Chartered Institute of Taxation
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Excellence in Taxation

November 2020

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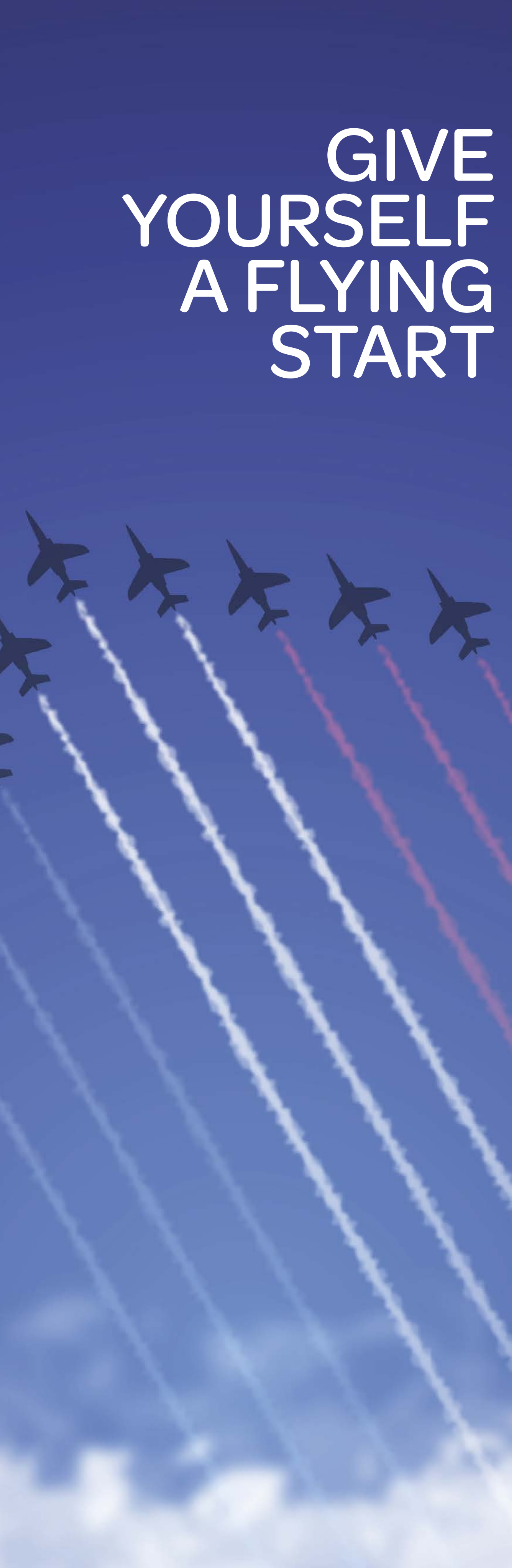
TAX Adviser

The uphill struggle of Covid-19

Chris Sanger on the government's evolving responses to the challenges of furlough p16

PLUS OTS – Corporate Criminal Offence – Diversity – Artificial intelligence – Tax returns



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MAGNETIC NORTH

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IN-HOUSE SENIOR TAX MANAGER

CHESHIRE £70,000 to £80,000 + bens

An exciting opportunity to move in-house for an experienced senior tax professional. Reporting to the Head of Finance you will have responsibility for all direct taxes and will also oversee the indirect tax team (2 reports). As well as ensuring overall controls / processes are in place re compliance work you will also deal with M&A and tax structuring options. You will ideally have 7+ years' experience gained either in-house or the profession and the ability to find solutions to complex financial issues and make commercial decisions. **REF: R3061**

R&D SENIOR MANAGER

MANCHESTER To £65,000

Working as part of a highly skilled tax team, you will take full responsibility for the R&D tax department at this forward-thinking practice. This interesting role will include managing staff, reviewing work and also business development. Would suit a commercially minded R&D tax specialist looking for a role with great prospects.

REF: A3142

EMPLOYMENT TAXES

IN HOUSE - GR. MANCHESTER £Dep on exp

A rare opportunity to move in-house, working on key employment tax projects and initiatives and supporting the director in partnering with the wider business to ensure that tax is on the agenda for key commercial discussions. Ideally you will be ACA or CTA qualified with strong employment tax expertise and experience of either working for a large multinational or advising such businesses in a large accounting firm. **REF: R3143**

TAX SENIOR

NEWCASTLE To £30,000

A fantastic opportunity to manage the tax return compliance of a niche practice on the outskirts of Newcastle. Newly created position to take ownership of all tax returns for the business; mainly personal tax, however the portfolio also includes a small number of trusts, companies, and some VAT returns. A "can do" attitude is essential as you will be part of a small, dedicated team. Experience of managing a similar returns portfolio would be ideal. Flexible hours and onsite parking. **REF: S3130**

TAX ADVISOR

HOME WORKING Circa £40,000 base salary

A good all-round tax specialist is sought by this large independent tax consultancy firm to provide telephone-based tax advice to firms of accountants and affinity bodies. You will have good in-depth knowledge and practical experience of dealing with a broad range of UK direct tax issues. In addition, you will be confident in your ability to deal with telephone calls in a courteous, enthusiastic, and efficient manner. Super team dynamic, and ongoing training provided.

REF: S3133

CORPORATE TAX MANAGER / SENIOR

MANCHESTER To £65,000 dep on exp

The local office of this national firm is going through an exciting period of growth and as a result, it is looking to recruit an experienced corporate / OMB tax manager or senior manager with strong corporate tax compliance skills and broadly based tax advisory experience. This interesting role also offers the chance to help manage the growing team. Great long-term prospects. **REF: A3136**

TAX COMPLIANCE (CORPORATE OR PERSONAL)

LIVERPOOL To £35,000

A great opportunity for those looking to work for a leading international practice focusing exclusively on the delivery of tax compliance services. You will primarily be responsible for reviewing tax returns and training / mentoring junior staff. Applicants who are qualified by experience are encouraged to apply. Part-time applicants will also be considered. **REF: A3138**

MIXED TAX CONSULTANT

LEEDS £Competitive

An interesting mixed tax advisory and compliance role within a boutique practice. You will be joining a highly experienced team of tax professionals, many of whom have worked for larger accountancy firms and that professionalism shines through. Client focus lies at the heart of this firm's success; trusted relationships matter, and anyone joining the team will need to share this vision and commitment to deliver. CTA or ATT qualification preferred. **REF: S3142**

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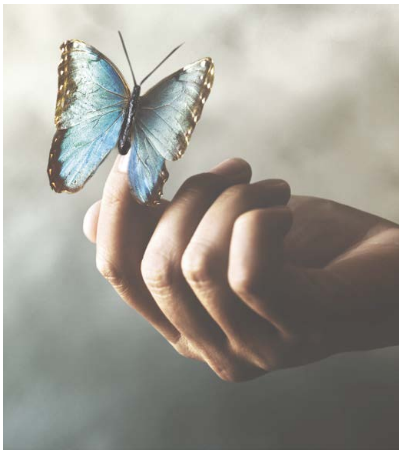


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President's page

president@ciot.org.uk
Glyn Fullelove

A Presidency of two halves

This will be my last welcome page for Tax Adviser, as the Presidency will pass to Peter Rayney on 17 November. This will be marked with an online event raising funds for the Bridge the Gap funding campaign for the tax charities, which I hope many of you will attend.

It has been a Presidency of two halves. I was fortunate to be able to participate in almost all the major events that usually take place during a Presidential term, and meet members across the United Kingdom. Then the Covid-19 pandemic struck, and it became apparent that Peter's programme for 2020/21 would be significantly disrupted. We agreed that we should both serve 18 month terms, not least to allow time for his programme to be reshaped.

When I reflect on my Presidency in future, I suspect it will be the second half I will remember in particular. I will recall how the Institute rose to the challenge of the pandemic; rapidly ensuring the safety of staff through enabling homeworking; adjusting its cost base to ensure it remained financially sound, and accelerating the overhaul of financial reporting to give a much clearer picture of likely future financial outcomes; engaging intensively with HMRC on the impact of the various support measures, and making suggestions on the detail of those proposals, many of which were adopted; and, above all, an immense effort to communicate to members and the general public how they could apply and benefit from the support measures available. This has involved a substantial amount of work from both Institute staff and volunteers, for which we all should be very grateful.

It has actually been a two year journey for me. From October 2018, I was able to devote more time to Deputy Presidential duties than would be usual, and I was asked to lead the project to recruit our new CEO, which led to Helen Whiteman's appointment. I suspect that this is the most important service I will ever do for the Institute. During those two years, we have also focused on developing the Institute's strategy. The central themes of our strategy are education – ensuring we continue to offer relevant and valuable qualifications to as wide a population as possible; excellence in professional standards and leading the debate on regulation of the tax profession; and representing an engaged and growing membership, so that taxpayers, tax authorities and opinion formers all recognise the value of Chartered Tax Advisers. In my view, the pandemic has served to demonstrate that these are the correct strategic goals rather than suggesting a change of course.

What the pandemic has done is to accelerate change in certain areas; for example, moving to examinations taking place online was expected to take place at some point, but the pandemic has made this a necessity, at least in the short term. I also have some observations on issues which may impact on how the Institute's strategy is executed.

First, the tax profession is not immune to the phenomenon of new and disruptive entrants to the market. Tax return software often comes with additional modules which can help some taxpayers to file returns without professional help; providers of tax information (here, I should declare an interest as an employee of Croner-i) are expanding their offerings into areas coming closer to advisory services; and we see the rise of the 'tax return platforms' – the 'Ubers for tax', putting taxpayers in contact with a tax professional who will do their return for a fixed price. The provision of affordable tax products and advice to taxpayers is a public good. However, ensuring that these entrants provide accurate advice and fully compliant returns presents new regulatory challenges, and the Institute should consider how it can help to provide solutions.

My second observation concerns the fragmentation of the profession. Tax professionals in the UK are represented by a number of bodies. There are good reasons for having more than one body; for example, the ATT and CIOT deliberately offer qualifications at different levels. However, at many of the meetings hosted by HMRC that I have attended in the last two years, it has struck me that the wish of all the representative bodies to be present leads to very large meetings. As we all know, the larger the meeting, the harder to arrive at agreed outcomes. I don't think this is the time for any radical change, but I do think that the professional bodies often work best for taxpayers when we co-operate and co-ordinate our activities.

Finally, I need to thank a number of people for their support and guidance over the last two years; the other members of the Presidential team in that time, John, Ray, Peter, Susan and Gary; Helen and her leadership colleagues, John, Karl and Roz; Sarah for her support as my PA; George and Hamant for their advice on what I have written and said; Jeremy and Jane at the ATT; and Lisa, who is always there at events, physical and virtual, ensuring they run smoothly, and making sure these columns appear every month.

It has been an honour to be your President. I wish you and your families and colleagues well, and I know you will give Peter your full support.

Glyn Fullelove
President, CIOT
president@ciot.org.uk

"The professional bodies often work best for taxpayers when we co-operate and co-ordinate our activities.

The CIOT in 2020*

Chartered Institute of Taxation

Welcomed

500+

new members to the Institute

Published updated professional standards guidance and resolved

250+

member queries

Met with HMRC and other policymakers

300+

times

Transformed our examinations to an online delivery model

We estimate 4,500 CTA and ADIT exams will be sat online in 2020

500,000+ views of LITRG's Covid-19 webpages

Delivered 100+ webinars to help members and students maintain their technical knowledge

Featured

100+

times in the national media

Cited 40+ times in parliamentary debates and reports

14 easements and other changes proposed by us in response to the pandemic, **adopted** in whole or in part by the government

Partnered with the House of Commons Treasury Committee to launch their "Tax after Coronavirus" inquiry

* Figures apply to first nine months of 2020 only

ATT welcome

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Richard Todd

Ireland: a different country?

We had a very interesting meeting of the Professional Standards Committee in September. Besides discussing the 2020 Annual Return, we discussed indemnity insurance for working in Northern Ireland. Tongue in cheek, it was suggested that maybe Northern Ireland is not considered part of the United Kingdom. This caused me to think back to the last time I visited the United States on holiday.

Invariably, when the locals hear my accent they ask where I come from. When I say Belfast in Northern Ireland I am met with a blank stare. When I say Ireland, the light comes on – they know where Ireland is, possibly because 10% of the population (around 33 million) of the US have full or partial ancestry to Ireland.

Is there really a distinction to be drawn between Northern Ireland (UK) and Ireland (not UK) on the international tax stage? Let us consider the double taxation agreements (DTAs) negotiated by the UK and by Ireland with third party countries. Some of them do make for interesting reading. I had the opportunity a few years ago to look at DTAs in relation to the payment of royalty income to a company incorporated in Northern Ireland (UK):

- Australia: Under Article 12 (Royalties) of the UK/Australia DTA, the rate of withholding tax is restricted to 5%. Under Article 13 (Royalties) of the Ireland/Australia DTA, the rate of withholding tax is 10%.
- Japan: Under Article 12 (Royalties) of the UK/Japan DTA, there is no withholding tax – royalty income is only taxable in the country of residence of the beneficial owner. Under Article 13 (Royalties) of the Ireland/Japan DTA, the rate of withholding tax is restricted to 10%.
- Poland: Under Article 12 (Royalties) of the UK/Poland DTA, the rate of withholding tax is restricted to 5%. Under Article 12 (Royalties) of the Ireland/Poland DTA, the rate of withholding tax is restricted to 10%.
- Spain: Under Article 12 (Royalties) of the UK/Spain DTA, there is no withholding tax – royalty income is only taxable in the country of residence of the beneficial owner. Under Article 12 (Royalties) of the Ireland/Spain STA, the rate of withholding tax could be 5%, 8% or 10% depending on the nature of the royalties.

In Article 12 of both DTAs with the US there is no withholding tax; royalty income is only taxable in the country of residence of the beneficial owner.

I also had the opportunity to look at the Article dealing with sportspersons (rugby players) when they head off on international tours:

- South Africa: Under Article 16 of the UK/RSA DTA, income earned whilst playing in South Africa may be taxed in South Africa, unless the visit is 'supported wholly or mainly by public funds' from the country of residence, in which case there is no tax liability in South Africa. A similar exemption does not exist in the Ireland/RSA DTA.
- Argentina: The UK/Argentina DTA is like that with South Africa, except the phrase is 'substantially supported by public funds'. There is no DTA between Ireland and Argentina.

Where is all this leading? At the end of the transition period, I understand that EU legislation will no longer be effective in the UK (unless some agreement is reached between the UK and EU?). Since January 1992, the EC Parent and Subsidiary Directive (90/435/EC) prevents the imposition of withholding taxes on dividends paid by a company resident in one EU member state to a company resident in another EU member state (see bit.ly/3k1uUWF) where the company receiving the dividend holds at least 25% of the capital of the company paying the dividend. From January 2021, this Directive may no longer apply, meaning the EU resident subsidiary of a UK resident parent company may have to account for local withholding tax.

A list of DTAs the UK has can be found at bit.ly/318q8Pv.

The tax issues surrounding Brexit are not therefore restricted to indirect taxes (VAT and import duty), but will also impact other taxes, such as corporation tax and social security costs. As time continues to run down to 31 December 2020, I can see there are still some immediate direct tax issues to be highlighted for clients.

Continue to stay safe, and I hope to be back in the New Year.

Richard Todd
ATT Deputy President
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"Is there really a distinction to be drawn between Northern Ireland (UK) and Ireland (not UK) on the international tax stage?

The ATT in 2020*

9,232 members

7,083 students

195 committee volunteers

58 technical articles

Over 100 webinars

1.3 million website page views

17	4	543	2,600
submissions to HMRC and other policy-makers	Annual Tax Conferences	firms supervised for anti-money laundering	online exams

* Figures apply to first nine months of 2020 only, except for online exams which includes an estimate of the number of exams which will be sat in November

Changes to reporting obligations

Heather Brehcist sets out the changes to members' and students' reporting obligations

Important changes to a member's and student's obligation to report certain events to the CIOT and ATT will come into effect on 1 January 2021. These changes will only apply to events which happen **ON or AFTER** that date.

Current position

Currently, there are a number of circumstances where a member or a student must notify the Head of Professional Standards in writing within **two months of the event taking place**. These are set out in paragraphs 2.14-2.15 of Professional Rules and Practice Guidelines. You should also record the event on your annual return unless you have been advised that this is not necessary. These events are summarised below and apply if you:

- are arrested on suspicion of a criminal offence (other than a 'summary only' road traffic offence);
- are charged with a criminal offence (other than a 'summary only' road traffic offence);
- are convicted of a criminal offence (other than a 'summary only' road traffic offence);
- are notified of disciplinary and/or regulatory action which is upheld against you by another professional body to which you belong or by a regulator;
- are dismissed for misconduct/gross misconduct by your employer;
- are disqualified as a director or trustee, or enter into a disqualification undertaking;
- receive a dishonest tax agent conduct notice; or
- receive a monitoring notice from HMRC under the Promoters of Tax Avoidance Schemes (POTAS) legislation.

They also apply if you enter into an individual voluntary arrangement with your creditors or become subject to a bankruptcy order.

What is new?

From 1 January 2021, you will also need to report if you have accepted a caution for a criminal offence and/or have committed a summary only road traffic offences. This applies only to events which happen **ON or AFTER** 1 January 2021.

Summary only road traffic offences comprise:

- careless driving (driving without due care and attention);
- driving whilst disqualified;
- excess alcohol;
- failure to stop or report an accident;
- failure to provide a specimen for analysis;
- no insurance;
- speeding*****; and
- unfit through drink or drugs.

* Note that you will not need to report a speeding offence if you go on a driving awareness course or accept a fixed penalty for speeding.

Why have we made this change?

We undertook a review of the reporting obligations and sought legal advice following a question from a Taxation Disciplinary Board panel member as to why CIOT and ATT did not require the acceptance of a caution to be reported. While cautions can be given for relatively minor offences, they can also be given for much more serious offences.

In accepting a caution, an individual is accepting guilt; should they decline the caution they will then normally be prosecuted through the normal channels for the offence. (Note that too is a reportable matter.)

