www.att.org.uk www.tax.org.uk

Excellence in Taxation

May 2021

www.taxadvisermagazine.com


# TAXAdviser

# Change is the only constant

*Edmund Paul* and *Jonathan Berger* explore some of the recent employment tax changes,
page 7

**PLUS** Environmental taxes – Business asset disposal – Scottish taxes – Limited companies

# MAGNETIC NORTH

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

## PRIVATE CLIENT SENIOR MANAGER / DIRECTOR

**LANCASHIRE** To £80,000 dep on exp

Our client is a long-standing independent firm with a truly fantastic client base and a high calibre tax team. In this role you will lead the firm's private client offering and be responsible for providing wide ranging tax advice to its entrepreneurial clients as well as managing and mentoring junior staff. You should be CTA qualified and have strong private client experience gained ideally at a Top 10 firm. **REF: A3224**

## VAT SENIOR MANAGER / DIRECTOR

**LEEDS** To £85,000

Our client is a highly regarded independent firm with a fantastic reputation in the local market. Now seeking an experienced VAT / Indirect Tax specialist to join them and play a key role in the development of its VAT service offering. High calibre SME / OMB client base, and a strong emphasis on client service. Superb opportunity for a VAT professional to join one of the most successful independent firms in Yorkshire. **REF: S3103**

## TAX ADVISORY SENIOR MANAGER

**NORTH WEST** £highly competitive

Working closely with the Tax Partner, you will be responsible for helping drive growth through business development, and by leading and coaching the tax team as well as providing tax advisory services to clients (who are predominantly in the OMB market). This is a great opportunity for an experienced Senior Manager looking for a role with strong prospects for further progression. **REF: A3027**

## IN-HOUSE TAX M'GER 12-MONTH CONTRACT

**SOUTH MANCHESTER / HOME BASED**

To £70,000 + bens + bonus

In-house tax manager role, with a significant international focus, for an acquisitive global business. Working closely with the Head of Tax this varied role covers tax planning, audit support and managing advisor relationships as well as M&A projects. A crucial part of the role will also be to oversee the international tax compliance processes (especially in Europe) and managing the corporate teams across the group to identify tax related issues and opportunities. Four days a week considered. **REF: R3194**

## CORPORATE TAX COMPLIANCE SPECIALISTS

**MANCHESTER / REMOTE** To £75,000 dep on exp

Specialist corporate tax compliance role with a large international firm to be based in either Manchester or remotely (or a mix). You will work on a variety of different clients ranging from large multinationals to SMEs. Our client offers a high degree of flexibility in its working environment and an excellent benefits package adds to the attraction of this role. Applicants wishing to work part time are also welcomed. **REF: A3155**

## IN-HOUSE VAT DIRECTOR

**LANCASHIRE** £Competitive

Exciting role reporting to the Head of Tax you will manage European VAT affairs of this entrepreneurial group which is growing fast. This will include review of returns and managing VAT audits as well as providing VAT advice for M&A deals and identifying VAT savings within the group. You will proactively identify controls and drive process improvements, as well as utilising technology to provide future efficiency benefits and compliance with MTD. **REF: R3213**

## CORPORATE TAX AM / MANAGER

**MANCHESTER** To £50,000 dep on exp

If you are an ambitious assistant manager or an experienced manager looking to join a dynamic and fast-growing business where you will play a key role then this is the opportunity for you! You will work on a broad range of projects including corporate restructurings, M&A, share schemes and corporate tax compliance. Flexible/remote working is offered as standard, and a great benefits package is on offer. **REF: A3222**

## PRIVATE CLIENT SENIOR MANAGER / PARTNER DESIGNATE

**WEST YORKSHIRE** circa £80,000 + bens

This position is ideal for someone looking for progression to partner within the short to medium term and will suit a tax professional with solid private client advisory experience, effective team leadership and business development skills. This independent firm's client base is exceptional and includes landed estates and many extremely wealthy families with complex affairs. The role offers flexibility to work from home.

**REF: S3119**

longman tax recruitment

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

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

"Thank you so much for offering me and helping me getting the job. The way you created the process was very helpful, as I felt in the entire process totally well covered and serviced. I never had such a good service ever before with any other recruiter."

***Candidate placed into Global Online Fashion Retailer at Manager Level***

"By assisting me prior to interviews and always providing me prompt feedback, Andrew helped me land the role I wanted and in the conditions I needed. I could not be more thankful!"

***Candidate placed as Senior Tax Analyst into Top 10 Accountancy Firm***

"Andrew has a drive to succeed that delivers success. He is a great communicator, understands the market well and is well connected which enabled us to review multiple options in a very short space of time. Andrew and his team deliver on all expectations and I look forward to working with AVTR on future recruitment needs."

***Head of Tax, Global Online Fashion Retailer***

"I first spoke to Andrew in November 2020 to discuss my career to date and particular areas of future interest. Within a couple of days, he had lined up an initial call with a partner at a firm I had been interested in for a while. Overall, the process from start to finish was smooth and professional which made a potentially stressful process far easier. Andrew was always available to answer any questions I had."

***Candidate placed as Senior Manager into Top 10 Accountancy Firm***

"Working with Andrew and his team was an absolute pleasure. His background in working in Tax in the Big 4 is invaluable. He has a fantastic reputation in the tax market as an influencer, a networker and a connector. He really is relentless when it comes to finding the right candidate.

Andrew was careful to make sure that the successful candidate was not only technically sound, but also the right fit for our firm. He has a strong perception of who will suit certain environments. His communication was also on point, and I always felt well-supported throughout the entire process. It's very clear that he has a natural instinct for finding the right kinds of people, and we will be sure to work with him again."

***Big 4 Senior Partner***

"It is never easy being in a job where you are unhappy or where you feel you are an ill fit. It is especially hard feeling this way in the midst of a global pandemic. Just the thought of looking for a job in another jurisdiction and in the current economic climate was daunting. However, with a recruiter like Andrew, the entire process has been seamle…

literally got m…
did so whilst…
through the …
rare that you…
who not only…
promises but …
and interests…
Andrew put …
ever I were…
major career…
appears to …
climate - And…
person I wou…
comes highly…
from my own…
highly recomm…

***Candidate placed at Tax Manager level***

"In my opinion the way Andrew Vinell works is unique in today's recruitment market. He kept me involved at every step of the process, providing me with background information on the client and constructive feedback …

…w. I have no
…ecommending
…nalism and the
…oaches the
…"

…d into online …

… Andrew has successfully helped us find and hire high quality candidates. He listens, works tremendously hard, is committed, keeps you updated and delivers. Andrew is an extremely reliable and fruitful source. He is also very amiable, which makes the whole process a delight!"

***Big 4 Senior Partner***

"Andrew was a pleasure to work with throughout the process. He was always responsive, reverting quickly on issues and questions and providing good practical advice. Andrew provides an excellent recruitment service in the specialised area of tax and I would strongly recommend him to anyone looking for that next career move in tax."

***Tax Director placed into Top Ten Accountancy Firm, Saudi Arabia***

"I had a wonderful experience working with Andrew, all the way from the initial conversation, to the placement. Andrew could not have been more helpful and professional in his approach. Now, I've landed a job with one of the best firms in the industry and I am very happy in my new position. I am very grateful to Andrew for all the help and support, his excellent service and efficiency. I would highly recommend him to others."

***Candidate placed in Saudi Arabia***

"Tenacious and persistent, Andrew has proved exceptional when it comes to recruiting various positions for my team. His patience, loyalty, tremendous knowledge and experience of the industry serve him well. Beyond …

approachable, affable and attentive person to work … real pleasure. I can always rely on Andrew."

***Head of Tax, leading global online fashion retailer***

"The great thing about working with Andrew is that he is very easy to get on with. It's clear to me that his pleasant nature is part of what makes him such a successful recruiter. He is a people person, but beyond this he also has an incredible and extensive knowledge and awareness of his field, it is very evident that he's worked in the tax profession himself earlier in his career. The combination of his fantastic personality and terrific business acumen are evidently a winning combination."

… He's very friendly and approachable, and takes the time to understand what kind of role the candidate is after. …

***Candidate placed at Tax Manager level***

"I was delighted that we found the right candidate and I think that it …

"Andrew was focussed on what I …

"Meticulous, profound, smart, Andrew was a real pleasure to work with during the entire recruitment process. He offered pragmatic advice at every stage of the process which gave me …

# CONTENTS

# President's page

**president@ciot.org.uk**
Peter Rayney

## Heroes

As I write this President's page, the country has just been informed of the sad news of HRH Prince Philip, Duke of Edinburgh's, death. He has served our country in many admirable ways and, perhaps most important of all, he has been an indefatigable consort to our Queen. Our thoughts are with the Royal Family at this difficult and mournful time.

There are many lessons that we can all take from Prince Philip's long and remarkable life. One of these must surely be how he faced and dealt with the awful tragedies in his formative years. That is a truly inspirational story of triumph over adversity.

Prince Philip was also famous for his sharp incisive wit. My personal favourite was his advice on giving sermons that overran – 'The mind cannot absorb what the backside cannot endure' – tax lecturers and speakers take note!

**Inspiration, hard work and courage**

During the Covid-19 pandemic, we have all been inspired by the courage of the many heroes who have been a beacon of light and lifted our spirits. These include the late Captain Sir Tom Moore, Marcus Rashford MBE, the NHS and other front line workers and many others. We have also seen many great acts of generosity and kindness.

Closer to home, in my previous President's pages, I have praised all our hardworking and wonderful team at the Institute. They have superbly steered us through Covid-19's choppy waters and have delivered great services to our members and students. We are also very grateful for the dedicated support of our impressive army of volunteers. All this is a great example of the importance of tireless work and dedication behind the scenes.

**First President's Virtual lunch**

Thanks to the imagination and determination of our events team, we were able to deliver another CIOT 'first' during Covid-19 – our first virtual President's lunch. I was very impressed that we were able to deliver individual buffet lunches to our 50 or so guests across the breadth of the country – a huge logistical challenge. And continuing my theme of heroes, we were absolutely thrilled and delighted to have Baroness Tanni Grey-Thompson deliver our keynote address and take part in an enjoyable 'Q&A'.

Tanni's story is also hugely inspirational. Despite her disability, she became one of the most successful Paralympian athletes as a wheelchair racer, winning 16 medals (11 gold, four silver and a bronze). She also took 13 World Championship medals (six gold, five silver and two bronze). I am sure that we all admired her gritty and determined performances on the racetrack. After retiring, she has also carved out a successful career in politics at the House of Lords.

Tanni went down an absolute storm with our (virtual) guests and she certainly gave all of us a huge psychological lift. This was the point. During successive lockdowns and the Covid-19 disruption, we have all had to deal with many personal and professional challenges – and we continually need to remind ourselves to keep carrying on regardless.

**Positivity and mental health**

We can learn a lot about ourselves during these difficult times. We can take great comfort in our little victories. We also recognise the importance of supporting each other – striving to become a 'rainbow in another person's cloud'. I do hope we can take these positive aspects forward as normality slowly returns.

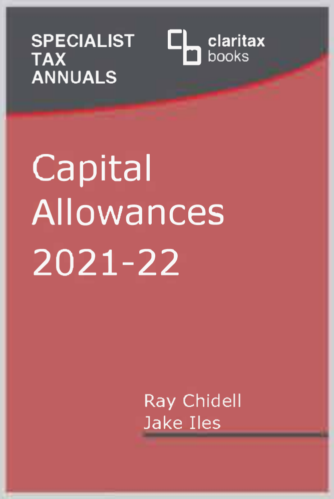
Looking after our mental health is also crucial and it is wonderful that we are now able to see our friends and family outdoors. We can also look after ourselves by taking time out to walk, run, cycle, relax or even dance to David Bowie's 'Heroes' at full volume!

Remember to look after yourselves and stay safe.

Peter Rayney
President, CIOT
president@ciot.org.uk

> **We have all had to deal with many personal and professional challenges – and we continually need to remind ourselves to keep carrying on regardless.**

# Specialist Tax Annuals

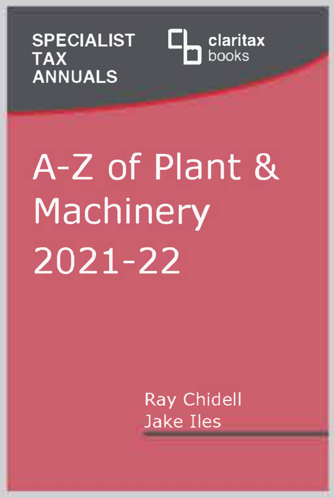



This well established and popular title offers detailed and practical guidance on all the plant and machinery issues most practitioners will come across (e.g. cars, fixtures, annual investment allowances, special rate expenditure, short-life assets), including in-depth coverage of the new super-deduction and of freeports. All other current capital allowances (e.g. those for structures and buildings and for R&D) are also covered in detail.

**"An excellent guide to capital allowances"**

*Taxation* review of earlier edition.

Fully updated for statutory and case law developments (FTT, UT and Court of Appeal) and new HMRC guidance, and for other developments.




Save hours of time, and be confident of getting the right answer, when analysing expenditure for claims for plant and machinery. This practical guide, in A-Z format, explains whether a claim can be made for the cost of more than 300 types of expenditure, from building alterations and barriers to tennis courts and ventilation systems.

**"The nuances often involved in determining if something is plant and machinery are explained with clarity and precision"**

*Taxation* review of earlier edition

Fully updated for statutory and case law developments and new HMRC guidance, with new commentary in various areas. The book is written to complement *Capital Allowances*, and the two are available as a discounted bundle.

# Other titles from Claritax Books

| | |
|---|---|
| Tax Losses (2nd Ed.) | Available now |
| Furnished Holiday Lettings (4th Ed.) | Available now |
| Taxpayer Safeguards (1st Ed.) | Available now |

**NEW: General Tax Annuals**

| | |
|---|---|
| Inheritance Tax | Available now |
| Income Tax | Available May |
| Stamp Duty Land Tax | Pre-order (June) |
| Capital Gains Tax | Pre-order (August) |

www.claritaxbooks.com | 01244 342179

# ATT welcome

**page@att.org.uk**
Richard Todd

## Time for a good re-wiring

The recent publication of the consultation on raising standards in the tax advice market and the potential requirement for all tax advisers to hold professional indemnity insurance (PII) reminds us yet again of the importance of PII.

Our own members in practice have had to have PII in place for years and it provides safeguards for clients and members. It is good to see it considered as a requirement for all advisers, even where they are not a professional body member.

The PII market remains challenging for members and we continue to hear of problems experienced by you. Many have experienced large increases in premiums or challenges in obtaining renewal quotes where particular types of work are undertaken. The insurers certainly view some areas of work as being riskier than others, including work for high net worth individuals or famous individuals.

Time and again, we are aware of the importance of the work of insurance brokers in assisting members in obtaining compliant cover and securing quotes in a difficult market. While the ATT [and CIOT] cannot recommend particular brokers or insurance policies, members are reminded that there are two insurers who have confirmed they provide compliant policies for members and the relevant details are available on the ATT website at bit.ly/3mMLSu4 and on the CIOT website at bit.ly/3e6D3qR.

And I wish to thank Jane Mellor, Professional Standards Manager, for providing this insight in relation to the recent announcements regarding the potential requirement to hold adequate PII.

The UK's Tax Day on 23 March saw the launch of various consultations. I confess that I do not usually pay more than a passing glance to the documents – but this time one struck a chord with me. It was entitled: 'The tax administration framework: Supporting a 21st century tax system'. I read it as a quasi-admission that the Taxes Management Act 1970 was no longer fit for purpose in the 21st century because, in the past 50 years, we have seen other pieces of legislation bolted on or shoehorned into TMA 1970. For example, the document acknowledges (page 10) the difficulty with imposing automatic penalties and how the issue of penalty notices has come under intense scrutiny.

I recall my first article for *Tax Adviser* magazine, titled 'Garbage in, Gospel Out' (it seems a lifetime ago). My concern was HMRC's reliance (and dare I say it, some of us in practice) on computerisation and that the computer is never wrong, unless of course it is fed on a diet of bad data.

I look at TMA 1970 as an old house that needs a good re-wiring. Ok, it does not do the best job and probably is not the most efficient, but it sort of works most of the time. Some extra wiring has been added over the years and it has all become a bit disorganised and tangled up. Now is a good time to update the wiring – rip out the old and replace with the new – but only if the new is fit for purpose.

We have been living with Making Tax Digital for VAT for a few years now, and we know this is being extended to include all VAT registered businesses. In due course, MTD for Income Tax and Corporation Tax will be rolled out. I suppose it will only be a matter of time before the issue of penalty notices for non-compliance, along with the associated appeal notices in response. Wouldn't it be a wonderful tax system if everything were 'either or', and there were no indistinct areas that could lead to dispute?

I believe that we, as tax practitioners, need to be involved in the conversation to ensure that the new TMA is fit for purpose. To ensure that there not just be a few years, but a reasonable number of years before something new needs to be bolted on.

It seems that 1921 was a significant year. On 3 May 1921, the Government of Ireland Act 1920 was passed, dividing the island of Ireland into Northern Ireland and Southern Ireland. The following month, on 10 June, the late Prince Philip, the Duke of Edinburgh was born. I read that he lived through the election of 18 presidents to the White House in Washington DC, which really does put into perspective what he saw during his lifetime.

One other point comes to mind. Those of us who are supervised by ATT or CIOT for Anti Money Laundering, watch out for the request to renew your subscription.

Stay safe, and I look forward to meeting you (where possible) in the coming months.

Richard Todd
ATT Deputy President
page@att.org.uk

**"The PII market remains challenging for members and we continue to hear of problems experienced by you.**

# A cause for relief?

*Bill Dodwell* considers the role that tax reliefs play in defining the tax base and their cost to the UK economy




**PROFILE**

**Name** **Bill Dodwell**
**Email** bill@dodwell.org
**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 very first report from the newly formed Office of Tax Simplification looked at tax reliefs. The team counted all the reliefs in the tax system and came up with 1,042. The team looked at 159 reliefs in more detail and proposed the abolition of 47 reliefs. In the end, after public consultation, the chancellor proposed the abolition of 43 reliefs, neatly achieving the short-term target of reducing the reliefs below 1,000.

This first report triggered much greater Parliamentary and public interest in tax reliefs. However, it has not prompted a reduction in tax reliefs generally. Indeed, the National Audit Office pointed out in its first report on Tax Reliefs in 2014 (see bit.ly/2Qn8XYu) that the number of reliefs had climbed to 1,128 by 2013. The latest report from HMRC identified 1,190 tax reliefs.

In part, tax reliefs have grown in number as new taxes have been introduced. As that first OTS report noted, 'abolition is only one route to simplification and … abolition of a relief might in fact add to complexity, by drawing more people or transactions into the tax system'.

## Defining the tax base

Often, tax reliefs are part of defining the tax base. As the NAO put it in 2014: 'It is important to recognise that, while the provision of reliefs reflects government's choices about where to place the tax burden, it would be unrealistic to assume that all of the revenue that appears to be foregone through tax reliefs could be collected. Some reliefs simply help define the tax base … and could not be otherwise collected.'

We see this broader point about defining the tax base in several parts of the tax system. The personal allowance for income tax cost £113 billion in 2019/20 (see bit.ly/3axjTcN) and the equivalent for national insurance cost £62 billion. These 'reliefs' define the tax base by providing that those on the lowest incomes (and their employers) are not liable for the taxes.

From the point of view of simplification, higher allowances mean that fewer people are liable to pay the tax and there is a saving in administration. However, the effect of benefits complicates the whole area. One of the aims of universal credit is to take account of tax borne; reducing tax or national insurance typically means that the benefit is reduced as well.

Alongside the reduction in administration needs to be placed the related philosophical point, notably made by former chancellor Nigel Lawson, to the effect that people who pay tax should have an interest and involvement in the tax and public spending systems – and the link between the two.

## The cost of tax reliefs

Some of the UK's taxes on assets have reliefs that considerably exceed the tax raised. For example, the cost of the inheritance tax £325,000 nil rate band is about £17 billion, compared to tax raised of about £5 billion. A similar point occurs in capital gains tax, where the annual cost of the main residence exemption is about £27 billion, compared to tax paid of some £8-10 billion. HMRC has not been able to make a reliable estimate of the cost of the £12,300 annual exempt amount but it is clear this considerably exceeds the tax raised.

The National Audit Office (and HMRC) make a further important point in relation to the system of reliefs. It is not possible to add up the individual estimates and assume that the total represents revenue foregone. In practice, many of the reliefs interact and there are also significant behavioural effects too.

However, alongside the growth in the number of reliefs, their value has also grown. The NAO stated that: 'As a proportion of GDP, the sum of all tax reliefs has increased from 16% to 21% since 2005/06 [to 2012/13], while tax revenues have decreased marginally. This increase is mainly explained by increases in the income tax personal allowance, the thresholds for national insurance contributions, and the standard rate of VAT (because as the standard rate of VAT rises, so does the value of VAT reliefs). The value of tax expenditures has increased in real terms from £91 billion to £101 billion over this period (from 5.9% to 6.5% of GDP).'

The International Monetary Fund reviews the financial systems of many countries. Its reports on the UK have praised the UK's overall disclosure and costing of of tax reliefs, but the IMF points out that the UK devoted a higher proportion of GDP to tax reliefs than do many other countries (see 'Figure 1.8: Revenue loss from tax expenditure in selected countries' at bit.ly/3gIfvfd). The UK's tax reliefs considerably exceed France, Germany and Canada but are below the US and Italy.

The IMF notes: 'Tax expenditure analysis is integrated with tax law design but not with budgetary decision making. As a result, performance of tax expenditure schemes can't be assessed against quantitative measures in an analogous manner to spending programmes.'

Policy decisions over the tax base remain very much a matter for government. Perhaps the broader question, though, is whether the tax incentives offered by reliefs are effective in achieving their policy aims. The higher level of work on evaluation now being undertaken by the Treasury and HMRC is thus to be welcomed.

# Change is the only constant

© Getty images/iStockphoto

**KEY POINTS**

- **What is the issue?**
The 2021/22 tax year will see the introduction of several significant employment tax legislative changes.
- **What does it mean for me?**
Taken together, the changes will significantly increase the complexity, costs and challenges for businesses.
- **What can I take away?**
Preparation is key in ensuring that businesses can comply with the new rules.

In the first of two articles, *Edmund Paul* and *Jonathan Berger* explore some of the key employment tax changes that came into effect from 6 April 2021, starting with the off-payroll working changes and the Construction Industry Scheme

Employment taxes have been an area of significant focus for the government with the 2021/22 tax year seeing several significant pieces of legislation being introduced. For many, changes to the off-payroll working rules have stolen the headlines but other changes have added further cost and complexity, including amendments to the Construction Industry Scheme. The second part of this article will consider the representative occupier rules for accommodation, as well as the cessation of grandfathering provisions for certain employer provided benefits caught by the optional remuneration arrangement legislation.

## Off-payroll working changes

Prior to 6 April 2021, where a business in the private sector engaged a worker through an intermediary (typically referred to as a personal services company) and the arrangements were suitably robust, the intermediary remained responsible for determining the employment status of the worker and operating PAYE and NIC, if required.

However, the 'IR35' rules changed with effect from 6 April 2021 for medium and large employers, whereby the responsibility for determining employment status and withholding PAYE shifted up the contractual chain. The 'end client' is responsible for determining the employment status of the worker. This brings further obligations which are also extended to public bodies.

These include preparing a status determination statement and passing it down the contractual chain, as well as establishing a suitable dispute resolution process. The 'fee payer', being the entity that contracts with the intermediary, is responsible for deducting PAYE and NIC due where the worker is deemed employed.

For a status determination statement to be valid, the end client must take and be able to evidence 'reasonable care' when preparing it. Whilst there is limited guidance on what constitutes reasonable care, HMRC has indicated in its guidance that reasonable care will be viewed 'in light of the abilities, experience and circumstances' of the business.

Finally, there are transfer of liability provisions which potentially enable any underpaid income tax or NIC to transfer to the first agency in the contractual chain and, if not collected from this entity, then to the end client itself.

## Key considerations for the 2021/22 tax year

**Client led status disagreement process**

Whilst end clients may have pre-empted disputes by providing a status determination statement ahead of the 2021/22 tax year and agreeing the worker's employment status, workers and deemed employers are entitled to formally dispute an employment status assessment by providing representations as to why the original assessment was incorrect.

The dispute can be raised any time during the engagement and prior to the final payment in relation to the engagement. End clients are required to respond to these representations within 45 calendar days of receipt, either informing the worker that the original status determination statement is correct (with supporting reasons) or providing an updated statement. If a response is not provided within the legislative timeframe, the PAYE liability transfers to the end client.

Worker disputes can be time consuming and may require several rounds of correspondence before they are resolved. Where differing assessment methods have been utilised by both parties generating different results, these disputes can be particularly difficult to amicably resolve and can bring further disruption.

