospection and consultation. (Our blog summary is available at tinyurl.com/3cd7du64).

The CIOT voiced concerns about giving Welsh ministers the power to apply tax law retrospectively and the potential for resulting uncertainty. We recognised the need for retrospection to correct an obvious anomaly that is harming taxpayers or to correct deficiencies that emerge.

However, we also noted that the retrospective effect in the Bill is not limited in its effect to the date of a prior announcement, suggesting that when considering legislating with retrospective effect it is necessary to give 'due weight to taxpayers' legitimate expectations' and that the retrospective power should be 'used with extreme care and justified in detail'. The committee agrees with CIOT that 'great care and a compelling case' is required to legislate retrospectively, and that it is 'crucial' to send a clear warning to taxpayers and tax practitioners that the Welsh government will legislate retrospectively.

The report notes the CIOT's suggestion to publish the nature of any informal consultation after the regulations come into force, for transparency. To aid transparency and comprehensibility of the law, particularly where regulations made under the power in the Bill are very complex or are due to come into force at short notice, the CIOT emphasised that it should be the norm to publish (ideally simultaneously) a consolidated version of the law as amended.

The committee regrets the lack of specific examples provided by the Welsh government relating to how the regulation-making power delegated by this Bill would be used to amend the Welsh Tax Acts in practice.

This led the committee to recommend that, prior to the debate on the general principles of the Bill, the Welsh government provide examples of the specific circumstances in which it envisages the regulation-making power being used to amend each part of the Tax Collection and Management (Wales) Act 2016 (other than Part 2), the Land Transaction Tax and Anti-Avoidance of Devolved Taxes (Wales) Act 2017 and the Landfill Disposals Tax (Wales) Act 2017.

The Welsh government's pre-legislative consultation proposed the inclusion of a Senedd 'lock' to restrict Welsh ministers from exercising one of the proposed powers consulted on unless the Senedd agreed to unlock its use.

However, the CIOT's view, that the reintroduction of a lock to restrict the use of the power in the Bill would defeat the object of enabling the Welsh government to react quickly, was mentioned in the report. This led the committee to recommend that the Bill should include a minimum time period for scrutiny by the Senedd of regulations made.

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Recent submissions

CIOT	Date sent
Construction Industry Scheme: Landlord contributions to tenant works www.tax.org.uk/ref954	03/05/2022

New President: We must embrace change


New CIOT President Susan Ball

New CIOT President Susan Ball has told members that the Institute has important work to do in relation to three big ongoing changes - the advance of technology, the fight against climate change and internationalisation – to ensure it remains relevant and delivers on its public benefit obligations.

On technology, she said this meant not just thinking about the Institute provides its services to members, but about how technology will change how members work: 'That's why an Institute working party has developed a syllabus for a new Diploma in Tax Technology … aimed at both existing tax professionals who wish to enhance their awareness of tax technology, and at those outside the profession who might wish to work in this area. We aim to launch this new qualification by the end of the year.' Susan said the Institute's technical committees would continue looking closely at HMRC's plans for digitalisation, including ensuring that those who wish to have an agent act for them retain that right in a digital world.

On climate change, as well as making the Institute's operations more climate-friendly, it means thinking about the role of tax in getting to net zero, said Susan, pointing to two recent debates held on this topic, as well as the Institute's Climate Change Tax Policy Road Map. The Institute can act as a gathering point for debate in this area, she said, as well as providing practitioner perspective on how carbon pricing and other green incentives can be implemented effectively.

On internationalisation, Susan pointed to the trend of increased co-operation across borders on tax, saying that, 'just as tax authorities are working together so it makes sense for us to join with tax bodies elsewhere in the world – learning, sharing best practice'. She highlighted the Institute's role in CFE Tax Advisers Europe, the growth of ADIT and the addition of the South African Institute of Taxation to the ranks of those bodies licensed to use the CTA designation (see below) as illustrations of this.

Susan also used her speech at the Institute's AGM on 31 May to draw attention to an anticipated consultation on raising standards within the tax profession, restating the Institute's position that, rather than creating a costly new regulator, the government should build on the good work already being done by professional bodies. She also expressed her concern about the ongoing difficulties both advisers and taxpayers have getting timely responses and action from HMRC.