Similarly, a different source queried why summary only motoring offences were excluded from reporting.

The offences covered by these changes can be serious in nature. It is very likely that a member or student who is found guilty of a summary only motoring offence, or who accepts guilt through a caution, will have breached at least one of the Fundamental Principles which all members and students must observe. These are Integrity, Objectivity, Professional competence and due care, Confidentiality and Professional behaviour.

It is essential that the public can have confidence in the integrity and professional behaviour of our members and students. When a member or student breaches the rules of the CIOT and ATT, it reflects badly not only on CIOT and ATT but also the tax profession.

It is important that we have in place appropriate disciplinary processes to deal with breaches. This is particularly important at a time when HMRC's 'Call for evidence: raising standards in the tax advice market' is putting the profession's behaviour under the spotlight. The professional bodies set high professional standards for their members and students, and we are expected to enforce and be seen to enforce them.

Where a member reports a breach of the CIOT/ATT rules, our policy is ordinarily to refer them to the Taxation Disciplinary Board to consider whether any disciplinary action is necessary. Although a member or student is required to notify their arrest or if they have been charged with a criminal offence, ordinarily they would not be referred to the Taxation Disciplinary Board unless or until they were convicted of the offence.

Conclusion

In adopting this change, we believe we can give clients and the general public confidence that members and students of the ATT and CIOT adhere to high professional standards. On the rare occasion where this is not the case, there is recourse to an independent disciplinary process. This is good not just for the CIOT and ATT but also the tax profession as a whole.

Heather Brehcist is Head of Professional Standards at CIOT.

Opportunity to be a Trustee serving on CIOT Council

Chartered Institute of Taxation

The CIOT is seeking applications from members (CTAs or CTA (Fellows)), to join the Institute's Council.

As an educational charity all our Council members are trustees who work as a team to ensure that the CIOT fulfils it charitable objects: to advance public education in, and promote the study of, the administration and practice of taxation, together with promoting and maintaining the highest professional standards among the membership.

It is a role that requires a particular skill set. You need to be able to see things from a broad perspective rather than solely your own area of the profession, to build a good working relationship with your fellow trustees and also with the senior management team to be able to challenge effectively.

Diversity is as important on the CIOT Council as it is across the CIOT membership as a whole. The Nominations Committee would like to encourage CTAs from a diverse range of viewpoints to consider this role and put themselves forward.

You may be put off by thinking you don't have the full breadth of experience as an individual, but this is a team effort; do not underestimate what you can distinctively bring if you care about the CIOT's charitable objectives.

Time Commitment: there are four Council meetings per year each lasting approximately three hours. There is also a one-day Strategy meeting most years. Council members are expected to have prepared for each meeting by reading the pack circulated in advance. In addition, Council members often serve on an Institute Committee or might have involvement in the Branches network. Council meetings have been held virtually since March 2020 due to Coronavirus; prior to this they were held in London.

Council members are unremunerated (with the exception of travel expenses and in very limited circumstances which relate to professional lecturing or writing on tax for the Institute or its Branches if that is your main occupation).

Annual training on trustee responsibilities is provided and attendance is mandatory. An induction programme will also be provided.

Further information is available from **https://www.tax.org.uk/about-us/vacancies/chartered-institute-taxation-prospective-council-member** including Charity Commission guidance regarding the trustee role.

If you would like to apply then please return the application form, a brief CV and the Equality and Diversity form to the CIOT's Secretary, Rosalind Baxter, at rbaxter@ciot.org.uk by 5pm on 20 November 2020. The application process runs over this time period to allow you the opportunity to consider standing for the role and have relevant discussions prior to submitting your application.

Your application will be acknowledged within five working days; all applicants will receive a response by 7 December which indicates whether the application will be progressed.

If you have any questions and would prefer to speak on the telephone before applying then please email rbaxter@ciot.org.uk to arrange a phone conversation.

Can we make life easier?

Bill Dodwell considers the OTS report 'Claims and elective review: Simplifying administrative processes'

© iStockphoto/Urilux

KEY POINTS

- **What is the issue?**
The Office of Tax Simplification has just published its 'Claims and elections review: Simplifying administrative processes'.
- **What does it mean for me?**
The OTS report looks at claims, elections and nominations, covering income tax, corporation tax, capital gains tax and VAT, as well as recommendations for general improvements and for certain specific claims.
- **What can I take away?**
HMRC has a strong focus on the new single digital account – the successor to the personal tax account and the business tax account. In the future, this could become the place where a taxpayer lodges all claims and keeps a permanent record of their claims or elections.

PROFILE

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

The Office of Tax Simplification has just published its report 'Claims and elections review: Simplifying administrative processes' (see bit.ly/3k7x7Qj). This is the first time that the OTS has looked at the broad system for claims and elections, although obviously specific aspects have featured in individual reviews.

The very first review conducted by the OTS in 2010-11 looked at UK tax reliefs. It was the first attempt in the UK to count and classify our tax reliefs – and came up with 1,042, before proposing the abolition of 47 (see bit.ly/3555hhq). Unsurprisingly, the number of reliefs has now climbed to 1,190, according to the latest report from the National Audit Office (see bit.ly/352zjlU). The important thing about almost all tax reliefs is that they need to be claimed by the taxpayer. HMRC does not have the necessary information to automate claims and naturally a great many of them – and especially elections – involve taxpayer choice.

Areas for reform

The OTS report looks at claims, elections and nominations – any action by a taxpayer to seek a particular tax treatment. The report looks at income tax, corporation tax, capital gains tax and VAT, and contains general recommendations, as well as recommendations for certain specific claims.

The three most significant areas, which would benefit the most people, are for:

- HMRC to improve the functionality of the personal tax account and the business tax account (including the forthcoming, merged, single digital account);
- the government to explore reducing the number of different categories and levels of employee flat rate expense claims; and
- HMRC to improve its online forms.

The ten year Tax administration strategy from HMRC, supported by the Financial Secretary to the Treasury Jesse Norman, contains a strong focus on the new single digital account – the successor to the personal tax account and the business tax account. Making these online accounts the focus of communication between the taxpayer and HMRC (not forgetting tax agents, where relevant) should provide everyone with a much better experience and reduce costs for taxpayers and HMRC alike. Currently, over 19 million individuals have a personal tax account, but the needs of Brexit meant that development of the account was put on hold in April 2018.

A vision of the future

A future vision for the online account would see it become the place where a taxpayer lodges all claims and keeps a permanent record of their claims or elections.
The account should also permit supporting documents to be uploaded in support of a claim, which would bring time and cost benefits to both taxpayers and to HMRC. Of course, the needs of the digitally excluded should not be forgotten, including those

who live in areas of limited connectivity, but the cost savings from the improved account could help to fund more personal services for those who need additional help.

It would be helpful to bring additional standardisation to claims and elections. Most claims are made by reference to a tax year or accounting period and it would be useful to extend this to other event-based claims where that is feasible. A good example of this could be the main residence nomination, which is currently required to be made no more than two years from acquiring a second residence (or effectively backdated up to two years from making a claim). This could be changed to allow claims to be made up to two years from the tax year in which the second residence was acquired. At the same time, it would be sensible to ensure consistency in time limits for amending claims and elections, whether made within or outside a tax return. There should not be an advantage in making a claim outside a return. HMRC should also provide additional claim templates to ensure taxpayers make correct claims.

Online forms

The OTS received a considerable number of comments about HMRC's online forms. There are a limited number of truly online forms, in the sense that the form is completed and submitted online and then processed in an automated fashion by HMRC systems. Many more forms can be completed on a computer but must then be printed before being sent in by post.

There are lots of important detailed improvements which could greatly help the user experience – and help taxpayers to complete the forms correctly and accurately. Too many forms do not start by advising the taxpayer what information will be needed to complete the form, and save and return is not often available. Some forms use technical, ambiguous language. Making greater use of a user panel to review forms and accompanying guidance would help to ensure that the forms are clear, again reducing the capacity for error.

HMRC has allowed a number of easements during the Covid-19 pandemic, including reducing the number of forms requiring an actual signature. However, submitting forms through an online account would act as a much better form of taxpayer authorisation. It would also be sensible for HMRC to permit overseas-resident taxpayers to file and make claims online, using the personal tax account, or HMRC's online Self Assessment portal. Currently, those taxpayers either need to buy specific software or rely on the postal service. The cost of developing the necessary non-resident form is surely not very significant, compared to the savings for HMRC in reducing the postal forms.

Specific recommendations

The report also contains a range of specific recommendations. Over 5 million employees make 7 million claims for tax relief on expenses not reimbursed by their employer. It is thought that about 80% relate to flat-rate expenses, typically for cleaning uniforms or other workwear, or for tools. HMRC has introduced an online claim form for most expenses below £2,500 but has not yet tied the claim form into the personal tax account. The report recommends clearer guidance and simpler forms.

The report also recommends changes to HMRC's current process of continuing to include claims for relief in future years' tax codes. There should be an immediate withdrawal of relief where an employee moves jobs, combined with a request to make a new claim if relevant. For employees in continuing employment, HMRC should introduce a review point every few years.

Almost all tax reliefs need to be claimed by the taxpayer. HMRC does not have the necessary information to automate claims.

Finally, the government should consider reducing the large number of different levels of flat-rate expenses to something easier to work with, and consider allowing employers to pass information to HMRC about eligibility for flat-rate expenses through the RTI for PAYE service.

At the start of the review, the OTS heard directly from taxpayers and advisers that the process for making carry-back claims for Gift Aid does not work well. Carry-back was introduced to allow a taxpayer who had realised a one-off substantial gain or income to make a large donation to charity in the following tax year and get effective tax relief for it (typically, at higher or additional rate).

As a couple of tribunal cases have shown, the requirements for making the claim are unnecessarily difficult. The OTS recommends that the government allows part of an individual Gift Aid payment to be carried back and that the taxpayer should be able to amend the tax return to claim it. Further, as an administrative benefit, lower level donations should not be capable of being carried back, which would avoid complexity and error for taxpayers who did not need carry-back to get higher rate relief for their gifts.

Business claims

There are several specific recommendations relating to business claims. Firstly, the government should consider the benefits and costs in introducing a pooling mechanism for short life assets acquired in a particular year. Further, the current information requirements for short life assets should be reviewed, to identify whether claims could be simplified or reduced. A template for businesses to use to agree the value of fixtures on an acquisition would be helpful.

Small businesses do not suffer restrictions on the use of corporation tax losses, which apply only where they are sought to be offset against profits over £5 million per year. However, they still need to report the deduction allowance on their corporation tax return. This is unnecessary for 98% of companies and the OTS recommends that the government introduces a de minimis (significantly below £5 million) where this need not be reported at all.

The tax rules on loans to participators in close companies are an important anti-avoidance mechanism. However, reclaiming the tax deposited with HMRC could be made simpler, where the loans are repaid. The online process should allow multiple reclaims and should be opened up to tax agents. Further, the government should look to make a specific provision for earlier repayment of tax paid on loans to participators in the case of liquidations and review the requirement for loans to have been repaid within an accounting period.

Finally, the OTS recommends that the election for employment-related securities should be reversed, so that the unrestricted market value should automatically apply where restricted securities are acquired. The employer and employee should have the option to make a joint election to disapply that treatment and, unlike the current approach, that election should be filed with HMRC.

Finally…

As always, the OTS team has worked closely with a wide range of tax agents, professional and representative bodies and with HMRC to produce this report. Ruth Stanier OBE, HMRC's Director General for Customer Strategy and Tax Design, has welcomed it as a useful contribution towards ensuring that taxpayers receive the reliefs to which they are entitled – and something that fits well with the Tax Administration Strategy.

Let us hope that HMRC will receive the necessary funding in the Spending Review to support developing the single online digital account and that many of the recommendations can be adopted in the relatively near future.

specialist

/ˈspɛʃ(ə)lɪst/

noun

1. a firm which concentrates primarily on a particular subject or activity; a firm highly skilled in a specific field.

   e.g. they are specialists in IR35

IR35 SHIELD

THE IR35 COMPLIANCE STANDARD

Moving the EU goalposts

In the first of two articles, *Neil Warren* considers practical VAT issues that will apply from 1 January 2021 when the UK's transitional deal ends with the EU, focusing on reporting requirements and VAT returns

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KEY POINTS

- **What is the issue?**
Major VAT changes will take place on 1 January 2021 when the UK's transitional deal ends with the EU. The article considers changes to returns currently submitted by a UK business and how these will change in the future.
- **What does it mean to me?**
Intrastat arrivals declarations must still be completed in 2021 but dispatch reports will end, as will EU Sales Lists apart from in Northern Ireland. There will be new procedures for dealing with the mini one stop shop (MOSS) scheme and also claiming VAT paid in other EU countries.
- **What can I take away?**
The introduction of postponed accounting for VAT on worldwide imports of goods will provide a cash flow boost for UK businesses. However, care is needed to ensure VAT returns are completed correctly – the article gives practical examples.

Although the UK officially left the EU on 31 January, the status quo on trading arrangements continued after this date. The key date when the goalposts will move in dramatic fashion will be 1 January 2021. In this article, I will consider what reports and returns will remain and which will disappear. There are a couple of surprises on this issue.

VAT return boxes

HMRC's extensive guidance published in July makes it very clear that trading in goods with EU countries will be the same as for non-EU countries. In other words, references to goods sold into the EU as 'dispatches' will end, as will the description of 'arrivals' for goods coming into the UK. Northern Ireland is an exception. A recent HMRC letter sent to businesses refers to a 'full external border with the EU'.

So, a logical question to ask is whether the current nine boxes on UK VAT returns will be reduced to six. This is because Boxes 2, 8 and 9 solely relate to trading in goods with EU suppliers and customers. The answer is 'no' because these boxes will still be needed by businesses based in Northern Ireland, which will continue to make acquisitions and dispatches as part of the Northern Ireland Protocol. But for businesses based in Great Britain, only six boxes will be relevant from 1 January 2021.

Postponed accounting

An important change for VAT on imports will be the introduction of postponed accounting from 1 January 2021. This will apply to imports from EU and non-EU countries and will provide a massive cash flow boost for VAT registered importers. VAT payable on goods coming into the UK from anywhere in the world can be postponed at the point of entry and included on the importer's next VAT return, instead of being paid on arrival and subsequently claimed as input tax. See ***Clothes importer Mike: postponed accounting.***

I have worked in VAT long enough to remember when we last had postponed accounting in the UK before it was abolished in 1984. The abolition produced a one-off cash flow boost of £1 billion for the government at the time because it resulted in a time delay between paying VAT at the border and then claiming input tax. The opposite now applies and there will be a negative cash flow outcome for the government. An importer that is not VAT registered will pay VAT when the goods arrive in the UK.

Input tax

Postponed accounting will produce extra compliance challenges to HMRC. Think about a new business that imports a big piece of machinery from a non-EU supplier. Under current procedures, the import VAT is likely to produce a large repayment claim by the business on its first VAT return, which HMRC often verifies before making the repayment. However, if import VAT is postponed when the machine enters the UK, the Box 1 and Box 4 compensating entries will mean that no repayment return will be submitted.

The other potential risk is that a business owner might forget to adjust the Box 4 input tax for any private or non-business use of the imported goods. The Box 4 entry must pass the same input tax tests as a purchase invoice received from a UK supplier. See ***Boat purchase: part private use.***

Intrastat

A big surprise when I read the HMRC guidance is that Intrastat declarations

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must still be completed in 2021 for arrivals of goods from the EU. The guidance was silent about Intrastat dispatch returns but HMRC has since confirmed that these declarations will not be required (see below). Intrastat reports must currently be completed by UK businesses that annually sell more than £250,000 of goods to VAT registered customers in the EU or buy goods from EU suppliers exceeding £1.5 million.

I contacted the HMRC press office for a steer: 'The UK government has taken the decision to introduce the new border controls in stages up until 1 July 2021. This means businesses have the opportunity to delay the submission of customs declarations for imports from the EU into GB. As from 1 January 2021, the customs declaration would be used to compile trade statistics for imports from EU member states but this could leave the UK with significant gaps in the information available to compile import statistics. HMRC needs to carry on requiring businesses to submit Intrastat arrivals declarations for goods received in GB from the EU during 2021.'

This outcome makes sense, and the spokesperson confirmed the situation with Intrastat dispatch returns: 'Our intention is that we will not be requiring businesses to provide Intrastat dispatches declarations for exports from GB to the EU as we will collect this information from export customs declarations.'

EC Sales Lists

EC Sales Lists will only be needed for sales of goods to EU businesses that are treated as intra-Community dispatches under the terms of the Northern Ireland Protocol. They will not be required for any supplies of services or for any supplies of goods relevant to Great Britain. This is good news for businesses – a welcome saving of time and administration costs.

Reclaiming VAT paid in EU countries

A UK business registered for VAT currently reclaims VAT paid in other EU countries by submitting an online claim to HMRC, which is forwarded to the tax authority of the other country. Claims for a calendar year must be made by the following 30 September but can be made quarterly during the year, with a sweep up claim at the end of the year. From 1 January 2021, this procedure will no longer apply. A UK business must submit individual claims to each tax authority where VAT has been paid. This will usually be a paper form. In VAT speak, UK businesses will move from submitting what are commonly known as '8th Directive' claims to '13th Directive' claims. The deadline dates for submission need to be checked for each EU country.

MOSS returns

B2C supplies in the EU of broadcasting, telecommunication and electronic services are taxed according to the VAT rate that applies in the customer's country. The mini one stop shop (MOSS) return is the way a business pays this tax at the end of each calendar quarter. A UK business making B2C digital supplies does not currently have to worry about MOSS if total annual B2C sales in the EU are less than £8,818; i.e. 10,000 Euros. However, there will be major changes from 1 January 2021:

- The £8,818 threshold will end – a zero threshold will apply instead.
- A UK business making MOSS sales must register in an EU country of its choice under the non-EU MOSS scheme and submit returns and pay tax in that country. The alternative is to separately register for VAT in each EU country where digital supplies are made, which will be very time-consuming.
- The final UK MOSS return will include sales up to 31 December 2020 and be submitted by 20 January 2021.