**Supply chain due diligence**

Many businesses, particularly in the financial services industry, have sought to short circuit the legislative changes by requiring all contractors to be on a payroll (either via an umbrella company or an agency), meaning that a status determination statement and associated processes are not required.

However, liability may still arise where entities further downstream do not correctly withhold PAYE. This risk is heightened where there are overseas entities within the contractual chain, or where the business has not undertaken appropriate due diligence. Businesses should therefore ensure that they have appropriate contractual provisions in place to cover such risks and adequately review the full labour supply chain. HMRC has the ability to transfer liability up the supply chain in order to pass obligations onto the end user in certain circumstances of non-compliance.

**HMRC compliance approach**

HMRC confirmed in its compliance strategy that businesses would not suffer penalties for inaccurate determinations in the first 12 months unless deliberate non-compliance with the rules can be evidenced.

However, where an incorrect self-employed assessment has been made, end clients remain liable for underpaid income tax and NIC. Furthermore, HMRC will need to validate that the errors have been corrected and processes updated accordingly, which could include HMRC auditing all information relating to the off-payroll working population, as well as 'naming and shaming'.

After a delayed start in the private sector, IR35 is here to stay. Businesses need to ensure awareness and potentially upskill themselves to deal with the requirements.

**From 6 April 2021, for medium and large employers, responsibility for determining employment status shifted up the contractual chain.**

### Construction Industry Scheme

Whilst the new VAT reverse charge rules for the construction industry were introduced from 1 March 2021 (and were the subject of an article by Neil Warren in February 2021's edition of *Tax Adviser*), Finance Bill 2021 also introduced several changes to the operation of the Construction Industry Scheme.

Most significantly, it changed the threshold required for a business to be considered a 'deemed' contractor and restricted the ability of subcontractors to claim deductions for material costs incurred. It is worth noting the interaction between the off-payroll working rules (IR35) and the Construction Industry Scheme. If the subcontractor falls within IR35, this removes the requirement to operate the Construction Industry Scheme (as the subcontractor will be considered a 'deemed employee' for tax purposes).

**Deemed contractor changes**

Under the Construction Industry Scheme, some businesses and public bodies outside the mainstream construction industry that regularly carry out or commission construction work are brought within the scheme and deemed to be contractors.

Historically, this condition was met where the annual expenditure on construction for these businesses exceeded £1 million on average over three periods of account. The business would then begin operating the Construction Industry Scheme from the start of the next period of account.

However, since 6 April 2021, a business is a deemed contractor and must register for the Construction Industry Scheme where the cumulative expenditure on construction operations over a rolling 12 month period exceeds £3 million. HMRC has included transitional rules, so that where a deemed contractor is currently caught by the rules, they will remain within the scope of the scheme until they are not expected to incur further expenditure on construction operations.

The legislation allows for only a limited grace period, allowing businesses that inadvertently or unexpectedly breach the deemed contractor threshold time to set up processes enabling them to operate the Construction Industry Scheme rules effectively.

Businesses will need to develop processes to monitor their expenditure on construction operations to ensure that the threshold is not breached over a rolling 12 month period; however, the legislation does not prescribe the

## PROFILE

**Name:** Edmund Paul
**Position:** Employment Tax Manager
**Company:** Grant Thornton UK LLP
**Tel:** 0118 955 9127
**Email:** Edmund.G.Paul@uk.gt.com
**Profile:** Edmund is a member of the Grant Thornton employment taxes team. He has worked with a variety of clients drawn from all industry sectors which range in size from large multinationals to OMBs. He focuses across all aspects of employment taxes, including Optional Remuneration Arrangements, the national minimum wage, employer compliance reviews and the Construction Industry Scheme.

**Name:** **Jonathan Berger**
**Position:** Director, Employer Solutions
**Firm:** Grant Thornton UK LLP
**Tel:** 020 7728 2764
**Email:** jonathan.p.berger@uk.gt.com
**Profile:** Jonathan is a Director at Grant Thornton and leads their Employment Tax team in London. He enjoys helping a diverse portfolio of clients navigate the complexity and ever changing world of employment tax risk, reward, governance and cost management. He tweets via @UKEmploymentTax

frequency of such checks. As such, businesses may need to undertake very regular, possibly daily, checks requiring significant business resource. In addition, suitable record retention is needed to validate and evidence expenditure.

**False documentation penalties**

HMRC has the right to impose a potential subcontractor penalty of up to £3,000 where false documentation is used in support of gross payment status or reduced withholding. The legislation has been expanded to apply to the individuals or companies who can exercise influence or control over a person making the application.

**Material deductions**

The government has amended the Construction Industry Scheme legislation so that only the cost of materials purchased directly by a subcontractor is deductible for the purposes of the legislation. The change was introduced as HMRC perceived that, in some cases, multiple entities within the contractual chain could be claiming Construction Industry Scheme offsets for materials they did not directly incur, raising concerns that scheme deductions were being artificially reduced.

## Key considerations for the 2021/22 tax year

**Cashflow within supply chains**

Prior to this, entities within the supply chain frequently reimbursed each other for material costs incurred further downstream until the cost was borne by the client. As such, where subcontractors do not hold gross payment status, the changes will likely result in reduced cashflow.

Commercially, businesses are exploring changes to their engagement terms to avoid negative cashflow implications, including:

- requiring subcontractors to invoice materials separately on delayed payment terms;
- changing the entity responsible for procuring materials; or
- requiring the customer to pay an advance for the procurement of materials.

**Exiting the Construction Industry Scheme**

Where a deemed contractor is caught by the Construction Industry Scheme, the legislation allows that business to leave the scheme where it is 'not expected to make any further expenditure on construction operations' (including retention or management/administration payments) under any construction contract. However, given that the definition of construction operations is broad and can cover minor ongoing works, it may be difficult in practice for a business to do so. As noted above, whilst the legislation makes it difficult to exit the Construction Industry Scheme, HMRC has suggested in its guidance that where a business has spent less than £3 million on construction activities during the prior 12 months, it would accept a request to deregister as a deemed contractor.

These changes bring more complexity to the Construction Industry Scheme and it is important that businesses seek to understand their impact quickly, as well as ensuring they retain suitable documentation and evidence.

*In the second part of this article, Edmund Paul and Jonathan Berger consider the cessation of grandfathering provisions for certain employer provided benefits, the withdrawal of the representative occupier concession for employer provided living accommodation and other employment tax changes of note.*


**KEY POINTS**

- **What is the issue?**
The will is only one part of dealing with an estate. In the event of a death, some practical steps might make the process easier if they are thought about in advance.
- **What does it mean for me?**
There are a range of issues to consider, including bank accounts and cash management, life insurance, valuation of assets, income tax and capital gains tax reporting, unintended effects and lifetime gifts and normal expenditure out of income.
- **What can I take away?**
The importance of accurate and current estate accounts cannot be overstated. For valuable, complex or contentious estates, estate accounts are the executor's best tool for ensuring that the administration is concluded in a timely manner.

The events of the last year have focused our minds, leading many people to review or write their wills. However, the will is only one part of dealing with an estate. Here are some practical tips to bear in mind in the event of a death, and some steps to consider which might make the process easier if they are thought about in advance: perhaps at the point of writing the will.

## General

There is useful basic guide on what to do when someone dies on the Gov.uk website (see bit.ly/2OEutak). There is a useful 'Tell us once' service to inform most government departments that someone has died; this is initiated with a code from the registrar (see bit.ly/3fVEPhe). There is also a guide to probate, how to value the estate and how to register a jointly owned property in the sole name of the survivor.

It is sensible to pay for multiple copies of the death certificate and, when granted, the probate grant, as these will need to be sent to a wide range of businesses and financial institutions. It may also be helpful to obtain certified copies of the will. The original will must be sent to the Probate Registry, but some financial institutions ask to see the will before making payments to the executor.

## 1. Bank accounts and cash management

The assets of the deceased are frozen until probate is granted. Most banks will allow funds to be accessed to pay the probate fees and inheritance tax, and some will allow funeral costs too. In addition, regular direct debits and standing orders will be stopped. This can be helpful as having a direct debit payment stopped will usually cause the provider to make contact, which will assist in identifying anything which has been missed; online subscriptions and PayPal, for example, are easily overlooked. The deceased's outstanding bills, such as utilities and care fees, will not be paid by banks. Some banks may close accounts and pay small amounts direct to the executor without the need for probate but this is a variable practice.

It is wise to set up an executor's account as soon as practical to receive income and proceeds of sale from the estate in due course.

In estates where there are large ongoing costs of maintenance and perhaps a payroll, it can be helpful for the testator to declare a bare trust in lifetime over a sum of money with the will-be executor as trustee. Be aware that a joint signing authority or power of attorney will not stop the bank account freezing (although a joint account will pass directly to the other account holder). These funds can then be accessed in the pre-grant period.

## 2. Funding inheritance tax

Ideally, liquidity planning and estimated inheritance tax computations should be a routine part of later-life financial reviews to avoid cash flow difficulties. Inheritance tax must be paid within six months of the death. Investment managers may be able to sell investments to raise cash. Borrowing can be an option but could be expensive, whilst being difficult to put in place in terms of administration. In theory, HMRC can allow time to pay if there are no other means of funding the tax in advance of the grant of probate but it is not often keen to do so. If you have liquidity concerns, they should be identified and addressed early.

Proof of a transferable nil-rate band and residential nil-rate bands can be hard to establish post death. It is always useful on the first death to ensure that information is retained and accessible. While a later claim can be made on the corrective account, holding proof on nil-rate bands could enable a sizeable cash flow saving.

As an aside, evidence of non-English law marriages can be particularly challenging to find. I have worked on a case where HMRC asked for wedding photographs from 60 years ago!

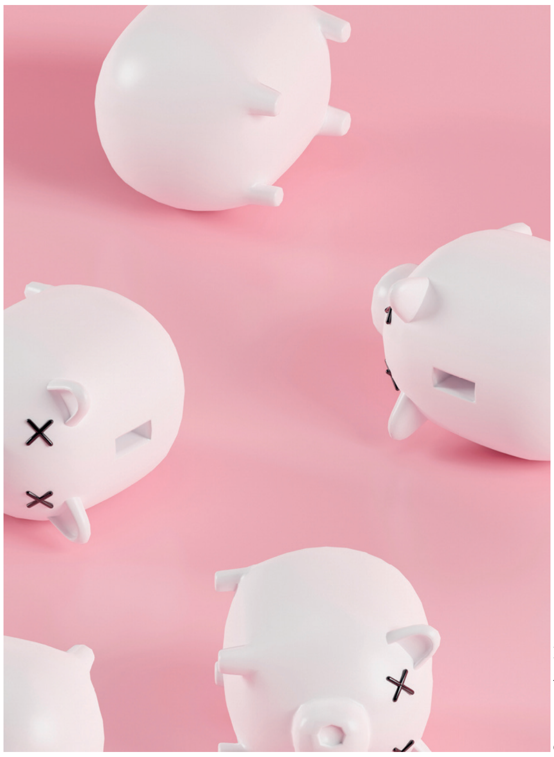
## 3. Premium bonds pensions and life insurance

One may think that a simple estate passing to the surviving spouse might not need a grant of probate. I was shocked, though, to find that we had to obtain a grant of probate to redeem premium bonds. Be aware if you have an estate including premium bonds which may not otherwise need a grant.

Pensions (especially undrawn ones) and life insurance can sometimes be difficult to track down and claim. You can ensure that your savings and investments are properly accessed if – while you are still here – you keep a list of policy numbers and providers alongside a copy of your will.

## 4. Self-employment, partnerships and staff on payroll

Where an individual is self-employed, in partnership and/or has staff (including domestic staff), it is important to have a plan in place to either keep the business going or to wind down in an orderly manner. The staff will not be thrilled if they go unpaid and technically




the death of an unincorporated employer is a statutory redundancy event. One might think that this is a relatively common event and would be easy to deal with, but recent cases we have dealt with have shown that the real time information (RTI) system does not factor this in well; transfer of payroll can be difficult and employment law issues can arise.

If a business maintenance plan is in place – particularly if combined with cash flow planning as above – it can be very helpful. It's important that someone other than the business owner knows what to do and how to contact customers, as well as handling VAT and payroll. Make sure the business protection insurance policies are in place and are to hand.

### 5. Valuation of assets

The executors are required to value assets to the best of their knowledge and belief. An insurance inventory can be a good place to start in terms of establishing a headline value of chattels and sites such as Zoopla can offer clues to property values (useful for liquidity planning). If there is any question as to inheritance tax being payable, however, the executor should instruct an appropriately qualified valuer.

Quoted investments are straightforward enough but other assets may require professional assistance – such as unquoted assets (a chartered accountant), real property (an estate agent) and chattels and personal effects (an auction house). One would hope that art, jewellery or similar items of value or significance have been identified during the deceased's lifetime, but executors can find surprises.

## PROFILE

**Name** **Lisa Spearman**
**Job title** Partner
**Employer** Mercer & Hole
**Email** lisa.spearman@mercerhole.co.uk
**Tel** +44 (0) 20 7002 5702
**Profile** Lisa Spearman CTA TEP is a partner with Mercer & Hole specialising in private client matters, with over 30 years' experience of advising high net worth individuals on a broad range of tax and trust issues. Her overriding aim is to demystify tax and to provide clear advice for her clients on how to organise their tax and financial affairs.

### 6. Business assets

If the deceased has shares in an unquoted company or has other business assets, a valuation will be needed for probate purposes and to form the base cost for capital gains tax purposes for the heirs. One might assume that as 100% business property relief applies for inheritance tax, that will suffice. Be aware of the excepted assets trap, however. It is not uncommon for a business to be less active than it was in the deceased's earlier life. If there are assets on the balance sheet not used for business purposes in the prior two years and not required for the future, business property relief on these assets will be denied. Cash and real property are frequent offenders.

The 'wholly or mainly' trading question can also be a trap. It is wise to ensure that annual accounts preparation includes a commentary on any assets on the balance sheet which might fall into this category, so that there is contemporaneous evidence of use and purpose, should the worst happen. If contemporaneous evidence is not available, the executors will have to reconstruct evidence from the available evidence to claim full business property relief.

### 7. Income tax and capital gains tax reporting

The timing of the death can have a significant effect on the complexity and duration of bringing matters to a close, depending on when it falls in a tax year. Income tax and capital gains tax due before probate is granted are automatically deferred until 30 days after the grant. However, the HMRC computer does not always know that, and you can get demands for payment. Similarly, if a tax return due on 31 January cannot be filed, make sure that HMRC is aware of the circumstances.

There are some traps: watch out for accrued income, life insurance chargeable events and some deferred gains which may become taxable as at the date of death. If a business has come to an end, cessation rules might operate. It may be possible to conclude the deceased's affairs and those of the estate by informal procedures. HMRC publishes the criteria for this at bit.ly/3u4hH3W. Don't overlook the requirement to register on the Trust Registration Service.

Finally, note that sales of residential property must be reported within 30 days of completion. This is onerous for executors and needs particular care. It is also important to understand whether the seller is the estate or the heirs. In the latter case, several returns may be required and there are penalties for late filing.

### 8. Unintended effects

Executors often find themselves involved if a trust is created, or comes to an end, as a result of the death. In the case of a trust ending, there may be a tax liability (particularly if it is a non-UK trust). On creation of a will trust, executors often become the trustees, and will need to be conscious of which hat they are wearing and of different reporting obligations.

### 9. Lifetime gifts and normal expenditure out of income

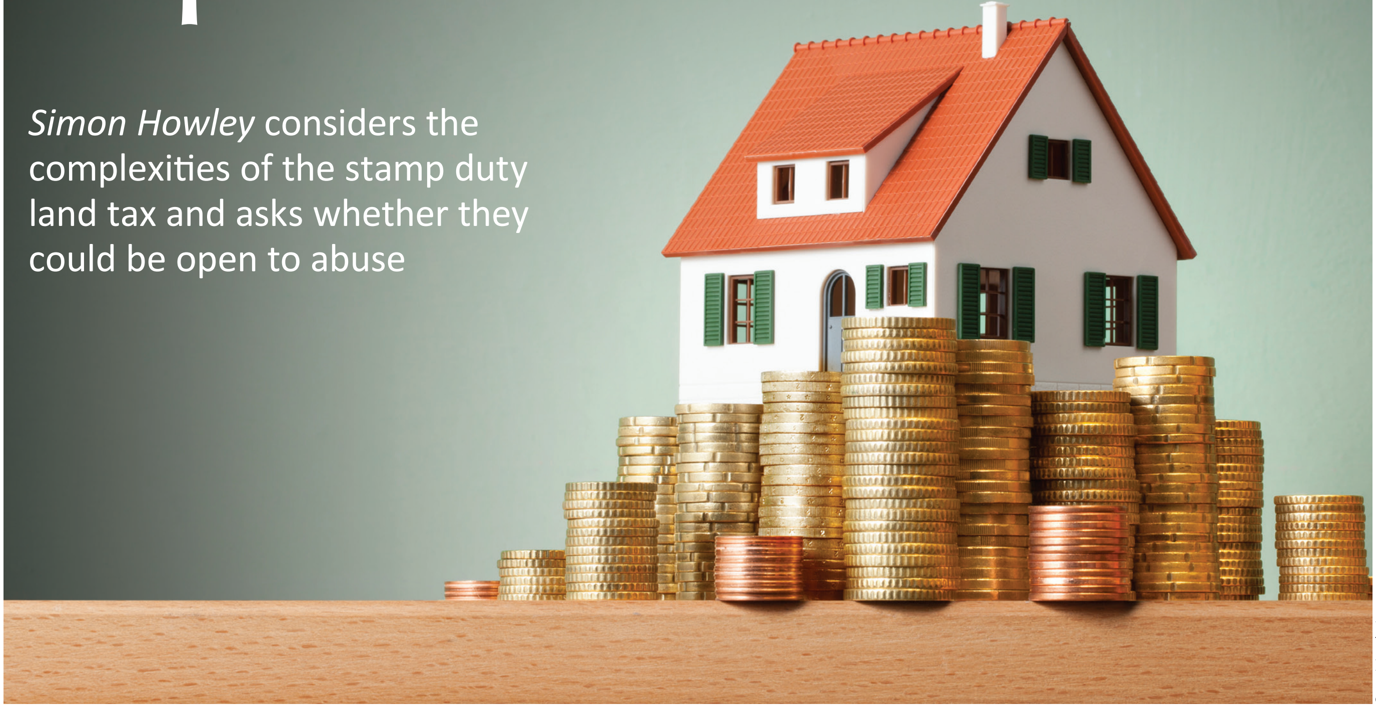
Keeping a record of significant lifetime gifts is always helpful. Executors may have to go back 14 years to establish the correct inheritance tax position, and it is a dedicated squirrel who retains bank statements for that long. Giving away surplus income is effective inheritance tax planning but only if your executors can prove it. It is necessary to show that year-on-year, there was a pattern of giving and that the gifts were made from income without reducing the deceased's normal standard of living.

Many of my clients complete p8 of form IHT 403 annually as a useful way of recording the information needed in the relevant format, whilst identifying the likelihood of the relief being denied while there is still time to do something about it. See bit.ly/3m4usIY.

### 10. Estate accounts

I'm an accountant, so I would say this – but the importance of accurate and current estate accounts cannot be overstated. For valuable, complex or contentious estates, estate accounts are the executor's best tool for protecting themselves from challenge and ensuring that the administration is properly and completely concluded in a timely manner.

# Will history repeat itself?



© iStockphoto/malerapaso

*Simon Howley* considers the complexities of the stamp duty land tax and asks whether they could be open to abuse

## KEY POINTS

- **What is the issue?**
The stamp duty land tax has become an ever more complex, much abused and confusing tax where the cost of making an error can be very expensive – for both the client and the adviser.
- **What does it mean for me?**
When the effective date of the purchase of a dwelling in England or Northern Ireland, by a non-resident buyer, is on or after 1 April 2021, it may be subject to a 2% SDLT surcharge. This is *in addition* to the normal and higher rates of SDLT.
- **What can I take away?**
The 2% non-resident charge is yet another piece of disproportionately complex legislation, particularly in relation to close company legislation and the non-UK control test.

Stamp duty land tax (SDLT), being a mechanically transactional tax by nature, should in theory be a relatively simple tax to understand and apply. However, since it was introduced by the Finance Act 2003, it has become an ever more complex, much abused and confusing tax where the cost of making an error can be very expensive – for both the client and the adviser.

You only have to look at the number of SDLT refund internet firms that have popped up over the past five years and the increasing number of solicitors and conveyancing firms now completely outsourcing the SDLT advisory side of property transactions. The regulatory risk of getting it wrong is just far too great!

Roll forward to the present day, and we have an extra segment of complexity to add to the SDLT Battenberg cake – the 2% surcharge for non-resident buyers of dwellings.

When the effective date of the purchase of a dwelling in England or Northern Ireland, by a non-resident buyer, is on or after 1 April 2021, it may be subject to a 2% SDLT surcharge. This is *in addition* to the normal and higher rates of SDLT, capped at 17%, but it does or should not apply to the following scenarios:

- the acquisition of mixed-use property or non-residential property; and
- the acquisition of six or more dwellings, as this would be treated as a non-residential transaction (assuming multiple dwellings relief is not claimed).

However, where the transaction in question involves the acquisition of both residential and non-residential property, and multiple dwellings relief is claimed, then the 2% surcharge *will apply* when calculating the SDLT for the dwellings. It was becoming common practice for wealthy overseas individuals buying in central London to be blatantly marketed a small commercial property wrapped up within their multi-million pound residential property purchase, in an attempt to secure the lower non-residential SDLT rates.

So, when is the 2% surcharge for non-resident buyers actually triggered? If all of the following conditions are satisfied, then it is a ‘non-resident transaction’:

- the buyer (or at least *one* of the buyers) is non-resident;
- a major interest in a dwelling or, dwellings and *other property*, is purchased;

**PROFILE**

**Name** **Simon Howley**
**Job title** Managing Partner
**Employer** Bell Howley Perrotton
**Email** simon@bhptax.law
**Tel** +44 20 7129 1432
**Profile** Simon Howley is the co-founder of Bell Howley Perrotton LLP with offices in London and Dublin. He has over 25 years of experience working within City law firms and accountancy practices, and oversees the firm's tax team. Simon sits on the Property Taxes Sub Committee of the CIOT's Technical Policy and Oversight Committee.

- the major interest is not a lease with an unexpired term of seven years or less; and
- the chargeable consideration is at least £40,000 or, if the consideration includes rent, the rent must be at least £1,000.

So far, so good, but what exactly is a non-resident buyer. It will come as no surprise to the reader to discover that there are separate rules defining non-resident buyers which apply to individuals, companies, partnerships and unit trusts, *and* additional rules to determine who the buyer is in relation to trusts and alternative property finance transactions. The complexity is mind boggling!

I simply do not have the space in this article to cover all of the different scenarios or the complexity of the rules, so I will attempt to broadly cover the salient points applicable to individuals and companies only.

## Individuals

There are two tests for determining the residence of an individual for SDLT: a basic rule *and* a special rule.

Under the basic rule, an individual is UK resident if they are present in the UK for at least 183 days in a continuous 365 day period. The period begins with the day that is 364 days before the effective date and ending with the day that is 365 days after the effective date. So, if an individual is non-resident at the effective date, the 2% surcharge will be payable, but they could claim back a refund of the 2% surcharge should they become UK resident in the relevant period.

The basic rule does not apply if the special rule applies; and where there are multiple buyers, the 365 day period needs to be applied to each individual separately. It only takes one of the buyers to fail the test for the surcharge to be triggered.

Under the special rule, an individual is treated as UK resident if they are present in the UK on at least 183 days during the period commencing with the day that is 364 days before the effective date of the transaction. This test only looks at the position on the effective date, and not at the residency of the individual thereafter.

HMRC states in its manuals that it recognises that buyers are unlikely to keep detailed notes of their presence in the UK on a day-to-day basis. Accordingly, HMRC will consider the following information when determining whether or not an individual was present in the UK or not:

- credit card or bank statements that detail the place of expenditure;
- work diaries, timesheets, etc.;
- mobile phone bills indicating a person's location;
- utility bills that demonstrate a person's location; and
- membership and usage of clubs (for example, sports, health or social clubs).

HMRC has confirmed that it will take a pragmatic approach where possible, considering the taxpayer's individual circumstances. Days spent in the whole of the UK count for the purposes of the residency test, not just days spent in England or Northern Ireland.

Where there are two or more buyers of a dwelling who are (or include) spouses or civil partners, of whom one is UK resident and the other non-resident, then the non-resident spouse will be treated as UK resident for the purposes of the 2% surcharge if they are both entitled to an interest in the property; and if at the effective date they are married and living together.

## Companies

For the purposes of the 2% surcharge, a company is non-resident if, on the effective date:

- the company is not UK resident for the purposes of corporation tax; or
- the company is UK resident for the purposes of corporation tax, but it is a close company and meets the non-UK control test in relation to the transaction.