Susan also used her speech to congratulate Her Majesty the Queen in the week of her Platinum Jubilee, saying: 'You don't need to be a royalist to admire her hard work and dedication. All of us at CIOT offer her our hearty congratulations on this amazing achievement.'

To find out more about the new CIOT presidential team see page 48..

CIOT licenses South African Institute to award CTAs


Keith Engel, CEO of SAIT

CIOT has announced that it has licensed the South African Institute of Taxation (SAIT) to grant the designation 'Chartered Tax Adviser' to its members as the next step in developing the Chartered Tax Adviser brand as a leading international standard in tax.

This follows the granting of the same right to the Irish Tax Institute (ITI) and The Tax Institute (TTI) in Australia in 2012, and the Taxation Institute of Hong Kong (TIHK) in 2020.

Under the agreement, qualifying members of SAIT will be able to transition to Chartered Tax Adviser status, joining the existing 19,600 CIOT members, 5,800 TTI members, more than 5,500 ITI members and more than 1,600 TIHK members who can already call themselves Chartered Tax Advisers.

CIOT President Peter Rayney commented: 'I welcome the South African Institute of Taxation and its members to the growing international community of more than 32,000 Chartered Tax Advisers. By granting the right to designate Chartered Tax Advisers to carefully chosen tax bodies in other countries, we are pursuing our aim of recognising and promoting the highest standards of tax advice internationally.

'The Chartered Tax Adviser brand is highly recognised and very well respected in the UK, but is less well known elsewhere. With tax becoming increasingly globalised, and our members travelling to and working in more and more countries, we believe it will benefit our members to raise the profile of the designation internationally. We want it to be the global "go-to" brand for high quality tax advice.'

Keith Engel, Chief Executive of the South African Institute of Taxation, said: 'SAIT and its members now have the international recognition we have worked so hard to obtain from our humble beginnings some 15 years ago. SAIT members with the Chartered Tax Adviser designation will now have the globally recognised status they deserve.'

In the news

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

'The Scottish Government say they are committed to reforming council tax but they certainly seem to be taking the slow road to getting there.'

John Cullinane, CIOT Director of Public Policy, quoted in the Herald newspaper following comments by Scottish ministers that fundamental reform of Council Tax is unlikely in the 2021-26 session of the Scottish Parliament, 28 March 2022

'ATT looks at a recently published consultation considering whether the UK should introduce an online sales tax, and what such a move might entail.'

Accountancy Age, 11 April 2022

'The Low Incomes Tax Reform Group complains that HMRC taking away the Verify option is unhelpful, given there are issues with Government Gateway that remain to be resolved.'

The Guardian, 23 April 2022

'One of the reasons that the non-dom regime had never been fundamentally reformed is a reluctance to deal with all the issues that this archaic concept currently provides some sort of (blunt) answer to. A simple residence test will not on its own deal with these issues.'

John Cullinane and Emma Chamberlain of CIOT, Financial Times letters page, 29 April 2022. This was one of a number of pieces of non-dom related coverage, also including an appearance by Emma on BBC Radio 5 Live.

'Emma Rawson, of the Association of Taxation Technicians, said it was a "little disappointing" that the document was very "light on detail" and had not revealed more of the government's thinking.'

Financial Times article on the government's launch of a consultation on capital allowances, 10 May 2022. (Article also quoted CIOT.)

Retail giants clash in online sales tax debate

Left to right: Peter Rayney, Alasdair McGowan, Gabby Donald, Paul Johnson, Stuart Adam, Nick Lakin

Panellists clashed over how complex an online sales tax (OST) would be and on whom the burden of business rates falls, during a lively debate hosted by CIOT and the Institute for Fiscal Studies (IFS) in Central London on 10 May.

Speakers from Kingfisher plc (in favour of an OST) and eBay UK (against) were joined by a senior IFS economist and a leading indirect tax practitioner for the first 'in person' debate the two institutes have held in London since 2019. It was also livestreamed to an online audience who provided many of the questions put by the chair, CIOT President Peter Rayney.

Introducing the debate, IFS Director Paul Johnson noted that the government is currently exploring the idea of an OST via a consultation, and that Treasury officials were present at the debate 'in listening mode' to hear contributions and views.