See bit.ly/307gTyJ for further information.

Final tips

If your clients import or export goods, they must apply for an Economic Operator Registration and Identification (EORI) number from HMRC as soon as possible if this has not already been done.

A 'GB' number is needed for both importers and exporters. The application process only takes about 15 minutes, and numbers are usually issued within seven days. See www.gov.uk/eori.

In my next article, I will consider the new procedures for moving goods to and from the UK after 1 January; how the VAT outcome can change if the consignment value is more or less than £135; and what will happen if Online Market Places and overseas businesses are involved in a deal. There are some interesting twists!

CLOTHES IMPORTER MIKE: POSTPONED ACCOUNTING

Mike is VAT registered and purchased £50,000 of women's dresses and £20,000 of children's clothes from a French supplier on 30 November 2020. He imported the same value of goods from France on 31 January 2021.

The November shipment will not be subject to VAT or duty when it arrives in the UK as an intra-EU acquisition of goods. Mike will account for acquisition tax of £10,000 in Box 2 of his VAT return, claiming the same amount as input tax in Box 4. The net value of purchases will be recorded in both Box 7 and Box 9; i.e. £70,000. Acquisition tax is not payable on children's clothes because they are zero-rated.

The January shipment will be an import of goods into the UK and could be subject to customs duty on arrival. However, Mike can defer paying VAT with postponed accounting. He will account for VAT of £10,000 in Box 1 and claim the same amount as input tax in Box 4 on his next return. The net value of the import is included in Box 7; i.e. £70,000.

Note: Mike can delay making a customs declaration on the goods until 1 July 2021. However, he must still account for VAT on the return that includes the import date, i.e. January 2021, even if this involves an estimate of the figures.

BOAT PURCHASE: PART PRIVATE USE

Jane is VAT registered and imported a boat from Russia in February 2021 that will be hired out on a commercial basis for 50% of the time and otherwise used for her private holidays. The import value is £1 million plus duty of £100,000. Jane will account for VAT of £220,000 in Box 1 of her next return under postponed accounting. But she will only claim input tax of £110,000 in Box 4 because of the private use restriction.

Note: Jane cannot use the Lennartz mechanism by fully claiming input tax and then accounting for output tax on private use on future VAT returns because this method is blocked for land and buildings, ships, boats or other vessels and aircraft. See HMRC Input Tax Manual VIT25510.

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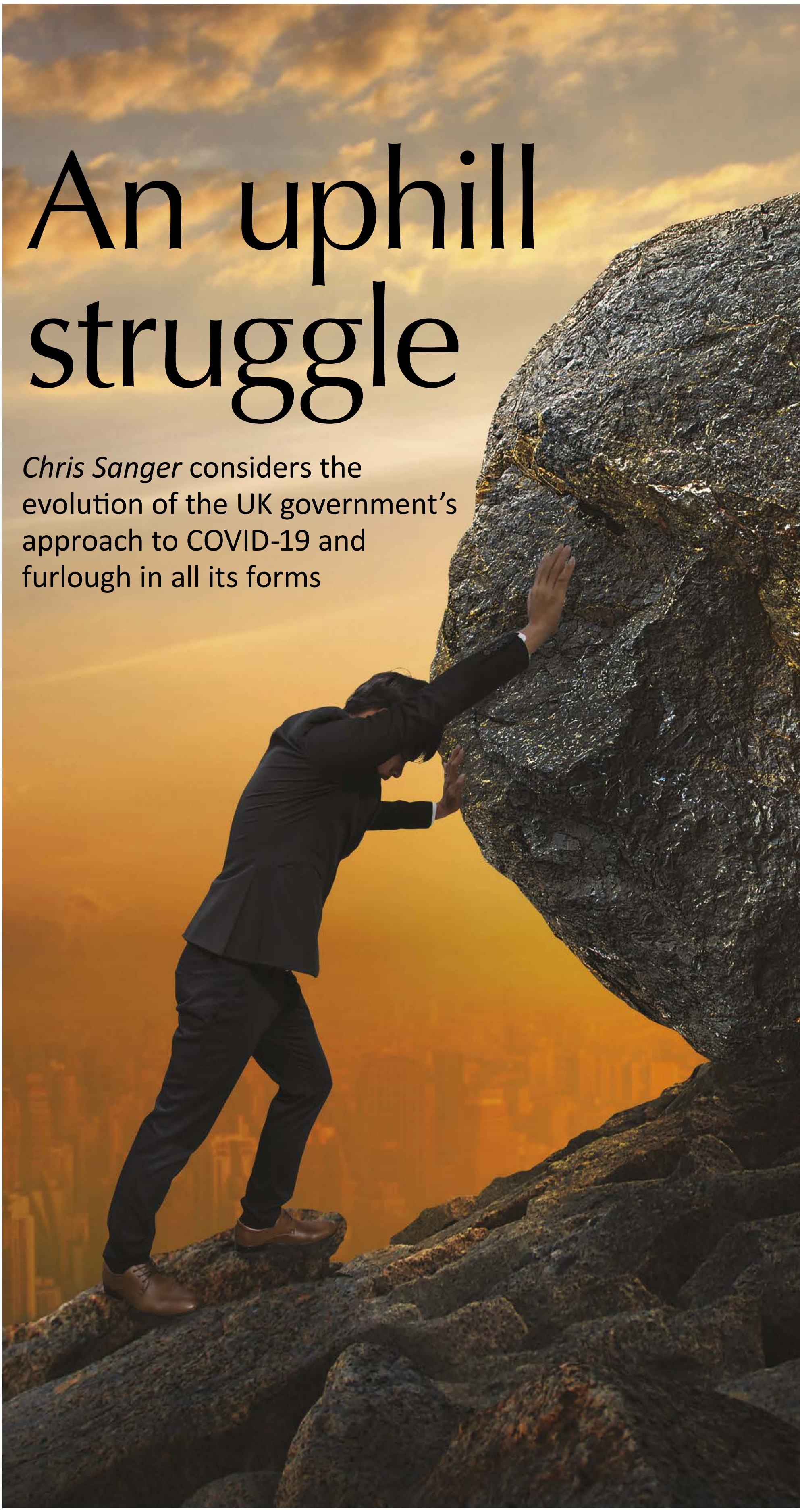
An uphill struggle

Chris Sanger considers the evolution of the UK government's approach to COVID-19 and furlough in all its forms



KEY POINTS

- **What is the issue?**
On 20 March, the Chancellor announced the first of what has been, to date, four versions of 'furlough', intended to address a Covid-19 pandemic which was considered at that time likely to trigger a 'V-shaped recession'.
- **What does it mean for me?**
Since then, the mindset in Treasury has clearly changed. We are now looking at targeted interventions seemingly intended merely to take the edge off the harsh realities, in the move from a 'Job Retention Scheme' to a 'Job Support Scheme'.
- **What can I take away?**
In response to Covid-19, the Chancellor and the Treasury have taken strong and impactful action to date. However, the current plan may not ultimately deliver what the chancellor is wanting to achieve, leading to further changes.

Many Chancellors aim to deliver a coherent programme of policy changes, built around a clear manifesto, that results in economic success that is demonstrably linked to the choices that have been made along the way. In this way, they can be ready to face the electorate at the end of the government's term. Few manage this and the current Chancellor Rishi Sunak, when he has a chance to reflect, may well consider how 'events' have taken hold of the usual Treasury agenda, placing him more constantly in the limelight than is normally the case for holders of this esteemed job. With the advent of Covid-19, the Chancellor has seen the government's wider plans play second fiddle to the fundamental role of the Treasury in protecting, nurturing and enhancing the UK's economy. Such is the way of politics sometimes.

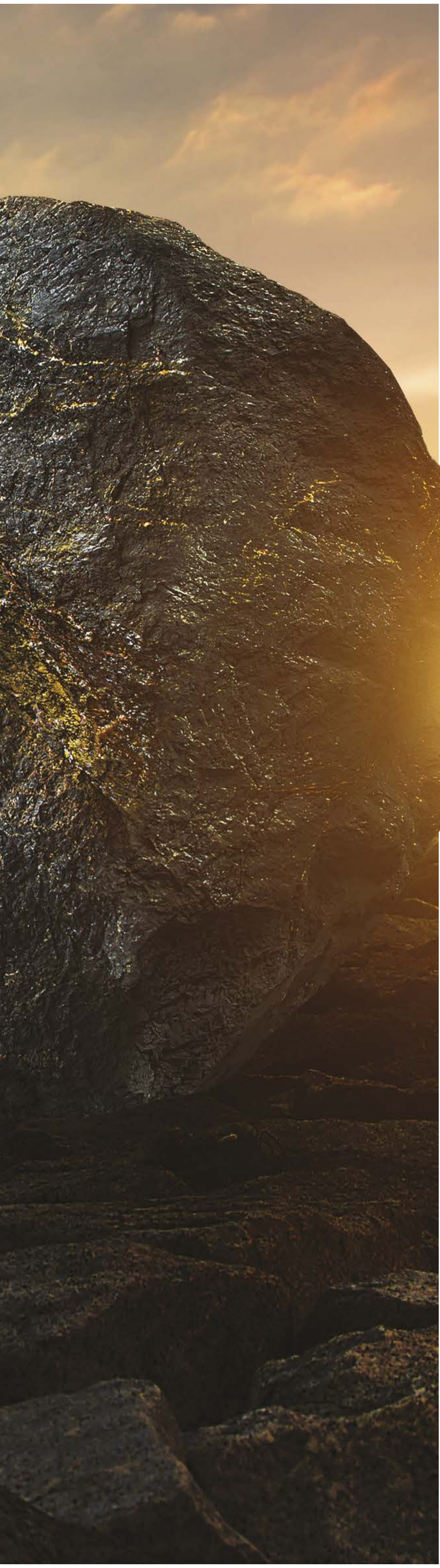
This article looks at the approach that the government has taken to providing economic support, reflecting on the changes from job retention to job support, and looking ahead to what may be needed in the future.

The overall framework

This Chancellor's first Budget, on 11 March this year, was notable for many reasons: one being that some of the largest changes to the economy were not in the included economic forecast published alongside by the Office for Budget Responsibility. And, at the end of the following week, the Chancellor announced even more interventions in everyday life, with the first of what has been, to date, four versions of 'furlough'.

Furlough 1.0

The Chancellor's action, backdated to the start of March, was intended to address a



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Covid-19 pandemic which was considered at that time likely to trigger a 'V-shaped recession'; i.e. one in which there was a sudden drop in commercial activity as businesses went into lockdown, but recovered equally fast once lockdown was over. This called for what the OECD describes as 'support' measures, ensuring that businesses and their employment relationships with their employees are maintained, ready to be reactivated once conditions return to normal.

This is what gave rise to the Coronavirus Job Retention Scheme, or Furlough 1.0 as it later became known, paying 80% of the wages of employees (up to a set limit) provided that employees were not working. It was clearly envisaged that this would cover businesses that had to shut up shop and mothball the business whilst the pandemic raged past.

No V-shaped recovery

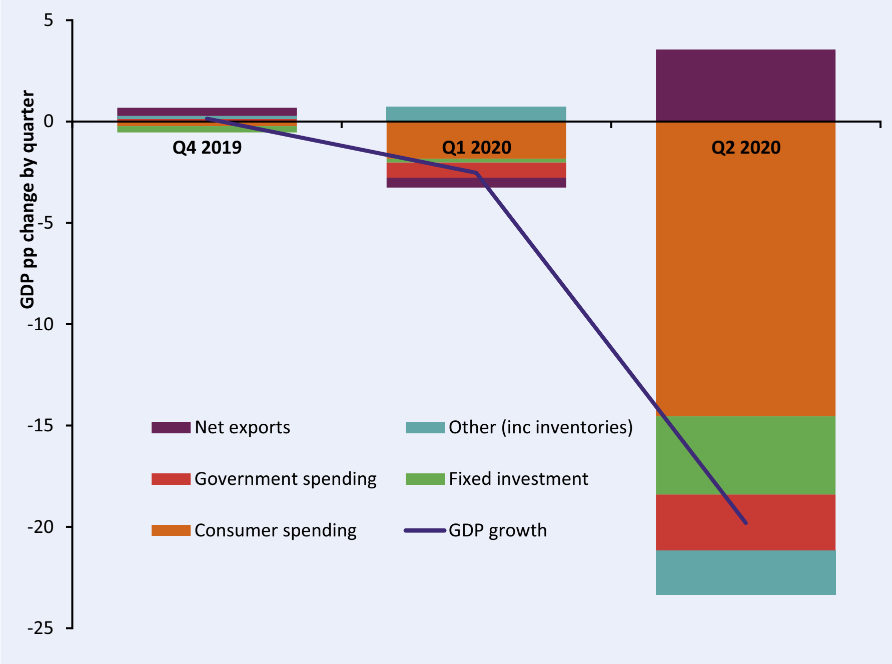
In the event, however, the UK did not experience a short hit followed by a V-shaped recovery. As noted by the EY ITEM Club, the reduction in Q1 was followed by a further hit in Q2, driven particularly by the reduction in consumer spending.

Furlough 2.0

Faced with a longer-term recession, the Chancellor was forced to consider the viability of continuing to pay employees not to work. It was at this point that the Treasury started raising concerns of 'zombie jobs'; i.e. employees that were furloughed in posts that, should furlough be removed, would not be sustainable. This gave rise to the evolution towards Furlough 2.0, a version that ran through to the end of October. It addressed the constraint that the employee couldn't work by allowing the furlough scheme to apply to the hours not worked, rather than requiring no work at all. It also was intended to reduce the government subsidy gradually, such that it was clear that businesses need to address the issue of zombie jobs.

So, where does that leave government support today and what should we expect.

IMPACT ON UK ECONOMY



Furlough 3.0

This version of furlough, the Job Support Scheme (JSS), provides a far lower intensity of support. For six months, it is intended to provide some government support for employees who are retained in their jobs but are not working their originally contracted hours. For the time not worked, the government expects the employer to pay a third and the employee to give up a third, in which case it will pick up the final third. So, for an employee moving down from a five day week to a two day week, one extra day will be paid by the employer, one by the government and one not paid at all. This version of the JSS requires employees to work at least a third of their usual hours (and this will be reviewed after three months).

So, is this going to work?

In order to consider whether this policy is going to work, it's important to examine the rationale. The mindset in Treasury has clearly changed. Gone is the intention to support jobs in place for a short-term V-shaped recession. Instead, we are now looking at targeted interventions seemingly intended merely to take the edge off the harsh realities. The clue is in the name – a move from a 'Job Retention Scheme' to a 'Job Support Scheme'.

The approach seems designed to encourage the retention of employees, but at fewer hours per week. This appears at first to be a sensible approach, ensuring that employees continue in a job, receive a wage that is not much reduced from their original wage (unless wages are above the cap) and the employer is part funded to retain the role. However, to slightly misquote Helmuth von Moltke, the Prussian military commander: 'No plan survives first contact with the enemy.'

Let's first consider this from the employer's perspective. Employers are already facing hard choices about their staffing choices and this plan seems unlikely to deliver enough to change retention plans.

- First, consider an employer who is considering the choice of either reducing three people to one third hours (the minimum allowed under the JSS) or maintaining one person full time and releasing the other two. Ignoring the human factor and the costs of redundancy (neither of which should be ignored), it will remain much cheaper for the employer to retain one person full time than to reduce the hours of the others.
- Next, consider the employer who does indeed need three employees but for fewer hours (such as a shop that now had restricted opening hours). In this case, if the employer did want to retain the three people on a third of their hours, it would be cheaper for the employer to negotiate this with their employees without government support, even if they ended up paying a slight premium for the reduced hours.
- Lastly, consider the employer who has the ability to attract new workers on shorter hours. Such an employer could start these workers on the reduced hours, without having to fund its third share of the non-worked hours.

Of course, as noted above, this blunt analysis ignores the human factor and indeed the cost of redundancies. There will be businesses for which this scheme is helpful – these are likely to be those whose employees have hard-to-replace skills, whose employees have long history with the firm (both from a 'corporate memory' and a redundancy cost perspective) and whose businesses are set to return to higher activity swiftly.

The mindset in Treasury has clearly changed. Gone is the intention to support jobs in place for a short-term V-shaped recession.

There is also the employee's perspective. An employee who is reduced to two days a week will receive full pay for two days and two-thirds pay (half from the employer and half from the government) for the remaining three days. This means that the employee will be working for two days but receiving pay for four days – effectively earning double time, with the employer funding time and half. This may be attractive to those who can fill the extra hours but not to those who could potentially get a full time job. As a side point, this may also create a deterrent for employees moving to a, potentially more sustainable, new job since they will be looking to increase the pay they receive after the JSS support, not just the pay for the hours they work. Such restrictions on incentives are not normally seen as good policy, but may well be the lesser evil in a time of pandemic.

Furlough 3.1

Just as the plans for the JSS were settling and these challenges identified, the government announced the Job Support Scheme 'Expansion for Closed Business Premises', as some of the country was going into or facing further lockdown in response to a rise in infections. This seems to be a return in part to the principles of Furlough 1.0, with the support focused on those businesses which, as a result of restrictions set by one or more of the four governments in the UK, are legally required to close their premises. This includes premises restricted to delivery or collection only services from their premises.

In contrast to Furlough 1.0 however:

- the scheme will only pay two-thirds of wages (up to the cap);
- the employer will have to fund employer's national insurance contributions and any pension obligations (this was introduced as part of Furlough 2.0); and
- the scheme only applies to those businesses directly required to close.

It is this last constraint that is the most restrictive, meaning that businesses cannot of themselves decide to avail of the support, unlike Furlough 1.0.

The support for those businesses which are forced to shut as a result of the lockdown measures, such as bars and restaurants, is of course to be welcomed. However, the scheme fails to acknowledge and support businesses in the supply chain which support those closed businesses. Those suppliers are now faced with the prospect of having their customers taken out of the supply chain, but aren't themselves forced to shut and hence have no access to the benefits of the new scheme.