The basic rule is that a company is UK resident for corporation tax purposes if either it is incorporated in the UK; or if its central management and control are in the UK.

HMRC's SDLT manual states that 'a company is resident in the UK for the purposes of corporation tax if it is incorporated in the UK, or the central management and control of its business is in the UK'.

For the purposes of the 2% surcharge, a company is a close company if it is a close company within the meaning set out in the Corporation Tax Act 2010; i.e. it is controlled by five or fewer participators, or it is controlled by participators who are also directors, etc. When determining whether a company is close, the rights of other people should be attributed to a participator, including the rights of controlled companies and associates (for example, relatives and partners).

When applying the close company test for the 2% surcharge, the following rights and powers are attributed to a participator:

- those that the participator is entitled to acquire at a future date or will, at a future date, be entitled to acquire;
- those held by another person on behalf of the participator, and any rights and powers that another person may exercise on behalf of the participator or according to their direction;
- those held by a company that is controlled by the participator (and the participator's associates); and
- those held by any associate of the participator.

'Associate' includes the relatives or partners of a participator and the trustees of any settlement to which the participator is a settlor. 'Relatives' are defined as spouses, civil partners, parents, remoter forebears, children, remoter issues and siblings.

Now we have the bare bones of the rules, let's look at some examples of the rules in practice.

## Sole purchaser

Fabienne lives in Spain. She purchases a 160 year leasehold interest in a residential property in England on 1 June 2022 for £400,000. Between 2 June 2022 and 1 June 2023, Fabienne spent 200 days in the UK. She is therefore UK resident in relation to the transaction under the basic rule. However, the SDLT return for this transaction must be submitted to HMRC by 15 June 2022.

At the date of submission, Fabienne has spent less than 183 days in the UK; therefore the purchase is treated as a non-resident transaction and the SDLT return is completed on the basis that the surcharge is due.

Once Fabienne satisfies the residence requirement under the basic rule *after* the effective date of the transaction, she will be able to amend the SDLT return and apply for a refund of the 2% surcharge paid.

### Joint purchasers

Donnacha, Niall and John live in New Zealand. They jointly purchase a freehold residential property in Northern Ireland on 1 June 2025 for £850,000.

Between 2 June 2024 and 1 June 2025, Donnacha spent 183 days in the UK, and is therefore UK resident in relation to the transaction under the basic rule. Between 2 June 2025 and 1 June 2026, Niall spent 183 days in the UK. He is also therefore UK resident under the basic rule. Between 1 August 2024 and 31 July 2025, John spent 275 days in the UK. He is also therefore UK resident under the basic rule. As all three purchasers are UK resident in relation to the transaction under the basic rule, the purchase will not be liable to the surcharge.

However, the SDLT return for the transaction must be submitted to HMRC by 15 June 2025. At the date of submission, Niall has spent less than 183 days in the UK; therefore not all three purchasers are UK resident in relation to the transaction on the date of submission. The SDLT return must therefore be prepared on the assumption that the purchasers are non-UK resident.

As all of the conditions in the special rules are met in relation to the transaction on the date of submission, the purchase is treated as a non-resident transaction and the SDLT return is completed on the basis that the surcharge is due. Once Niall satisfies the residence requirement under the basic rule after the effective date of the transaction, the SDLT return can be amended and a refund of the 2% surcharge claimed.

### Company purchaser

X Ltd is a UK incorporated family investment company buying a UK dwelling. The shares (all ordinary shares) in the company are owned by Mary (90%) and her daughter (10%). Mary lives in the UK. The daughter is at university in Canada and has not been in the UK for more than a year. The company is non-UK resident for the purposes of the 2% surcharge.

Although the company is incorporated in the UK, it is non-UK resident if it is a close company that meets the non-UK control test. The company is a close company because it is under the control of five or fewer participators; and when considering whether the company is under non-UK control, the residence of the shareholders is determined according to the special rule.

Under this rule, Mary is UK resident but the daughter in Canada is not UK resident. While Mary holds 90% of the shares it is necessary to attribute her rights and powers to the daughter in Canada. This results in the daughter being treated as controlling 100% of the company. As she is non-UK resident, the company is treated as under non-UK control.

### In summary

The above are just a few examples of how the rules work in practice and HMRC has published further examples in its guidance manuals. However, a detailed reading of the legislation will be essential before any advice is given in this area.

The 2% non-resident charge is yet another piece of disproportionately complex legislation, particularly in relation to close company legislation and the non-UK control test. It will no doubt be abused by some corporate purchases attempting to insert, fraudulently, contrived nominee arrangements in an attempt to get around the special rule. Only time will tell, but history has a habit of repeating itself when it comes to property taxes.

# The journey towards zero

*Colin Smith* examines how the journey toward net zero greenhouse gas emissions will impact tax

## KEY POINTS

- **What is the issue?**
The net zero agenda will impact tax laws and incentives, business operating models, and transparency and reporting. These in turn will impact tax teams and tax advisers.
- **What does it mean for me?**
The tax implications and opportunities throughout the business lifecycle of any new operating model should be considered. Different tax considerations may be relevant at the development, construction, operation and decommissioning phases of a renewable energy project.
- **What can I take away?**
Tax teams and their advisers will need to understand the relevant tax issues throughout the business lifecycle, and develop appropriate processes to manage, measure and explain them.

The net zero agenda is accelerating. A growing number of countries, investors, asset managers and businesses have committed to net zero greenhouse gas or carbon dioxide emissions goals.

Almost all countries have ratified the Paris Agreement and more than 110 have pledged to be carbon neutral by 2050. Governments are developing policies to achieve these goals, albeit some at a high level. In November 2020, the UK government announced its 'Ten point plan for a green industrial revolution' (see bit.ly/3dECfuT) and issued an Energy White Paper in December. The EU has its Green Deal (see bit.ly/3bCajp0) and Germany's *Energiewende* plans include a €9 billion hydrogen strategy. Joe Biden's plan for a 'clean energy revolution' was a key part of his presidential campaign. The US rejoined the Paris Agreement on President Biden's first day in office and he has appointed a pro-environment treasury secretary.

Many investors and asset managers have made net zero pledges, public statements or signed up to cross-industry groups such as the Institutional Investors Group on Climate Change's Net Zero Asset Managers initiative.

An increasing number of businesses have made net zero commitments, often aiming to achieve that goal significantly before 2050. Businesses are starting to embrace the opportunity to drive innovation, increase competitiveness and stimulate resilient growth on the journey to net zero.

### Why is this important to tax teams and tax advisers?

The net zero agenda will impact tax laws and incentives, business operating models, and transparency and reporting. These in turn will impact tax teams and tax advisers.

**Tax laws and incentives:** Tax and fiscal policy may be used to encourage the transition to net zero. Governments may be tempted to increase the use of environmental taxes to alter behaviours. Further, as HM Treasury's Net Zero Review Interim report (see bit.ly/3buOyY6 ) noted: 'The transition to net zero and consequent structural changes in the economy will also have implications for the UK's public finances and fiscal sustainability.' As such, there may be tax law changes as a result of the transition to net zero, as well as to encourage it.

**Business operating model changes:** The journey to net zero will be different for each business. For some businesses, the transition from producing or using fossil fuel sources of energy to renewable sources will be the main action. For others, the journey to net zero may focus more on the emissions in their supply chains, making energy efficiency improvements in buildings and processes, reducing the emissions associated with business travel or investing in carbon removal projects.

Regardless of the specifics, there are likely to be some consistent building blocks for net zero transformation, such as those highlighted by the Transform to Net Zero initiative (see bit.ly/3bvnmbt). See the box **Building blocks for net zero transformation** for some of the impacts on tax and tax teams of the actions required to embed net zero aspiration within businesses.

### Enterprise transformation: key operating model changes

The tax implications and opportunities throughout the business lifecycle of any new operating model should be considered. As an example, businesses making investments in renewable energy generation should bear in mind that different tax considerations may be relevant at the development, construction, operation and decommissioning phases of a renewable energy project.

**Development and construction:** Effective UK corporation tax relief for expenditure is generally only available once a company has started to trade. Broadly, a renewable energy business will only start to trade for UK corporation tax purposes once it is generating income. A business in the development or construction phases is

## PROFILE

**Name:** Colin Smith
**Position:** Partner, Tax – Energy, Utilities and Resources
**Firm:** PwC
**Tel:** +44 7795 971282
**Email:** colin.a.smith@pwc.com
**Profile:** Colin is an energy sector focused tax adviser. He provides UK and international tax advice to oil and gas, mining and metal, power and utilities, and renewable energy businesses in respect of commercial matters such as new investments, acquisitions, disposals, IPOs and the energy transition.

likely to be 'pre-trading' with no income and therefore no current tax relief for expenses. Designing appropriate processes to monitor and categorise the nature of the development and capital expenses incurred can help to maximise tax relief.

**Decommissioning:** Decommissioning is a significant expense for many projects. UK corporation tax relief for decommissioning is generally available only when the costs are incurred – often when the business has little revenue, or indeed has ceased to trade. Where viable commercially, consideration could be given to decommissioning certain assets whilst continuing to operate others.

The new operating model may involve existing assets being used in different ways. For example, UK oil and gas infrastructure may be used for activities such as carbon capture, usage and storage, offshore wind, gas storage, green hydrogen production/ storage or floating solar. Tax teams should seek to understand the tax consequences of any change of use of existing assets.

### Enterprise transformation: corporate M&A

A business's net zero strategy may involve acquisitions of new operations and/or the disposal of certain non-core legacy businesses. Some key points on M&A are included below.

**Acquisitions:** Undertaking tax due diligence will help tax teams and the business to understand the tax issues and risks associated with the new business and its tax attributes. An appropriate acquisition structuring and financing structuring should be implemented, aiming to maximise legitimate tax deductions for any interest costs and to minimise tax leakage on cash extraction from the acquired business.

Land and transaction-based taxes may be relevant, including business specific issues. For example, onshore windfarms typically can consist of an exclusivity agreement followed by a lease, with the developer paying the Crown Estate a rent linked to the power generated. If there is a premium, stamp duty land tax of up to 5% may be payable. As the rent is uncertain:

- the stamp duty land tax on the rent is charged on the best estimate of what the rent will be for five years (2% rate for rent); and
- after five years, when the rent can be ascertained, a revised calculation must be done and further stamp duty land tax paid or refund issued as applicable.

Similar rules apply for solar panels; however, in cases where the landlord has a right to use any of the electricity generated, HMRC has stated that it will treat this as consideration given by the lessee to the landlord and therefore liable to stamp duty land tax.

**Disposals:** Many disposals are exempt from UK corporation tax. However, renewable energy generation projects often involve minority interests and 'joint venture of joint venture' structures, which can mean that the substantial shareholding exemption is not available. The vendor should ensure that its tax affairs are in order and that the team has a good understanding of relevant tax attributes and risks; in some cases, it may be appropriate to consider vendor due diligence.

### Enterprise transformation: capital investments

Many net zero transition activities will involve capital expenditure. The availability of tax deductions can influence the financial viability of a project. Ideally, the correct capital allowance rates should be taken into account when modelling expected financial returns. Temporary super deductions of up to 130% for capital expenditure were announced in the Budget. Even the normal UK capital allowance rates vary significantly from 100% to 3%, with 150% for qualifying expenditure on removing pollutants from derelict or contaminated land.

In the context of the UK government's ambition to achieve net zero by 2050, it is perhaps odd that solar panels are specifically defined as falling within the less generous long life assets category and that 100% capital allowances for certain environmentally beneficial plant and machinery and certain energy-saving plant and machinery were abolished from April 2020. Perhaps this is an area of tax policy that the government may reconsider.

Some capital allowances depend on the company having an interest in the land to which the machinery is fixed, at the time the machinery is fixed to the ground. It is therefore important that tax teams ensure that relevant contracts are signed at the right time, in the right order and by the right parties.

### Supply chains

The actions required to achieve net zero are likely to affect each business's global operations and so are likely to have significant transfer pricing consequences.

At the start of a business's net zero journey, relevant expertise and resources are likely to be scarce and centralised within the group. The pricing of new, innovative services may be at risk of greater challenge by tax authorities. Early consideration of the transfer pricing is important.

As businesses consider entry into new markets, they are likely to transfer assets and make intra-group payments. As shown by the ongoing *Ørsted* tax case in Denmark, the design and operation of a new business model (in that case relating to UK offshore wind farms of a Danish group) can have material tax risks, potentially affecting the economic return. Different trade taxes such as customs duties may apply to the net zero aligned business supply chains.

## BUILDING BLOCKS FOR NET ZERO TRANSFORMATION

| Building blocks | Impact on tax and tax teams |
|---|---|
| **Governance:** accountability driven from the top | Tax teams should be involved in setting appropriate tax related goals and considering the tax implications of other goals and key performance indicators. |
| **Strategy:** embedded and aligned net zero into company strategy | Tax teams will require knowledge of existing relevant taxes and incentives and an awareness of potential tax policy changes to help the business understand and model different scenarios. |
| **Enterprise transformation:** key operating model changes and corporate M&A in support of transformation | A business's net zero strategy may involve acquisitions of new operations and/or the disposal of certain non-core legacy businesses. Tax teams should be involved in tax diligence, structuring and planning, including for UK and international employees. |
| **Supply chains:** transformed net zero supply chain | Tax teams should consider the transfer pricing and trade tax implications of supply chain changes. |
| **Innovation:** developed innovation and technologies to deliver net zero | Tax teams can add further value to a business's net zero activities through accessing investment and innovation incentives. |
| **Transparency:** communicating action | Tax disclosures may be increasingly driven from an environmental, social and governance (ESG) perspective. Total tax contribution may become an ESG metric for many businesses. |

### Innovation

Whether it is efficiency improvements in photovoltaic solar panels, the computer systems behind energy-as-a-service or carbon capture, usage and storage, many net zero transition activities will result in businesses developing innovative technology, products or services. Many jurisdictions' investment and innovation incentives are administered through the tax systems. For example, the UK's incentives include the following:

**Research and development (R&D) tax credits:** The R&D super-deduction available to SMEs is now 230% with the cash back available to loss making SMEs. The government has made the large company regime more generous by introducing the research and development expenditure credit (RDEC) of 13% of qualifying expenditure. RDEC allows larger companies to recognise the benefit of their R&D claim effectively as a grant, as opposed to within the tax line, which helps add visibility from an accounting perspective.

**Patent box:** The UK's patent box regime provides an effective corporation tax rate of 10% tax rate on profits relating to the exploitation of intellectual property. The regime was modified in 2016 to limit benefits based on the proportion of relevant UK R&D undertaken as a proportion of global R&D.

**Grants:** The UK government offers both traditional grant funding and repayable funding schemes that can provide cash upfront with favourable repayment and interest terms to help unlock cash flow. Net zero aligned financial support includes national programmes such as:

- Innovate UK (for which 'clean growth' is one of the Industrial Strategy's grand challenge areas);
- the Industrial Energy Transformation Fund, which supports the development and deployment of technologies that enable businesses with high energy use to transition to a low carbon future;
- the Carbon Capture and Storage Infrastructure Fund;
- the Net Zero Hydrogen Fund; and
- the Energy Entrepreneurs Fund, a competitive funding scheme to support the development of technologies, products and processes in energy efficiency, power generation and storage.

There are also smaller, regional programmes such as various energy efficiency grants, low carbon innovation funds, and grants to support the development of products and services that reduce carbon usage and emissions.

Tax teams should ensure that their businesses are benefiting from the full range of reliefs and credits available, including an international perspective.

### What might happen next?

Countries will issue more detailed plans on their net zero strategies, which will stimulate more investment by businesses.

More businesses will announce net zero pledges and those businesses will increasingly start taking action to achieve those pledges by:

- focusing more on the use of water and emissions in their supply chains;
- making energy efficiency improvements to buildings and processes;
- reducing the emissions associated with business travel; and
- investing in nature-based carbon removal projects.

There will be greater use of taxes and incentives that support the journey to net zero – and environmental, social and governance (ESG) goals more broadly – such as carbon taxes and the UK's plastic packaging tax which will apply from April 2021 (see 'The changing tax environment', *Tax Adviser*, January 2021).

On 17 February 2021, the House of Commons Environmental Audit Committee stated that the Chancellor should use the Budget as a springboard to kickstart the green industrial revolution (see bit.ly/3pSjwP6). It suggested specific policies, including reducing the rates of VAT on repair services and products containing reused or recycled materials and a VAT reduction on home upgrades to incentivise the installation of low-carbon domestic technologies and improve energy efficiency of homes.

Despite this, the Budget contained very few new tax or spending announcements relating to net zero or the energy transition.

A move towards a single standard on ESG disclosures may include total tax contribution, especially following the publication in September 2020 of the International Business Council of the World Economic Forum's white paper (see bit.ly/3khnwaI) designed to establish consistency and comparability for companies reporting on their ESG performance. The white paper included 21 core ESG metrics and disclosures, including total tax paid.

### Summary

The transition to a net zero greenhouse gas environment is starting and is likely to involve significant business change, which will almost certainly have tax consequences. Tax teams and their advisers will need to understand the relevant tax issues throughout the business lifecycle, and develop appropriate processes to manage, measure and explain them.


Expect More
with Markel Tax
We work in partnership with Accountants to provide first-class fee protection insurance and award-winning tax consultancy, enabling you to grow your practice, with access to:
Complementary marketing support to drive new business opportunities
In-house tax and VAT helpline staffed by a team of 12 with 300+ years of combined experience
Expert R&D team managing over 750 claims a year with a 100% success rate to date
In-house 24/7 legal helpline staffed by solicitors and DIY legal toolkit for you and your clients
Contractor solutions team with 20+ years of experience in defending status and IR35 disputes
Learn more about a partnership with Markel Tax, visit:
www.markeltax.co.uk/partner
or speak to our friendly team on 0333 290 5708.
MARKEL®

**KEY POINTS**

- **What is the issue?**
CIOT and ICAS have published a new paper setting out their priorities for the devolved taxes in the Scottish parliament following the elections on 6 May.
- **What does it mean for me?**
The tax profession has a role to play in understanding and communicating the impact of devolved tax changes and their implications for the wider UK tax system.
- **What can I take away?**
The next Scottish parliament needs to take a number of steps to improve the way it scrutinises tax decisions and to improve awareness and understanding of tax devolution among the wider public. This has implications for both Scottish taxes and their relationship with the wider UK tax system.

# Scottish taxes in the spotlight

Ahead of the Scottish parliament election on 6 May, *Charlotte Barbour, Joanne Walker* and *Chris Young* set out the tax priorities for CIOT and ICAS in the 2021-26 parliamentary term

CIOT and ICAS have been active stakeholders in the development of the Scottish parliament's devolved tax powers, through the work of our Scottish Taxes committees, appearances before parliamentary committees and as commentators on tax matters in the media.

We engage with the Scottish parliament in order to advance public education in taxation, increase general understanding of tax matters by non-specialists, and by making ourselves available for consultation and engagement with policy makers.

In April 2021, we published a new paper, 'Building a Better Tax System', (see bit.ly/3ehnUmL) which sets out three broad areas of policy development for the coming parliamentary term.

## A path of divergence

The more things change, the more they stay the same. Scotland's devolved tax regime has continued on a path of divergence from the rest of the UK since the last Scottish parliament elections in 2016.

The most notable change came in 2018 with the introduction of a five band structure of Scottish income tax, chargeable on non-savings, non-dividend (NSND) income. This comprised the introduction of a 'starter' rate of 19% and an 'intermediate' rate of 21%, and an additional penny on the Scottish 'higher' (41%) and 'top' (46%) rates of income tax.

Other aspects of the income tax regime in Scotland remain set at a UK-wide level. They include (but are not limited to) deciding who is a 'Scottish taxpayer', defining the tax base and setting the personal allowance and rates and bands of savings and dividend tax. The differences between Scotland and the rest of the UK in 2021/22 are shown in the table opposite.

Since the last Scottish election, the Scottish parliament has also flirted with reform of some of the taxes under its jurisdiction but has seen plans for the devolution of some tax powers from Westminster founder under political and legislative challenges. There have also been proposals for new taxes, but these too have faced difficulties.

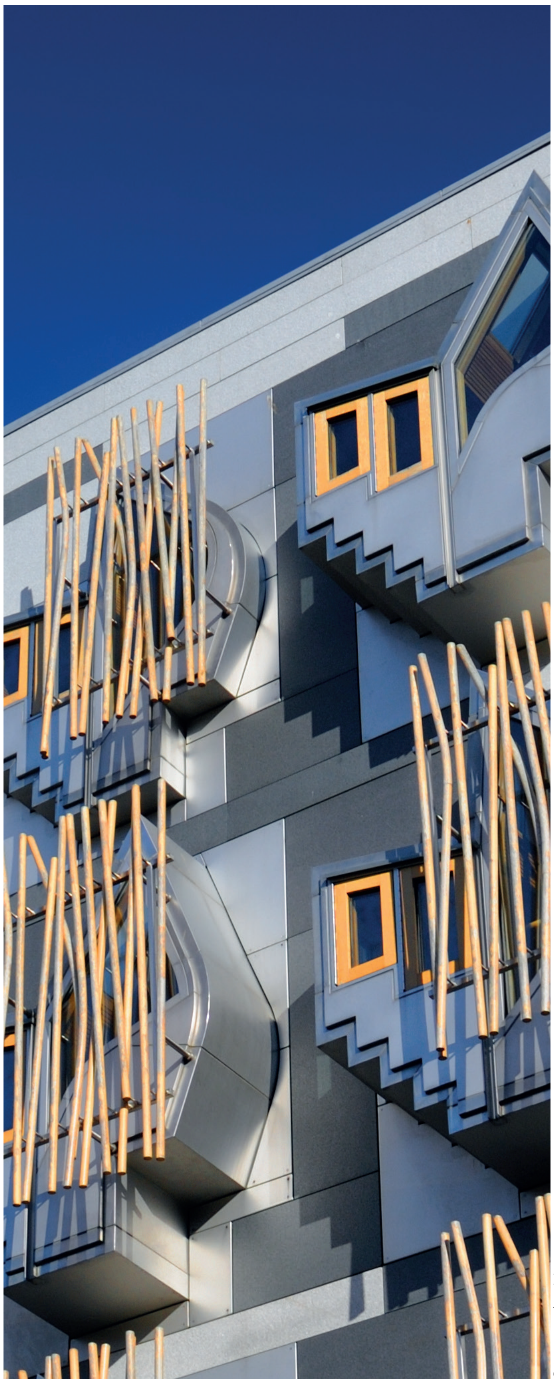
## Towards a better tax system

Devolution has increased the complexity of the tax system, which in turn has reinforced the need for strengthened oversight, increased accountability, and a need for greater awareness of the Scottish parliament's tax responsibilities. These are the three themes that have guided the preparation of our paper.

## Theme 1: Strengthening decision making

The structures of the Scottish government have adapted considerably with the increased devolution of tax powers, but this has been less so in the Scottish parliament.

Within government, notable developments have included the establishment of a tax directorate and


© Getty images/iStockphoto

## PROFILE

**Name** **Chris Young**
**Job title** Scotland External Relations and Branch Support Manager
**Employer** CIOT
**Email** cyoung@ciot.org.uk
**Tel** +44 (0)7900 241584
**Profile** Chris is the CIOT's External Relations Manager for Scotland. His background is in politics and public policy. He has worked in the USA and UK and joined the CIOT in 2016 after a period in public relations consultancy. He is an Accredited Public Relations Practitioner of the Chartered Institute of Public Relations (CIPR).

**Name** **Joanne Walker**
**Position** Technical officer
**Organisation** LITRG and CIOT
**Tel** 07763 140839
**Email** jwalker@litrg.org.uk
**Profile** Joanne is a Technical Officer for LITRG and is also the Technical Officer for the CIOT's Scottish Technical Committee. In addition to dealing with devolved taxes in Scotland for both LITRG and CIOT, her areas of work for LITRG include issues for migrants, residence, taxation of savings income and tax compliance.

**Name** **Charlotte Barbour**
**Position** Director of Taxation
**Company** ICAS
**Email** cbarbour@icas
**Tel** 0131 347 0235
**Profile** Charlotte Barbour is director of taxation for ICAS, where she has worked for many years in a range of policy and regulatory roles, and supports the Tax Board. She has extensive experience in dealing with tax issues and has represented ICAS at both the Scottish Parliament and the House of Lords. Charlotte is a member of the CIOT Council.