Stuart Adam of IFS was concerned at inevitable complications and distortions with an OST. He doubted that an OST will raise enough to facilitate a significant easing of business rates unless it has a high rate and/or broad base. He thought one effect would be higher prices for online goods. Other likely effects include lower wages and fewer jobs at online retailers, and lower rents for warehouses, with rises for high street premises.

Nick Lakin of Kingfisher said an OST was right for society. He praised the 'retail revolution' of online shopping but argued that HMRC must adapt the tax system in response. Business rates are, he said, an analogue system in a digital age.

Alasdair McGowan of eBay argued for reform of business rates but against an OST. He said that hundreds of thousands of UK SMEs use eBay to start and grow their business, and nearly half of sellers on the marketplace have their own 'physical presence'. These sellers contribute to the local tax base and are 'real people' entrepreneurs who are just as worthy of support as bricks-and-mortar retailers.

Gabby Donald, of KPMG LLP, and the chair of CIOT's Indirect Taxes Committee, cautioned HMRC against rushing ahead with an OST, calling for 'deep thinking', because there are risks of unintended consequences. She identified many unanswered questions about the potential tax, including whether it would try to capture foreign firms selling into the UK.

Read the full report on the debate or watch a recording: tinyurl.com/OSTX22

Sunshine on a Rayney Day

Outgoing CIOT President Peter Rayney won this year's Award for Outstanding Contribution to Taxation in 2021-22 by an Individual, at May's Tolley Taxation Awards.

Peter said he was 'both humbled and honoured' to receive the award. He thanked his wife Patricia for her 'indefatigable' support and also 'Helen Whiteman (CIOT CEO) and all the wonderful team I have worked with at the CIOT during my 18-month stint as President! They have been incredible and this terrific award is as much for them as it is for me.'

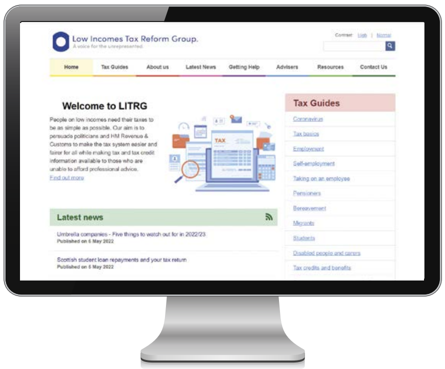
Peter also thanked all those who voted for him and congratulated 'my brilliant co-nominees for this award – all of whom would have been very worthy winners.'

CIOT's Low Incomes Tax Reform Group was shortlisted for the Award for Outstanding Contribution to Taxation in 2021-22 by a Not-for-profit Organisation, but lost out to Women in Tax.

A full list of the award winners can be read at tinyurl.com/tolley22

Technical work

Spotlight on the Low Incomes Tax Reform Group



The Low Incomes Tax Reform Group (LITRG) is an initiative of the CIOT to give a voice to low income, unrepresented taxpayers. LITRG contributes to the CIOT's public benefit role by helping those unable to afford tax advice.

Set up 24 years ago by the then CIOT President John Andrews, in the early years LITRG's work was led by John and a core group of volunteers (many of whom are still volunteers). Today, thanks to the solid foundations laid by our volunteers and the support of CIOT Council, LITRG comprises a staff team of eight CTAs, a HMRC secondee, an administrator, a part-time web manager and 21 volunteers who make up the LITRG advisory panel. The panel supports LITRG's work through different activities, including giving feedback at meetings and providing comments for inclusion in consultation responses. Some volunteers work with members of the staff team on specific strands of work – for example via our pensions sub-group.

Although LITRG does not offer advice directly to members of the public, we work closely with TaxAid and Tax Help for Older People, who do offer direct support. Each year, however, we receive around 2,000 website enquiries from members of the public, which we use to help shape our guidance and representations.

LITRG's mission is fulfilled through two strands of work. The first is the provision of comprehensive information, guidance and support to taxpayers, tax credit claimants and their advisers. We do this mainly via the LITRG website (see www.litrg.org.uk). Although the website is primarily aimed at members of the public, we know that many CIOT and ATT members also find the guidance helpful, especially in areas that they do not deal with on a regular basis.