The economic impact of the local lockdowns permeates further than just the immediate area impacted. Many businesses just outside those areas affected are likely to be significantly impacted economically but will have no way of accessing the much needed support available to those that fall in the geographic areas.

Conclusion

In response to Covid-19, the Chancellor and the Treasury have taken strong and impactful action to date, delivering essential support to businesses and employees as the pandemic hit. Now, as we are more aware of the impact that this pandemic is going to have on our society, it is right that the support measures should change.

That said, however, it does seem that the current plan may not ultimately deliver what the Chancellor is wanting to achieve. This may yet provide the impetus for a Furlough 3.2 or even 4.0 as we look to refine policy in an area of need.

As Chris forecast, the Chancellor announced improvements to the Job Support Scheme and other Covid-19 support measures on 22 October (see bit.ly/3dKSdSg).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Conferences in the clouds

George Crozier reviews the 2020 party conferences, which took an unusual turn this year

Party conference season had a very different look and feel this year, as Labour, the Liberal Democrats and the Conservatives all went online, adapting their annual gatherings to the new normal of the coronavirus pandemic. Keynote speeches and fringe programmes survived largely intact but, Lib Dems aside, it was much harder for ordinary members and activists to make their voices heard this year, with policy discussions curtailed and little opportunity to network with parliamentarians.

Labour

Labour's online 'alternative to a conference' saw discussion on taxing wealth, business taxes and job protection programmes, but little in the way of policy development, as the new leadership plays it safe and focuses its efforts on holding the government to account.

On tax the immediate message is that there should be no increase while the economy is in its current, weakened state. Will a time come for tax rises? Plenty of people at the conference thought so, but Labour frontbenchers were conspicuously not among them. Beyond a general commitment to fairer/more progressive taxation (which of course need not automatically be higher), the current Labour leadership is keeping its tax options open.

Nevertheless, in due course higher earners probably would have to pay more under a Keir Starmer-led government. During the leadership election, Starmer made a campaign pledge to: 'Increase income tax for the top 5% of earners, reverse the Tories' cuts in corporation tax and clamp down on tax avoidance, particularly of large corporations.' While it was not widely discussed at the conference, Labour does appear to be giving serious consideration to the adoption of a 'wealth tax' as party policy. The new shadow chancellor, Anneliese Dodds, said in July that this was an area the government should look at.

On business taxation, as well as reversing cuts in corporation tax Labour continues to strongly back the digital services tax. Business rates need 'fundamental reform' to create a regime that can deliver both fairness for business and a sustainable revenue stream for local government, the party argues (without providing any detailed prescription). Additionally, Labour continues to place a strong emphasis on ethical behaviour by business, such as making coronavirus economic support conditional on good tax practice, fair working conditions and a commitment to tackling climate change. While open to equalising tax between the employed and self-employed, Dodds suggested at the conference that this had to be conditional on self-employed people gaining equal rights and conditions to the employed.

The 2017 and 2019 general elections presented voters with vastly different choices on tax and the economy. The next election, when it comes, is likely to be fought more on the battleground of competence than that of ideology, if the new Labour leadership get their way. Spending better, rather than simply spending more, is the new mantra. Illustrative of this was Dodds' accusation, in her keynote speech, that the government had 'wasted enormous amounts of public money' in its approach to the pandemic. This emphasis on tackling waste is intended to reassure voters that Labour can be trusted to manage the country's finances effectively. The absence of this trust was identified by pollster Deborah Mattinson, at a fringe event, as one of 'the five reasons Labour lost the red wall'.

Liberal Democrats

The Lib Dems' online gathering made by far the greatest effort of the three to involve party members, with a full programme of policy debates and votes and an innovative networking facility. Text chats open to all (always lively, occasionally overwhelming) ran alongside all events, both plenary sessions and on the fringe.

The conference was a launch pad for the party's new leader. While Sir Ed Davey has an economic policy background, the conference saw relatively little economic policy development – the notable exception being the adoption of policy supporting a universal basic income (UBI).

Members backed a UBI by a margin of nearly three to one (715 to 250). The motion passed is fairly unprescriptive, committing the party to campaign for a UBI paid to all long-term UK residents, funded in a 'socially just and equitable manner', implemented based on the best available international evidence. It sets the party's Federal Policy Committee the job of working out the details. These 'details', which include the level at which the payment would be set, are obviously quite substantial. There is also the question of how a UBI would be paid for. It would almost certainly entail some tax rises, at the very least to claw back the payment from those deemed not to need it. Davey has another idea as well – a sovereign wealth fund, holding stakes in businesses which choose to pay back their coronavirus support loans with shares.

On tax, the Lib Dems are part of the current consensus which says that it would be unwise to raise taxes while the economy remains so weak. But the party does see tax rises down the road, perhaps before the end of this Parliament. Davey trailed his economic plans in only the broadest terms during the conference, but he was more expansive during a leadership hustings in July, saying tax rises need to be considered 'in a year or two' to finance a big increase in spending on public services, alongside tax reforms, in particular to rebalance between small business and multinationals.

Which taxes should rise? Broadly, Davey continues to stand behind the policies in the party's manifesto from last year (unsurprising given his role in pulling them together). These include higher income tax and capital gains tax, and a number of measures to get more tax out of large multinationals, especially the tech giants. Additionally, the Federal Policy Committee is carrying out analysis of how a carbon tax might work, and will bring proposals on this to a future conference.

Conservatives

All governments contain contradictions but the current one, partly by design but mostly by circumstance, contains more than most. A Prime Minister whose trademark is optimism presides over a pandemic and perhaps the gloomiest economic outlook ever in peacetime Britain. A party that traditionally champions limited government has found itself implementing massive state intervention in the economy and people's lives. A government elected on the promise of a low tax economy looks likely to find itself bringing in – eventually – some of the most swingeing tax increases in living memory.

The keynote conference speeches of Chancellor Rishi Sunak and Prime Minister Boris Johnson embodied these seeming contradictions. Sunak's brief oration was largely a defence of how big government could be good government. While it did feature the usual praise of free enterprise, he spent much longer setting out how the government had intervened powerfully to deal with the economic impact of Covid-19. He pledged he would 'balance the books' but did not say how or when. The Prime Minister, meanwhile, kept his eyes trained on the sunlit uplands, setting out a vision of the UK in 2030 full of electric vehicle (EV) digital taxis and home-owning millennials, rich in skills and revelling in a start-up, can-do society.

Of course, the unprecedented (for peacetime) state intervention in the economy is a product of the pandemic. But even before the pandemic struck, this was an atypical Conservative administration, focused at least as much on spending more – on infrastructure and public services – as on tax cuts. Notwithstanding the existence of a vocal strand of conservative opinion which argues for a 'tax cuts = growth = tax revenue' approach to deficit reduction, observers are pretty much unanimous in their expectation that tax rises will bear the lion's share of the strain of balancing the books.

Where will those tax rises fall? Last year's Conservative manifesto contained a 'guarantee' not to raise the rate of income tax, VAT or National Insurance. This 'tax triple lock' will probably survive, but if it is to be unpicked the likeliest breach is on NI rates for the self-employed. This was trailed by Sunak when he announced the Self-Employment Income Support Scheme in March, telling MPs: 'It is now much harder to justify the inconsistent contributions between people of different employment statuses.'

A leaked Treasury paper reported in the media in August contained a series of options drawn up by Treasury officials for a possible autumn Budget. These included an online sales tax, scrapping higher rate tax relief on pension contributions, increasing corporation tax, aligning capital gains tax with income tax and 'simplifying' the inheritance tax system.

Of course, it is one thing for officials to work up an option and quite another for ministers to adopt it. However, it is noteworthy that while the leaked options were dismissed as 'nonsense speculation' by the Treasury (a classic example of a 'non-denial denial'), The Times reported during the conference that, while Rishi Sunak 'supported maintaining the tax triple lock... he is not ruling out other tax rises, such as increases in capital gains tax, corporation tax or cuts to pensions tax relief for higher earners'.

The online sales tax is one of the proposals put forward in the government's ongoing 'fundamental review' of business rates. Also being floated as part of the review is replacing business rates with a capital values tax on the combined capital value of non-domestic land and property. The possibility of a UK carbon tax was also discussed at a number of conference meetings, mostly positively (though most advocates wanted other taxes scrapped or cut with the proceeds). According to a Times article, the government is looking seriously at it and the proposal has the backing of the Treasury. A decision is expected in December.

So, in conclusion, this was a party conference season like no other. Not just in the cloud, but in the fog of a future fiscal environment where even the near future is more or less unforeseeable. Economics as normal is on hold, but when it re-emerges there will be an awful lot of heavy lifting for the tax system to do.

Longer reports on all three party conferences can be read on the CIOT blog (www.tax.org.uk/media-centre/blog). A report on the SNP conference will be posted after it takes place in late November.

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Time to think about CCO

Samuel Dean explains the purpose of the Corporate Criminal Offence and how it is helping businesses play their part in tackling tax evasion

KEY POINTS

- **What is the issue?**
HMRC's Fraud Investigation Service is currently pursuing 13 Corporate Criminal Offence (CCO) investigations and has a further 18 leads under review.
- **What does it mean for me?**
With prosecution and unlimited fines as the sanctions, there is a hefty price to pay for organisations that do not take their responsibilities seriously.
- **What can I take away?**
If your organisation hasn't already considered the implications of the CCO, you should conduct a risk assessment. Even if you put in place relevant procedures, now could be time to review them to ensure they remain fit for purpose.

It's just over three years since the Corporate Criminal Offence (CCO) for failing to prevent the facilitation of tax evasion came into force. Introduced as part of the Criminal Finances Act 2017, the CCO was part of a number of measures – it came into effect alongside the Common Reporting Standard – that were designed to clamp down on tax evasion both at home and abroad.

Corporate criminal liability is not a new concept, of course. Legislation existed that covered circumstances where criminal acts carried out by the corporation's directing mind are attributable to the corporation. However, the two new corporate criminal offences of failure to prevent the criminal facilitation of tax evasion introduced under the CCO gave HMRC, for the first time, specific powers to tackle this threat in relation to tax crime. As such, it has been a game changer for us.

Put simply, the CCO stipulates that if evasion of UK tax occurs and that evasion is deliberately and dishonestly facilitated by somebody acting on behalf of a corporate, then the corporate is automatically guilty of failing to prevent that facilitation. There is a statutory defence of having reasonable preventative procedures in place, or indeed that it was not reasonable for procedures to be in place at the time. However, it is for the corporate to demonstrate the presence of such procedures, not for the prosecutor to prove their absence.

With prosecution and unlimited fines as the sanctions, there is a hefty price to pay for organisations that do not take their responsibilities seriously. Such is the emphasis HMRC is putting on this legislation that it has been incorporated into our Large Business Risk Review – the means by which we assess large companies for tax risks. This means in practice that businesses need to demonstrate their understanding and application of the legislation or accept greater scrutiny of their affairs by the department. Meanwhile, our Fraud Investigation Service is currently pursuing 13 CCO investigations and has a further 18 leads under active review.

The objectives of CCO

I'm frequently asked about when we will see the first CCO prosecution. The pipeline of cases continues to grow across all businesses and sectors, and it is simply a matter of when, not if. However, investigations into tax evasion and any corresponding facilitation remain complex by nature, and we need to be careful to apply the new legislation appropriately.

I also think it is important to remember that the CCO was never solely about prosecutions. As the then security minister Ben Wallace said when it was being introduced:

> 'It is important to emphasise that, as with the corresponding offence under the Bribery Act 2010, the number of prosecutions alone will not be a true metric of the level of success of the measure. The new corporate offences are not only about responding to wrongdoing but about changing corporate culture and behaviour. True success will lie in changing corporate culture and preventing wrongdoing from occurring in the first place.'

We are seeing success in this goal. What pleases me most is the behavioural changes I've seen across sectors and businesses, showing how increasingly seriously they are taking their responsibilities when it comes to tackling tax fraud risks.

We are now seeing tax experts in organisations linking in with their colleagues in anti-money laundering and anti-bribery and corruption to develop a more robust and holistic approach to the economic crime threat within their business. New roles are being created such as 'head of anti-tax evasion' and 'head of tax transparency', which is indicative of a fundamental culture shift.

It is really encouraging that the CCO has prompted changes within some of the UK's largest institutions. This is important because the new offence was always intended to help tackle the root causes of tax crime.

A broader scope

Those who have not yet engaged with the potential impacts of the CCO on the organisations they lead or advise should do so or risk jeopardising their reputations and joining the list of active HMRC investigations.

These 'failure to prevent' offences are also allowing us to tackle tax crime in new and innovative ways, with CCO applying to businesses of all shapes and sizes and all business sectors, giving it the potential to be used in a range of investigations.

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Naturally, people's minds may jump to professional and financial services which, of course, are relevant. In truth, though, the scope of CCO is far broader with industries such as haulage and warehouse services, software developers and many more in scope. Put simply, any third party that provides assistance or a service which results in an offence being committed against HMRC's functions could be considered a facilitator. Historically, where some investigations may have stopped at the customer or facilitator level, we can now hold the whole organisation to account for not doing what was reasonable to stop criminality occurring.

The Joint Money Laundering Intelligence Taskforce

It's not just within individual organisations that we are seeing change. The CCO is complementing and supporting an increasingly sophisticated approach to tackling fraud more broadly. Working through sector specific forums, such as the Counter Fraud Banking Forum and the Counter Fraud Insurance Forum, we are building much stronger and practical links with the private sector. This is an approach that we will look to expand in other areas. Perhaps more important is how HMRC and the private sector have worked together to create a tax evasion focused sub-group of the well-established Joint Money Laundering Intelligence Taskforce (JMLIT).

PROFILE

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Profile Samuel Dean joined HMRC in 2009 and his career has centred around enforcement and investigation areas, mainly in and around offshore non-compliance. He is the HMRC lead for the Enablers of Criminality Programme and the implementation lead for the new corporate criminal offence for failing to prevent the criminal facilitation of tax evasion.

Launched in 2019, the JMLIT Tax Evasion Expert Working Group meets regularly and consists of tax and fraud experts from HMRC, the National Crime Agency (NCA) and 12 of the largest UK banks. This public-private partnership provides the resource and scope to collaboratively work on tax evasion and wider illicit finance trends, improving our real time picture of risk and source intelligence for intervention opportunities.

The group aims to reflect HMRC's highest priority risks from across various directorates and teams, including organised crime, illicit finances, anti-money laundering supervision, enablers and offshore evasion. The key outputs are risk indicator educational products (in the form of NCA Amber Alerts) which are published by the NCA and UK Finance to help identify both upstream and downstream intervention opportunities through collaborative approaches to risking and insight. As of September 2020, the group has published products on Missing Trader Intra Community fraud, Common Reporting Standard avoidance and payroll company fraud.

International efforts

International cooperation is key in tackling the most complex tax crime risks. Increasingly, fraudsters are creating intricate, deliberate and artificial webs of transactions using the banking system, property purchases, corporate structures and other methods to obscure beneficial ownership, such as trusts and powers of attorney. They mix domestic with international methods using foreign exchange businesses, pre-paid cards, complex structures and transaction chains, and trade or service-based approaches. Tax crime is not confined to international boundaries and therefore nor can our response be.

Back in November 2017, the UK hosted the Organisation for Economic Co-operation and Development Forum on Tax Crime in London. I was delighted to be asked to present on the UK's approach to tackling enablers of criminality, the need for international cooperation and to explain how the CCO would help us to do that. In his closing speech at the forum, Simon York, director of HMRC's Fraud Investigation Service, emphasised the international call to action.

> 'Tax evasion is a serious issue. As well as the harm it causes to society, we know that it is closely linked to money laundering, organised crime, corruption and terrorist financing. This Fifth Forum is a central part of how we put in place the cooperation and international responses that are needed to tackle these threats.'

This forum led to the creation of a new global alliance of tax administrations called the Joint Chiefs of Global Tax Enforcement. Known as the J5, the group sees us working with our counterparts in the US, Australia, Canada and the Netherlands to combat international and transnational tax crime and money laundering. Crucially, it has a specific focus on those who enable international tax crime.

More data has been shared between the J5 agencies in one year than the previous ten combined. We are collaborating on a significant number of investigations, some of which involve incredibly sophisticated international enablers of tax evasion. Earlier this year, our teams came together as part of a coordinated day of action centred around a financial institution and its intermediaries, which are suspected to have helped taxpayers to hide their income and assets around the world. The suspected tax evasion and money laundering in the UK alone is to the tune of £200 million.

Our commitment to international cooperation is clear and the CCO has been a vital tool in supporting that. I have personally trained and upskilled the investigators of other J5 tax authorities in the application of the CCO, with some even considering whether similar legislation would be possible in their jurisdiction.

If your organisation hasn't already considered the implications of the CCO, I would urge you to conduct a risk assessment – one of the key reasonable prevention procedures in the government guidance. Even if you've completed a risk assessment or put in place some procedures, now would be a good time to review them, update that assessment and satisfy yourselves that they remain fit for purpose.

For further information, on the CCO see: bit.ly/30Z37yu.

The butterfly effect

Georgiana Head examines how education is the key to diversity and explains how your firm can play its part in reaching out

Over the last few months I've been thinking about diversity in the tax market and how we can improve on it. Ask yourself how you started your career in tax? Did you apply as a graduate? Did you do the Civil Service Milkround? Did you know someone who worked as an accountant? When did you first know about tax as a discipline? Did you, like me, subliminally absorb the names of large accountancy firms by seeing them on the sides of the pens and pencils in a parent's office?

How do we get a more diverse population at an entry level to the tax profession? How do we raise social mobility? I think the key is education, explaining to children in schools what tax is and how tax can be a potential career path.

There is already a framework in place to do this. In UK secondary schools, all children from 11 years old onwards are supposed to have access to careers guidance that falls in line with Gatsby Benchmark 8. These benchmarks tie into the Ofsted framework and are one of the areas that are taken into consideration during an Ofsted inspection.

In this article, I explore how tax can be promoted as an option using three of these benchmarks.