## DIFFERENCE BETWEEN TAXES IN SCOTLAND AND THE REST OF THE UK

| | Scotland (rates/bands) | UK (rates/bands) |
|---|---|---|
| **Personal allowance** | £12,570 | £12,570 |
| **Starter rate** | 19% (£12,571–£14,667) | |
| **Basic rate** | 20% (£14,668–£25,296) | 20% (£12,571–£50,270) |
| **Intermediate rate** | 21% (£25,297–£43,662) | |
| **Higher rate** | 41% (£43,663–£150,000) | 40% (£50,271–£150,000) |
| **Top rate** | 46% (£150,001 +) | 45% (£150,001 +) (called the 'Additional' rate in the rest of the UK) |

the creation of a ministerial portfolio (albeit part time) with responsibility for tax policy. On the whole, these developments have helped to create a consultative and collaborative approach to tax policy making and enabled the tax profession to provide input on a regular basis. The 2017 Scottish government consultation that heralded the changes to the Scottish income tax regime is often held up as a gold standard of engagement.

In the Scottish parliament, we consider that more could be done to improve the way that tax decisions are scrutinised. Expanding the remit of the Finance Committee to also include constitutional matters has, in hindsight, taken some of the focus away from tax matters. It is a source of regret that a 2016 inquiry into Scotland's approach to tax stopped taking evidence in 2017 and did not conclude its work, although there is hope that this will be resurrected early in the new term.

The structures in parliament for introducing and amending tax legislation have highlighted the need for processes that support increased scrutiny and more efficient use of scarce parliamentary time.

Most changes to tax legislation in the Scottish parliament take place using delegated powers or secondary legislation, which limit opportunities for scrutiny. Significant or retrospective changes require bespoke bills, which must battle for a space in the legislative calendar. This has meant, for example, that a commitment to introduce a Bill giving retrospective effect to a change in land and buildings transaction tax legislation (relating to group relief and the use of share pledges) made in 2018 has still to be fulfilled.

CIOT and ICAS have called on ministers and officials to look at a Scottish equivalent of the UK Finance Bill. A Devolved Taxes Legislation Working Group (see bit.ly/325cSLE) (including CIOT and ICAS representation) was set up to

## PROPOSALS FOR NEW TAXES

| Proposal | Status |
|---|---|
| **Devolution from the UK Parliament** | |
| Air passenger duty | A replacement (air departure tax) was legislated for in 2017 but introduction was postponed due to state aid issues. |
| VAT assignment | Assignment of a portion of UK-wide VAT revenues directly to the Scottish budget was postponed due to issues over how the amount is to be calculated. |
| Aggregates levy | On hold pending a UK-wide review of the levy, which concluded in July 2020. |
| **Reform of existing tax powers** | |
| Scottish income tax (rates/bands on non-savings, non-dividend income) | Five-band system introduced from April 2018. |
| Land and buildings transaction tax | A first time buyer relief was introduced in 2018 and the additional dwelling supplement (ADS) was increased from 3% to 4%. |
| Council tax | Some modest changes to improve the progressivity of the regime. |
| Non-domestic (business) rates | The 2017 Barclay Review of Business Rates led to a series of changes including a commitment to move to revaluations with a one-year tone (valuation) date, to better reflect market conditions. |
| **New tax proposals** | |
| Workplace parking levy | Plans to introduce these taxes were agreed as part of the 2019 Scottish budget negotiations but were postponed following the onset of the Coronavirus pandemic. |
| Transient visitor (tourist) levy | |

look at ways of improving the process but was put on hold due to the pandemic.

The decisions in 2019 and 2020 to postpone the UK budget added an extra layer of uncertainty to the Scottish budget process, shortening the time available to MSPs to agree tax plans without the full picture of UK tax and spending proposals. Such delays do not just cut across the devolution settlement; they may also make for bad tax policy making. The need to reset relations between the governments and organisations responsible for Scottish tax policy is therefore a consideration in our paper.

### Theme 2: Making the case for new taxes

Our experience of the devolved tax system suggests that there is a very strong case for the development of a longer-term, strategic approach to tax policy making in the devolved context.

There have been challenges to the devolution of air departure tax and VAT assignment. Concerns have also been raised about the lack of process and consultation with the last-minute nature of the 2019 budget agreement to introduce new taxes on car parking and tourism. There is a need for a more formalised approach.

This is particularly true when we consider that, in addition to resolving the problems encountered with the introduction of the taxes detailed above, further reform is likely in the coming years as politicians grapple with the economic impact of the pandemic.

The most immediate of these is likely to arise in the form of local government finance reform – council tax and land reform are expected to be prominent topics – but we may also see calls from some political parties for the devolution of further tax powers.

Our paper does not prejudge the outcome of such discussions, but it acknowledges that tax reform is never simple. Having the right processes in place can help to promote healthy debate and encourage the development of tax legislation that supports wider government and societal objectives.

To that effect, we have proposed a more formalised process for introducing or reforming taxes, developed around a process that: evaluates the purpose and locus of the tax; provides opportunity for early consultation; considers how the proposal would interact with existing taxes; offers opportunities for robust parliamentary scrutiny; and ensures that the resulting tax is easy to collect and comply with.

### Theme 3: Improving public understanding

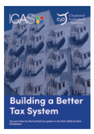
Public awareness and understanding of devolved taxation in Scotland is low, as the findings of opinion polls commissioned by CIOT since 2018 continue to show. Our latest survey of 1,098 adults was conducted by the Diffley Partnership in March 2021. It found that:

- 33% said they were unaware that the Scottish parliament had made changes to tax since 2015, such as to income tax and council tax.
- 27% correctly identified that income tax powers are shared between the Scottish and UK parliaments.
- 83% say they need better information about how taxes are decided in Scotland (similar to 86% in 2019 and 84% in 2018).
- 39% know a little or a lot about the 'Scottish Taxpayer status'.

A lack of public understanding of how the tax system works is a common theme in our work. If people fail to understand how it works, they are more likely to fail to comply with the rules and regulations. Because taxes are now different, and in some cases more complex, in Scotland, there is a greater need for effort to ensure that taxpayers understand what these differences mean.

The issue of tax awareness is not unique to Scotland, but devolution offers an opportunity for the country to take the lead and promote greater awareness of the tax powers it has, how these are used, and the benefits that they help to deliver.

The Scottish government had plans for developing a tax communications strategy prior to the pandemic. It is important that this work resumes and the tax profession stands ready to support these efforts. This is a strategy that will require the support of all the organisations of government concerned with the tax and benefits system. We would also like to see a more prominent role for tax within the school curriculum, with the Office for Tax Simplification's 2019 'Life Events' review (see bit.ly/3a2dKVX) a useful starting point for discussion.




Read the manifesto and opinion poll highlights here:
bit.ly/3ehnUmL
bit.ly/3v8bzrJ

# set the standard:

**phrase** (also **the standard has been set**)

to perform an activity at a level that others have to try to achieve

***eg. www.ir35shield.co.uk***

# How we can all be healthier

To mark Mental Health Awareness Week on 10 to 16 May, *Rob Stephenson* considers the huge importance of workplace mental health

Mental health. Say these words in your head. Think about them for a few seconds. What images spring to mind? People suffering? People struggling with depression, anxiety or PTSD? Black and white photographs of people with their head in their hands? Or maybe you are thinking of a loved one who struggles? A friend? Yourself?

Now think of physical health. What do you see? Healthy, vibrant people? People who are well? Fit people? Aspirational images of people that we wish we were more like. The interesting thing with this simple exercise is that, in both cases, I asked you to think of the word 'health'. Mental health has a brand problem because we immediately think of illness when faced with the term.

## We all have mental health

The most interesting statistic in relation to mental health is 1:1. 100% of us have mental health and, if the pandemic has shown us anything, 100% of us will know what it is like to struggle with mental ill-health to one degree or another. This could be anxiety about the virus; the stresses of homes schooling; worries about the economy; or loneliness and isolation. If we accept that we have mental health, then we can accept that we are on a continuum from struggling to thriving.

Just like our physical health and fitness, our mental health is not fixed. It is not black or white and it is not binary. It is one of the most beautiful and complex elements of being human. We move up and down this continuum daily and hourly. If we accept that our mental health is not fixed, then we can embrace the idea that we can influence it. This is an extremely empowering concept.

## Proactively managing our mental health

Mental health needs a rebrand. I like to talk about our 'Form' instead and have identified a number of drivers that can help us proactively manage it.

Our Form is highly individual and personal. Most of us could benefit from getting more sleep, more regular exercise and eating a more balanced and nutritious diet. All of these are core components in maintaining good mental health. The pandemic has eroded our social connections, particularly in the workplace, and we have to work pretty hard to maintain them right now. Stress management is also a very relevant driver, given the way we are working.

Remote working has removed some of the enforced breaks in the day such as the commute; the walk to the meeting room; the trip to see a client. Instead, we are back-to-back on Zoom and Teams without the self-discipline of creating moments of recovery in the day. As we move to hybrid working models, it is essential that we do better at balancing stress with moments of recovery. Helping others, a sense of purpose and financial wellness are all also very important in maintaining positive Form.

The message here is that it is worth embarking on a voyage of self-discovery to learn what is driving your Form, or mental wellbeing. Unlike our physical health, we generally have not developed literacy in this area.

One of the biggest performance advantages available to us is to proactively manage our mental wellbeing. Pre-pandemic, Deloitte estimated the cost of mental ill-health to UK employers as up to £45 billion (see bit.ly/3d0niCy). £29 billion of this is estimated as presenteeism or underperformance due to sub-optimal mental health. Simply put, if we can become a little bit more intentional about our wellbeing, we can move up the continuum and be closer to the thriving end for more of the time. Yes, we will be happier and healthier, but we will also be more productive. We will be better at our jobs and also better parents, better partners and better humans.

## Organisational mental health

This £45 billion cost can also be thought of as a £45 billion opportunity as, when employers choose to treat the mental health and wellbeing of employers as a strategic priority, the return on investment is estimated to be anything from 5:1 to 12:1. Anglian Water measured the ROI on its wellbeing interventions and concluded that they were enjoying an 8:1 return. It is one of the rare cases where the moral case aligns with the business case.

So, what does good look like in terms of an integrated workplace mental health and wellbeing strategy? A detailed answer to this question is beyond the scope of this article but can be found in my long form piece on 'A blueprint for a better workplace wellbeing and mental health strategy' (see

© Getty images/iStockphoto

bit.ly/31VW7Tg). However, there are three core elements to a comprehensive strategy:

1. **Awareness:** raising awareness of mental health in the organisation to help smash the stigma and normalise the conversation about mental ill-health. This could involve storytelling, external speakers and wonderful initiatives such as the Green Ribbon Campaign;
2. **Support:** benefits and solutions for people who are struggling with mental ill-health such as employee assistance programmes, in-house counsellors and peer support solutions; and
3. **Prevention:** a programme of literacy, resources and benefits helping people to become more intentional about their wellbeing and proactively manage it.

## Let's talk about tax

As we look to build back better there is a strong argument that the wellbeing of our employees and citizens is a good measure to assess the success of our businesses and nations, alongside the creation of shareholder value and GDP growth. Forward thinking workplaces are recognising this but it is my belief that the government can do more to help stimulate investment in the wellbeing of employers via tax incentives, particularly in the case of SMEs and low wage employers. In Sweden, employees enjoy a tax free allowance to spend on qualifying wellbeing benefits. At the very least, the government could get out of the way where wellbeing benefits are concerned to remove the administrative burden of benefits in kind reporting.

## Ending with a question

One simple question can help you on your journey to better mental health and can help you check in with colleagues. 'How are you doing today?' We are asked this question 10 or 20 times per day and we rarely answer it honestly or authentically but if we do so we can then become a little bit more intentional about our mental wellbeing. This can change our lives. So, how are you today?

## COPING WITH TRAUMA

**Shashi Sharma**
**Head of Global Tax and Treasury at BRUSH and Trustee at LionHeart RICS**

*'It isn't about what's wrong with you; it's about what happened to you.'*
*– Unknown*

Trauma is a fact of life: each of us will go through a deeply distressing or disturbing experience at least once. You do not need to live in a war zone to encounter trauma; trauma is the emotional and psychological effect an event has on a person. It could be a tragic (inter)national event, such as the Manchester arena attack or the death of George Floyd, or something close yet equally devastating, such as physical illness or relationship breakdown. If one of your colleagues experienced the unexpected death of a parent, sexual assault or cancer, how would you respond? What if there were medical diagnoses of depression, PTSD or anxiety?

Living with trauma and healing from it is exceptionally demanding, let alone the sheer effort of everyday tasks. However, I have witnessed first-hand some good outcomes post-recovery, emerging with a different, in some ways better, life – version 2.0.

Company plaudits for mental health initiatives are worthy of celebration but they are worthless if not embedded throughout the organisation. This is about the personal, not the corporate. The environment you create through your day-to-day interactions with your colleagues is probably the most significant influence on their mental (and physical) wellbeing – both positive and negative.

**How to support the people around you**

- **Show openness and respect in your conversations:** Listen actively, share your vulnerabilities as appropriate, consider your choice and tone of language. Mind your 'banter' – no one trusts an inauthentic leader.
- **Approach the elephant in the room:** If you think someone is acting differently, say what it is you have noticed, ask them how they are and let them know you are available if they want to talk. You do not need to be a mental health expert.
- **Communicate:** Some may prefer to email or message about how they are feeling and to then talk. Offer options and adapt. It is about them not you. Sustain these channels.
- **Ask what they need from you:** It may be flexible hours or other adjustments, it may be just for you to understand what they are going through. This will also help you to bridge any generational or cultural differences.
- **Contact HR:** A good HR function can provide support and advise best practice. You can approach them on a no-names basis.

**How to support yourself**

- **Know yourself:** What have you stopped enjoying? What have you started doing? Do you have new physical ailments? If you have not noticed, likely someone close to you has. Express yourself to someone you trust.
- **Seek support:** You can find support from your GP, a good friend, your EAP or maybe your line manager. Know that you are not alone. Contact the CIOT, ATT and other professional bodies for information about their support services.
- **Build resilience:** Know what energises you, what nourishes you, what soothes you. You will need these. It takes time – healing is personal, may be slow and is not linear. Explore the options offered, including medical, therapy or legal. Show compassion to yourself. You will conquer.

*Shashi is an experienced volunteer within substance misuse and gambling support services and is writing in a personal capacity.*

*Rob Stephenson is a mental health campaigner, keynote speaker and wellbeing consultant. He used to be a tax advisor and experiences bipolar. To his knowledge the two are not related. Rob is the Founder and CEO of FormScore and the InsideOut LeaderBoard and is available to help with your workplace mental health and wellbeing strategy.*

# A year like no other

*Sehjal Gupta* considers the impact that lockdown has had on our mental health and her own training as a mental health first aider

Both employers and employees have been greatly affected by the great shifts in working patterns over the last year. Everyone has resiliently continued to meet work demands, with employers having to adapt to keep afloat and employees trying not to suffer from burn out or anxiety surrounding their livelihoods.

Some workplaces, like Menzies, had already implemented steps which aided these overnight changes, including agile working; flexibility around hours; issuing all staff with laptops; training Mental Health First Aiders (MHFA); and implementing video facilities, such as Skype and Teams.

Communication has always been key in the workplace and even more so during lockdown. We quickly realised that staff at all levels had a thirst for knowledge about how the firm – and our people – were faring in the pandemic and so we enhanced our communications. Our managing partner issued regular updates on the firm and we ran Teams Channels on topical matters. Senior management 'checked in' on staff, HR liaised with vulnerable and unwell employees, and we set up buddy systems, especially to support new or recently joined employees. We even hosted a virtual magic show and live music concert.

## MHFAs and their relevance

Firms are aware of the challenges that many are facing while working from home (WFH) and are continuously in discussions about what can be done to help and improve resources and support. Now, more than ever, we are understanding the significance of mental health and wellbeing. We must be able to recognise the signs so that help can be sought and provided early to create a supportive work environment. We must be able to talk and share experiences with someone who is listening in a safe space and in confidence.

Many employers are investing in trained MHFAs in the workplace. At Menzies, we had already planned a mental health initiative and completed training for office MHFA representatives in November 2019. We are lucky to have a strong team of MHFAs and this definitely gave us a greater understanding of the difficulties when lockdown happened in March 2020.

## Blurring of the lines

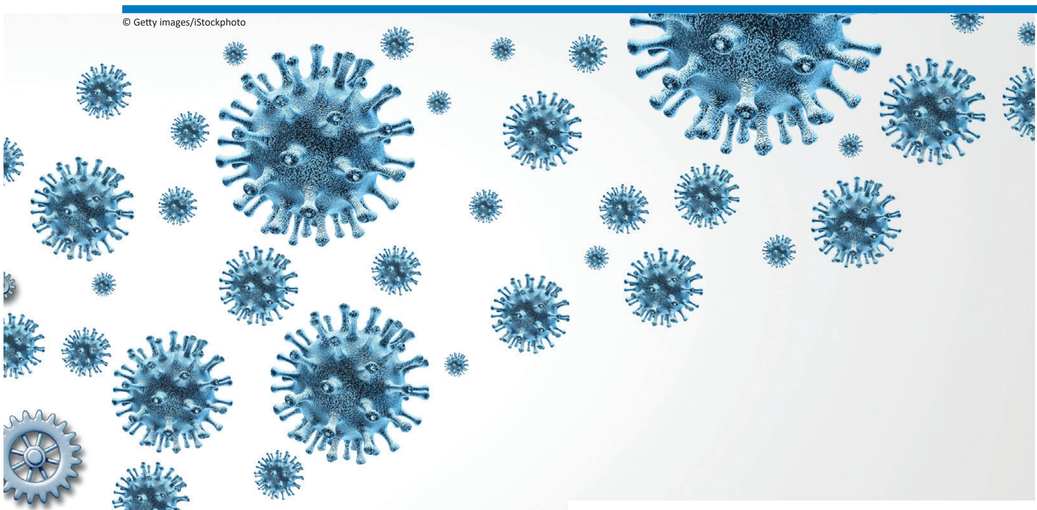
The last lockdown seems to have been the hardest – whether due to the shorter, darker days or missing interaction in person. Even the simplest tasks seemed to take twice as long to complete, maybe due to not taking regular breaks, no fresh air or exercise, or feeling the effects of burnout.

Although our working hours have been more flexible, our days seem to have merged with no clear differentiation between weekdays or weekends, working and non-working hours. It has been difficult to establish a divide between work and personal time. I have attempted to separate the two by mindful acts such as physically shutting down my laptop or changing my clothes after working hours. As time has passed, though, the lines seem to have blurred. Many of us are liaising with clients and colleagues at all hours and are working longer and more random hours to meet work demands, albeit not as effectively.

Employers recognise that, although it is possible to work remotely, human interaction is required for one's wellbeing and to promote collaboration. A firm's culture is very hard to learn or teach virtually. Being in the office helps in the development of various skillsets and work ethos, and the training necessary for progression. This is especially important with trainees who may have never worked in an office environment before. Employees can also see the benefits of being in the office – even the commute to and from work enables 'time out'. More than anything, we thrive from human interaction and feed off the energy of others around us.

## Taboo or not taboo

Many of us wear a daily smile and carry on showing immense strength and resilience but are suffering without admission. As with Covid-19, mental health issues are not gender, race, age specific. They can affect anyone at any time in life. It is alarming to see that in an age where we are all about equality, many of our male counterparts find it so difficult to identify themselves as having mental health issues. Surely, we



## CIOT panel discussion Thursday 13 May

There will be a free lunchtime panel discussion, open to all, on mental well-being and nature, the theme of this year's mental health awareness week. Details to follow from the Events team!

Participants will be: Sehjal Gupta (Menzies), Amanda Craig (Natural England), Sarah Restall (Inside Out), Garry Tetley (Deloitte LLP) and Valerie Boggs (Tax Charities).

know the statistics and that 75% of UK deaths by suicide are men mostly under the age of 50. One in four people experience mental health problems each year, yet there continue to be preconceptions and taboos when it comes to mental health. The more we are open about how we feel and share our personal experiences, the sooner these stigmas will be removed – ensuring that those suffering will receive the right help sooner and creating a healthier environment.

MHFAs have some training to identify and guide those individuals who may not seek help. This is not easy in the current environment, without personal proximity. There is no prescriptive way to know who is suffering with their mental wellbeing, but here are a few things to look out for:

- general absence and withdrawal;
- avoiding picking up the phone or keeping the video function off;
- working long hours and yet not being able to see this in output;
- having numerous other responsibilities, including childcare, home schooling and carer responsibilities; and
- not taking any time out to switch off.

People around us may be suffering with mental health issues. Please remember to 'be kind to yourself'; no one can judge another until they walk in their shoes. It is important to seek help early, before everything becomes too overwhelming. If you are finding things difficult, you are not alone. There are trained people who can and want to help, in confidence and without judgement. Reach out to them. We are all busy, but time is one of the most precious things we can give someone. Something as simple as a friendly chat, and not being fobbed off by a hurried 'I'm fine', can unearth problems or at least lift someone's spirits. Together we can remove the taboos and stigmas attached to mental health issues and create a healthier, happier and more productive work environment. Remember that 'health is wealth' – not just physically but mentally also.

*Sehjal Gupta is a Director at Menzies and is a trained Mental Health First Aider. She is also on the Committee for Women in Tax.*

## A LIFELONG BATTLE

**Gary Hughes**

I've suffered from depression since my early teens. At the time, I just thought I was a sad child as, in the 1980s and 90s, I didn't even know what depression was.

I remember going to my doctor's in 1997 on a completely unrelated matter, and by the end of the appointment I'd been diagnosed with clinical depression, prescribed some tablets and sent on my way. There was no follow up appointment; no mental health referral; nothing. I just thought this was the norm, the tablets would cure me and I'd be ok. How wrong I was.

For the next 11 years, I battled with constant bouts of low mood, anxiety and finally a severe bout of OCD. I saw a psychiatrist about my OCD in 2008. The psychiatrist took my history, but no investigations or follow up referrals were made as to my wider mental health issues. Tablets were prescribed and that was that.

My depression got gradually worse and it took a significant life event in 2012 which drove me to a suicide attempt to finally get the help I needed. I was sectioned for two weeks and upon release from hospital a care plan was put in place which included regular contact with my GP and a proper medication regimen.

Six weeks after coming out of hospital, I sat and successfully passed the CTA OMB Advisory paper. Even in the depths of despair, it's amazing what can be done when you look to your inner strength.

From 2012 to 2018, I was in a very good place with the help of various people, most notably my wife, Natalie, who I met in late 2012, and my former tax partner John McCaffery of Alexander & Co in Manchester. However, a further significant life event in 2018 drove me to a severe bout of self harm. Thankfully, once again with the help of my wife, my GP and employer at the time, Hallidays, I overcame the setback and drove myself forward.

It's now 2021 and despite the mental trauma suffered over the years, I sit here now as the proud father of a beautiful one year old son and six year old rescue collie, with a loving wife. I have also recently started my dream job as a tax manager at Homes England and we are shortly making the move up north to Newcastle.

Life is good and I look forward to the future with positivity and excitement. My take home message would have to be that no matter how bad things are, there is help out there, please, please seek it if you are struggling. There is no longer a stigma attached to mental health. It is no longer a taboo subject. It really is ok not to be ok.

*I have worked in the accountancy profession for over 25 years, specialising in tax since 2010. Since 2015, I have become more heavily involved in corporation tax and VAT, which has led me to my current role as a tax manager for Homes England.*

# BAD timing: the need for clarity

*Keith Gordon* looks at a case which considers the entitlement of trustees to Business Asset Disposal Relief

**KEY POINTS**

- **What is the issue?**
In terms of business asset disposal relief, the rule for disposals by trusts does not focus on the shareholding of the trust itself but on the relationship between the company and an individual with an interest in possession (and not merely for a fixed period) in the trust – what the statute calls 'a qualifying beneficiary'.
- **What does it mean for me?**
In *The Quentin Skinner Settlements*, the Upper Tribunal considered that Parliament's repeated use of 'qualifying beneficiary' rather than 'individual' was a hint that the individual was meant to be a qualifying beneficiary throughout the one-year (now, two-year) qualifying period.
- **What can I take away?**
Trustees should consider taking the precaution of ensuring that disposals are not made until after the life tenants have had their interest in possession for a full two years (and perhaps until after they have held the shares for a similar period).

Business asset disposal relief (previously known as entrepreneurs' relief) has many critics. However, its one saving grace is that the legislation is relatively clear, written in the style that was developed by the Tax Law Rewrite Project around the turn of the millennium. For example, rather than relying on a series of interconnected deeming provisions, the rules for the three separate strands of the relief are dealt with in separate sections, each setting out in clear terms when relief is available.

One of these strands concerns disposals by trusts. It must be stated that the rules are hard to justify from a policy sense, but at least the limited availability of the relief is clear from the statute. For example, it might be thought that a trust which owned shares in a trading company for the requisite period (previously one year, now two years) should qualify for relief in the same way as an individual does (as set out in the Taxation of Chargeable Gains Act 1992 s 169I). However, the rule for trustees does not focus on the shareholding of the trust itself but on the relationship between the company and an individual with an interest in possession (and not merely for a fixed period) in the trust (s 169J) – what the statute calls

'a qualifying beneficiary'. In other words, although we are dealing with a disposal of a company's shares by a trust, the company has to be owned in part by a beneficiary of the trust. Furthermore, the one (or two) year qualifying period operates by reference to that qualifying individual. As I said, the policy might be hard to discern (unless it is to reflect a general dislike of trusts). However, at least the restrictive nature of the rule is clear from the legislation.