With funding from HMRC, we also have a niche website for advisers (see www.revenuebenefits.org.uk), which provides detailed information about tax credits, child benefit and the transition to universal credit. In 2021, our websites had just over 6 million visitors who viewed nearly 9.8 million pages.

Our second strand of work is trying to make the tax and associated welfare systems work better for unrepresented taxpayers. In December 2020, we published a paper 'A better deal for the low-income taxpayer' (see tinyurl.com/2p9yfb9b). The recommendations in the paper provide examples of changes that could be made to improve the experience of low-income taxpayers with the tax system.

In 2021, LITRG responded to 44 consultations and attended 388 meetings with HMRC, government departments and third-sector organisations – all focused on the low-income, unrepresented taxpayer perspective. Over the years, we have had a number of notable successes, including securing legislative changes, changes to guidance, changes to processes and raising awareness of issues amongst the wider public. In 2021, one particular success by our pensions sub-group was securing a solution to address the inequality of some low earners not receiving tax relief on their pension contributions, an issue that LITRG has been campaigning on since 2018.

2021 also saw us publish a 150 page report into labour market intermediaries, with a large focus on umbrella companies, commissioned by the TUC. The report explored the complexities of umbrella companies, as well as looking at other types of labour market intermediary and the use of disguised remuneration schemes. The report received widespread praise and was referenced in the government's recent call for evidence on the umbrella company market.

2022 is shaping up to be a busy year. There are major changes coming; for example, Making Tax Digital for Income Tax Self Assessment, a new penalty regime, changes to basis periods, and the transition of tax credit claimants to universal credit. All of these could impact on unrepresented taxpayers. We will continue to raise issues on behalf of those unable to pay for advice, as well as publishing information to support them on these and other issues.

You can read more about LITRG successes on our website (tinyurl.com/2f2kmfnb). We are always keen to hear from members if they come across any issues that affect unrepresented taxpayers. Contact us via www.litrg.org.uk/contact-us

AGM

Association of Taxation Technicians: Notice of Annual General Meeting

The 33rd Annual General Meeting of the Association of Taxation Technicians will be held on Thursday 14 July 2022 at 14.00.

Civica have been appointed as scrutineers for the ATT AGM 2022. Access to the AGM Notice, Annual Report and Accounts and information regarding those standing for election to Council will be provided through links in an email sent to Association members by Civica in June. The CES proxy voting site will be accessible via a link in that email. If you prefer to receive a hard copy of the proxy form, please email: Support@cesvotes.com or telephone 020 8889 9203 and a form will be sent to you with a reply-paid envelope. You have until 12 July 2022 to return the form. A copy of the AGM Notice and Annual Report and Accounts can be found on the Association's website: www.att.org.uk

A copy of the proxy form, AGM Notice and Annual Report and Statutory Accounts will also be available on the ATT website later this month: www.att.org.uk

CIOT COUNCIL

CIOT: New officers 2022-23

At its meeting on 5 May 2022, the CIOT Council approved the new presidential team to start serving from the AGM on 31 May.

President: Susan Ball
Deputy President: Gary Ashford
Vice President: Charlotte Barbour

Susan Ball

Susan is a tax partner at RSM, a CIOT Council member since 2017 and a member of the CIOT's Employment Taxes Committee, Examination Committee, Joint Officers and Senior Staff Forum and Officers Group. She is also a past joint chair and founder member of the CIOT/ATT Suffolk Branch.

Susan has more than 30 years' experience in the field of employment tax, investigations and reward. She has a breadth of experience in dealing with all aspects of PAYE and social security in the UK and overseas, together with 20 years of board level experience (assisting with strategy, HR, finances and risk).

Susan is the CIOT's fourth female President, following in the footsteps of Jennifer Ainsworth, Penny Hamilton and Anne Fairpo. She is also a Freeman of the Worshipful Company of Tax Advisers and of the City of London.

Susan enjoys spending time with her family and friends, travelling, the arts and going to concerts, the theatre and the odd festival or grand prix! As well as walking Freddie – the lockdown puppy.

Gary Ashford

Gary is a Partner (non-lawyer) at Harbottle and Lewis LLP. A CIOT Council member since 2011, he is also a member of the CIOT's Joint Officers and Senior Staff Forum, the Management of Taxes Committee and Officers Group. He is a member of CFE Executive Board and CIOT representative at CFE Professional Affairs Committee. He is also a former tax inspector at HMRC.