Gatsby Benchmark 4: Linking curriculum learning to careers

HMRC has developed an award-winning tax education programme for secondary school pupils aged 14 to 17. 'Tax Facts' was named 'Best Free Educational Product of the Year' in the 2016 Education Resources Awards. It is video based and the four videos can be found on You Tube. There is also a supporting teacher's pack which can be found on the Times Educational Supplement website (see www.tes.com). HMRC provides a similar video based programme at primary school level called 'Junior Tax Facts', including lesson plans and interactive exercises. These packages teach children about what tax is and why we pay it, e.g. to provide essential services such as schools, the fire service, etc. They also explain National Insurance, VAT, environmental taxes and benefits such as pensions and tax credits, and fit in to a range of subjects and lessons including maths and citizenship.

The ATT and CIOT have used HMRC's packs as the basis of their own work on educating school children. I talked to Emma Rawson Technical Officer at ATT about her experience of using the 'Junior Tax Facts' in a primary school setting. Along with fellow Technical Officer Helen Thornley, she had taken them into local schools and they have developed two lesson plans around them (for details see www.att.org.uk/hmrcs-junior-tax-facts). Even the teachers admitted that they never knew how income tax worked before, and the children were fascinated by the book of legislation that Helen and Emma brought in as a prop.

The ATT and CIOT's work in this area has been halted by Covid-19 but the resources are available online and the plan is to develop more resources and increase contacts with schools. As educational charities, the ATT and CIOT's objectives include promoting public education in tax.

Gatsby Benchmark 5: Encounters with employee and employers

This benchmark says that every pupil should have multiple opportunities to learn from employers about work, employment and the skills valued in work. Ideally from the age of 11, pupils should participate in at least one 'meaningful' encounter with an employer every year. Traditionally, schools would offer pupils a week of work experience in year 10 or 11 (or what I still think of as the fourth and fifth form).

When I became a school governor for a multi-educational trust in Calderdale, I discovered that many state schools don't have the ability to offer work placements, particularly if they are in areas where there is an issue with absenteeism or poor parental engagement. It makes much more sense to fulfil this benchmark by bringing employers into schools (or via Zoom during the time of Covid-19) to talk about their careers in assemblies or at careers days. To make these events more useful, schools can tie them into the curriculum. If children learn how to write a CV in their English class, they can also consider the sort of career they are interested in and then have the chance to be interviewed by someone from their chosen career area.

I've been working with the schools to broaden the range of employers that they have access to. At the school where I am now chair, the cohort comes from some of the lowest 3% of poverty in the UK, with a high percentage of Romany, Asian and poor white British (often from several generations of unemployment). Yet despite this, in 2019 it was the most transformed academy school in Britain. The staff are completely dedicated to being aspirational for the children in their care and the school employs two part-time careers consultants to help the children navigate their way to a career or further education. One of the things that limits their Careers Offering is having access to different types of employers.

This is where your own employer's Corporate Social Responsibility (CSR) budget comes in. Most firms allow staff to volunteer in work time for several days a year. As long as you are happy to go

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PROFILE

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through a Disclosure and Barring Service (DBS) check and follow the school's safeguarding procedure, you can volunteer.

One firm that has really used its CSR budget to help children in disadvantaged areas is Grant Thornton. Donna Smith, a strategic business partner for Tax, People and Culture, discussed a scheme they have been involved in: 'At Grant Thornton, we're a founding signatory of Access Accountancy, a profession-wide initiative to improve access to accountancy through the provision of work experience to those from lower socio-economic backgrounds. We're proud to have supported over 200 students with work placements since April 2014, and 38 of those students have since gone on to secure trainee position with us. Our approach has always been to work with schools in disadvantaged areas to target high potential sixth form students, engaging talent who just wouldn't be aware of the opportunities available within the tax profession. By doing this, we want to lead the way in opening the door to anyone who has the talent and desire to succeed, regardless of their background.'

If you are considering volunteering and want to make a bigger impact, you can join a school's governing board and become a link careers governor. This means that you will be tasked with helping to assess the school's careers offering. A good starting point for volunteering is the National Governance Association (see www.nga.org.uk). This is also a great way of gaining management experience, so I would suggest it to younger team members as a way of learning how boards and governance works.

Gatsby Benchmark 6: Experiences of work places

While I will caveat that it is harder for schools that have high absenteeism and poor parental engagement to offer work experience to pupils, there are still opportunities for children to interact with workplaces.

One firm that is doing brilliant things taking careers outside the provision of schools is AMS Accountants Group. Their MD Ebrahim Sidat explained their programme working with youth workers through Blackburn Youth Zones (part of the Onside Network).

'The objective behind the outreach programme is to give children at a pivotal age an opportunity that they may not otherwise have. Our outreach extends way beyond the standard "careers centres" in schools. Youngsters in the Youth Zones are not likely to have thought about their career and are focused on anything other than finding a career, falling into the "self-fulfilling prophecy" of many in poor disadvantaged areas of our society. In reality, many of these children will possess some of the key skills to make a successful career as an "adviser" due to their ability to fend for themselves with little parent engagement in those very disadvantaged communities.

'AMS Group's vision is to try and re-engineer the trajectory for these children, helping them to focus on a career and giving them the confidence to succeed. As an organisation, we feel that we should make a greater impact on social mobility.

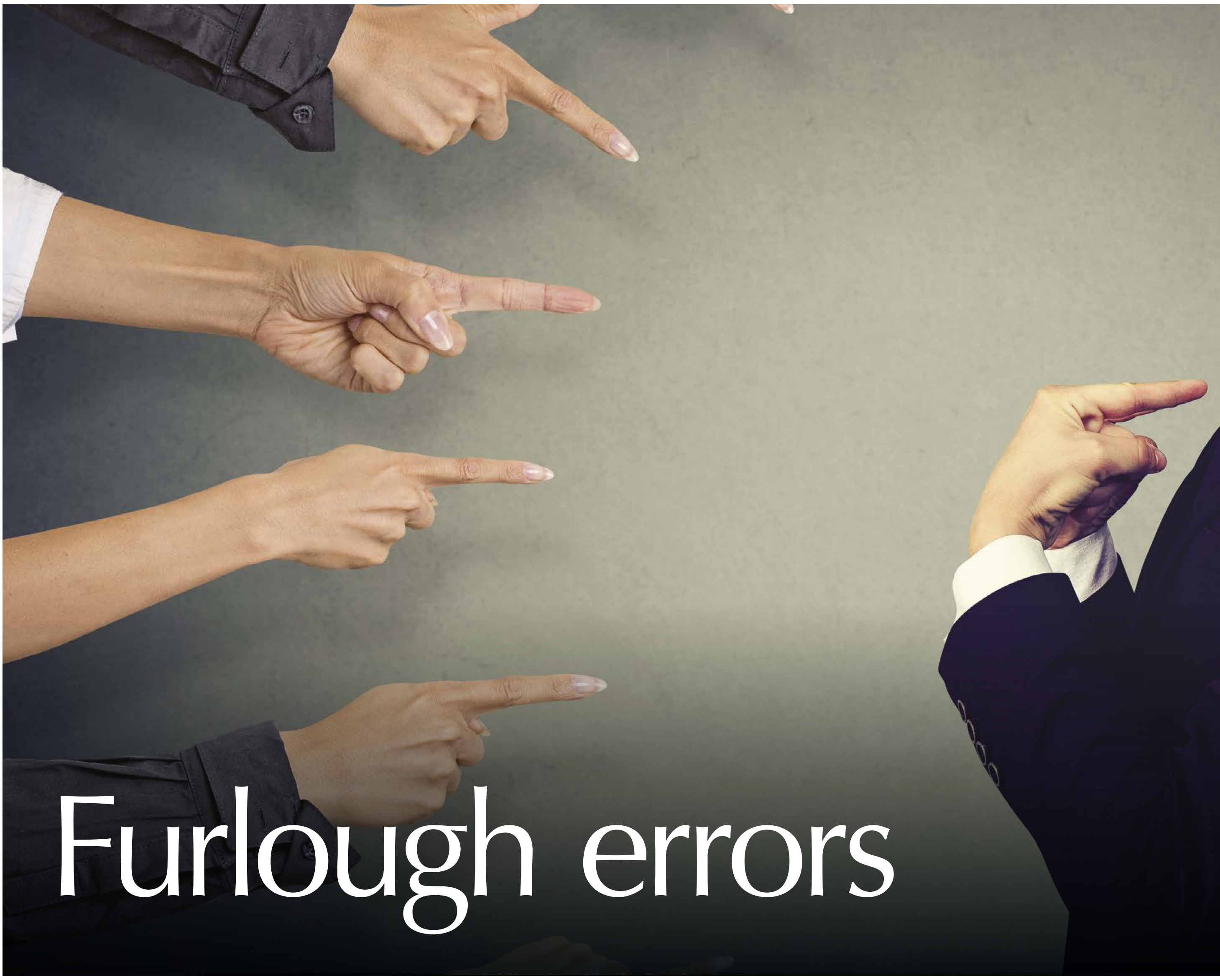
'I sit on the board at Blackburn Youth Zone, where we work to help children to unlock their potential. That could be through helping them to progress a career as an adviser in professional services or encouraging them to cultivate their entrepreneurial spirit. We support and mentor them through the process and help them to stay on course with our programme. Our graduates are extremely appreciative of the opportunity they may not have otherwise been given. This also has a knock-on effect where they have given back to their communities in which they grew up, setting in motion the positive butterfly effect.'

Another firm which has really thought about the way to increase the diversity of its intake is EY. Sally Bucknell, Director of Diversity and Inclusiveness Director at EY, told me about the work of the EY Foundation, which covers the whole gamut from education at primary school level through to work placements. She explained:

'The EY Foundation is an independent charity, which helps young people in poverty to unlock their potential in the workplace. EY tackles this challenge through a combination of high impact programmes and its business connections – achieving transformational change by bringing young people and employers together. It aims to create a brighter future for young people facing barriers to success by building aspiration, confidence and a greater sense of purpose. It provides the knowledge, skills and experience they need to thrive in the workplace.

'The Foundation operates across the country and our support is long term, from inspiring primary age children to ensuring young people succeed after joining the world of work. Its professional, insight-based approach directly benefits employers, helping them to work with local talent, build a more diverse workforce and increase staff engagement. The combination of six years of programme delivery, in-depth knowledge of the labour market and collaboration expertise means they can take a holistic, adaptable approach to a complex and fast-evolving issue.'

The reality is that you can start small. You don't need to offer a full work placement, and during the restrictions of Covid-19 you could offer a virtual tour of an office to show how it works. You can only aspire to work in taxation if you know that the profession exists. Education is about broadening a child's horizons and experience to enable them access to greater opportunities.



Furlough errors

Rob Woodward and *Richard Morley* consider the complexity of furlough claim calculations and how to notify HMRC of any errors made

The Coronavirus Job Retention Scheme (CJRS) introduced the word 'furlough' to tax advisers' vocabularies. When the scheme was launched, the initial focus of HMRC and the government was to deliver financial support. However, with the scheme coming to an end in October, attention is now shifting onto the detail of claims made, as HMRC reviews claims to ensure they were accurate.

In figures quoted by the chief executive of HMRC Jim Harra when he appeared before the House of Commons Public Accounts Committee in early September, HMRC is inquiring into 27,000 high risk claims (of which HMRC expects to check up on 10,000). Mr Harra said that the combined error and fraud rate in the furlough scheme could be between 5% and 10% (between £1.75 billion and £3.5 billion).

In many ways, it is understandable that errors may have been made. The scheme was implemented in a very short timeframe due to the urgent financial situation facing many employers and as a result did not benefit from consultation and testing usually associated with new government schemes. By its very nature, CJRS is complex as it cuts across multiple parts of businesses, including HR, payroll, pensions and tax. The complexity is further evidenced by the number of changes made early in its existence and the further evolutions of the scheme as

KEY POINTS

- **What is the issue?**

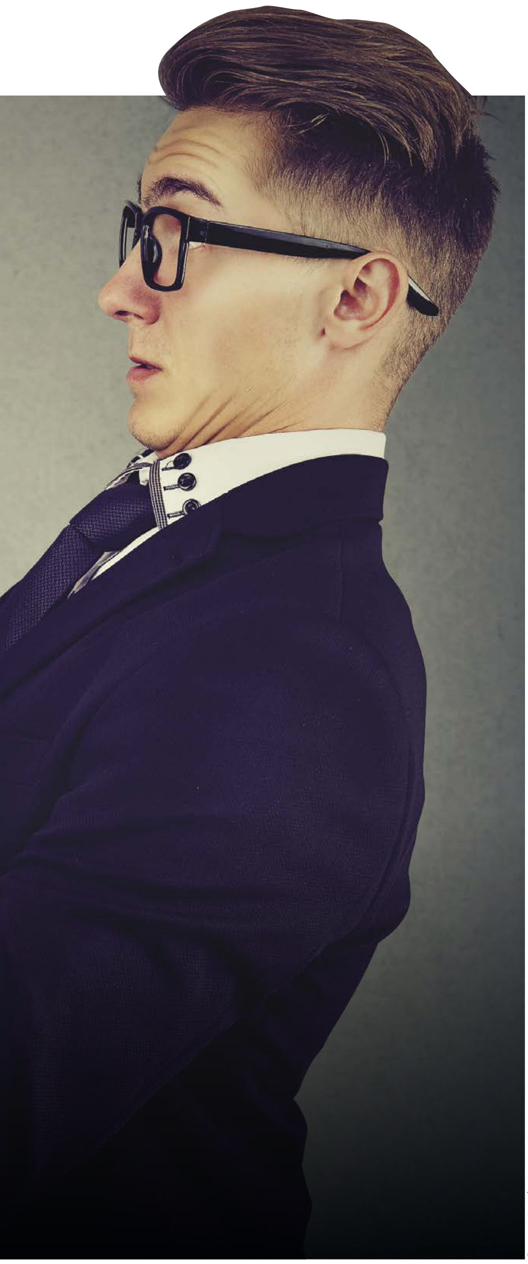
HMRC has introduced a clawback mechanism for excess coronavirus support payments which involves a notification deadline and possible penalties for failure to notify.
The complexity of the furlough claim calculations, compounded with the urgency in which the scheme was introduced, means that errors are likely to have been made.

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

It is important to ensure that all CJRS claims are reviewed and checked and, if necessary, any corrections made as relevant.

- **What can I take away?**

A process exists with HMRC to enable the repayment of any excess CJRS payments made. If excess payments are repaid within the relevant 90 day notification period, then no separate notification is required.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PROFILE

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the economy reacted to the developing economic crisis, built resilience and started to realise the new landscape.

As attention has now shifted to reviewing claims that have been made in an attempt to identify potential errors, it is useful to understand where errors may have occurred so that employers can take the necessary remedial actions.

Where can errors occur?

The main area likely to result in errors is the reference pay used to calculate the CJRS claim. While regular salary forms part of the reference pay, discretionary pay such as tips or commission do not. Whether pay was discretionary or not could be a matter of interpretation, leading to some employers taking a position with which HMRC may not concur.

Another area where errors may have arisen comes from the fact that at the start of lockdown, but before furloughing became a possibility, many employers requested employees to use their annual leave. The interaction between paid holiday, days furloughed and holiday pay meant that some errors were identified which required adjustments.

Also at the start of the pandemic, there was an increase in employees on sick leave as they self-isolated when displaying symptoms. The basis of claiming statutory sick pay was changed for those employees who had contracted Covid-19 or were self-isolating. Further complexities revolved around employees receiving sick pay, which may have led to errors.

For furloughed employees with variable pay, such as those on zero hours contracts, the calculation of reference pay was even more complex as it required a comparison with equivalent pay before furlough or the average pay since April 2019 (or later if employment started after that date).

Errors in calculating reference pay could also manifest itself where employees participated in a salary sacrifice arrangement as the reference pay was post-salary sacrifice, which may not necessarily have been immediately obvious if simply looking at employee payslips.

The number of hours worked for the purpose of calculating the claim also presented an issue, and whether the employee (whether on fixed or variable pay) worked during the furlough period added further complexity. In the first stage of the CJRS, furloughed employees were not able to work although there were some exemptions; for example, in relation to training and directors performing statutory duties. A potential error could have resulted around misinterpretation of the guidance so that furloughed employees worked in addition to training or employers did not properly track which employees returned to work. From July, part-time working was allowed (known as 'flexi-furlough') and so errors could have arisen from incorrectly identifying hours worked compared to hours furloughed.

Following the introduction of flexi-furlough, changes were also made to the level of wage claim that could be made, as the initial 80% (capped at £2,500 per month) decreased to 70% in September; also, the covering of employer's NIC and pension contributions ceased in August. Errors may have arisen in terms of claiming the incorrect rate of employer's NIC (for example, where the employee was aged under 21 or where the employer is entitled to claim the employer's allowance) or by mistakenly claiming employer's pension contributions when in fact the employee had opted out.

In addition to the issue with pension claims and salary sacrifice, a further issue to consider relates to the actual pension contributions. In April, the Pensions Regulator (TPR) issued updated guidance on the interaction of CJRS claims, salary sacrifice and pensions contributions. This guidance carried two key messages:

1. Firstly, an employee cannot sacrifice CJRS pay in exchange for pension contributions. This is because employers must pay the full CJRS payment to the employee. Salary sacrifice can be operated on any 'top up' pay over the CJRS but this may cause issues in relation to the second key message from TPR.

2. For pensionable pay purposes, a CJRS payment is treated as a payment after salary sacrifice, and so may need to be grossed-up to calculate the pay in order to calculate the minimum contributions required under automatic enrolment legislation.

What if a claim may be incorrect?

As already highlighted in this article, it is perhaps inevitable that when claims are made in a rush and under huge pressure, as was seen with the introduction of the CJRS, mistakes can and will occur. Also, and rather unfortunately, it does seem to be the case that when a recession hits the likelihood of fraud tends to increase.