One further aspect of the rules for disposals by trusts arose for discussion in the case of *HMRC v The Quentin Skinner Settlements* [2021] UKUT 29 (TCC).


**PROFILE**

**Name** **Keith Gordon**
**Position** Barrister, chartered accountant and tax adviser
**Company** Temple Tax Chambers
**Tel** 020 7353 7884
**Email** clerks@templetax.com
**Profile** Keith M Gordon MA (Oxon), FCA CTA (Fellow) is a barrister, chartered accountant and tax adviser and was the winner in the Chartered Tax Adviser of the Year category at the 2009 Tolley Taxation awards. He was also awarded Tax Writer of the Year at the 2013 awards, and Tolley's Outstanding Contribution to Taxation at the 2019 awards.


## The facts of the case

The relevant facts are relatively straightforward. There were three settlements in which three individuals each had an interest possession since 30 July 2015; and each had owned sufficient shares in a trading company since 2011 so that the company was a personal company for each of the individuals at all relevant times. The individuals were also employees or officers of the company from 2011. Thus, had the individuals disposed of their shares, they ought to have qualified for entrepreneurs' relief on any gain made. Further shares were given to each of the trusts on 11 August 2015. The trust then disposed of its shares on 1 December 2015.

The trustees claimed what was then entrepreneurs' relief on the basis of what was said in s 169J(4), being that:

> 'throughout a period of one year ending not earlier than three years before the date of the disposal:
> a) the company is the qualifying beneficiary's personal company and is either a trading company or the holding company of a trading group; and
> b) the qualifying beneficiary is an officer or employee of the company or (if the company is a member of a group of companies) of one or more companies which are members of the trading group.'

The First-tier Tribunal went through the tests in s 169J(4) and concluded that each of the conditions was met throughout the year ending with the date of the disposal:

- For each individual, the company was a personal company.
- The company was a trading company.
- Each individual was an officer or employee of the company.

Accordingly, the First-tier Tribunal allowed the trusts' appeals. HMRC appealed against the decision to the Upper Tribunal.

## The Upper Tribunal's decision

The case came before Mr Justice Michael Green and Upper Tribunal Judge Andrew Scott. They reminded themselves of the principles of statutory construction, which include looking not only at a provision in isolation but also in its proper legislative context. Another clue, to be used in cases where a real doubt exists about a statutory provision, is what was meant by a previous version of the legislation.

Although the judges considered that s 169J was a key provision, it was only, they said, 'part of the story'. Other parts of the story, the tribunal concluded, relate to the computation of the relief in each case, most notably the rules in s 169O ('Amount of relief: special provisions for certain trust disposals').

In the First-tier Tribunal, the relevance of s 169O had been doubted thus: 'In my experience of modern techniques of drafting of tax statutes, I would find it very strange indeed if the meaning of the primary qualifying conditions of a relief from tax were to be found obscurely by reference to an apportionment provision (which is all s 169O amounts to) and which, in any event, did not apply in this case (because … the qualifying beneficiary in respect of each … settlement in this appeal owned the entire trust property).'

However, the Upper Tribunal considered this to amount to an error of law. The Upper Tribunal considered that, when reading ss 169J and 169O together, the meaning should be consistent and coherent.

Focusing first on s 169J(4), the Upper Tribunal considered that Parliament's repeated use of 'qualifying beneficiary' rather than 'individual' was a hint that the individual was meant to be a qualifying beneficiary throughout the one-year (or two-year) qualifying period. Otherwise, s 169J(4) would simply have referred to 'the individual'.

Any lingering doubt, according to the Upper Tribunal, was dispelled by s 169O, which addresses the situation where there is more than one beneficiary with an interest in possession in the trust's assets 'at the material time'. The Upper Tribunal then considered the following question: 'What then is the material time? That concept is directly expressed by reference to the test in s 169J(4). It imports into s 169O the same one-year [now, two-year] period rule as is present in s.169J(4).'

The Upper Tribunal took further comfort from the equivalent provisions that governed the former retirement relief rules, on which entrepreneurs' relief was based.

For these reasons, the Upper Tribunal concluded that implicit within s 169J(4) is the requirement that the individual has an interest in possession throughout the one-year (now, two-year) period. Accordingly, HMRC's appeal was allowed.

## Commentary

I fully accept that it is somewhat surprising that the one-year (now, two-year) test applies only to the relationship between the beneficiary and the company (and the nature of the company itself). After all, it might be expected that the trust should be required to own its own shares for the year (or two) before the disposal. However, as already noted, the entire policy underlying s 169J is hard to discern. Why should a life-interest trust which owns all the shares of a trading company be excluded from business asset disposal relief, but one with 95% or less of the company's shares qualify (provided that the life tenant owns at least 5%)?

Nevertheless, when it comes to interpreting a statute, it should not be a case of trying to discern the policy but should be a case of interpreting the words used by Parliament. As was stated by Lord Nicholls in *R v Secretary of State for the Environment, Transport and the Regions and Another, ex parte Spath Holme Ltd* in 2000:

> 'Statutory interpretation is an exercise which requires the court to identify the meaning borne by the words in question in the particular context. The task of the court is often said to be to ascertain the intention of Parliament expressed in the language under consideration. This is correct and may be helpful, so long as it is remembered that the "intention of Parliament" is an objective concept, not subjective.
>
> 'The phrase is a shorthand reference to the intention which the court reasonably imputes to Parliament in respect of the language used. It is not the subjective intention of the minister or other persons who promoted the legislation. Nor is it the subjective intention of the draftsman, or of individual members or even of a majority of individual members of either House. These individuals will often have widely varying intentions. Their understanding of the legislation and the words used may be impressively complete or woefully inadequate. Thus, when courts say that such-and-such a meaning "cannot be what Parliament intended", they are saying only that the words under consideration cannot reasonably be taken as used by Parliament with that meaning.'

Indeed, even more recently, the Upper Tribunal made the following observation: 'The oddity point pre-judges the question of statutory construction … While from a policy viewpoint we can see the desirability of the [position being advanced by the taxpayer], we must be guided by the words of the statute.' (*Hoey v HMRC* [2021] UKUT 82 (TCC))

Thus, of course, it is appropriate, indeed obligatory, to consider the statutory words in their context. In fact, one can say that the Upper Tribunal identified all the relevant tools of statutory interpretation when reaching its decision. However, it is my respectful view that their approach was akin to missing the wood for the trees. In particular, the Upper Tribunal failed to give credit to the drafting style which (perhaps dull) sets out in logical steps what the statutory conditions are, precisely with a view to making the art of statutory interpretation that much easier. I respectfully disagree therefore with the Upper Tribunal's decision to try to discern a meaning of s 169J by reference to the phraseology adopted in s 169O.

The whole point of the Tax Law Rewrite Project (and the drafting style it employed) was to avoid statutory interpretation requiring one to view the words from an obscure angle whilst squinting (unlike, for example, the skull in Holbein's 'The Ambassadors'). Indeed, one of the advantages of the rewrite style is that the meaning of the statutory words should be easier to discern and, therefore, if there are apparent anomalies in the statute they would be more obvious. Consequently, if those apparent anomalies make it to the final version of the legislation, it must be more readily inferred that they do indeed reflect the true intentions of those promoting the statute. Accordingly, if Parliament had really intended the beneficiaries to have had an interest in possession for the full qualifying period, it would be reasonable to assume that Parliament would have said so directly.

Furthermore, any exercise in trying to interpret the legislation by reference to what a court or tribunal thinks that the policy should dictate might, in the present case, also require the trust to have owned the relevant shares for the full year (or, now, two years) prior to the disposal. But that is precisely what a court or tribunal should not do as that is straying into the realm of legislating rather than interpreting. However, I fear that that is precisely what the Upper Tribunal has done in the present case.

What's more, if one is to try to fit the legislation with the presumed policy, the Upper Tribunal should then have considered the Explanatory Notes which accompanied the 2008 Finance Bill. That made it very clear that the test in s 169J was to apply to the beneficiary the same tests that would have applied to an individual who was making an equivalent disposal. There is nothing in those notes that suggests that the individual had to have an interest in possession as well throughout the qualifying period.

As for the Upper Tribunal's expressed reasons for disagreeing with the First-tier Tribunal, I agree that the overall scheme should be coherent. However, it is still important, I say, to recognise that s 169J addresses the question as to when relief might be available, with s 169O addressing only the quantification of such relief *in certain specific cases*. Thus, to expect a reader to understand s 169J only by drawing an inference from the wording of s 169O strikes me as the antithesis to the clear drafting techniques that the drafter of the entrepreneurs' relief rules was adopting.

Indeed, it is quite clear to me why s 169J(4) refers to 'the qualifying beneficiary' and not 'the individual'. First, the term is already defined and therefore it makes sense to use it. Secondly, to use 'the individual' would have been stylistically unclear in the context of s 169J(4) and the most concise alternative would have been 'the individual referred to in sub-section (3)'. However, that concept is even more clearly expressed by using the already defined term 'the qualifying beneficiary'.

Furthermore, I do not even see that s 169O justifies any conclusion that the beneficiary has to have an interest in possession throughout the qualifying period. Section 169O expressly refers to 'the material time' which it then defines in sub-section (6) to be the end of the relevant one or two-year qualifying period. Again, a statutory label is used because it provides a useful shorthand for the precise meaning of a concept which takes 90 words to define. As the taxpayers' counsel submitted, the statute provides for a snapshot approach. The policy might be questioned. However, the snapshot approach is in fact the consistent theme of the rules (for example, an asset disposed of shortly before the cessation of trade would not qualify for the relief).

As for the Upper Tribunal's reliance on the retirement relief rules, I just do not see their relevance. Yes, the entrepreneurs' relief rules were based on them. However, to the extent that the wording is similar, that does not resolve any ambiguities, but replicates them. And, to the extent that the wording is different, that should be a clue that the provisions are to be interpreted differently. In my view, the Upper Tribunal has made a wrong decision in this case and the First-tier Tribunal's decision should be preferred.

## What to do next

I therefore hope that the case will be looked at again by the Court of Appeal. In the meantime, trustees effecting similar disposals should consider taking the precaution of ensuring that disposals are not made until after the life tenants have had their interest in possession for a full two years (and, perhaps to avoid further disputes, until after they have held the shares for a similar period).

# ANNUAL TAX CONFERENCES 2021

The ATT Annual Conference concentrates on topical issues with an emphasis on the practical issues faced on a daily basis by the Taxation Technician.

As last year, our spring conferences will be fully online, with a mix of live-streamed sessions and recorded sessions which you can access from the comfort of your home or office. Our new format proved very popular last year, and this year we have increased the amount of live content to give you more opportunities to interact with the presenters.

Watching recordings and engaging with live sessions will contribute towards your Continuing Professional Development.

***Dates (Live sessions)***

- **Wednesday, 9 June 2021**
- **Friday, 18 June 2021**
- **Thursday, 24 June 2021**

***Speakers to include:***

**Michael Steed**
**Sofia Thomas**
**Emma Rawson** *(ATT Technical Officer)*
**Will Silsby** *(ATT Technical Officer)*
**Helen Thornley** *(ATT Technical Officer)*
**Heather Brehcist** *(Head of Professional Standards)*
**Jane Mellor** *(Professional Standards Manager)*

***Topics will include:***

**Live sessions:**

- **Budget update and Covid matters**
- **OMB planning and Brexit VAT**

**Pre-recorded sessions:**

- **MTD –where are we now?**
- **Employment taxes round up**
- **Tax issues on separation and divorce**
- **Trusts – practical uses and 5MLD**
- **Consumer protection for taxpayers**
- **Professional standards for members**

AT LEAST 6 HOURS OF CPD

FOR MORE INFORMATION
EMAIL
EVENTS@ATT.ORG.UK

REGISTER NOW
WWW.ATT.ORG.UK/ATTCONF2021

PRICE SAME AS LAST YEAR

***Conference pricing:***

- **ATT members students: £185**
  *The above reduced rate also applies to AAT, ACCA, ICAS, CIMA, CIOT and Accounting Technician Ireland Member(s) or Student(s)*

- **Non Members: £255**

**For further information please visit**
**www.att.org.uk/attconf2021**

**or email**
**events@att.org.uk**

# The taxation of foreign exchange

© Getty images/iStockphoto

## KEY POINTS

- **What is the issue?**
Foreign exchange movements create significant volatility for companies, not least from a tax perspective. Many groups only identify these matters when drawing up entity accounts, as most projections are undertaken at a group level, where amounts may net to nil.
- **What does it mean for me?**
Foreign exchange movements arising on loan relationships and derivative contracts are brought into account as they accrue in profit or loss in most cases. Tax liabilities can arise from exchange gains, which are unrealised and therefore unfunded, which can be problematic for many businesses.
- **What can I take away?**
There may be occasions where you will need to ensure that any computations are prepared using the correct basis. In the context of foreign exchange, this may be the difference in whether gains and losses are brought into account on an accruals or realisation basis.

*Mandipa Soni* and *Edward Brown* consider the tax liabilities arising from foreign exchange movements and ways to manage foreign exchange volatility on tax cashflows

The current economic climate and market conditions have presented increasing uncertainty in currency markets over recent times. This can be an issue, as foreign exchange movements create significant volatility for companies, not least from a tax perspective. In our experience, it is also common that many groups only identify these matters when drawing up entity accounts, as most projections are undertaken at a group level, where amounts may net to nil.

As a result, companies are seeking to adopt strategies to manage foreign exchange risk and corresponding volatility on tax cashflows. Many of the options require careful and upfront coordination with Finance and/or Treasury functions to ensure that the relevant steps are implemented in time and documented appropriately.

In this article, we go back to basics on the taxation of foreign exchange from a UK corporation tax perspective, and also consider some of the options available to businesses to enable certain foreign exchange volatility to be managed from a tax perspective.

All references are to Corporation Tax Act 2009 (CTA 2009), unless otherwise stated.

### Overview of the taxation of foreign exchange

The general rule is that foreign exchange (FX) movements arising on

**PROFILE**

**Name** Mandipa Soni
**Job title** Head of Treasury Tax
**Employer** Grant Thornton
**Email** mandipa.d.soni@uk.gt.com
**Tel** +44 (0) 207 728 2075
**Profile** Mandipa leads Grant Thornton's UK Treasury Tax team, and has nearly 10 years of experience in UK Corporate and International Tax. She works with large and international businesses, to owner managed companies, advising across a broad range of corporation tax issues. Mandipa has considerable experience in debt restructuring, refinancing and the taxation of derivative contracts.

**Name** Edward Brown
**Job title** Tax Director
**Employer** Grant Thornton
**Email** edward.j.brown@uk.gt.com
**Tel** +44 (0) 207 728 3007
**Profile** Ed has over 17 years' experience leading on all areas of corporate tax advisory and compliance both in the UK and internationally, and has extensive experience identifying tax opportunities in a risk managed way. Ed is a member of the firm's treasury tax team advising specifically on financing matters, in particular corporate debt, derivatives and foreign exchange tax matters.


loan relationships (and certain money debts and holdings of foreign currency) and derivative contracts are brought into account as they accrue under the loan relationships legislation in accordance with CTA 2009 Parts 5, 6 and 7. As such, tax liabilities can arise from exchange gains, which are unrealised and therefore unfunded, which can be problematic for many businesses.

As defined in s 302, a loan relationship is a money debt, which arises from a transaction for the lending (or borrowing) of money. Furthermore, s 306A defines those matters which are to be brought into account for these purposes as being any profits or losses of a company that arise to it from its loan relationships and related transactions. This definition is extended in s 328 to include a reference to exchange gains and losses so arising.

Where money debts do not arise from a transaction for the lending of money (for example, trade receivables, rental income, etc. and are therefore not loan relationships under the basic definition), FX gains and losses would still be taxed in the same way as those FX movements arising on loan relationships (s 481(3)(b)).

Under s 475, exchange gains and losses are defined as profits or losses which arise as a result of comparing 'at different times the expression in one currency of the whole or some part of the valuation put by the company in another currency on an asset or liability of the company'. Where that comparison produces neither a gain nor a loss, an exchange gain of nil is treated as arising.

As such, the default position is that FX gains and losses would be taxed or relieved as recognised in the profit and loss account, in accordance with generally accepted accounting practice. For accounting periods beginning prior to 1 January 2016, FX amounts recognised in reserves may also have been brought into account for tax in certain scenarios. However, this legislative change was not subject to any grandfathering, although there were transitional rules to be considered (outside the scope of this article). As such, no tax consideration needs to be given to FX until these amounts are ultimately recycled to the profit and loss account, unless:

- an asset or liability representing a loan relationship ceases to be recognised in the accounts; and
- it is not expected that either at that time, or at a later time, matters relating to that loan relationship will be transferred from other comprehensive income to the profit and loss account (s 320A).

Accordingly, a good understanding of the accounting treatment is required as part of the tax compliance process.

In summary, debits and credits attributable to FX gains and losses on loan relationships will form part of the overall debits and credits falling to be brought into account under Part 5. These amounts will then be taxed or relieved as trading debits and credits, or non-trading debits and credits on loan relationships – depending on the nature of the underlying debts.

As readers will be aware, the presentation of financial statements can be in currencies other than sterling and therefore the consideration of foreign exchange is not limited to exchange gains and losses arising between sterling and relevant 'foreign' currency denominated transactions. There may also be instances where sterling or the respective presentational currency is not always the currency in which the profits are required to be computed for corporation tax purposes. We next consider the respective rules which govern the currency to be used in tax calculations.

## The currency to be used in tax calculations

There are rules contained within CTA 2010 Part 2 Chapter 4 which determine the currency to be applied when income and gains must be calculated and therefore in determining loan relationship profits. The default position, CTA 2010 s 5, provides that for the purposes of corporation tax, the profits of a company for an accounting period must be calculated and expressed in sterling. However, this basic rule is subject to ss 6 to 9, which consider the situations where the functional or presentational currency differs from sterling as outlined in the table below.

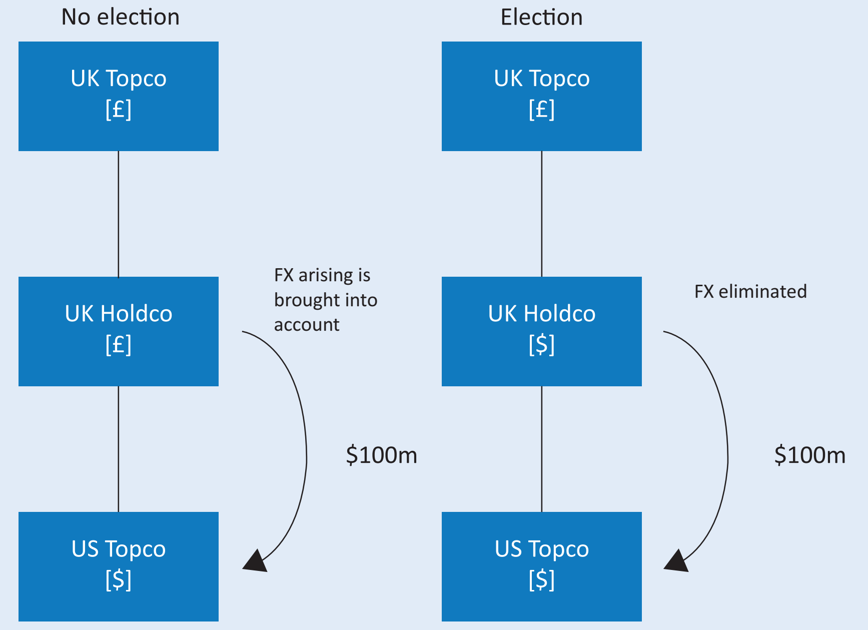
CTA 2010 s17(4) defines 'functional currency' as the currency of the primary economic environment in which the company operates. The 'presentational currency' is that in which the accounts are prepared.

CTA 2010 ss 6-9 apply to those profits or losses that fall to be computed in accordance with generally accepted accounting practice. This means that they do not apply to the calculation of

| Functional currency | Presentational currency | Compute taxable profits in | Legislation reference (CTA 2010 Pt 2 Ch 4) |
|---|---|---|---|
| Sterling | Non-sterling | Sterling | s 6 |
| Non-sterling | Sterling | Non-sterling | s 7 |
| Non-sterling (or not identified) | Non-sterling | Non-sterling | s 8 |
| Sterling (or not identified) | Sterling | Sterling | s 9 |

### HOW AN ELECTION MAY MITIGATE FX VOLATILITY ON A FUNDING LOAN

This example shows how an election may help mitigate FX volatility on a funding loan from the UK, to enable a US subsidiary to make acquisitions.




other matters. One common example is the calculation of capital gains, which will generally be calculated by reference to sterling (although Finance Act 2013 s 66 modifies this rule in relation to assets comprising ships, aircraft shares and interests in shares).

CTA 2010 ss 6-9 will apply to the calculation of trading profits, property business profits and, importantly for the purposes of this article, loan relationships, derivative contracts and the related FX calculations.

Accordingly, there may be occasions where you will need to ensure that any computations are prepared using the correct basis. In the context of FX, clearly this could be the difference in whether FX gains and losses arise in the first place.

It is worth noting that in the case of a UK resident investment company, it may be possible for the company to elect for a currency to be its 'designated currency'; and therefore the underlying accounting treatment can be overridden, which can be helpful in certain situations.

## Designated currency elections

A UK resident investment company may elect to designate a functional currency for tax purposes, which may be a currency other than the functional currency of its financial statements. An 'investment company' is defined in CTA 2010 s 17 as a company whose business consists wholly or partly in the making of investments and the principal part of whose income is derived from those investments.

The implications of such an election is that profits and losses of that company for UK corporation tax purposes would be computed by reference to the designated currency (and not the functional or presentational currency in the accounts). To apply this election, either of the following two conditions must be satisfied (CTA 2010 s 9A):

- Condition A: A significant proportion of the company's assets and liabilities are denominated in the currency.
- Condition B: The currency is a functional currency of another company and it is reasonable to assume that the two companies meet the consolidation condition (i.e. the companies are part of the same consolidated group in accordance with acceptable accounting practices).

With reference to Condition A above, there is no guidance in the legislation as to what constitutes a 'significant' proportion in this context. It will depend on the facts of the individual company; broadly, though, it will be the currency to which the investment company has the most exposure as a result of holding those assets or liabilities in the respective currency. As HMRC states in CFM64520, a common sense approach must be adopted, considering the proportion of foreign currency assets and liabilities, but also other factors, including (as it suggests) the relative exchange rate volatility.

When considering Condition B, acceptable accounting practices are considered to be IAS, UK GAAP or the GAAP of the country in which the other company is resident. It is worth noting that if the group is not required to prepare consolidated accounts, the test will still be met if the group would be required to prepare consolidated accounts were its financial statements prepared under IAS.

A designated currency election must specify the date on which the election is to take effect and must be made in advance of that date. The election then continues to apply until a future revocation event, which is when the company ceases to satisfy the relevant conditions, or another election takes effect (CTA 2010 s 9B). A brief example in the box on the left shows how an election may help to mitigate FX volatility.

It is worth noting that s 328 prescribes that where FX arises as a result of a change in functional currency, the question as to whether this should be brought into account to tax depends on whether the change arose as a result of a designation election or otherwise.

## Other matters to consider

There are a number of other provisions specifically relating to foreign exchange (within the loan relationship rules) that may also be worth bearing in mind.

**1. The taxation of non-arm's length transactions**

You may be familiar with the general principles on non-arm's length loans from a transfer pricing perspective. Section 444 is the general provision that requires debit or credits to be determined in accordance with the 'independent terms' assumption. It is disapplied under s 445 where TIOPA 2010 Part 4 applies, such that in most cases it requires FX to be brought into account for debtor relationships on the basis of an arm's length loan.

This can differ for a creditor relationship, which will only apply to the extent that a 'corresponding debtor relationship' does not exist. There will be a 'corresponding debtor relationship' where the debtor to the creditor loan relationship is within the charge to UK corporation tax and is required to bring into account the exchange gains and losses for tax. Therefore, the rules should only apply to a lender where amounts are being lent to a non-UK resident overseas company.

**2. Connected company relationships**
Under ss 354 and 358, the release or impairment of connected company loan relationships are specifically excluded from tax. However, these specific exclusions do not extend to FX and, as such, FX gains and losses may still be required to be brought into account to tax where the underlying balance requires FX to be retranslated for accounting purposes.

**3. Exclusion in respect of tax debts**
Under s 486, a specific exclusion from corporation tax for FX arises with respect to money debts representing an amount of tax payable under UK law. This is also extended in certain situations for overseas tax matters. Accordingly, care should be taken to ensure FX arising in the P&L does not contain any amounts relating to tax debts, albeit this will be driven in part by the tax provisioning workings.