Gary has expertise assisting clients who need to make disclosures to HMRC or who are under Code of Practice 8 & 9 (COP8 and COP9), or criminal tax investigation. He advises on international tax, the OECD BEPS programme (UK implementation) and the EU Anti Avoidance Tax Directive. Gary is an author for Bloomsbury and tax lecturer on international tax matters. Citywealth listed Gary in their Top 100 International Private Client Litigation Lawyers 2022. He is interested in cryptocurrencies.

Charlotte Barbour

Charlotte is the Director of Regulatory Authorisations at the Institute of Chartered Accountants of Scotland (ICAS) and a former Director of Taxation at that organisation. A CIOT Council member since 2019, she is Chair of the CIOT's Nominations Committee, Secretary to the Joint Professional Bodies PCRT Group that is responsible for PCRT, and a member of the Scottish Technical Committee. She is author of 'The Management of Taxes in Scotland' published by Bloomsbury Professional. She has extensive experience in tax and regulatory issues and has represented ICAS at both the Scottish Parliament and the House of Lords.

Charlotte enjoys gardening, walking, exploring the British Isles and generally running after her family. She also has a wide interest in the arts.

ATT COUNCIL

ATT: New officers 2022-23

At its meeting on 28 April 2022, the ATT Council approved the new presidential team to start serving from the AGM on 14 July 2022:

President: David Bradshaw
Deputy President: Simon Groom
Vice President: Senga Prior

David Bradshaw

David hails from the Northeast of England and worked for all four of the world's largest accountancy practices, amassing over 40 years of experience. After working as an auditor, he specialised in taxation for 35 years in both the SME marketplace and large corporate tax departments. He now provides corporate tax compliance and consultancy services for several Northeast businesses.

David is currently Honorary Treasurer and chairs the Finance Steering Group, although he will step down from both positions following the AGM. He has served for over 10 years on the joint CIOT and ATT Northeast England Branch, having held the offices of Treasurer and Chair, and is currently Secretary of the branch.

David is a keen cyclist both on the road and in the mud and is a veteran of many long-distance adventures. He also plays with a well-known local covers band and is a trustee of the Tyne Rivers Trust.

Simon Groom

Simon qualified as a Chartered Accountant in 1987 with Arthur Young before embarking on a career as a trainer with The Financial Training Company (FTC). He spent 13 years at FTC before moving to EY, a move which ultimately led him to LexisNexis in 2006 to head up Tolley Exam Training. He is still at LexisNexis, leading the much-enlarged training business.

In 1992, he started lecturing at the ATT student training conferences. He has served on the Audit Committee, Business Development Steering Group and Members Steering Group, which he chaired for three years. He now serves on Finance Steering Group. He first joined Council in 2003 and served for a very enjoyable 12 years and was delighted to be invited back in 2018.

Simon enjoys spending time with his wife Jeni and four children, walking in the countryside and running – participating (rather than competing) in organised races.

Senga Prior

Senga spent her early working life preparing VAT returns, management accounts and running payroll, mostly for farming clients. After working as an accounts manager, she joined a local accountancy firm as a tax assistant and commenced her ATT training. She became an ATT Member in December 2002 and a fellow in December 2017. In June 2017, she joined Johnston Carmichael, specialising in private client compliance with a particular interest in farming.

Senga joined the ATT Technical Steering Group in 2016 and becomes chair in June this year. She became an ATT Council member in 2017 and is ATT's spokesperson on Scottish Taxes. She also represents ATT on the Climate Change Working Group, the Issues Overview Group and at regular joint meetings with the Scottish government, ICAS and CIOT.

In her spare time, she is a Church of Scotland elder and a keen bowler playing in both the local ladies and mixed leagues.

EVENTS

CIOT Admission Ceremony

Thursday 21 April 2022

The President and Council of the Institute were delighted to welcome back new members and CTA examination prizewinners from 2020 and 2021 to our face-to-face Admission Ceremonies. Two ceremonies were held, one in the afternoon and one in the evening, on Thursday 21 April in the splendid surroundings of Drapers' Hall in the City of London.