HMRC is understandably already gearing up to tackle incorrect and potentially fraudulent CJRS claims. If HMRC's estimate of between 5% and 10% for the error and fraud rate in furlough claims is realistic (and some may say this is even on the conservative side), this could equate to at least £3.5 billion of furlough payments that are at risk, so there is a large amount at stake for HMRC to check. This explains why significant HMRC resources are expected to focus on this area of reviewing and correcting claims made. Even companies with large HR departments are expected to have made errors, due in no small part to the often complex calculations and definitions of what constitutes 'wages'.

What is furlough fraud?

In the past, HMRC has shown a zero tolerance towards fraudulent behaviour. But what do we mean by 'furlough fraud'? A fraudulent error may involve employers claiming despite not meeting the scheme's criteria, for example:

- claiming CJRS despite keeping staff working;
- claims based on false payroll records;
- intentionally not using the CJRS money as required; and
- claims made by organised criminal gangs.

Other types of errors, which may be entirely innocent, include examples such as transposition mistakes in data, and an error in a date or computation when inputting the claims online. The rules are complex, particularly for partial furlough, National Insurance Contributions and salary sacrifice.

What is HMRC's response?

As well as following up whistleblower reports – and reports suggest that there have been some 8,000 to date – we expect HMRC to use its 'Connect' computer system to flag anomalies in claims, while looking at industry and sector norms.

HMRC's Fraud Investigation Service can conduct criminal investigations with a view to prosecution for cheating the public revenue or fraudulent evasion of income tax. In deciding whether to do so, it would consider HMRC's Criminal Investigation Policy. HMRC has already shown that it will act decisively. There have already been three arrests involving suspected furlough fraud following an arrest of a businessman in the Midlands in July 2020; and more recently, it was announced that two further people have been arrested over a suspected £70,000 CJRS fraud. We therefore expect more criminal cases to arise and further civil tax investigations, most likely by way of using the Code of Practice 9 or Contractual Disclosure Facility process.

On 22 July 2020, Finance Act 2020 was given Royal Assent and this now gives employers a 90 day deadline to disclose incorrect furlough claims. The 90 day window started either on 22 July 2020 for claims paid before this date or from the date the CJRS payment was received if paid after the 22 July 2020. The earliest deadline ended therefore on 20 October 2020. For future notifications, the excess amount of CJRS payments should then be declared on the businesses tax return as appropriate with the excess amount claimed taxable at a rate of 100% and payment due in accordance with the usual tax payment deadlines.

If a correction is required either to a claim where an error was made or from a claim made where the recipient knew they were not entitled to the claim, and the amount of excess CJRS payments are repaid before the expiry of the relevant 90 day deadline, there is then no requirement to notify HMRC of the incorrect furlough claim. Failure to notify penalties can apply in certain cases where notification of excess CJRS payments was not made within the relevant deadline.

Next steps?

Now that the first 90 day notification period has passed, we expect HMRC to initiate a 'gloves off' approach and to check claims made and pursue CJRS and SEISS claims using both criminal and civil powers. We expect these to focus on those who knowingly made incorrect claims and failed to notify HMRC, on whom HMRC may impose significant penalties.

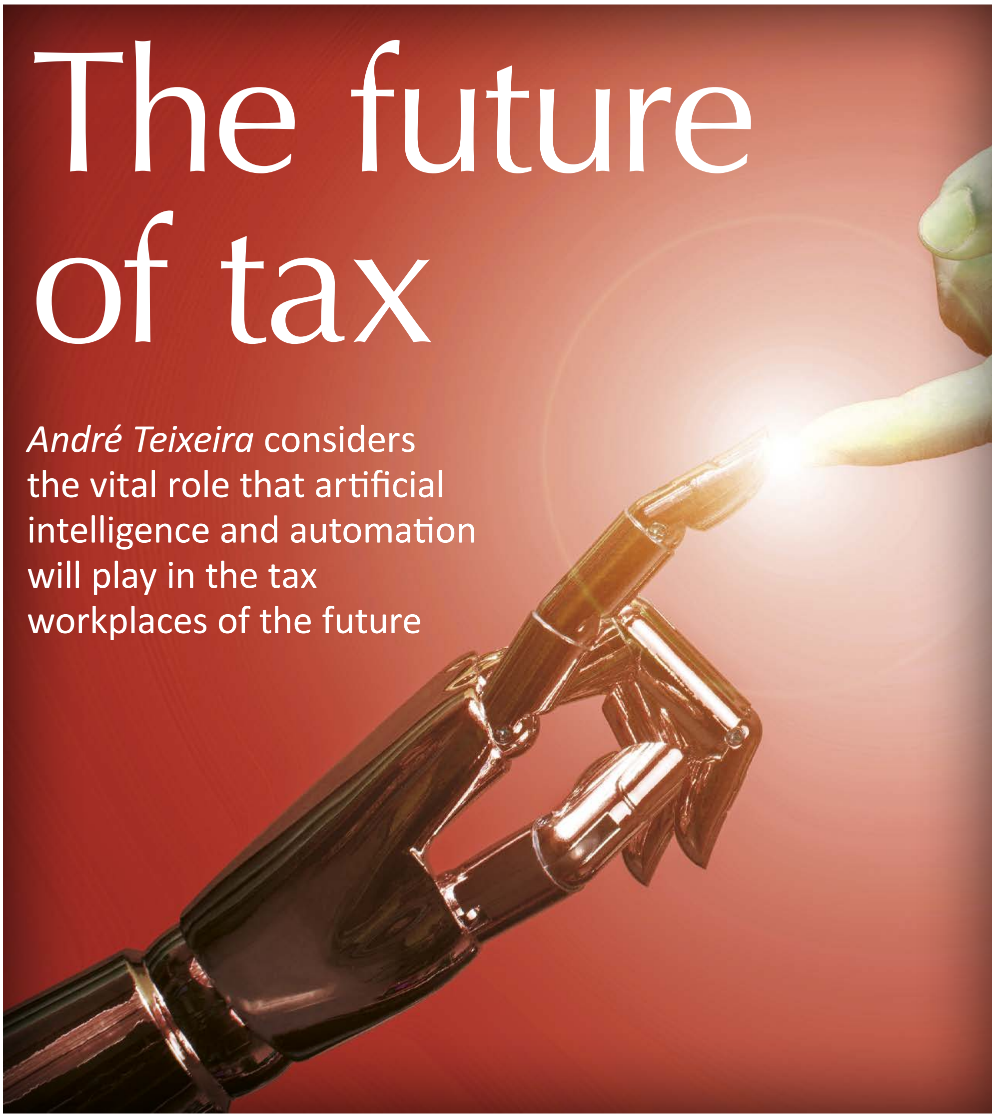
For those where HMRC suspects fraud, we can expect in-depth investigations into not just CJRS claims but also the wider business affairs of those involved. The legislation includes penalties, as well as powers to publicise defaulters online and to pursue company office holders where businesses become insolvent, with joint and several liability.

Conclusion

Due to the complexity of the calculations themselves and the fact that many business owners implemented claims in a rush at the start of lockdown, there is real scope for errors in claims made. Therefore checking that the amounts claimed and supporting paperwork is accurate and the scheme criteria met is crucial. Anyone concerned that they may have submitted an incorrect CJRS claim should review these as a matter of urgency.

The future of tax

André Teixeira considers the vital role that artificial intelligence and automation will play in the tax workplaces of the future



KEY POINTS

- **What is the issue?**
The business of tax provision is a minefield of regulatory requirements and is expensive to manage. AI and other technologies will allow professionals to automate much of the process and allow them to meet their ongoing challenges.
- **What does it mean for me?**
On average, tax professionals spend more than 50% of their time on collecting tax data and less than 30% on strategic tax analysis. Tax professionals can benefit from automating certain processes, such as filtering key data from spreadsheets, scanning long tax reports, and organising the data or identifying tax deductions.
- **What can I take away?**
This shift in approach will see many practitioners move away from the traditional manual approach to manipulation and reconciliation and develop state-of-the-art capabilities utilising advanced AI and analytics to make decisions in real time.

The Industry 4.0 drive and the continued maturation of artificial intelligence (AI) technology is fundamentally changing the way that every sector operates. It is not just industrial sectors, where the idea for AI hatched, that are facing this transformational wave. The financial sector, and particularly legal and taxation professionals, are impacted.

In his recent book 'Tomorrow's Lawyers', Richard Susskind argues that the legal world will change more in the next 20 years than it has in the past two centuries. He believes that this change will include major law firms setting up low-cost service centres for routine legal work, a global upsurge of more than 1,000 legal technology start-ups, and an increasing interest in the potential of artificial intelligence.

Four years ago, Professor Klaus Schwab, founder and executive chairman of the World Economic Forum, said that we were at the beginning of a revolution that would fundamentally change the way we live, work and relate to each other. Even then, he could not have envisioned the important changes that technology would deliver.

The move towards automation

According to EY, in the past five years the single biggest source of US Securities and Exchange Commission restatements has been income taxes. The business of tax provision is a minefield of regulatory requirements and is expensive to manage. However, AI and other automation technologies, such as robotic process automation (RPA), will allow professionals to automate much of the process and allow them to meet their ongoing challenges.

What makes AI different from other emerging technologies is the ability to allow a machine to understand its environment and perform operations that in the past had required human intelligence. It can sense, think and act in a manner that can outperform even the most industrious and intelligent human.

The global tax industry faces a myriad of challenges ranging from global tax reforms and complexity, pressures to reduce costs, and the adoption of emerging technologies. To achieve their aims, tax firms need to develop effective predictive and calculation models. This requires the sector to adopt innovative thinking about the methodologies for collecting and processing financial data. This shift in approach will see many practitioners move away from the traditional manual approach to manipulation and reconciliation and develop state-of-the-art capabilities utilising advanced AI and analytics to make decisions in real time.

Starting with small steps

AI can be helpful in every field of law, including tax. AI helps professionals work faster, better, and at a lower price. Tax professionals can benefit from AI in several ways, such as automating certain processes that tend to be repetitive, filtering key data from spreadsheets, scanning long tax reports, and organising the data or identifying tax deductions. Managing multiple deadlines that involves data from multiple stakeholders and sources are daily challenges.

According to research from PwC, on average tax professionals spent more than 50% of their time on collecting tax data and less than 30% on strategic tax analysis. Up until now, the automation initiatives that have achieved the best results are those that have taken small steps rather than large corporate-wide initiatives. These solutions are being dubbed as small automation, which is automation that can be implemented without involving the IT department. This could involve something known as

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Data automation can be applied to meet the demands of tax functions while improving governance and preventing costly errors.

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extract, transform and load (ETL). ETL is the general procedure of copying data from one or more sources into a destination system which represents the data differently from the source or in a different context than the source. These are proof of concepts that can show the potential of the technology while breaking down barriers to adoption that always accompany change in any work environment.

The benefits of AI in action

There has been a lot of advice and opinion about how AI will change the work landscape for tax professionals, but to date there has been little in terms of actual use cases. In its 2019 report 'How Tax is Leveraging AI', PwC highlighted four common use cases – tax notice processing, account classification, tax compliance and reporting, and tax guidance. These cases overcome four key challenges in the form of unstructured data, classification, standardisation, and questions answering.

Take tax notice processing as an example. The challenge is that this is what is termed as unstructured data. This is usually information that either does not have a pre-defined data model or is not organised in a pre-defined manner. Unstructured information is typically text-heavy, but may also contain data such as dates, numbers and annotations. By using natural language processing to convert scanned tax notice images to text and machine vision to understand the text and extract the required data, AI can be used to extract relevant terms to automate tracking.

One company that has seen this evolution at first hand is specialist software and technology investor, Hg. It sees the application of artificial intelligence (AI) as having a significant impact on the evolution of the tax and accounting universe over the next few years and says it has already seeing continuing development of this technology across the businesses it partners with.

TeamSystem is a leading provider of business critical, regulatory driven software products to around 250,000 accountants, HR professionals and SMEs in Italy. It is also developing automated scanning and document recognition services for its customers, combining classic optical character recognition with modern machine learning practices to create a product which improves day by day – saving significant time for customers and increasing customer productivity. This already has accuracy of around 75%, a figure which is constantly improving thanks to machine learning.

Breaking down barriers

There is no hiding from the fact that the tax world is a conservative industry that is steeped in a rich heritage of rules and ways of working. To such a sector, a disruptive innovation such as AI is often seen as high risk and a threat to the status quo. Small automation has a vital role to play in overcoming these hurdles.

But AI can offer far more than simple ETL applications. More intelligent technological analytics and interconnectedness have led to increasing automation of tasks in the corporate tax function and promises of still greater efficiencies to come. Data automation and machine learning technologies can be applied to meet the demands of tax functions while improving tax governance, preventing costly errors, and saving professionals' time.

As with any transformational initiative, when considering an AI strategy it is important to identify the problem that you are trying to overcome. Armed with that information, it is possible to decide which manual tasks can be replaced or augmented by adopting AI.

Another barrier to the adoption of AI, one which is mirrored across most sectors, is the fear that adopting AI will mean that jobs will be lost. The truth is that AI will help tax professionals to work smarter and more efficiently. Rather than having to focus on the drudgery associated with some low-level work, it will allow them to concentrate on value added work. The eradication of some menial tasks will have the additional benefit of encouraging highly skilled workers to consider a career in taxation, something that the industry habitually struggles with.

The future for AI and tax

According to a Deloitte report published late in 2019, the next level of AI-enabled tax solutions will not just reflect the relevant tax law and practice, but also the particular policies of the parent organisation. This will allow advisors and their clients to differentiate between a company's technology solutions, as they do now between the knowledge and experience of individual human advisors. Again, this reflects the way in which machines and humans will collaborate to deliver solutions to clients, using the best mix of artificial and human intelligence.

AI will help to revolutionise the tax industry. Ultimately, it is not about replacing people – but rather it should enable tax advisors to be freed up to focus on more complex tasks. AI should not be feared but embraced as a vital component of the tax workplace of the future.

Fatal distraction

Keith Gordon considers a case where a taxpayer asked the High Court to correct an inadvertent error on his tax return

KEY POINTS

- **What is the issue?**
The High Court has the power to correct mistaken documents, for example where a written contract misstates the terms of the agreement between the parties, so as to reflect the terms actually agreed by the parties.
- **What does it mean for me?**
The case of *Allan Firth Webster* concerned an error made in a tax return that impacted a claim for Gift Aid on a large donation to charity. The Master of the High Court found that tax returns, by their very nature, fell outside the range of unilateral documents that were capable of rectification by the court.
- **What can I take away?**
Taxpayers should pay particular attention when it comes to making carry-back elections. If such an election is being contemplated, the taxpayer should delay sending in his/her tax return (not beyond 31 January, of course) to ensure that the opportunity is not missed.

One of the things I discovered during my legal studies was that the High Court has the power to correct mistaken documents. For example, if a written contract misstates the terms of the agreement between the parties, the High Court can, by declaration, rewrite the document so as to reflect the terms actually agreed by the parties. It is not a power that is liberally applied and it is subject to the court's discretion in accordance with what are known as the maxims of equity. This power is similar to that whereby the court can undo a transaction entered into by error in cases where 'it would be unconscionable, or unjust, to leave the mistake uncorrected' (per the Supreme Court in Pitt v Holt [2013] UKSC 26, see my article 'One Futter in the grave for *Hastings-Bass* (mistake and rectification)' in the July 2013 issue of *Tax Adviser*).

This article concerns the recent case of *Allan Firth Webster* [2020] EWHC 2275 (Ch), where the taxpayer sought the High Court's intervention to correct an error made on his tax return.

The facts of the case

Mr Webster's wife died on 4 August 2016. In her memory, Mr Webster established a charitable foundation. In the same tax year, Mr Webster sold his entire share capital in two companies, realising capital gains of over £5.3 million.

On 4 August 2017 (the first anniversary of his wife's death), Mr Webster made a donation to the charity of £800,000 on which he claimed relief under Gift Aid. When doing so, Mr Webster was fully conscious of the fact that he could elect to carry back the donation so that it could be treated as having been made in the previous tax year (2016/17). Indeed, although not strictly necessary, the Gift Aid certificate was annotated to refer to the fact that the donation would be carried back by Mr Webster.

The decision to carry the election back was important to Mr Webster because he had significant income and gains in the 2016/17 tax year but this was not the case in respect of the 2017/18 tax year. Indeed, there would be insufficient tax liabilities arising in the later tax year to support the Gift Aid claim.

Prior to making the gift in August 2017, Mr Webster had contemplated making a gift of £400,000. However, by 4 August, he changed his mind and increased the sum to £800,000. The problem for Mr Webster was that he had already started to compile his tax return (using commercial software) and provisionally entered the figure of £400,000 (as per his original intention). Mr Webster then failed to amend this figure to £800,000 before submitting his return in November 2017.

In early 2018, Mr Webster spotted the error and notified HMRC. He was led to assume that this would not be a problem. Consequently, when HMRC opened an enquiry into the 2016/17 tax return, Mr Webster was not unduly concerned.

However, HMRC subsequently advised Mr Webster that it could not amend the return to reflect the full amount of the gift. HMRC cited the First-tier Tribunal's decision in *Cameron v HMRC* [2010] UKFTT 104 (TC), which held that a carry-back election must be made by the taxpayer in an original tax return and not via any amendment to the return.

On that basis, it would seem that Mr Webster would have to forgo approximately one half of the relief in respect of his donation, as the other half would be stranded in the 2017/18 tax year.

However, the position for Mr Webster was in fact potentially far worse than this. HMRC had focused on the wording of the Income Tax Act 2007 s 426 (which governs carry-back elections). That section repeatedly refers to 'the gift' and does not expressly cater for parts of a gift. On HMRC's interpretation, the returned figure of £400,000 is completely wrong as there was no gift of such amount. When closing the enquiry into Mr Webster's tax return, HMRC had therefore removed the £400,000, meaning that *none* of the donation was related back to the 2016/17 tax year (meaning that the full amount of £800,000 is stranded in 2017/18 tax year).

PROFILE

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As the *Cameron* case suggests that Mr Webster cannot take any steps within the statutory scheme to correct his error, he sought the intervention of the High Court.