**4. Overseas considerations**
Whilst managing FX volatility in the UK may be important, it should not be done in isolation. In a group context, consideration should also be given to the taxation of FX overseas, as this may result in a mismatch on cross-border balances. For example, the US only taxes foreign exchange movements when amounts are realised. In addition, from a hedging perspective, international groups are likely to use foreign operations and cashflows as part of their overall hedging strategy, so FX may not be significant on an individual entity basis. As such, there needs to be consideration as to how the treatment of FX fits with the group's overall hedging strategy and which entities ultimately bear the risk.

## Hedging: an overview

The overview provided in this article has been focused on the basic taxation of FX within the loan relationships legislation. Similar rules governing the taxation of FX are also contained within the derivative contract rules in Corporation Tax Act 2009 Part 7.

Companies often adopt numerous strategies to manage FX volatility. This could be for accounting purposes or to manage economic risk, which can have tax implications and is often the responsibility of a specialist Treasury function. There are also a number of specific tax rules that apply in hedging scenarios which can assist in managing foreign exchange volatility until a realisation event. The topic of hedging is worth an article in itself; however, we have set out below the issues that are commonly seen in our experience.

**Companies often adopt different strategies to manage FX risk, for accounting purposes or to manage economic risk.**

**'Matching' and/or 'net investment hedging'**
In this case, the hedging instrument (either a loan or derivative) must be taken out with the intention of managing exchange rate risk and have the specific intention of substantially eliminating or reducing the economic risk of the asset (or hedged item) that is attributable to exchange rate risk. Where the relevant conditions are met, the matching rules are generally mandatory and apply on meeting all the necessary conditions. The specific provisions are set out in the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account Profits and Losses) Regulations – SI 2004/3256 ('the disregards').

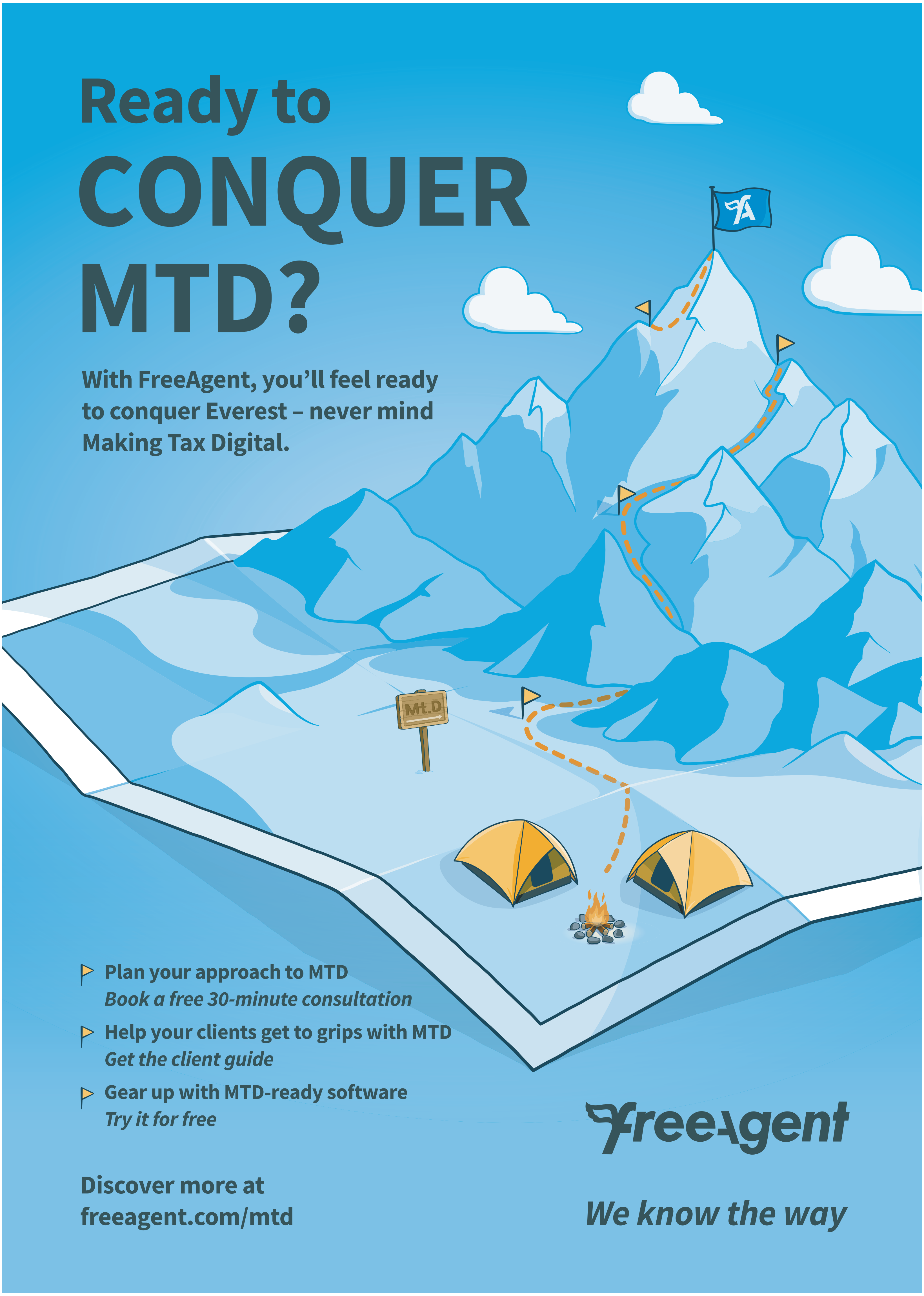
For example, where a UK resident company borrows in a currency other than its functional currency to hedge its currency risk on its investment in an overseas subsidiary, FX arising on that loan (provided the necessary conditions are met) can be matched with the investment such that the FX is not brought into account until the prescribed time. Typically, this would be on the disposal of the investment. This ensures that the FX profit or loss is matched with the realisation of the asset.

**Forward currency contracts**
Where companies also use derivative contracts to mitigate exchange risk, the disregards can be applied by way of election, from a particular date, to apply a realisations basis for tax purposes. A common example is the use of foreign currency forward contracts which may help manage the economic risk involving the underlying foreign exchange assets or liabilities of a future purchase or transaction. Under accounting standards, derivative contracts are required to be held at fair value, which could bring fair value volatility to the P&L. However, companies might then designate the derivative contracts as hedges for accounting purposes (hedge accounting) which may reduce or eliminate FX and fair value volatility for both accounting and tax purposes. However, where hedge accounting is not applied, or is ineffective, the disregards can rectify this position for tax purposes. Other similar elections are available with respect to commodity contracts or interest rate swaps.

## Conclusion

FX volatility can be costly to businesses if not managed appropriately. Whilst the default position for tax purposes is that FX gains and losses should be brought into account to tax as it accrues to profit or loss, there may be accounting, treasury or even tax strategies available to help manage the volatility.

The key message to tax teams is not to leave FX out of the conversation and to ensure that they are working closely with Finance and Treasury colleagues to assess FX exposure and implement strategies that may be beneficial to the business.



Ready to
CONQUER
MTD?
With FreeAgent, you'll feel ready to conquer Everest – never mind Making Tax Digital.
Mt.D
Plan your approach to MTD
Book a free 30-minute consultation
Help your clients get to grips with MTD
Get the client guide
Gear up with MTD-ready software
Try it for free
Discover more at
freeagent.com/mtd
freeagent
We know the way

# Unforeseen complexities

*Victoria Todd* considers the various difficulties that low-income, unrepresented taxpayers can face when working through a limited company

© iStockphoto/sesame

## KEY POINTS

- **What is the issue?**
Over recent years, LITRG has seen an increase in the number of low-income, unrepresented taxpayers put into limited companies without their knowledge or who have set up a limited company without fully understanding the consequences and without proper advice.
- **What does it mean for me?**
You might see clients who have previously set up limited companies without a proper understanding of the obligations and consequences or who have been put into limited companies by an entity in their supply chain, and who have compliance issues to deal with.
- **What can I take away?**
It is cheap and easy to set up a limited company. Limited companies are not well understood by unrepresented taxpayers. Although many will struggle to deal with their own corporate compliance, the LITRG website has some information highlighting what people must think about before setting up a limited company or who need to close one down.

In October 2020, LITRG published a website article 'Thinking of setting up a limited company? Pause and Think!' (tinyurl.com/44emautu). Its purpose was to highlight a new guidance section on the LITRG website on working through a limited company (tinyurl.com/47nmd55d). This was the first time LITRG had published information about limited companies.

Some people might assume that limited companies are set up either by represented taxpayers who have taken advice or by unrepresented taxpayers because they have fully researched the position and decided that is the best option for them. In many cases, that is true. And indeed, a limited company may well be the right choice for someone setting up a business.

However, over recent years, we (and others, such as TaxAid) have seen an increasing number of low-income, unrepresented taxpayers getting involved in limited companies, having set their company up themselves because a friend or an internet search has suggested that it reduces their tax liability and provides them with protection if anything goes wrong; or perhaps because they are under the misconception that to be in business necessitates having a limited company.

As it is so cheap and easy to set up a company, they do so without any understanding of the consequences, including the tax ramifications and the other legal requirements that come with it. Often, people in this situation believe they are self-employed, and they cannot separate out their own affairs from those of the company.

Other low-income, unrepresented taxpayers are told to set up a limited company by an agency or umbrella company in their supply chain. Temporary and flexible work is growing rapidly and such work often involves agencies that use umbrella companies.

The umbrella companies sometimes set up, or help to set up, limited companies through which the worker is paid. In some cases, the worker is not aware of the limited company structure. Even if they are aware of it, they might have little choice but to work in this way if they need the job and may not understand what it means.

### 'Self-employed directors'

There is longstanding confusion about the difference between self-employment and being a director of a limited company. Throughout the coronavirus pandemic, we have seen numerous references to 'self-employed directors' in the media, in Parliamentary debates and on other consumer websites. This confusion is not helped by the fact that universal credit treats most single/partner company directors as if they were self-employed. We explain more about this on our website www.revenuebenefits.org.uk (see tinyurl.com/vtdfas4t).

It is therefore not surprising that we have seen cases, brought to light by the coronavirus support schemes, where people have not understood that their company's money is not strictly their own.

One example we know of is someone who set up a small gym/personal training business with a friend six months before the pandemic started. Previously, they were both self-employed personal trainers. Both are low-income workers. A friend told them they should incorporate because it would protect them if anything went wrong, which they did through an online company for £20. Both tried to claim grants from the Self-Employment Income Support Scheme (SEISS) during the pandemic as they thought they were self-employed and were trading. They were not eligible. That they had been withdrawing money from the company in the belief it was theirs, as it was when they were self-employed. They did not understand that the money belonged to the company. They had not taken any steps to set up a payroll or deal with any of the tax requirements for the company, such as registering with HMRC. They thought it would all be declared on their next tax return, as they had always declared their self-employed earnings.

### PROFILE

**Name:** **Victoria Todd**
**Position:** Head of LITRG at CIOT
**Company:** Low Incomes Tax Reform Group of the CIOT
**Tel:** 07813 608292
**Email:** vtodd@litrg.org.uk
**Profile:** Victoria joined LITRG in 2005 and is a CTA Fellow and member of the ATT. She has a particular interest in tax credits, universal credit and tax/benefit interactions. She was appointed as Head of LITRG in 2018.

This is not an unusual case. It takes just over 10 minutes and can cost as little as £12 to set up a limited company online.

### Agency workers

Historically (pre 6 April 2021), there has been a problem with lower-paid workers being encouraged or put into limited companies inappropriately at the behest of agencies and umbrella companies. In some cases, a limited company was used as an alternative to an umbrella company in a supply chain; in other cases, it was used by an umbrella company to form another level in the supply chain between the engager and the worker (see the diagram on the next page for details).

In the first model, often workers may not have fully understood the implications of having a limited company. This could have damaging consequences; for instance, if the relationship between the worker and the limited company accountant breaks down (sometimes the accountants involved will not belong to a professional body and have minimal contact with their clients) and the worker falls into non-compliance.

In the second model, some lower paid workers may not have even realised that a limited company had been established on their behalf, again leading to non-compliance.

The driving force behind having a limited company at some point in a low-income agency worker supply chain has usually been to increase profit and/or reduce obligations. If an agency or umbrella pays a limited company rather than a worker, then it is a business-to-business transaction and they do not have any 'employer' costs or responsibilities, which can save them money.

There can also be an additional revenue stream created from the fact that most workers in limited companies will need help from an accountant with running the limited company and so can be charged for this service. We look at this state of affairs in more detail in our recent report on employment intermediaries (see tinyurl.com/2jedh97c). The recent off-payroll changes will likely have removed the limited company incentive in this particular situation going forward.

### Case study

The following correspondence is an example that sets out some of these issues:

> *'I have been an agency lorry driver for the last nine years. I have had only one day of driving in the last three weeks, as all the firms that I drive for are closing down due to Covid-19. I have all my previous wages and tax returns on file.'*

The person in this correspondence refers to himself as an agency driver. However, we discovered through further correspondence that he had been handed to an umbrella company, which in turn had set up a limited company.

The writer viewed himself as an agency worker or an employee of his umbrella company. He could simply not understand why his umbrella company would not furlough him and claim support with his wages through the Coronavirus Job Retention Scheme (CJRS). The answer was that they could not furlough him: they had set up a limited company for him and, as a director of his own limited company, he had to furlough himself (because he was employed by his own

### COMMON CONFUSIONS

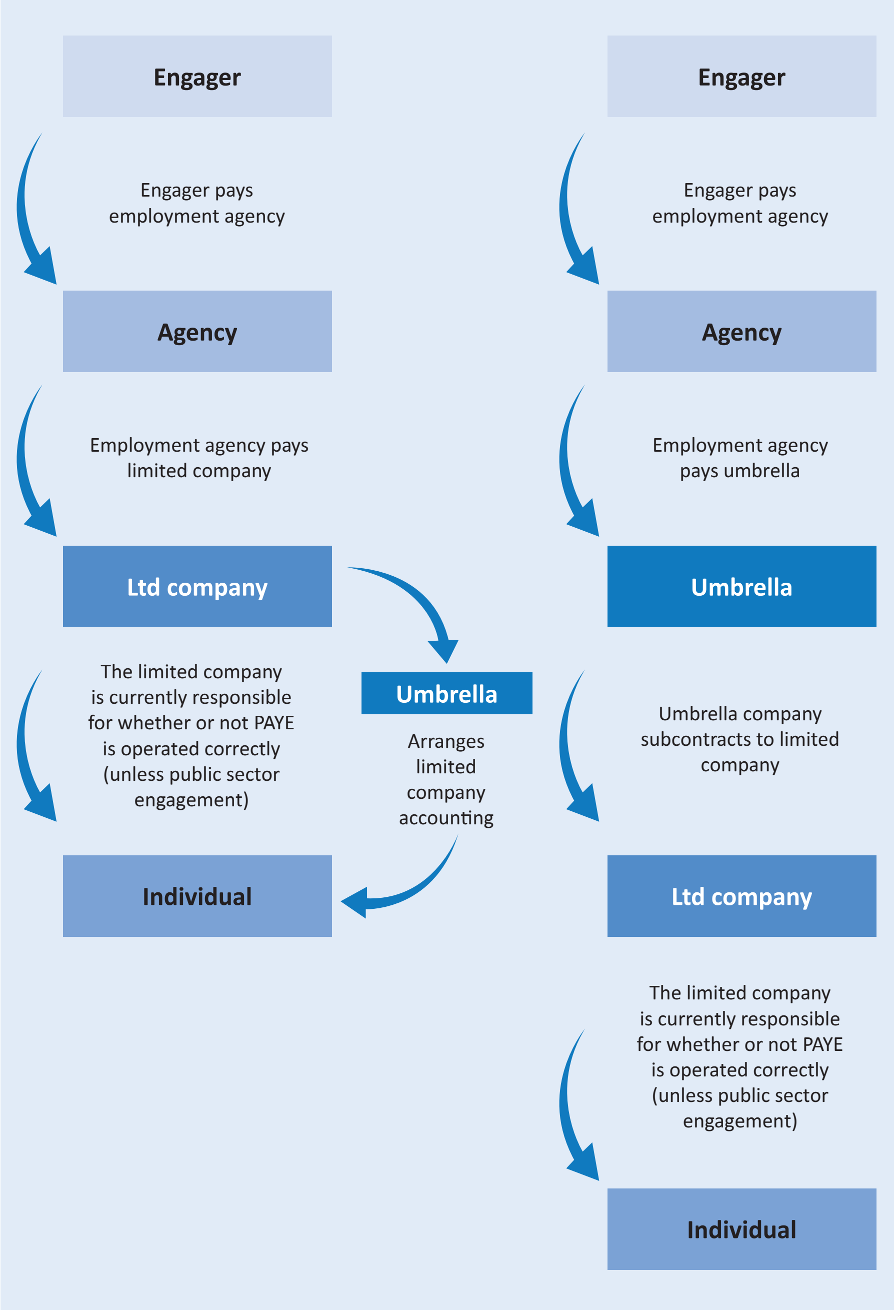
The following two queries submitted to the LITRG website highlight the confusion that exists among directors of limit companies:

> *'I am a sole director and only employee of my company. I pay myself the minimum salary without attracting NICs. This has been done for the past 12 years and ACCEPTED by HMRC. To limit running costs I do not run PAYE payroll. My salary is declared on my self assessment. How can I claim via the job retention scheme?'*

> *'I am sole director and employee of a limited company. I registered my company in September 2019 and before that I was self employed [with over three years of self employed accounts before that date]. I have not filed a tax return for my new company yet. I don't know whether I am eligible for the SEISS, or whether I am only eligible for the Coronavirus Job Retention Scheme.'*

The first query above highlights another common point of confusion. People think that if HMRC has never enquired into their tax affairs and found errors, this means that a certain treatment has been 'accepted'. As a result, mistakes can be perpetuated for many years!

## PRE-APRIL 2021: USE OF LIMITED COMPANIES BY LOW-INCOME AGENCY WORKERS




limited company, not the umbrella company). Furthermore, he had no personal relationship with the umbrella company accountants who did his books and did not know how to get hold of the information he needed to make the CJRS claim on behalf of his limited company, let alone be able to do complex calculations.

In the end, with help from us to understand the situation and break the deadlock, we were told that the umbrella company accountants helped him to prepare a CJRS grant claim, for a further fee. As noted above, often those providing the accountancy services are not members of any professional body.

### HMRC engagement

We have raised these issues with HMRC. For example, we raised the issue of people in limited companies trying to claim SEISS because they thought they were self-employed. HMRC welcomed our input and suggestions for changes to the GOV.UK guidance – which now makes it clear that you cannot claim SEISS if you are trading through a limited company.

We are concerned that the off-payroll changes in the private sector, from 6 April 2021, will cause a shift of workers from limited companies to umbrella companies and a mass abandonment of limited companies. (HMRC estimates that 180,000 personal service companies will be affected by these changes.) Some of these will be low-income workers, such as the person in the case study above, who may be left to deal with trailing liabilities and messy compliance issues if the limited companies are not closed down properly.

Those at the low-income end of the income spectrum often have very little understanding of how personal service companies operate. In our experience, they often cannot separate out their own affairs from those of the personal service company, and stand very little chance of closing down the personal service company's tax affairs correctly, let alone dealing with the Companies House requirements.

While our experience is that Companies House is really helpful in striking off a company, things can get complicated where a creditor or HMRC object to the striking off. This may well happen in these cases, if there are outstanding corporation tax (or VAT or PAYE) issues.

We have raised these points in recent consultation responses with HMRC and have recently met with HMRC officials to discuss in further detail.

### LITRG's response

At LITRG, we have been highlighting limited company issues for a number of years in our consultation responses.

However, we have started to see more cases involving limited companies in recent times. TaxAid has also reported an increase in people seeking such help, but it does not have the resource or capacity to help with limited company issues. We therefore felt we needed to produce some guidance to:

- educate people and raise awareness about limited companies and the consequences of setting one up;
- help people to understand the differences between self-employment and being a director of their own company; and
- highlight issues that may impact people following the April 2021 off-payroll changes.

Our free website guidance covers these issues in outline, helping low-income, unrepresented taxpayers to understand more about limited companies and how to start to unravel problems if they find themselves in a difficult situation.

However, due to the complex nature of trading through a company, we also stress that people should seek professional help and, where people can afford to pay for advice, we recommend approaching a CIOT or ATT member.

# It’s time to complete your 2020 Annual Return. Don’t get caught out. Stay compliant.

All members* are required to complete an Annual Return confirming their contact, work details and compliance with membership obligations such as:

- continuing professional development
- anti-money laundering supervision
- professional indemnity insurance.

Please check that you have completed yours by logging on to the Members Portal (https://pilot-portal.tax.org.uk) then going to Secure area/Members Area/Compliance/Annual Return where you will be able to complete any outstanding form.

*Excludes those who are fully retired and students.

## STEP BY STEP GUIDE TO COMPLETING YOUR 2020 ANNUAL RETURN

### 1. Login

On the ATT website click login located in the top right.
On the CIOT home page please refer to the advert on the right hand side.

### 2. Portal

To access your account on the portal please use your:

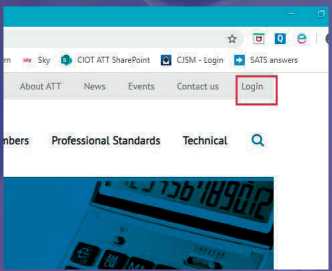
- **member number**
- **email address**

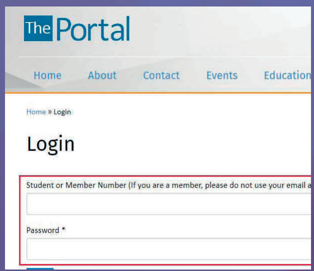
### 3. Account

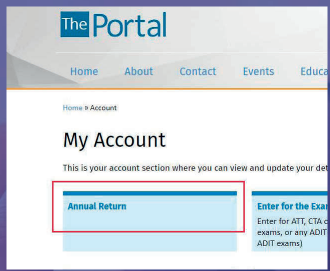
Select Annual Return option

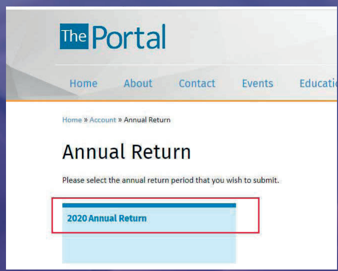
### 4. Period

Select 2020 Annual Return period




Failure to complete an Annual Return is contrary to membership obligations and may result in referral to the Taxation Disciplinary Board (TDB).

# Technical Team



To contact the technical team about these pages, please email:
Sacha Dalton,
Technical Newsdesk editor
sdalton@ciot.org.uk

## Welcome to the May Technical Newsdesk

There is a strange irony that this month's Technical Newsdesk is a short one, at a time when we are busier than ever. Like the proverbial buses, you don't see a fiscal 'event' for ages, and then three come at once (Budget on 3 March, Finance Bill on 11 March, and 'Tax Day' on 23 March). We provide a brief report on these events both below and in last month's edition.

Around 15 consultations and calls for evidence were issued on Budget Day and Tax Day and the three technical teams of CIOT, ATT and LITRG will be considering these in the usual way. You may have noticed in our Friday e-newsletters that we are individually highlighting these consultations, and requesting members' feedback. Please do contact us with your thoughts. Thank you to those members who have provided comments so far, particularly in relation to the HMRC Charter for our feedback as part of the Charter Stakeholder Group, where the 'real life' stories have been extremely illuminating (if also concerning).

In the meantime, we are preparing briefings for MPs to assist with their debates on the Finance Bill. We do this to assist opposition and backbench MPs in carrying out effective scrutiny of the legislation and obtaining (sometimes) answers and clarifications from ministers where these are needed. We have held meetings with the Labour and SNP Treasury Teams as part of this process, though I should emphasise that we are non-party political and don't raise concerns with opposition parties that we haven't first raised with the government.

Elsewhere, our substantial engagement with HMRC and other government departments continues. Hopefully, you will have seen the brief reports on these in the Friday e-newsletters, as well as more substantively where appropriate in these pages. I have previously mentioned that this engagement is at an all-time high, encompassing not only 'technical' discussions (such as in relation to the COVID-19 support schemes, Brexit-related matters, Making Tax Digital, etc.), but also more 'administrative' issues (such as the Agent Dedicated Line, HMRC performance, customer experience, etc.). The ability to do all this virtually is one of the few silver linings to the COVID-19 cloud.

## 'Tax Day' and Budget 2021 – continued

GENERAL FEATURE

**A roundup of the CIOT, ATT and LITRG's 'Tax Day' activity, our submissions to the Treasury Committee, and the next steps in the Budget and policy making process.**

Last month (www.taxadvisermagazine.com/budget2021), we provided a round-up of our activity in relation to the Budget. We have since then had the inaugural 'Tax Day' on 23 March, submitted our response to the Treasury Committee's inquiry into the Budget and Tax Day, and started preparing our briefings for MPs on Finance Bill 2021.