91 new Associates, four Fellows and 30 Members who have reached 50 years of membership were in attendance at the afternoon ceremony.

146 new Associates and seven Prizewinners received their certificates and prizes at the evening Ceremony.

The Institute holds two admission ceremonies each year for new members and their families; the next will take place on 9 November 2022.

❶ New Chartered Tax Advisers and Fellows at the afternoon Admission Ceremony

❷ New Chartered Tax Advisers at the evening Admission Ceremony

❸ The President, Peter Rayney, with the new Fellows. From left to right. Leigh Sayliss, Peter Rayney (CIOT President), Rachael Dronfield, Rebecca Bright and Sarah Gabbai.

❹ The President, Peter Rayney, with the prize-winners from the November 2019, May 2020, November 2020 and May 2021 sittings for the Chartered Tax Adviser (CTA) examination. From left to right. Front row: Sarah Ling (Institute Medal, November 2020), Hugo Kirby (John Tiley Medal and Croner-i Prize, November 2019 and the Gilbert Burr Medal and Croner-i Prize, November 2020), Peter Rayney (CIOT President), Thomas Ainge (Spofforth Medal and Croner-i Prize, May 2021) and Jessica Allan (Avery Jones Medal, May 2020). Back row: Maximilian Kompart (Victor Durkacz Medal, May 2021), Thomas Andrew (Ronald Ison Medal, November 2020) and Tooba Aslam (Victor Durkacz Medal, November 2019).

A MEMBER'S VIEW

Tim Palmer

Tax consultant, Arram Berlyn Gardner

Tim lectures on tax extensively all over the UK and is a tax consultant with chartered accountants Arram Berlyn Gardner, London. He is also a CTA and ATT member.

How did you build your career in tax?

My father, who was an accountant, always assumed and expected me to follow him into the profession, and he recommended that I should eventually specialise in tax. He had a very big practice, with offices all around Essex. I worked for him in the school holidays, aged 10 upwards! While other kids were riding their bikes, I was completing tax returns!

I left dad's firm to join a bigger practice in the 1970s, Ball Baker Carnaby Deed in Holborn, London. I then spent a spell in industry, working in the in-house tax department of the P&O Shipping Group, which was marvellous experience for me. P&O, at that stage, owned the Bovis Group, so that's where my interest in construction industry tax started. When I was at P&O, I passed my Institute of Tax exams, and then went back into the profession. I was approached to start tax lecturing as well, and it all snowballed from there.

What do people outside the sector not realise about a career in tax?

At a social gathering, if somebody asks me what I do, and I say that I am in tax, I get the impression that some people think that it is incredibly boring! Nothing could be further from the truth. I find tax very fascinating and challenging, and I like having to keep up to date, both for my lectures and also to assist my tax planning for clients. I have recommended many younger people into the tax profession, and it has been very rewarding to watch them grow and develop within it.

How would you describe yourself in three words?

At work – studious, determined and gregarious.

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

The CTA is the 'gold star' tax qualification; however, these are very tough exams. If you are serious about passing them, you will have to make a considerable commitment into studying, but it will be well worth it in the end. Once you have passed these exams, it will be a major boost to your career!

When I was teaching the CIOT exams, I had a delegate on my course named Chris Jones. He was exceptional and subsequently became a close friend. As you are aware, he later became President of the CIOT. His early death was truly tragic.

What advice would you give your future self?

Plan ahead! I think that a spell in industry is a very good career move as well. I think that it is important to enjoy your work and keep challenging yourself to constantly improve and gain more tax knowledge.

Tell me something about yourself that others may be surprised to know about you.

I am a fanatical Tottenham Hotspur fan! I am also very interested in anything to do with Winston Churchill. I thought the film relating to him, 'The Darkest Hour', was one of the best films I have ever seen!

Contact

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

ADIT

Announcing ADIT's newest Champion

Introducing new ADIT Champion and local issues

We are delighted to expand the ADIT Champion programme to Uganda, where Ann Barnshaw Kengaaju will represent a growing number of tax professions who have chosen to pursue the ADIT certificate in Uganda, the biggest ADIT market in Africa. As our Champion for Uganda, Ann will help spread the word about the benefits of ADIT learning while representing the Ugandan ADIT community. A member of the Uganda Law Society, she works as a Tax Consultant with Global Taxation Services Ltd., where she advises clients across different sectors on tax structuring, tax risk management, and oil and gas taxation.