The High Court's decision

The case came before Master Kaye. The Master acknowledged that unilateral documents are as capable of rectification as are bilateral ones. Indeed, I would say that this is clearly demonstrated by the case of *Joost Lobler v HMRC* [2015] UKUT 152, which concerned an investor's request to make a partial disposal of his life policies (as discussed in my June 2015 article, 'Joost busters'). But the Master then proceeded to say that tax returns, by their very nature, fell outside the range of unilateral documents that were capable of rectification by the court.

Even if she were wrong on that, she felt that the equitable jurisdiction of the court is ousted by the fact that the amendment of tax returns is governed by a clear statutory procedure – the combination of HMRC being able to correct obvious errors within nine months of the filing date, taxpayer amendments within a year of the statutory filing date, and amendments by HMRC following enquiries commenced within a similar period.

Furthermore, the Master felt that this was not a case that merited the equitable intervention of the court, as Mr Webster should have taken more care over the submission of his tax return. For these reasons, the Master declined to give the relief sought by Mr Webster.

Commentary

I was not personally convinced that the Master was correct when she decided that the nature of tax returns meant that they fell outside the scope of the court's supervision. I cannot see any principle that puts tax returns into a class of their own. For example, are they so fundamentally different from, say, a company's board minute agreeing to pay a dividend of a certain amount to its shareholders?

On the other hand, given the clear statutory procedures laid down for amending tax returns, I would be tempted to agree that the court's jurisdiction has been superseded by the legislation. In other words, I agree with the Master's ultimate conclusion on this point, even if I would take a different route to get there.

This therefore makes moot the question of whether the court should exercise its equitable discretion to amend the return. However, what did concern me was a suggestion that HMRC had indicated that this was a case amounting to carelessness as understood under the penalty code, an indication with which the Master did not disagree. In the Master's view, that carelessness would have militated against the exercise of the court's discretion. Whether or not that is right, I did sense a feeling of outrage when I inferred that HMRC was seeking to compound Mr Webster's misery by imposing a penalty on top of all the additional tax that he might have to pay. This is not exactly an appropriate reward from the state for making a philanthropic gesture. The problem is that whenever mistakes are perceived in tax returns, there is a tendency from many HMRC officers to assume that it is a consequence of careless behaviour by the taxpayer, so that a penalty can be levied as well.

However, even if Mr Webster's predicament can be said to arise from carelessness, is it fair to say that a penalty should be imposed under the legislation? (If there were ever a case for special circumstances, this surely must be it.) In any event, to decide whether a penalty should be imposed, I think one then has to ask a philosophical question as to what was the nature of Mr Webster's error? Was it to include in the return a figure of £400,000 instead of £800,000 or was it to include the figure of £400,000 rather than nil? In my view, the correct answer is the former rather than the latter. However, if that is the case, then the error has led to an erroneous *increase* in the amount of tax payable (because only half of the gift is relieved). Since penalties are charged by reference of the additional amount of tax payable to correct the error, this means that there should be no penalty payable. (I do not go so far as to suggest that there should be a negative penalty, meaning that HMRC is liable to Mr Webster!)

This is, however, of secondary nature to the real dispute (or disputes) that Mr Webster finds himself embroiled in.

- First, the *Cameron* point. Does the statute allow carry-back elections to be made in amended tax returns (at least if the amendment is made before the 31 January following the end of the tax year)?
- Secondly, on a related point, can any correction be made to a carry-back election in the course of a s 9A enquiry into the tax return? Also, where a disagreement remains, is that capable of resolution by the First-tier Tribunal on the taxpayer's appeal against the closure notice?
- Finally, may carry-back elections be made in respect of any part of a single gift?

Addressing these in turn:

- Although it gives rise to a most unfortunate outcome, it is hard to see that the *Cameron* case was wrongly decided. Section 426(6) makes it clear that the election must be made 'on or before the date on which the individual delivers a return for [the earlier] year'.
- However, this does not mean that Mr Webster should be precluded from winning at the First-tier Tribunal. He clearly made his election in time. His error was to refer to the wrong amount. Indeed, if HMRC is right about the all or nothing approach of s 426, then there is no reason why a single error in the amount shown must lead to the inevitable conclusion that the election is to be disregarded in its entirety. The purpose of statutory enquiries (and subsequent tribunal proceedings) is to ensure that tax returns are *corrected*, not simply for tax reliefs to be deleted because of an error at the data entry stage.
- Thirdly, there are plenty of cases where the courts have stretched the meaning of words (or, in extreme cases, rewritten the provisions altogether) to interpret the statute in accordance with common sense. In this case, HMRC's argument would amount to saying that Mr Webster is entitled to no tax relief because he sent the charity a single cheque of £800,000, but the outcome would have been different had he written two cheques of £400,000. Such artificial steps are usually frowned upon and there seems to be no reason why Mr Webster should be treated less favourably simply because he did not take this precaution.

It is my sincere hope that Mr Webster will successfully persuade the tribunal that it is not bound by *Cameron* to refuse to allow the election to be corrected (to show £800,000); but that if this is wrong, s 426 is not to be read so as to preclude carry-back elections from applying to parts of gifts made. In the meantime, this looks like an area ripe for statutory reform as there seems to be no good reason for the statute to contain three different bear traps in a provision that is meant to encourage charitable giving.

What to do next

Given the state of the law at present, it is clear that taxpayers should take particular attention when it comes to making carry-back elections. If such an election is being contemplated, the taxpayer should delay sending in his/her tax return (not beyond 31 January, of course) to ensure that the opportunity is not missed. Secondly, care needs to be taken to ensure that carry-back elections are made in respect of the whole amount of any particular charitable donation.

Supporting unrepresented taxpayers

Victoria Todd discusses how the coronavirus pandemic has highlighted some problems in the tax system

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KEY POINTS

- **What is the issue?**
LITRG's work helping people to navigate the tax system and working with government to make improvements to the system has become even more important during the coronavirus pandemic.
- **What does it mean to me?**
LITRG's websites are primarily aimed at low income users, but they are also used by taxpayers and contain a wealth of free, detailed guidance, news articles and information about tax and related benefits, including coronavirus support measures.
- **What can I take away?**
You can contribute to LITRG's future work by sending them examples of issues affecting low income taxpayers.

The coronavirus pandemic has had, and continues to have, a far-reaching impact on all aspects of daily life, including a significant effect on the UK economy. Since March, the Low Incomes Tax Reform Group (LITRG), an initiative of the Chartered Institute of Taxation, has focused its attention on helping low income, unrepresented taxpayers to navigate and understand the financial support available to them during the pandemic. It has also been working with HMRC on the various support schemes and changes to the tax system needed as a result of coronavirus.

LITRG's guidance on tax and related benefits is primarily delivered through www.litrg.org.uk. HMRC fund LITRG to deliver www.revenuebenefits.org.uk – a website primarily aimed at advisers covering tax credits (and the transition to universal credit), child benefit and tax-free childcare.

Coronavirus support

The coronavirus pandemic has reinforced the need for detailed, joined-up guidance. As the extent of the pandemic on the economy became apparent, LITRG quickly reorganised to help people understand the various methods of financial support available to them. A coronavirus guidance section on the LITRG website had been viewed around 560,000 times by 10 October 2020. HMRC was tasked with designing and delivering both the Job Retention Scheme and the Self-Employment Income Support Scheme (SEISS), and our guidance on the two schemes has consistently featured in our top five pages over the last six months.

LITRG's website saw a significant increase in contact from website users who were struggling to find answers to questions about the HMRC schemes and their interactions with benefits. Although GOV.UK published guidance about each individual coronavirus payment or scheme, very little was published about how these schemes worked together.

We have also received queries from individuals, and organisations representing individuals, in non-standard employment arrangements about how the various financial support schemes applied to them. Articles on our website examine the Job Retention Scheme from the perspective of an agency worker or someone working through an umbrella company or limited company, addressing questions that were not covered in the main GOV.UK guidance.

The increased contact from website users allowed us to quickly identify trends and issues in relation to the Job Retention Scheme and the SEISS and feed those back to HMRC. HMRC has been able to clarify some areas of confusion. For example, a number of people who were self-employed and then incorporated their businesses believed they were entitled to a SEISS grant because they were 'trading'. The GOV.UK guidance at that time didn't specify that you had to be trading on a self-employed basis during 2019/20; nor did it mention people who had incorporated their business.

Following our feedback, further guidance was added on GOV.UK to clarify this point.

The cracks appear

The pandemic has highlighted several weaknesses in the tax system that were already in need of reform, and on which we have commented previously. The coronavirus support schemes have been built based on a tax system that treats people who are doing the same type of work differently, depending on how they have been engaged and paid. Two construction workers, working for the same end client through intermediaries, could have had completely different outcomes under coronavirus support schemes, depending on whether they were self-employed and paid under the Construction Industry Scheme (CIS) or employed and paid under PAYE. The self-employed person would have been able to continue working at a lower level than normal and get the SEISS payment. However the CJRS payment for employees required that they did not work at all – until the scheme changed from 1 July to permit part-time working.

The pressures created by changes in the labour market have existed for some time, but the pandemic has strengthened the case for a wholesale review of how the labour market is taxed with a view to smoothing out the opportunities for distortive hiring practices. The Chancellor said he would be looking at the tax differentials when he introduced the SEISS scheme in March.

Following on from this, we have seen a number of difficult cases where CIS workers have been excluded from SEISS support because they declared their income and CIS deductions on the employment pages rather than self-employment pages of their tax return. Given that, for the purposes of SEISS, no amendments could be made to returns after 6pm on 26 March 2020, these individuals could not correct their mistake and claim the grants, even though they were in fact self-employed and within the group of people for whom the SEISS grants were intended.

LITRG has written to HMRC, asking it to allow claims in this situation as we think it is understandable why CIS workers filled in their returns incorrectly. The pay and deduction statement template by HMRC refers to the 'employer's tax reference', thus giving the impression that the CIS worker is an employee.

Another problem area has been the link between the coronavirus support schemes and the benefits system. Government communications in the early stages of the pandemic, prior to SEISS being announced, encouraged self-employed individuals to claim financial support from universal credit. There was an erroneous suggestion that universal credit would provide the self-employed with the equivalent of statutory sick pay for employees.

PROFILE

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However, these communications neglected to explain that universal credit is a means-tested benefit and takes into account earnings of any partner. It also has an upper capital limit of £16,000. Above that amount, there is no entitlement to universal credit. The communications also failed to mention one other crucial point.

Self-employed claimants already in receipt of tax credits would have their tax credits terminated immediately upon making a universal credit claim, even if they were subsequently found to be not entitled (due to capital or their partner's earnings). Several organisations, including LITRG, raised this issue and there is now a warning on the universal credit claim form, but GOV.UK continues to mislead on various pages by mentioning universal credit as the only option for financial support for those who cannot access the various schemes.

The future

The coronavirus situation is far from over and LITRG will continue to provide up to date guidance to help those unable to pay for advice to navigate the tax system. It seems inevitable that the tax system will see changes in the near future. HMRC recently published its strategy for the next 10 years, 'Building a trusted, modern tax administration system', which sets out its plans for a fully digital tax system.

LITRG will continue to be a voice for the unrepresented; for example, encouraging HMRC to cater adequately for those who cannot transact digitally. Our evidence is far more powerful when it is based on real case studies and examples. We encourage everyone, including tax professionals, to continue to highlight issues to us via: www.litrg.org.uk/contact-us.

THE NEED FOR TAILORED LOW INCOME GUIDANCE

It is a common misconception that people on lower incomes have simple tax affairs. A low income migrant, for example, has to grapple with the same complex residence and domicile rules as a migrant who is a multi-millionaire – the difference being that the former cannot afford to pay someone to explain the rules and ensure they comply with them. Those on the lowest incomes must also deal with complex interactions between tax and other systems. Primarily, this will be the benefits system, but we also see interactions with National Minimum Wage, student loans and child maintenance.

The LITRG website is the most comprehensive source of free tax guidance online for those unable to pay for advice. In 2019, 5.5 million people visited LITRG's websites with 9.3 million page views. GOV.UK's approach is to provide simple guidance for the majority of people. However, most of the people we deal with need more detailed guidance and often find it difficult to apply GOV.UK's simplified guidance to their situation.

LITRG has been raising concerns about the standard of guidance provided by HMRC via GOV.UK for some time. For example, one of the LITRG website's most popular pages in 2019 was: 'Do I need to file a tax return?', with around 120,000 page views. GOV.UK has replaced its guidance on this topic with an interactive tool (www.gov.uk/check-if-you-need-tax-return) which asks a series of questions to determine whether you need to file a return. However, the tool can lead people to incorrect results.

Most of the questions don't include any guidance to help people understand their meaning and how to answer them accurately. One question asks: 'Did you earn more than £1,000 from working for yourself?' We think that many of our website enquirers would assume the word 'earn' means profit, when in fact this is asking about turnover in relation to the trading allowance. This potential misunderstanding could lead to a result that says they don't need to file a tax return when in fact they do.

The labour market has changed dramatically over the last decade and far more of the people visiting LITRG's websites are in 'gig economy' jobs or working via umbrella companies, agencies or limited companies. Despite the fact that the majority of agency workers are now told by agencies to work through umbrella companies, umbrella companies are not mentioned in the GOV.UK guidance for agency workers, and its guidance is largely based on the concept of the old 'tripartite' arrangement. We have published specific articles and factsheets that explain how umbrella companies work.

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Welcome to the November Technical Newsdesk

It was once famously said that a week is a long time in politics, but it appears that a day is a long time in the current COVID-19 environment. No sooner had we outlined some of the key qualifying criteria for the new Job Support Scheme in our webinar on 8 October, when on 9 October the Chancellor announced an extension to the scheme to include businesses which are required to close their premises due to coronavirus restrictions. Further changes to the scheme were also announced on 22 October, as well as an enhanced level of support for the self-employed. Our interactions with HMRC have also become much more 'real time' recently, as we work with them (often at very short notice) on their delivery and guidance for the variety of new and existing support schemes designed to help businesses and employees over the coming months.

There are still a lot of other things going on in addition to the COVID schemes – which is why (for the second month in a row) my introduction is necessarily brief: because there is so much to report. It is also why, from a 'bandwidth' perspective, we breathed a sigh of relief when the Chancellor announced that there would be no Autumn Budget this year.

We already expect our efforts to increase in a number of areas, such as Making Tax Digital and the tax administration framework (to name just a few). As I am sure you know, we rely on our volunteers to help us with our interactions with HMRC and other policymakers, based on their experience on the 'front line'.

You will see that this month we are keen to hear from members who may be willing to join our Digitalisation and Agent Services Committee, which will consider both of these areas. If you think you can help, we would be delighted to hear from you.

COVID-19: VAT update including the Winter Economy Plan

INDIRECT TAX

The government launched its Winter Economy Plan on 24 September (tinyurl.com/y4j9cjjm), and section 3.2 sets out several COVID-19 measures impacting VAT.

Longer period to repay VAT deferred under COVID deferral scheme

The Winter Economy Plan introduces optional longer repayment terms for taxpayers that deferred VAT owed from VAT returns due during the deferral period of 20 March to 30 June 2020, known as the 'New Payment Scheme'. Rather than having to repay the deferred VAT in full by 31 March 2021, as was originally intended, taxpayers will be able to 'opt in' to the new payment scheme and spread their repayment of VAT over the financial year 2021/ 22 in 11 monthly instalments.

HMRC will put in place an opt-in process in early 2021 and guidance will be published in due course. Taxpayers must opt in if they wish to use the payment scheme though all taxpayers are eligible.

Reduced VAT rate for hospitality, holiday accommodation and attractions is extended to 31 March 2021
Revenue and Customs Brief 10 (2020) (tinyurl.com/y2fwmnwz) introduced a temporary reduced VAT rate of 5% for the hospitality and tourism sectors, which was due to end on 12 January 2021.

The Winter Economy Plan announced an extension of the temporary reduced rate which will now end on 31 March 2021. The reduced VAT rate of 5% will continue to apply to supplies of:

- food and non-alcoholic drinks from restaurants, pubs, bars, cafés and similar premises;
- holiday accommodation; and
- admission to attractions.

The ATT has published questions it asked of HMRC and the answers received from HMRC about this COVID-19 VAT measure (www.att.org.uk/HMRCresponse_tempreducedVAT).

Interaction between VAT bad debt relief, payments on account and the COVID VAT deferral
The CIOT wrote to HMRC to ask them to confirm the VAT accounting position for bad debt relief where VAT payments on account taxpayers had part paid and part deferred the VAT quarter's VAT due. HMRC's response is published on the CIOT's website:
(www.tax.org.uk/HMRCresponse_baddebtrelief).

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COVID-19: The new Job Support Scheme

PERSONAL TAX | EMPLOYMENT TAXES

Replacing the Coronavirus Job Retention Scheme, the Job Support Scheme is designed to help businesses affected by coronavirus and the restrictions this imposes, supporting the wage costs of employees over the winter months.

As set out in the introduction to this month's Technical Newsdesk, announcements in relation to COVID-19 support come thick and fast. This article has been hastily rewritten in the light of the Chancellor's announcements on 22 October. We would encourage you to monitor GOV.UK, and the CIOT, ATT and LITRG websites, for up to date information.

On 24 September, as part of his Winter Economy Plan, the Chancellor announced the creation of the Job Support Scheme (JSS), due to take effect from 1 November (the day after the cessation of the Coronavirus Job Retention Scheme (CJRS)), and run until 30 April 2021. The JSS is a separate scheme to the Job Retention Bonus.

As originally announced, the JSS was intended to support jobs which will be 'viable' in the long term but where demand is currently reduced such that the employee is not currently able to work their normal hours. On 9 October, the Chancellor subsequently announced that the JSS would also be available to businesses whose premises have been legally required to close as a direct result of Coronavirus restrictions set by one or more of the four governments of the UK.

On 22 October, the Chancellor announced further changes to the JSS; principally an increased level of government support, and a much-reduced minimum level of employer contribution. As a result of these announcements, we now have two versions of the JSS; the JSS 'Open', and the JSS 'Closed'. A detailed policy paper on both versions of the JSS has also been published (see tinyurl.com/y596a5fm).