**'Tax Day'**

I should probably start by explaining that Tax Day is a short-hand name for something probably better described as 'Tax Policies and Consultations Day' – though Tax Day is much snappier and sounds much more exciting.

On the one hand, we are pleased that the day lived up to its name by launching a number of early stage consultations. We have become accustomed to consultations starting at stage two of the tax consultation process (see tinyurl.com/2mb4bmhr), missing the vital first step of gathering evidence, setting out objectives and identifying different options to take forward. Indeed, most of the consultations launched on Tax Day were stage one consultations.

On the other hand, we were disappointed that these consultations were largely in relation to administrative matters. Yes, we were expecting these, and it is incredibly important that we have a tax system designed for the 21st century. However, it seemed to miss the opportunity to consult on some of the structural problems within the tax system such as the 'three person problem', or on the future of particular taxes such as VAT, or wider matters like the taxation of property. We worry that fundamental tax changes will continue to be announced for the first time at the Budget, without adequate prior consultation.

**Treasury Committee inquiry**

After each fiscal event, the House of Commons Treasury Committee opens an inquiry into the extent to which that event meets its principles of tax policy expressed in its 2011 report 'Principles of Tax Policy' (tinyurl.com/dhyssxd7) – the principles being that tax policy should be fair, support growth and encourage competition, provide certainty and stability, be practicable, and be coherent.

This year, the Committee added the twist of also asking for feedback on Tax Day, and for the comments to also reflect the findings and recommendations of its Inquiry 'Tax after Coronavirus' (tinyurl.com/3rnz7wpe). These findings and recommendations can be loosely summarised as:

- the tax system needs reform (but through a consultative approach), removing distortions which add complexity or promote particular behaviours;
- setting out principles, objectives and strategies resulting in more certainty and long-term decisions; and
- balancing the need to support businesses, whilst raising revenues without damaging growth.

The CIOT (incorporating comments from LITRG) and ATT responded to the Inquiry.

Our comments in relation to Tax Day were largely consistent with those set out above, and so scored highly against the Committee's principles of tax policy, though less so against its Tax after Coronavirus report because of the lack of 'meat' on Tax Day.

Our comments in relation to Budget Day were mixed, but largely favourable. Due to the need to respond to the pandemic, we recognised it would not be possible to undertake the type of consultation that would be expected in relation to 'normal' changes.

On the COVID-19 measures, we again praised the government, HMT and HMRC for the speed in which they rolled out the key support schemes, and have continued to prioritise their delivery. However, we remain disappointed that the government has not done more to fill the gaps in support, particularly considering the length of time since the Job Retention Scheme and Self-Employment Income Support Scheme were originally announced. In this regard, we noted that this deepened the inevitable tensions between fairness and practicality.

More generally, we recognised that freezing many of the thresholds and allowances complies with many of the Committee's principles, and appears consistent with the aims of raising revenues without damaging growth. However, this will also mean that many will have to deal with the complexity of tax matters for the first time.

We welcomed the extension of the loss carry-back rule, which the CIOT has been suggesting over the past year. We also welcomed the 'super-deduction', to support business investment which might otherwise have been deferred until 2023 when the higher rate of corporation tax comes in. However, we remain concerned at the constant tinkering with the rules and rates of capital allowances – particularly the annual investment allowance, a recurrent ATT theme. On corporation tax, again the early announcement of the future increase also provides some clarity and certainty, but the reintroduction of the small profits rate increases complexity. It also misses an opportunity to allow the increased corporation tax rate to reduce the imbalance between the tax burdens on employment, self-employment and those operating through a company.

Our full responses to the Committee's inquiry will shortly be available on the CIOT and ATT websites.

**Next steps**

We are currently in different stages of the various Budget cycles. The Finance Bill was published on 11 March 2021 and we are currently preparing written and oral briefings for MPs' debates. More on that next month.

We will be responding to many of the consultations that were launched on Tax Day. Take a look at the consultations pages of our websites, or the Tax Day 'collections' page on GOV.UK (tinyurl.com/ukzsvsdn). We would welcome your views at technical@ciot.org.uk, atttechnical@att.org.uk, or litrg@ciot.org.uk.

Richard Wild
*rwild@ciot.org.uk*

Will Silsby
*wsilsby@att.org.uk*

# Office of Tax Simplification: Third Party Data Reporting Review

MANAGEMENT OF TAXES

**The CIOT, ATT and LITRG has fed into the Office of Tax Simplification's call for evidence in relation to third-party personal tax data about individual taxpayers and whether it would be helpful for this to be submitted to HMRC on their behalf. While thinking that in some circumstances this could be helpful, there should be safeguards and clarity around responsibilities.**

The CIOT, ATT and LITRG recently met the Office of Tax Simplification (OTS) to discuss their call for evidence (tinyurl.com/2tfzrv2y) looking at whether and in what ways it would be helpful for different sources of third-party data to submit information about individual taxpayers to HMRC on their behalf.

The review's focus was on personal tax data relating to individuals, such as data held by other government departments; and data held by third parties, such as banks, building societies and investment managers. It considered whether there are alternative ways in which HMRC could receive and use this information. For example, taxpayers have to provide HMRC directly with details of their taxable income. Could this information instead be uploaded by the financial institution or wealth management company and reflected in the taxpayer's online tax account or pre-populated into their self-assessment tax return? Similarly, could information about reliefs, such as gift aid on charitable donations and pension contributions, be reported to HMRC by charities/online fundraising platforms and pension providers and then be pre-populated into returns or claimed through the individual's personal tax account?

The CIOT said that in general we support the principle of third-party data reporting and agree that it should be looked into. If it works well, it could be very beneficial for both taxpayers and HMRC. As with any automated process, however, things could go wrong, mistakes could be made and items could be misclassified, etc. It must be clear who is responsible for checking the accuracy of the data and correcting errors. We discussed what sort of data would be most useful and agreed that it would be very helpful if data held by other government departments, such as the state pension, could be reflected in online tax accounts or pre-populated onto returns. We also highlighted the role of agents in the process and that it is essential that agents are able to see the same information that their clients can see.

ATT's discussion with the OTS identified how the usefulness of the automated provision of data could vary considerably between taxpayers and also in relation to different data sources. This pointed to the need for taxpayers being able to choose both whether or not to allow any automated provision of data and from which particular sources.

ATT favoured data being transmitted to a virtual holding pen within the personal tax account, rather than pre-populating any return. This was seen as a way to reinforce the taxpayer's responsibility for the reporting of the data, providing the taxpayer with the opportunity to correct the data and, importantly, to record the reason for overwriting the automated data. We said that it would be essential for the taxpayer to be able to make those reasons accessible to HMRC – rather like the white space on a return – in order to reduce the likelihood of HMRC subsequently needing to check why detail provided in a return did not align with the automated data.

We also noted that consideration would need to be given to the relevance of a claim of reasonable excuse where a taxpayer had placed reliance on third party data which was incorrect or incomplete – a point developed below by LITRG.

LITRG also met with the OTS and followed this up with a written submission focusing on some of the themes relevant to unrepresented taxpayers. In particular, LITRG echoed the CIOT's concerns about where the balance of responsibility lies between the taxpayer, the third party and HMRC as regards the accuracy of the data. If data is relayed to the taxpayer via an official government department, it is likely to give the impression that the information is accurate – regardless of the source. Yet, it is the taxpayer who faces the consequences if that information is accepted as accurate but later turns out to be incorrect.

LITRG's submission also discusses the use of estimated data and the problems faced by unrepresented taxpayers in trying to reconcile HMRC's figures without a clear breakdown of how a certain figure is made up. If the use of third party data is to be increased, then HMRC need to be more transparent about what is used when calculating an individual's tax liability.

Finally, LITRG points out several examples of where it feels HMRC could use existing data they hold to better advantage. These include highlighting to PAYE taxpayers that they might be liable to the high income child benefit charge (or, as a minimum, issuing assessments for such unpaid liabilities much sooner), and helping construction industry scheme workers to report their income accurately. In the latter case, LITRG has seen a number of examples of where such workers have misreported their self-employment income as employment income – which, among other issues, has led to non-payment of Class 2 and 4 National Insurance contributions and ineligibility for the Self-Employment Income Support Scheme. LITRG feels that HMRC could and should have identified these issues sooner by joining up the data held on separate systems.

LITRG's submission can be found here: www.litrg.org.uk/ref2437.

The potential use of third-party data is also being considered in HMRC's call for evidence 'The tax administration framework: Supporting a 21st century tax system' (tinyurl.com/kpvncye8), and in the discussion document 'Helping taxpayers get offshore tax right' (tinyurl.com/2tpj83sr), both of which were published on 23 March 2021.

Margaret Curran *mcurran@ciot.org.uk*
Will Silsby *wsilsby@att.org.uk*
Tom Henderson *thenderson@litrg.org.uk*

# VAT and value shifting consultation: CIOT response

INDIRECT TAXES

**The CIOT has responded to HMRC's recent consultation, which proposes changes to the rules for apportioning the consideration (payment) between supplies with mixed liabilities in a single transaction.**

You would be forgiven for thinking from the title of the consultation that it focuses solely on artificial or abusive value shifting arrangements. In fact, it will affect most businesses that sell goods or services as part of a package or 'bundle'.

In our view, HMRC have not demonstrated that there is sufficient 'value shifting' to warrant a structural change to the VAT rules. The consultation makes reference to 'some businesses' (but does not state how many), and seems to seek to identify the extent of the problem by asking the various questions of suppliers of bundles (even though the solution already seems to have been determined). Indeed, the consultation page notes that 'the broad principles of the new rules are set'. We encouraged HMRC to disclose the evidence that has led them to this conclusion, as it appears to us that the consultation is proposing a solution to a problem, the extent of which is not fully known. We also expressed disappointment that the consultation started at stage two of the consultation process, by-passing stage one and thus the opportunity to better identify the problem and alternative solutions.

We consider that HMRC already have adequate armoury to challenge value-shifting arrangements; either simply on technical merits (on which many such arrangements fail), or on 'abuse' grounds. If any additional armoury is considered necessary, this should be targeted at the mischief it intends to prevent, without creating significant collateral damage for other taxpayers.

We are concerned that the proposed rules in their current form could actually create opportunities to manipulate the amounts attributable to bundled supplies, such as by inflating individual selling prices of zero or lower rated components. The prescriptive nature of the rules could result in a smaller proportion of the consideration being properly attributable to positive rated supplies, necessitating complex rules and anti-avoidance measures to prevent such abuse.

We also highlighted the need for exceptions from any new rule. For example (and on which we declared an interest), we consider that non-profit making bodies which apportion their subscription income in accordance with Extra Statutory Concession 3.35, as well as any other 'bespoke' agreements between taxpayers and HMRC, should be allowed to continue. Our full response can be found on the submissions page of the CIOT website.

Jayne Simpson *jsimpson@ciot.org.uk*
Richard Wild *rwild@ciot.org.uk*

# HMRC Forum meetings

OWNER MANAGED BUSINESS EMPLOYMENT TAXES

**A brief overview of HMRC meetings of the Employment and Payroll Group, Collection of Student Loans Group, the Construction Forum and the Small Business Technical Forum attended by representatives of the CIOT, LITRG and ATT.**

In this article, we summarise the main points from the March 2021 meetings of four of HMRC's forums, which are attended by

CIOT, LITRG and ATT volunteers. HMRC will publish the minutes of meetings on GOV.UK in due course.

**Collection of Student Loans Consultation Group**
The group met on 2 March and is attended by representatives of CIOT, LITRG and ATT. The main agenda item was the introduction of a separate student loan repayment threshold for Scottish borrowers with effect from 6 April 2021, which has required revising the New Starter Checklist and the issuing of change of plan type start notices (the 'plan 4' notices were sent to employers in March 2021). Other matters discussed included HMRC's more frequent data sharing with the Student Loans Company and the processing of self-assessment returns in respect of student loans payments.

**Employment and Payroll Group**
The group is the main HMRC forum for employment tax related matters and met on 17 March. The forum is attended by representatives of CIOT and ATT and meets quarterly.

The Coronavirus Job Retention Scheme, which is to continue until 30 September 2021, and HMRC's publication of employer names was discussed. This was followed by a discussion of the new off-payroll working (OPW) rules which came into effect from 6 April, covering: the amendments to the legislation included in this year's Finance Bill; recent tribunal decisions; HMRC's check employment status for tax tool; and what happens if a business has taken 'reasonable care' in doing an assessment and wrongly decided that OPW does not apply, accordingly preparing a status determination statement that is incorrect.

Discussions then turned to the new employer's NIC relief for military veterans, which has been introduced with effect from 6 April 2021. Employer's NIC will still have to be collected during 2021/22 and a claim for refund made following the end of the tax year. From 6 April 2022, relief will apply in real time. HMRC then re-capped on the position for social security in relation to those from the EU working in the UK and vice versa.

This was covered by both the Withdrawal Agreement and the Trade and Co-operation Agreement negotiated at the end of last year. Essentially, social security would only be paid in one country, generally where the employee works unless the 'two year rule' applies. Separate rules apply for Norway, Iceland, Liechtenstein and Switzerland.

The meeting ended with a discussion of the 'representative occupier' concession in the context of pensioners who had previously worked through their life on estates and been permitted to continue to live in work-related accommodation in retirement. Concern had been expressed for some time that: (a) pensioners will face an unexpected tax charge on their ex-employer provided living accommodation when the concession is withdrawn from 6 April 2021; and (b) as there is no grandfathering then communication with those pensioners who will be adversely impacted would be key.

**Construction Forum**
The forum met on 23 March and is attended by CIOT and ATT representatives. The main item of discussion was the new construction industry scheme (CIS) regulations which took effect from 6 April 2021 and associated guidance in respect of the deduction for materials, HMRC's ability to refuse CIS set-offs, and the new definition of a 'deemed contractor'. Also discussed was the VAT reverse charge for construction which came into effect on 1 March 2021. Issues were highlighted relating to the interaction and scope of the CIS rules, including: mismatches such as that heating installations are included but repairs are outside scope; and what happens for reverse charge purposes if a CIS outside scope activity is mistakenly treated as inside scope. The interaction of CIS gross registration and the OPW rules was also raised and HMRC were asked to consider that CIS registration for gross payment is incompatible with falling within OPW.

**Small Business Technical Forum**
The forum held its second meeting on 24 March and is attended by CIOT, LITRG and ATT representatives. The meeting was held under 'Chatham House' rules and discussions centred around 'Tax Day' announcements and ideas to simplify the calculation of taxable profits of the smallest businesses for income tax or corporation tax purposes.

The two main Tax Day consultations of note were the 'Call for evidence: the tax administration framework: supporting a 21th century tax system' and the 'Call for evidence: timely payment'. Discussions included the inherent difficulties with bringing forward income tax payments, and whether quarterly reporting of income and outgoings would require more detailed tax analysis if quarterly real time payments were required. Discussion then turned to simplifying basis periods in order to, for example, minimise opening years overlaps (potentially a pre-requisite for bringing forward tax payments). This included the pros and cons of a tax year end default accounting period, as well as a discussion as to whether to change the tax year end to be co-terminus with a calendar month end (either 31 March or 31 December).

Matthew Brown
*matthewbrown@ciot.org.uk*

# Trusts and IHT Update

INHERITANCE TAX

**ATT and CIOT representatives attended a meeting of the Trusts and Estates Agent Advisory Group in February which discussed a number of practical trust and estate matters.**
The Trusts and Estates Agent Advisory Group meets regularly through the year to discuss practical matters to do with trusts and estates. Feedback on areas of concern for future meetings is always welcome.

**IHT400 processing**
Despite a significant increase in IHT400 submissions compared to the previous year, HMRC tell us that they are processing well over 90% of those received within their 15 working day target. Once processed, the IHT421 is then emailed direct to HMCTS, which are currently taking up to eight weeks to process applications. IHT421 delays within HMRC are often due to a lack of payment and HMRC are monitoring cases which are taking longer to process than expected.

HMRC have also carried out significant work to catch up on the backlog of IHT100s and estimate that very low numbers are being processed outside their target of 15 working days.

In the absence of reports to the contrary, we therefore assume that the processing of IHT400/IHT100 is not causing members any issues. Please let us know if you are experiencing anything different.

**IHT calculations**
Members have raised concerns with us about the lack of repayment calculations or calculations where the IHT due is nil. HMRC have advised this is because staff are unable to print computations while working from home and there are limited staff in the office. There is little that can be done to change this until more staff are able to return to the office.

**Fifth Anti-Money Laundering Directive – delay in implementation**
The Fifth Anti-Money Laundering Directive extends the requirement to register on the Trust Registration Service to many non-tax paying trusts which are currently excluded. It also extends the amount of information that taxable trusts must report.

As the IT system for registrations is not expected to open until summer 2021, HMRC have confirmed that the current deadline of 10 March 2022 will be extended to ensure that agents have at least 12 months from the system being available to update the register as required. HMRC will be introducing legislation in due course to amend the March 2022 date.

This extension is very welcome, but it will still leave agents with a significant amount of work to do in that 12-month period. In the meantime, work on the guidance is also ongoing, which will be crucial in helping trustees and their agents decide which trusts are now in scope. Both ATT and CIOT are engaged with HMRC on their project to produce a new manual and we are happy to receive feedback on areas of concern or points which you think could be usefully clarified in the manual.

Helen Thornley
*hthornley@att.org.uk*

John Stockdale
*jstockdale@ciot.org.uk*

# Devolution: the fifth Welsh Parliament

GENERAL FEATURE

**With elections to the Welsh Parliament taking place in May, the CIOT and LITRG have offered observations on the Senedd's fifth term.**

Elections to the Senedd Cymru – the Welsh Parliament – take place on 6 May. The CIOT and LITRG have offered some observations to the Welsh Treasury on the current (fifth) Welsh Parliament term from the perspective of the devolved taxes.

The fifth term marked a pivotal stage in the devolution of taxes in Wales with the implementation of the land transaction tax (LTT), the landfill disposals tax (LDT) and the Welsh rates of income tax. In our view, rigorous post-legislative review is essential to evaluate whether the legislation is working consistently with the Welsh government's tax principles and particularly to assess the efficacy of reliefs – whether they meet their policy objectives and provide value for money.

**Tax policy objectives**

The Welsh government's tax principles provide a clear framework. We think stating clear objectives in this way is a highly beneficial approach in terms of coherence of policy development across government and to facilitate effective evaluation.

A more refined understanding of the policy objectives may be needed for specific measures, such as the higher rates for LTT where it is not entirely clear whether the policy intent is to deter the purchase of additional residential properties (so that in fact lower revenue attributable to higher rates in Wales would represent a fulfilment of the policy) or to raise revenue which may be applied to building good quality, affordable housing or a combination of both.

**Consultation**

The development and successful implementation of LTT and LDT was the culmination of extensive informal and formal consultation. We commend this consultative approach that continued throughout the term. Unfortunately, immediate changes to the devolved taxes are sometimes driven by changes made by the UK government to the predecessor taxes and this restricts the ability to consult when changes are announced with little notice. The pandemic has highlighted the need for pro-active cooperation, both at civil servant and ministerial level, between the Welsh and UK governments to ensure the devolved taxes operate effectively. In particular, it would be sensible, and improve the policy-making process, for the devolved governments to receive forewarning of changes (through confidential channels) to predecessor taxes.

**Innovation**

Effective consultation has enabled the Welsh government to adapt and innovate. While LTT was designed to achieve substantial consistency with SDLT, a key message from the consultation process, LTT design diverges from SDLT in some respects to add greater certainty or to remove known anomalies or inconsistencies.

Devolution inevitably generates complexity for taxpayers operating across devolved jurisdictions under different tax regimes but it also drives prospective refinements to the tax codes that need to evolve with changing circumstances.

**Threats to the tax base**

In the absence of a Disclosure of Tax Avoidance Schemes regime, awareness of tax leakage through avoidance is dependent on other strategies for assessing tax risk. We suggest that consideration is given to providing appropriate mechanisms for taxpayers and advisers to report awareness or concerns in relation to tax avoidance or evasion and to look at the benefits and challenges of estimating a Welsh-specific tax gap.

**Welsh rates of income tax (WRIT)**

Awareness and understanding of the WRIT in Wales remains low, despite considerable efforts to engage the public. This is a national not just a devolved taxes issue. Realistically, it is challenging to generate interest when rates are aligned so the practical effect for most Welsh taxpayers is limited to the PAYE C code. For the future, we suggest that Welsh-specific research is needed to establish Welsh taxpayer attitudes to paying more or less tax and to explore possible behavioural effects of tax changes.

**Charter**

We think that consideration should be given to making the Charter more evident and accessible on the Welsh Revenue Authority (WRA) website; for example, the Charter is not mentioned on the WRA website home page or on the main list of guidance and forms pages, and there is no link to the Charter on the WRA's complaints page tinyurl.com/sem39fj8.

The full submission can be read at www.tax.org.uk/ref760.

Kate Willis
*kwillis@ciot.org.uk*

Claire Thackaberry
*cthackaberry@litrg.org.uk*

# Normal minimum pension age to increase from 55 to 57, from April 2028

PERSONAL TAX

**The Low Incomes Tax Reform Group responded to a consultation on implementing the increase to normal minimum pension age.**

The normal minimum pension age is the earliest point at which most people can access their pensions without incurring an unauthorised payment tax charge. However, there are exceptions for those who have a protected pension age or who take their pension due to serious ill-health.

The government's intention to increase the normal minimum pension age from 55 to 57 with effect from 2028 has been known for some time. To allow people to plan ahead, in February 2021, the Treasury and HMRC issued a joint consultation on implementing the change (see tinyurl.com/bjep9ut4).

The LITRG response to this consultation focuses on transitional issues arising when implementing the proposed change.

The increase in normal minimum pension age is due to take effect from 6 April 2028 as a single-step change. That is, someone who reaches age 55 on 5 April 2028 would be able to withdraw pension funds on that day; however, if they take no action, from the following day they would have to wait almost two years before they could do so. To avoid this situation, it might be fairer to make the change gradually (in the same way as increases to the state pension age were phased). However, this would arguably be complex to implement.

It is therefore vital that people are aware of and understand the change. Clear guidance, proactively promoted to pension savers, is essential. Otherwise, we are concerned that people reaching age 55 in the run up to 6 April 2028 will take ill-advised actions. For example, they might cash in a pension in full and put the money in the bank so that they crystallise access to the funds. This may well leave them worse off in the long term – having likely incurred an unnecessarily large tax liability on the encashment, and potentially affecting means-tested benefit entitlement (for example, bringing the funds within the capital assessment once they are removed from the protected status of the pension framework).

The LITRG response also queries how people exercising pension freedoms at age 55 around the time of the change will be affected. They might, for example, take part of their fund on reaching age 55 in March 2028, but will they be able to continue drawing down from 6 April 2028, or will they then have to wait until March 2030 when they reach 57? The last time the normal minimum pension age was increased (from 50 to 55) was in April 2010, before the advent of pension freedoms in April 2015. This point will therefore need to be addressed in the legislation and made clear in the guidance.

The full submission will be posted on the LITRG website at www.litrg.org.uk/submissions.

Kelly Sizer
*ksizer@litrg.org.uk*

| **CIOT** | **Date sent** |
|---|---|
| VAT and the Sharing Economy | 15/03/2021 |
| VAT and value shifting | 08/04/2021 |
| **LITRG** | |
| Office of Tax Simplification Third Party Data Reporting Review<br>www.litrg.org.uk/ref2437 | 31/03/2021 |

Journal of The Chartered Institute of Taxation and The Association of Taxation Technicians

30 Monck Street, London SW1P 2AP.
tel: 020 7340 0550
The CIOT is a registered charity – No. 1037771; The ATT is a registered charity – No. 803480

EDITORIAL
**Editor-in-chief** Bill Dodwell
**Publisher** Jonathan Scriven
**Editor** Angela Partington
angela.partington@lexisnexis.co.uk
tel: 020 8401 1810
**Web editor** Jonathan Chan
jchan@tax.org.uk

ADVERTISING & MARKETING
**Advertising Sales** Jimmy Jobson
advertisingsales@lexisnexis.co.uk

**Commercial Marketing Director**
Sanjeeta Patel

PRODUCTION
**Production Assistant** Nigel Hope
**Design & Technology Manager**
Elliott Tompkins
**Senior Designer** Jack Witherden

**Offices** LexisNexis, Quadrant House, The Quadrant, Sutton, Surrey SM2 5AS.
tel: 020 8686 9141
UK print subscription rate 2021: £116.00 for 12 issues
UK print subscription rate 2021: £206.00 for 24 issues

For *Tax Adviser* magazine subscription queries contact 0330 161 1234. or email customerservice@lexisnexis.co.uk

For any queries regarding late deliveries/non-receipt please direct to Derek Waters, Magazine Distribution Administrator Derek Waters [tel] 020 7400 2898 derek.waters@lexisnexis.co.uk

**Reprints:** Any article or issue may be purchased. Details available from customerservice@lexisnexis.co.uk



Printed by William Gibbons & Sons Ltd. West Midlands



ISSN NO: 1472-4502



CIOT & ATT

# From personal bland to personal brand


TRAINING

**Joanne Herman lists some of the ways that you can change your mindset about your personal branding.**

Welcome back to my blog. This month, we are going to look at the ways in which we can shift from an employee mindset to an entrepreneurial one. Why? Doing this will help you on your way to building a bigger and better personal brand. It is a stepping stone exercise and one that takes some effort on your part.