Speaking of her own experiences, Ann says: 'ADIT is a practical programme that covers the latest international tax legal frameworks and case law, enabling students to keep up to date with international tax. The programme refined my technical expertise in international tax. The networks I gained along the way have helped me keep pace with the dynamic international tax practices and laws.

'As an ADIT Champion, I aspire to encourage tax professionals in Uganda to keep up with the ever-evolving international tax practices and legal frameworks as these too impact the growth of Uganda's economy. What better way to keep up with the trends than to enrol for ADIT and join the International Tax Affiliate community!'

This brings the number of ADIT Champions around the world to six, all of whom hold the ADIT qualification and work in international tax, bringing a personal insight into the technical knowledge and career benefits that ADIT certification provides. The Champions play a crucial role in promoting ADIT learning in their countries, and in serving their respective ADIT communities.

To find out more about ADIT Champions and contact them visit www.tax.org.uk/adit/champions.

PERSONAL TAX MANAGER

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£40,000 TO £50,000

RITA

We are delighted to be offering an exciting new opportunity for a Tax Manager to join our team, and work within our growing personal tax department.

The ideal candidate would assume responsibility of a portfolio of around 400 personal tax clients. Ideally CTA/ATT qualified, the ideal candidate will posses outstanding interpersonal skills, a motivation to contribute to the growth of the company, and have substantial experience in all areas of personal tax. The work will involve the completion of self assessment tax returns, ad hoc advisory services during the year and dealing with both clients and HMRC on a regular basis. Experience with inheritance tax, non-residency issues and capital gains tax would be an advantage. The ideal candidate will have the ability to work well independently, have a good eye for spotting tax saving opportunities, and be committed to a long term career with us.

This is a full-time, permanent position. The salary is negotiable, based on qualifications and experience, although a likely range would be between £40,000 and £50,000 per annum. Whilst our offices are based in Hertfordshire, the position is fully remote, with only occasional travel required, and this will remain the case post-pandemic. We are also great believers in rewarding added contributions to the company, and so there is the opportunity thus to grow with us and be rewarded accordingly.

We would be delighted to hear from interested candidates, and would be keen to hear about your experience, and what you can bring to the role.

To apply, please contact **clients@rita4rent.co.uk**. We guarantee confidentiality and your CV will be sent direct to our Staff Partner.

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Five partner practice needs confident and experienced Tax Senior for our growing Bournemouth office to handle a mixed portfolio of personal, business and corporate clients. The individual will deal directly with clients and HMRC on compliance and advisory matters.

Prefer ATT qualification as a minimum, but individuals with good practice experience will be considered. Assistance with training will be offered to the right applicant. Salary negotiable based on qualifications and expenence.

Please apply with a CV by email to Steve Harney, Director
steve@harney.co.uk

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Director

Tel: 0113 426 6672
Mob: 07957 842 402

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Head of Private Client
Leeds – £excellent

This is a key role in a large independent firm with a great reputation for private client and personal tax work. The firm seeks a director or partner who can help with the next stage of development of the practice. You will need experience of managing teams and a broad personal tax background. This practice deals with HNW individuals, owner managers and barristers, and also has a great trust team. Based in Leeds, you will also help manage teams in other locations. This is an exceptional opportunity for someone looking for partnership in a well-run, highly regarded, multi award winning firm. **Call Georgiana Ref: 3252**

Transfer Pricing
Multiple Offices

Transfer Pricing specialist sought by Big 4 firm. Range of levels and offices considered from Assistant Manager to Senior Manager and locations including Manchester, Leeds, Edinburgh, Glasgow or Newcastle. This firm has one of the largest TP teams in the UK and deals with a wide variety of work for some of the world's largest global companies including advice around mergers and acquisitions. Great flexible working on offer and a mix of home and office working. Part time working also possible. This is a friendly team with plenty of scope for personal and professional development. **Call Georgiana Ref: 3183**

International Private Client Tax
Senior or Assistant Manager
London – £40,000 to £50,000 + study