**Employee mindset vs the entrepreneurial mindset**

I found the following advice on a social media post some months back and believe that the descriptions succinctly sum up the difference between the employee and the entrepreneurial mindsets.

**EMPLOYEE MINDSET = accept what you can't change**

**CEO MINDSET = change what you can't accept**

You might remember that I previously mentioned that we are all CEOs of our own personal brand? To adopt the mindset of an entrepreneur, you have

| The employee mindset (reactive) | The personal branding mindset (proactive) |
|---|---|
| Feeling like a cog in the machine | Having a distinct personal identity |
| Blending in | Being perceived as different |
| Seeking job security | Seeking employability security |
| Sticking to a linear, predictable career path | Actively looking for the next career opportunity; being open to alternative paths both internally and externally |
| Creating an externally driven career | Creating a self-driven career |
| Relying on academic degrees to open doors | Building on lifelong learning and investing in your continual professional development |
| Emphasising company loyalty | Focusing on loyalty to a project, to your profession, to your co-workers and to yourself |
| Being a 'company person' (merging your identity with your company values) | Understanding how you and your personal brand fit in with your company's work culture |
| Fitting into an employee hierarchy | Understanding the complex web of ever-changing reporting relationships |
| Hoping for a single job to carry you through your career | Knowing you will have multiple positions in your work life |
| Holding a labelled, stagnant title | 'Labelling' yourself with an ever-evolving personal brand |

to let go of the employee mindset… despite the fact that we've always done things that way. It's all about taking a calculated risk and being confident, regardless of whether we win or fail. We all learn from our failures and it's through the difficult times and our mistakes that we learn the most. We gain from our mistakes.

**Which camp do you fall into?**
One significant distinction between the mindset of employees and entrepreneurs is the way they look at security vs freedom.

Employees place a high value on security. The thought of doing something that rocks the boat is considered risky. On the other hand, freedom and the control to mould their own future and brand is attractive and a key driver for entrepreneurs.

Building your personal brand from an early stage in your career will boost your confidence and self-worth, and will bulletproof you if you decide to start up a business on your own.

For most, starting a business can feel intimidating, especially if you consider the stresses and insecurities that come with it. Someone with an employee mindset may feel overwhelmed. However, the entrepreneur will simply accept these pressures. They will accept the 'what if's' and insecurities because they are adaptable to change.

Ask yourself which camp you fall into? Even if you are not planning on starting your own company, being more proactive rather than reactive with your personal brand is a great place to start. It will not only help you but also the business you work for.

**How personal branding can help you grow**
With some investment of your time, personal branding can help you to grow out of an employee mindset. By starting here, you will learn more about yourself, your key drivers, how you can help others and what your USP is.

Companies such as PWC, Google and Microsoft help their employees to build their personal brand and reputation. Why? Done correctly, they know it benefits and empowers their employees, which in turn benefits their brand reputation from the inside out. It's a win-win strategy.

**Changing the Face of Tax: a reminder**
Would you like to be part of our exciting brand campaign that celebrates the launch of our new website and logo #FaceofTax? Fear not. There's still time. Make a start today and join us as we build for the new future of tax.

*For more information about how you can get involved, contact me at: jherman@ciot.org.uk.*

**KEY TAKEAWAY**

If you are serious about making some changes to your personal brand, the way you network and engage, then I highly recommend signing up to our new Branch Network Professional Skills Channel (see below for details). Just visit https://cvent.me/gRnQbw for more information.

CIOT & ATT


# Branch Network Professional Skills Channel

TRAINING

**Next Session: Creating and perfecting a 60 second pitch for any networking situation**
Wednesday 12 May 2021 | 12-1pm

**About this programme:**
A skills based programme that covers the main aspects of networking and engagement principles, alongside LinkedIn and touching upon other social media platforms.

The programme is designed to represent where we are currently in a post Covid-19 working environment; and to incorporate the elements of networking and LinkedIn that as experts we know work to improve reach, positioning and prospecting.

The intention is to deliver a marketing template that can be used by all participants at whatever stage they are in their business, from start up to established to growing.

Each session will last one hour with a mix of tutoring questions and exercises to ensure that participants are watching as well as contributing. See you there!

ADIT

# Find your ideal online ADIT course

TRAINING

As the global community of international tax professionals pursuing the ADIT qualification continues to become ever more diverse, with students in over 120 countries and a wide range of professional and academic backgrounds, the value of flexible, accessible tuition options in helping students prepare for their exams has never been greater.

It therefore comes as good news that a record number of tuition providers are now offering online courses and learning support to ADIT students around the world, on a wide range of ADIT exam options and at a range of price levels to suit different budgets.

The Covid-19 pandemic has accelerated what was already a growing trend towards online and distance learning for professional qualifications, especially for those like ADIT which cater to a worldwide audience. As with the online delivery of the ADIT exams, which students can take at home in a safe, comfortable environment, the growing number of online tuition options makes the benefits of ADIT certification more attainable than ever before to international tax professionals and their employers around the world.

If you, or your colleagues, are currently studying for ADIT or considering doing so as a way of developing international tax knowledge and skills, make sure to consider the range of online tuition options at: www.adit.org/onlinecourses.

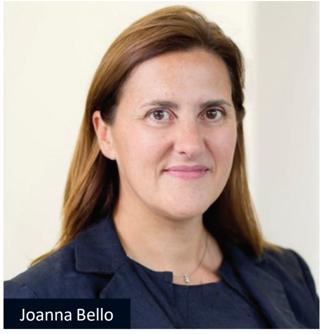
Alternatively, if you know of other online courses featuring international tax topics, which you would like to recommend for the benefit of ADIT students, please let us know at: education@adit.org.

CIOT

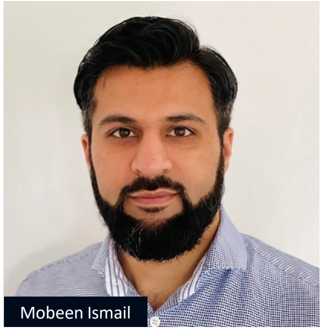
# New CIOT Council Members

COUNCIL

The following CIOT Council Members were co-opted on 13 April 2021:


Joanna Bello


Sarah Hewson


Mobeen Ismail


Ashley Makoni


Chris Shrubsole

**Joanna Bello, LLB(Hons), CTA**
Jo joined Price Waterhouse in 1994 after the College of Law and trained with the CIOT: ATT and CTA, VAT route, winning the Victor Durkacz Prize for the interaction of the taxes paper, becoming a member of the Chartered Institute of Tax in 1997. For five years, Jo helped with examinations for the VAT route before her daughter was born.

Jo became a partner at PwC in 2010, EMEA Indirect taxes leader in 2012 and Global Indirect taxes leader in 2016; a role she has just stood down from. Jo specialised in working with large multinationals mainly on international supplies of fast moving consumer goods and services advising on VAT, customs and excise duties globally. Jo has also undertaken a number of secondments to clients, including those in start-up situations, financial services and as Global ITX leader for a FTSE top 10. Jo works alongside advisory, transfer pricing and technology focused colleagues in client scenarios. Jo worked as people partner for top tier tax for three years and still remains involved in people development, training, and the partner admissions and recruitment processes at PwC.

Outside work Jo, enjoys walking, skiing and the theatre.

**Sarah Hewson, LLB(Hons) CTA ATT**
Sarah sits in EY's Global Employment Tax Services team, having started her tax career as a tax lawyer at an international law firm before moving to the Big Four to specialise in employment taxes. Sarah utilises her broad range of skills to advise clients on all aspects of domestic employment tax and reward and benefits.

Sarah regularly presents on employment taxes and contributes articles to a variety of publications. Sarah's background in employment taxes means that she is familiar with HMRC's approach to employment tax matters and she regularly liaises with HMRC to gain clarification and feedback on specific client matters, as well as wider policy and administration.

Sarah is a Chartered Tax Adviser (CTA) and a Taxation Technician (ATT) and has an active role in the CIOT/ATT, sitting on various committees, including the employment tax technical committee, as well as being Chair of the London branch.

**Mobeen Ismail, BSC (Hons), CA CTA**
Mobeen trained as a Chartered Accountant and Tax Adviser with KPMG. He became a member of The Institute of Chartered Accountants of Scotland in 2014 and joined the Chartered Institute of Taxation membership in 2015.

Mobeen went on to set up his own accountancy firm towards the end of 2015, where he presently leads a growing team in general practice. He takes a keen and active interest in the digitisation and automation of business processes. This has enabled him to develop a particular strength in assisting businesses with their adoption of software and technology to streamline their operations and workflows.

Outside of his work commitments, Mobeen enjoys teaching the sport of archery at his local club as an Archery GB coach and looks after honey bees at his garden apiary.

**Ashley Makoni, Bsc Hons, CTA, FCCA**
Ashley started off her career in tax at Linklaters, working on partnership, corporate and international taxes before moving to Bird and Bird LLP as a Tax Manager. Ashley's main areas of focus at Bird and Bird included personal taxes, double tax relief calculations and international tax compliance work. She then moved on to Stephenson Harwood before spending a few years at CMS as the Head of Group Tax and Partnership Accounting.

Ashley is now a Tax Director at Duff and Phelps Ltd and her

CIOT

# CIOT: Notice of Annual General Meeting

AGM

The Annual General Meeting of Members of the Chartered Institute of Taxation will be held on Tuesday 25 May 2021 at 16.45. The meeting will be held via Zoom.

Civica Election Services have been appointed as scrutineers for the CIOT AGM 2021. Access to the AGM Notice, Annual Report and Statutory Accounts and information regarding those standing for election to Council was provided through links in an email sent to Institute members by Civica in April. There will be a reminder sent in May. The Civica proxy voting site can also be accessed via that email, together with information on how to book attendance at the virtual AGM.

If you would prefer to receive a hard copy of the proxy form, please email: support@cesvotes.com or telephone: 0208 889 9203 and a form will be sent to you in the post with a reply-paid envelope. You will have until 23 May 2021 to return the form.

A copy of the AGM Notice and Annual Report and Statutory Accounts is also available at: www.tax.org.uk.

main focus is still on international tax but with more emphasis on corporate taxes. Other aspects of her role include driving tax strategy in the EMEA region and delivering on various tax projects, including group entity rationalisations, employee share schemes, dealing with mergers and acquisitions, as well as managing the implementation of new MDR rules not only in EMEA but in other parts of the world.

Ashley has volunteered with various charities in the past and other roles held include Council Member roles with the Salvation Army, a Company Secretarial role with Visio Corporate Ltd, mentoring roles with various organisations including her current mentoring role with Reach Out. Ashley has also been accepted onto the Executive MBA programme with EBS University in Germany, in conjunction with Durham University, and is looking forward to starting her studies in September of this year.

**Chris Shrubsole, BSc, Exec MBA, CTA**

Chris started his career in tax with KPG in 1994 when direct graduate entry into the tax profession was in its infancy. Chris is CTA qualified and holds an executive MBA awarded from ENPC Paris in association with the University of Bristol. A few years after qualifying, he went on secondment to the Tax Learning and Development function. Over the years, Chris has taught on a wide variety of taxes across both the Corporate and Indirect Tax pathways. In addition to tax technical training, Chris has been heavily involved in the design and delivery of Ethics and Business skills programmes. Chris is currently the Lead Business Learning Partner for KPMG Tax and Legal and responsible for the learning strategy for over 3,000 Professionals in the UK.

Chris has an extensive network within the Tax, Accountancy and Legal learning and development community. He a passionate promoter of inclusion and opportunities for all. He has played a central role in the design and implementation of a variety of technical and non-technical Apprenticeships within KPMG Tax and Legal in recent years and is also member of KPMG's Apprenticeship Steering Committee.

In 2017, Chris was appointed by the DfE to become a member of the Accounting T Level Panel, which is responsible for developing the outline content for new T Levels being introduced in England. He has continued to be involved as a point of contact for the DfE/Institute of Apprenticeships throughout the process of identifying an Awarding Organisation and detailed curriculum development, as well as providing additional support as a T Level Ambassador.

Outside of work, Chris and his husband are intrepid independent travellers and look forward to being able to explore and experience new cultures as soon as it's safe to do so.

CIOT

# Sir Dieter Helm to give CTA Address

CTA


Sir Dieter Helm

Leading environmental economist Sir Dieter Helm is to give this year's Chartered Tax Advisers' Address on the subject of environmental taxation and specifically the role that tax and other carbon pricing mechanisms can play in helping the UK and other countries to meet commitments for reaching net zero carbon emissions. He will give a 30 minute keynote speech and then join a panel to respond to questions from the audience. CIOT President, Peter Rayney, will chair the debate.

Sir Dieter Helm is Professor of Economic Policy at the University of Oxford and Fellow in Economics at New College, Oxford. He has provided extensive advice to UK and European governments, including The Cost of Energy Review for the UK government in October 2017 and for the European Commission in preparing the Energy Roadmap 2030.

Sir Dieter has written many books, most recently *Net Zero* (September 2020, William Collins), in which he addresses the action we all need to take to tackle the climate emergency. In the New Year 2021 Honours List, he was awarded a knighthood for services to the environment, energy and utilities policy.

Panellists will include Jason Collins, Head of Tax for Pinsent Masons, and chair of the CIOT's recently established Climate Change Working Group, and Jill Rutter, Senior Fellow at the Institute for Government and a former senior civil servant, working at HM Treasury and No 10 as well as DEFRA, where she was Director of Strategy and Sustainable Development.

The virtual CTA Address will take place on Thursday 6 May 2021 from 12.00 to 13.30.

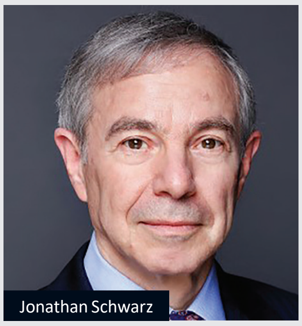
Please visit www.tax.org.uk/ctaaddress2021 to register.

ADIT

# The Joint International Tax Conference is a success!

CONFERENCE

**This annual event is held in partnership with KCL and the IFA UK branch, and chaired by Jonathan Schwarz, Barrister at Temple Tax Chambers, who also directs KCL's International Tax Law LLM programme.**


Jonathan Schwarz

A worldwide audience of 130 tax professionals and international tax law students from around the world tuned in for the 11th edition of the Joint International Tax Conference, which was held in partnership between King's College London (KCL), the CIOT, ADIT and the International Fiscal Association (IFA)'s UK Branch as a suite of digital sessions on Tuesday 30 and Wednesday 31 March.

The conference featured keynote speeches from the EU Commission's Ioanna Mitroyanni and Peter Blessing of the US IRS, as well as an international line-up of speakers from across the legal, accountancy and corporate sectors, addressing some of the biggest topics in the current international tax discourse.

The programme for the two days of the conference was organised into distinct themes, with the first day's agenda focusing primarily on the emerging tax implications of Brexit, the EU-UK Trade and Cooperation Agreement and the UK's future trading relationships. The second day had a particular corporate tax focus, and saw our speakers explore the current transfer pricing landscape through the prism of recent court cases and discuss the latest trends in how digital services and activities are taxed.

If you missed the live event but would like to view recordings of the sessions, these are available to purchase at: https://cvent.me/4xOd7O.

CIOT

# Employment Tax Forum: Next meeting 12 May

TAX FORUM

**Paul Tucker, Chair of the Employment Tax Forum, provides details of the Forum, the next meeting and a request for new members.**


Scottish Parliament meeting

The next meeting of the Forum is on Wednesday 12 May. Due to current Covid-19 restrictions, we will be meeting virtually via Teams. In normal times, we usually meet twice a year at the offices of one of the group members or sometimes special venues, such as the Spring 2019 meeting at the Scottish Parliament Building.

The group is made up of employment tax specialists from both practice and industry. When we meet, we have a frank exchange of views and identify issues that need to be addressed. Our agenda usually includes the following:

- hot topics;
- employment status;
- termination packages;
- payroll issues;
- employee benefits;
- recent developments, including tax cases; and
- HMRC practices and recent experience.

We then feedback to the CIOT Employment Taxes Committee to take forward points arising.

When we physically meet, we also have an opportunity for some useful networking (which it will be great to get back to when we are able to meet again, which hopefully may be Autumn 2021).

We regularly have between 15 and 20 attendees, but we are looking for more members if anybody would like to join us (in particular, we would like more representatives from industry rather than from accountancy practices). So, if you have a keen interest in employment tax and would like to join us, please contact me at paultucker@unw.co.uk.

ATT

# Feature a Fellow: Tony Pearce

PROFILE

**Tony Pearce tells us how he came to build his career in the tax world.**

You can't say I pursued a career in tax – it happened by accident. After college, I had no idea what I wanted to do except it would be office or figures based. I was offered an interview with the Tax Department in Lloyds Trust Division, Truro. I went, not having a clue what my role would entail, and was (surprisingly) offered the job. I started work there on 7 July 1981 – now nearly 40 years ago.

I remained at Lloyds for seven years until they reorganised the Trust Division. I loved my time there – learning a huge amount about tax and how to deal with customers – and especially enjoyed the camaraderie. Residential courses at Hindhead were fun and hard work but I learnt much in that classroom environment.

I then spent six years at KPMG in their tax department and studied for the ATT examinations – hard work on top of a full time job and part time bar work to help pay the mortgage (interest rates weren't what they are now!). After a residential course in London and much cramming came a very proud moment when I saw my name printed in *The Times*. Buying that paper at 7am on 22 January 1992 was when I found out that I'd qualified! That page is still on my office wall with my name between SA Patton of South Harrow and SGP Pelly of Cullompton – I wonder where they are now!

Since 1994, I've run my own practice. Membership of the ATT and being a member in practice has helped enormously. A highlight of this period was attending the ATT's 21st Anniversary celebration at The Shard in 2010.

To anyone starting in the tax profession, I'd say get qualified, learn from the 'old heads' around you, work hard and look after your clients.


Tony Pearce

Georgiana Head
Recruitment

# MEET YOUR ADVISERS

GEORGIANA HEAD

Director

Tel: 0113 426 6672
Mob: 07957 842 402

georgiana@ghrtax.com

ALISON TAIT

Director

Tel: 0113 426 6671
Mob: 07971627 304

alison@ghrtax.com

## VAT Senior Manager or Director Level
## Leeds – £55,000 to £85,000

This is a key role in a large Leeds based independent practice. It would suit an experienced VAT professional who is looking for some autonomy and to effectively lead their own VAT practice. At this firm you will deal with indirect tax for a wide variety of clients including; owner managed businesses, charities and large professional partnerships. You will help build and develop the practice, and there is scope for promotion as part of the reason for the vacancy is succession planning. Great flexible working and systems for homeworking. **Call Georgiana Ref: 3005**

## Trust and Corporate Tax Roles
## Guernsey – £50,000 to £65,000 + low tax

Looking for something different? Missing sunshine and the chance to travel? Our client is based in Guernsey in the Channel Islands, and they are looking for a UK tax for offshore trusts specialist and a corporate tax specialist. These are ideal jobs for an individuals who want to be in the middle of the offshore trust industry working on the tax issues affecting the trustees and beneficiaries. It is likely that you will be manager level with a relevant professional qualification (CTA, ACA, or STEP). This firm will provide sponsorship for the role to enable you to relocate to Guernsey. **Call Georgiana Ref: 3079**

## Indirect Tax Consultant – In-house
## Surrey/London – £52,000 to £70,000 + car + bens

An experienced VAT practitioner is sought by major international group. This role can be worked 2 days from home 3 from the office, and is a fundamental part of the team. You will be responsible for cross-examination of accounts, quarterly payments calculations, management of ad hoc projects and much more. This is an ideal opportunity for a proactive individual who thrives in a fast-paced environment. This role would suit someone who can interrogate data from SAP and who enjoys taking ownership of problems and queries from the business. **Call Georgiana Ref: 4000**

## In-house VAT Controller (contract)
## Sunderland – £45,000 to £56,000 + bens

Our client is the UK operation of a major international group. Due to internal restructuring and secondments they seek a VAT specialist for a 24 month contract. You will be responsible for the UK VAT obligations and providing general support to the UK Tax Manager in all areas of UK taxation including some CT. This includes: external and internal VAT compliance and reporting, including preparation of monthly and quarterly VAT returns, some overseas VAT work and dealing with queries from the business. Ex-HMRC, practice or industry experience considered. **Call Georgiana Ref: 3093**

## Corporate Tax Manager or Senior Manager
## Manchester – £excellent + bens + bonus

A qualified corporate tax manager or senior manager is sought by Top 10 accountancy firm. They seek an ACA, CTA, ICAS or equivalent qualified corporate tax professional for a wide-ranging role. One moment you will be researching a complex area of international tax law for a partner, the next you will be mentoring a student who is struggling with their exams. You will have a portfolio of clients and will assist partners with a wide array of advisory work. This team is big enough to offer agile working, flexible, part time or full-time hours. There is scope for promotion. **Call Georgiana Ref: 3032**

## Big 4 Corporate Tax Managers
## Newcastle or Leeds – £excellent

Great opportunities for qualified corporate tax specialists in Leeds and Newcastle. In these roles you will have the opportunity to work on some of the largest and most exciting clients in the market to help support them as they navigate an ever increasingly complex tax environment. This includes helping them improve their compliance and reporting procedures and also dealing with advisory work. Could suit someone from an independent firm or Top 20 wanting to deal with larger clients. Great flexible working, including part remote working available. **Call Georgiana Ref: 3096**

www.georgianaheadrecruitment.com

## Corporate Tax Senior Manager
## Liverpool – £excellent + bens + progression

This international firm is looking for an ACA/ICAS/CTA qualified experienced corporate tax senior manager to join their advisory team. This role comes with very real prospects of progression to Director in the medium term. Your client portfolio will include UK listed, PE backed, inbound and family owned groups, and you will work on a broad variety of technical areas such as tax due diligence, structuring, international tax, R&D and succession planning. **Call Alison Ref: 2985**

## Corporate Tax Assistant Manager
## Leeds – £excellent + bens

This Big 4 Firm is looking for a CTA/ACA qualified corporate tax assistant manager. The role will be a mix of tax compliance and advisory work for clients ranging from large OMBs to entrepreneurial companies and listed groups, some with international tax issues. You must have strong UK corporation tax knowledge. M&A tax or international tax experience would be an advantage but is not a prerequisite. Home and flexible working is possible. **Call Alison Ref: 3071**

## Indirect Tax Manager or Senior Manager
## Manchester – £excellent + bens

You will provide indirect tax advisory services to a range of business sectors including large multi-nationals, household name retailers and public sector organisations. In addition to technical responsibilities, you will also manage a team of juniors and assist with the implementation of business development initiatives. You should be ACA/CTA qualified with the commitment and drive to progress in your chosen field. Flexible working is available. **Call Alison Ref: 3074**

## Corporate Tax Assistant Manager
## Manchester – £excellent + bens

This is a mixed corporate tax compliance and advisory role for clients including large international groups, OMBs (of varying sizes), entrepreneurial, fast growing businesses and UK stand alone companies. Your technical work will cover group reorganisations, giving shareholder advice, R&D, M&A projects and dealing with international tax issues. You should be ACA/CTA qualified with experience of working in the corporate tax team at a large accountancy firm. **Call Alison Ref: 3046**

## Private Client Advisor
## Leeds – £excellent

My client is looking for an ATT qualified private client advisor to manage a mixed portfolio of personal tax and trust clients and to be proactive in building and maintaining client relationships. Working in this friendly and supportive team you will be involved in both the compliance and advisory work for your portfolio. You will be expected to take ownership of your work, and must have strong interpersonal and communication skills. **Call Alison Ref: 3036**

## Indirect Taxes Manager
## NW England / Homeworking – £excellent + bens

Working in a small team, you will advise on complex VAT issues to clients ranging from small OMBs to AIM listed companies. This includes identifying planning opportunities, managing HMRC enquiries, assisting with ADRs, preparing cases for First-tier Tribunal and dealing with VAT aspects of company acquisitions and disposals. You will also be involved in marketing and business development activities. You need to be adept at using Microsoft, Zoom, Teams, Skype, etc. **Call Alison Ref: 2988**


YOUR TAXATION RECRUITMENT SPECIALISTS