Our client is a niche tax practice which focuses on the needs of HNW individuals who are internationally mobile and who have residence and domicile issues. Often, they need advice on both UK and US taxes. As a result of growth, this firm seeks a tax senior who would like to broaden their knowledge. Whilst you will start with some compliance work, ultimately this role will focus on advisory work. You will become a trusted advisor to entrepreneurs, senior businesspeople and HNW families, helping them to navigate all aspects of their personal and capital taxes. **Call Georgiana Ref:3251**

In-house Tax Manager
St Helens/Remote Working
To £60,000 + benefits

An unusual opportunity to work in an international business and be based either mainly from home or from St Helens. Our client seeks a corporate tax specialist who will report to the finance director and manage a tax accountant. Your role will be to manage all tax governance such as SAO and to improve the company's taxation processes, developing tax policies and developing relationships with HMRC. You will oversee the compliance and reporting for the business and aim to achieve a low risk-rating with HMRC. There is also the opportunity to get involved in treasury work. **Call Georgiana Ref: 4000**

R&D Tax – Manchester/Remote Working
£50,000 to £60,000 + benefits

Our client is an advisory tax practice with a specialist R&D tax division. This new role has arisen due to expansion, and would suit someone looking to make their mark and drive the next stage of growth for the business. In this role, you will manage the claims process for other firms of accountants and their clients. You will be a technical resource on all matters R&D tax. It is likely that you will be ATT and CTA qualified, but those with a science and technology or HMRC background also considered. This role includes travel to see clients (mainly in the North West of England) and can be remote worked. **Call Georgiana Ref: 3241**

In-house Tax Manager
York – £50,000 to £55,000 + benefits

New In-house role for a tax manager to join a team based in York. They seek a tax professional who will support the Group Head of Tax in ensuring the group meets its legal obligations in respect of all UK taxes. This includes promoting visibility of the tax department across the business and being a go-to tax person. The person will strive to embed governance, mitigate risk and proactively seek opportunities to enhance tax processes. Ideally, you will be qualified (ACA, ICAS, CTA, ATT or ACCA) with proven UK corporate tax experience. **Call Georgiana Ref:3248**

www.georgianaheadrecruitment.com

SW Accountants & Advisors, Australia Transfer Pricing and Corporate Tax Staff

Has Covid interrupted your plan to work overseas? Are you looking for a chance to travel and work abroad? Our client is looking for chartered accountants (ICAS or ACA) with corporate tax or transfer pricing experience with a UK or Australian tax background for roles based in Melbourne or Sydney! These roles come with visa sponsorship, help towards relocation if required and plenty of opportunity for personal and professional development.

SW is an Australian owned accounting and advisory firm with an 85+ year history with a values-led culture that understands relationships make all the difference in delivering great outcomes. The firm operates as a national firm across Brisbane, Melbourne, Perth and Sydney and delivers global solutions as a member of the SW International Network and Praxity Network Alliance.

Their client base ranges from dynamic family owned businesses to global multinationals. Your role will include a mix of compliance and advisory work and you will also have the chance to work in specialised areas. The firm is renowned for supporting client contact from day one and you will be mentored by a partner. The National Head of Tax also made the move from the UK to working in Australia so completely understands the benefits!

As well as UK candidates, the firm will welcome Australian nationals looking to return to Australia. You will need to be a qualified accountant (ICAS or ACA) to enable a smooth path through the visa process, if you are also CTA or ADIT qualified this will be seen as an advantage. In depth training on Australian tax will be given to enable you to make the transition from UK to Australian tax advisor.

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

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- Senior Manager, Top 10 accountancy firm

"Sarah, has been nothing but great in helping me to secure my new position. She goes above and beyond to help you in any situation, is always available and ensures you are always supported in whatever you need. Sarah has been one of the best people that I have ever worked with."

- Senior Associate, Big 4

"Sarah not only provided me with great interview advice, but she also assisted me with any questions I had, being proactive and constantly following up with me. For this, Sarah earns my highest recommendation."

- Senior Associate II, Big 4

"Sarah is a one of a kind tax recruitment specialist. She took her time to understand my requirements. What I liked about her is the quality of interaction, candour, warmth and sensibility. I 100% recommend her assistance in tax recruitments."

- Manager, Big 4

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Sarah Barlin

VAT Recruiter

sb@andrewinell.com

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