JSS 'Open'
The key elements of the JSS 'Open' are set out in a factsheet published on 22 October (see tinyurl.com/y3pdzgvu).

The minimum hours required for employees to work has dropped from 33% in the original proposals to 20%, and the employer contribution for non-worked hours has dropped from a third to just 5%. The scheme will run for six months from 1 November 2020, although the level of government support is likely to be reviewed in the new year.

Under the scheme, the government will pay 61.67% of hours not worked up to a cap of £1,541.75 per month, with the employer contributing 5% of non-worked hours up to a cap of £125 per month plus NICs and pension contributions. These caps are based on a monthly reference salary of £3,125. This will ensure that employees earn a minimum of at least 73% of their normal wages, where their usual wages do not exceed the reference salary.

Like the original JSS proposal, all employers with a UK bank account and UK PAYE schemes can claim under the scheme. Neither the employer nor the employee needs to have previously used the CJRS. The employer must agree the changes with the employee and confirm them in writing. Larger businesses will only qualify if their turnover has fallen due to COVID-19.

JSS 'Closed'
The Chancellor's announcement on 22 October confirmed that the JSS 'Closed' remains unchanged, the key elements of which were set out in a factsheet published on 9 October (see tinyurl.com/y45ch3xv).

This scheme will cover businesses that, as a result of restrictions set by one or more of the four governments in the UK, are legally required to close their premises. This includes premises restricted to delivery or collection only services from their premises. However, businesses closed by local public health authorities, as a result of specific workplace outbreaks, are not eligible for the scheme.

The scheme will pay a grant to the employer calculated on the number of eligible employees who have been instructed to and cease work at the relevant premises. Employers will only be able to use the scheme for employees who cannot work (paid or unpaid) for that employer. Employers must be instructed to and cease work for a minimum of seven consecutive (or calendar) days, although an employee can return to work at a later date.

The grant per eligible employee is two-thirds of their normal pay up to a limit of £2,100 per month. This scheme is also available to employers for six months, from 1 November 2020, and the level of support will similarly be reviewed in the new year. Other criteria for the scheme are broadly comparable to those for the JSS 'Open', but readers should check the factsheets and supporting guidance carefully.

For both schemes, HMRC intend to publish the names of employers who have used the scheme(s), and employees will be able to check if a claim has been made in relation to them.

As outlined above, precise details of both versions of the JSS are still emerging, and you should monitor GOV.UK, and the CIOT, ATT and LITRG websites for developments. We would also be pleased to hear any feedback on the schemes to atttechnical@att.org.uk or technical@ciot.org.uk.

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COVID-19: update on the Self-Employment Income Support

GENERAL FEATURE

An extension to the Self-Employment Income Support Scheme was announced by the Chancellor on 24 September 2020 and a further announcement made on 22 October 2020. Those eligible will be able to claim two additional payments between 1 November 2020 and the end of April 2021.

A factsheet has been published by HMRC (see tinyurl.com/y49wq8wp) and at the time of writing we are waiting for further HMRC guidance on how the extension will operate and when the claims process will open. It is expected that the claims process for the third and fourth payments will be similar to the process for the first two Self-Employment Income Support Scheme (SEISS) payments.

A person can claim the third and fourth payments even if they did not claim either of the two previous payments. The third payment will be worth 40% of average monthly trading profits, paid out in a single instalment covering three months' worth of profits and capped at £3,750. The amount of the fourth payment will be set in due course. The method for calculating the third and fourth payments will be the same as for the first two payments.

The government has stated that the extension to the scheme is designed to provide broadly the same support to the self-employed as is being provided to employees through the new Job Support Scheme.

The level of the third payment is lower than the previous two payments, which were based on 80% and 70% of average monthly trading profits respectively. According to HMRC's published figures, the average amount paid out to those who claimed the first payment was approximately £2,900, and for the second £2,500, so it is likely that the average award for the third payment will be between £1,000 and £1,500.

It is expected that the starting point for assessing if a person qualifies for the third and fourth payments will be that they were eligible for the first two payments. This means that in order to qualify, a person must:

- be either a self-employed individual or a partner in a partnership;
- have submitted a tax return for 2018/ 19 on or before 23 April 2020;
- have traded in the tax years 2018/ 19 and 2019/ 20, and intend to continue to carry on a trade in the tax year 2020/ 21; and
- meet the 'profits condition'.

A person who started self-employment during 2019/20 will therefore not qualify for the third and fourth payments despite the fact that they may have already submitted their 2019/20 tax return to HMRC.

A person will need to declare when they make their claims for the third and fourth payments that they intend to carry on trading, and either that they are currently actively trading but the business is impacted by reduced demand due to coronavirus or that they were previously trading but are temporarily unable to do so due to coronavirus. HMRC will be publishing guidance to explain what these conditions mean.

Ongoing work

The CIOT and ATT are continuing to work with members and HMRC to address queries on the scheme and provide support. The CIOT and ATT held a webinar which provided an update on the SEISS and other recent COVID-19 tax announcements on 8 October 2020.

A recording and the slides are on the CIOT website (see www.tax.org.uk/SEISSwebinarOct) and the ATT website (see www.att.org.uk/SEISSwebinarOct).

All the latest information about the SEISS can be found on the ATT and CIOT websites. The CIOT pages (see tinyurl.com/tg2qpo4) are frequently updated as we receive more information, as are the ATT detailed guidance notes (see tinyurl.com/y83kycjy) and accompanying FAQs (see tinyurl.com/yaufvsnn).

Please continue to send your queries and feedback on the scheme to either: technical@ciot.org.uk or atttechncial@att.org.uk, and do keep an eye on our websites for all the latest information

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Treasury Committee inquiry 'Tax after coronavirus': CIOT and ATT evidence

GENERAL FEATURE

On 17 July, the House of Commons Treasury Committee (ably assisted by the CIOT) launched its inquiry 'Tax after coronavirus'. The CIOT has provided written and oral evidence to this wide-ranging inquiry. The ATT has provided written evidence.

The CIOT's evidence to the inquiry has, so far, involved two written responses (a general response and one focusing on devolution) and participation in two oral evidence sessions (a general session and a VAT-focused one).

The inquiry is wide ranging and therefore our evidence was comprehensive. In very brief terms, the key themes of our evidence are set out below:

- We addressed the need to deal with some structural problems with the tax system, such as the 'three person problem' (that is the difference in taxation between a person working as an employee, being self-employed or working through their own company, each essentially doing the same work).
- We addressed the need to tackle complexity in the system, both around the technicalities of tax (such as the often seemingly illogical borderlines and differences in VAT treatments), as well as the requirements of compliance.
- These issues should be confronted 'head on', through open and widespread consultation. Too often, surprise Budget Day announcements tinker around the edges, and are presented in the best possible light, without getting to the nub of the problem. We believe that a greater awareness of the issues, and the need to make changes, will better enable the government to make difficult decisions – not necessarily in confidence that they will be welcomed, but in confidence that they will be understood.
- Not only is tax law complex, but in recent years there have been problems with the obvious things that might mitigate this problem and therefore need addressing. Official guidance has deteriorated (in part because it has not kept pace with the rate of new legislation, and in part because of the house style of GOV.UK). Telephoning HMRC for help can be difficult and time-consuming and online systems are not

always easy to use. In addition, the functionality provided to agents has not kept pace with much of this.

- A more systematic post-implementation review of tax reliefs should be undertaken. There is a lack of reliable, accurate evidence surrounding the take up and cost of reliefs. Tinkering constantly with rates and allowances undermines the principles of stability and certainty that taxpayers need. We were subsequently pleased to see the government has accepted many of the recommendations from the Public Accounts Committee's inquiry into the management of tax reliefs.

The CIOT said much more than what is summarised above, and our written evidence, along with transcripts of the oral evidence given in the sessions of 15 September and 7 October, can be found on the Committee's website at: tinyurl.com/y3fqdm6r.

ATT's written evidence highlighted issues in three main areas.

Employment status

ATT noted the importance of establishing clarity on employment status and the need for wide public debate on how employment and self-employment should be treated for both tax and employment law purposes. The absence of any government response to the joint HMT/HMRC/BEIS consultation of 2018 on employment status was disappointing in that context.

Referring to employer's NIC as the elephant in the room and noting the distortion in the labour market which resulted from differences in NIC rates, ATT called for a broader debate on whether the significant differences between employees and self-employed individuals remain appropriate.

Digital services

ATT noted two main obstacles to the effective administration and operation of the tax system: a patchwork quilt of a 50 year old legislative framework; and a patchwork of legacy computer systems and newer services.

The legislation needed a complete overhaul to make it fit for a modern digital system and there needed to be a roadmap towards creating a unified digital system. Both were necessarily long-term projects.

ATT drew attention to the stalling of further development of the Personal Tax Account (PTA) and Business Tax Account (BTA); the subsequent development of new services (such as the UK Property Reporting Service) which did not link to either; and the failure to build agent access into new systems.

ATT commented that the PTA's potential to simplify interaction with the tax system was nowhere near to being fully exploited and that there was a risk that its reputation could be significantly damaged.

On a brighter note, ATT welcomed the commitment in the HMRC/HMT Report of 21 July, 'Building a trusted, modern tax administration system', to the provision of a more personalised service for taxpayers through their PTA, and an improvement in parallel services to enable agents to see and do what their clients can by designing in agent access from the outset.

Compliance

ATT's evidence reflected generally on attitudes to compliance. Noting the relationship with adequate resourcing of HMRC, ATT concluded that HMRC 'need to wear a virtual hi-vis jacket'.

ATT's written evidence can be found as item TAC0047 on the Committee website and also at: tinyurl.com/y6rhj7yr.

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Notification of uncertain tax treatment by large businesses

LARGE CORPORATE

The CIOT expressed strong opposition to the proposal to require large businesses to notify HMRC if they adopt an uncertain tax treatment on the basis that the proposal is unclear, unfair and will lead to onerous demands on affected businesses.

At the Spring Budget 2020, with details in a subsequently published consultation document, the government announced proposals for large businesses to notify HMRC where they have adopted an uncertain tax treatment. (It is suggested that this is where the business believes that HMRC may not agree with its interpretation of the legislation, case law or guidance.) HMRC claim this requirement will help to reduce the legal interpretation tax gap (broadly, this is the tax not collected as a result of businesses adopting tax treatments that HMRC does not agree with).

The CIOT had a discussion with HMRC about this proposal during the summer and submitted a written response to the consultation. We said that we are strongly opposed to the introduction of this compliance obligation and we encouraged the government to rethink. Our response explained why this proposed compliance obligation is inherently unclear and unfair. In our view, businesses would not be able to comply with it with any confidence or certainty that they have got it right. We said that it is unreasonable to expect taxpayers to form a judgement on what HMRC may or may not do.

We noted that, given the many challenges businesses are facing because of COVID-19, now is not the time to add to compliance burdens unless the measure is better justified. Also, we noted that it is not encouraging for the cooperative relationships that HMRC is keen to foster with businesses if, even when a business embraces collaborative and cooperative compliance, the government still imposes new rules which significantly increase the compliance burden upon that business.

Our response said that it is not clear how a requirement to notify will assist HMRC in achieving the stated policy aim of closing the legal interpretation tax gap, even if a satisfactory objective definition of uncertain tax treatment (and therefore what must be notified) is found. We said that time should be taken to evaluate which issues contribute to the legal interpretation tax gap that are not already disclosed to HMRC through the existing compliance systems.

We said that the fundamental building block of the proposal – that is, what constitutes an 'uncertain tax treatment' that must be notified – is inherently uncertain and unclear. This is with regard to both the wholly subjective test devised around the likelihood of an HMRC challenge; and the principal exclusion proposed, which is intended to ensure that HMRC are not told about 'what they already know'. Our response also explained how the lack of coherency around how this proposal interacts with the existing tax system amplifies the flaws in the proposal.

As it is currently framed, the requirement to notify uncertain tax treatments would place large businesses under an obligation with which they would be unable to comply with any confidence or certainty, resulting in an unreasonable, increased compliance burden on compliant taxpayers and a greatly increased administrative burden for HMRC for little benefit to the Exchequer.

It is our view that the proposal is not a fair balance between the powers of tax collectors and the rights of taxpayers. It is unfair to have a compliance obligation based on a test which is as subjective and uncertain as that currently proposed linked to penalties. Penalties should be reserved for deliberate or careless behaviour and not applied where a compliance failure arises as a result of uncertainty or a judgement call around reporting obligations. In particular, we noted the risk of an inequitable penalty in circumstances where courts ultimately determine that there is no additional tax due. As a result of the way the proposal was presented in the consultation document, even if a business has a reasonable tax position, and has taken care to consider whether or not the tax position is correct and certain, HMRC can disagree, open an enquiry and levy a penalty for not notifying the tax treatment. Even if the taxpayer goes to court and eventually wins, such that the tax position is ultimately held as correct, there is the jeopardy of a penalty. During CIOT's discussions with HMRC, HMRC indicated that they would consider amending the proposal so that a penalty would not be due if the outcome of the enquiry/dispute was that there was no further tax due and we encourage them to do so.

The consultation document also said that the requirement should cover notifications in respect of corporation tax, income tax (including PAYE), VAT, excise and customs duties, insurance premium tax, stamp duty land tax, stamp duty reserve tax, bank levy and petroleum revenue tax. We suggested limiting the proposal to corporation tax, at least initially. We understand that HMRC are sympathetic to the idea of reducing the taxes to which the obligation would apply but may wish to also include VAT and PAYE. There also need to be additional exemptions to the requirement to notify in order to better focus the compliance obligation and a strong reasonable excuse defence.

Our full response can be read at: www.tax.org.uk/ref663.

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Hybrids and other mismatch rules

INTERNATIONAL TAXES | LARGE CORPORATE

At Spring Budget 2020, the government published a consultation document which examined the impact of the double deduction rules and the acting together rules within the hybrid and other mismatches regime. The CIOT submitted comments on the various aspects of the rules considered in the consultation document.

The hybrid and other mismatches legislation, found in Taxation (International and Other Provisions) Act 2010 (TIOPA 2010) Part 6A, came into effect on 1 January 2017, giving effect to the recommendations of Action 2 of the G20/OECD Base Erosion and Profit Shifting project on neutralising hybrid and branch mismatches. The rules are intended to discourage taxpayers from using hybrid structures to generate mismatch outcomes, which mean that either income escapes tax altogether or an expense can be deducted more than once in different tax jurisdictions. The consultation addressed a number of technical issues which resulted in disproportionate or unintended outcomes from the application of the rules.

With regard to first point considered – the double deduction rules in TIOPA 2010 Part 6A Chapters 9 and 10 – we said that the CIOT would support the broader change proposed in the consultation document, enabling inclusion/no deduction income to be treated in the same way as dual inclusion income for the purposes of the double deduction mismatch rules. On balance, we thought that this would be the simplest and best approach to address the concerns and would be consistent with the policy objectives of both the UK anti-hybrid rules and the OECD principles (that is, to ensure that deductions do not exceed corresponding income subject to tax). This approach would also avoid the artificiality of requiring groups to change commercial arrangements in order to meet the requirements of the anti-hybrid rules.

The second issue addressed was in relation to the 'acting together' test in TIOPA 2010 s 259ND(7). Our response said that we would support an amendment to the rules which addresses the main concern that this test generates difficulty for third party lenders, such as funds investing in debt instruments in private equity and venture capital backed companies. Our response also gave some detail of a suggested change to the rules that would provide clarity to borrowers (and lenders) when analysing these rules.

Finally, the consultation document considered the application of the hybrid rules to non-profit organisations. We agreed that a broader exclusion for counteractions applying to such organisations would be beneficial and suggested that all non-profit organisations are included within the exemption.

Our full response can be read at: www.tax.org.uk/ref660.

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Plastic packaging tax

INDIRECT TAX

From 1 April 2022, the plastic packaging tax will apply to plastic packaging manufactured in or imported into the UK containing less than 30% recycled plastic. The CIOT has responded to HMRC's latest consultation questionnaire (tinyurl.com/r6uc4tz) as it had made further refinements to the scheme.

The CIOT welcomed the following proposed changes:

- A clear de minimis threshold (ten tonnes in a rolling 12 month period) allows very small operators to remain free from the administrative and financial burden of the tax. (Some monitoring will be required for businesses close to the threshold.)
- Plastic packaging used in transporting imported goods will be initially excluded from a tax liability. (This will remain under HMRC review.)
- Joint and several liability will only apply in certain limited situations and businesses conducting sufficient due diligence will not be jointly liable for the tax. (However, we expressed some cautiousness about the introduction of the tax and would like legislation and guidance to provide clarity for taxpayers so that they can complete sufficient due diligence.)

We would like to see:

- the export evidence requirements and export time limits for the tax aligned as far as possible with the existing rules for VAT exports to reduce administration and opportunity for errors;
- clarification on the definition of an 'overseas customer', for example by stating that an overseas customer must not have any establishment in the UK;
- clarification for chain transactions where a UK supplier may directly export the product to an overseas business but its invoice is raised to a UK customer in a chain transaction scenario, as UK exporters with more complex supply chains could become less competitive where a tax credit cannot be achieved on an export;
- clarification on what happens where the business is subject to a transfer of a going concern; and
- a review of the proposal that businesses must remain registered for 12 months after the date that they fall under the de minimis threshold.

Our concerns included the following:

- It is possible that double taxation may apply for damaged and replacement packaging, particularly where the taxpayer is not at fault and not able to sell the damaged product. Taxpayers who can only access an imported product after it has entered into free circulation may be at a disadvantage.
- The grouping conditions only allow corporate bodies to group, although VAT grouping was changed by FA 2018 Sch 18 to extend grouping to qualifying individuals and partnerships.

Our full response can be found at www.tax.org.uk/ref657.

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Tackling promoters of tax avoidance

MANAGEMENT OF TAXES

The CIOT and ATT have both commented on draft legislation and HMRC's recent consultation on measures which seek to strengthen existing anti-avoidance regimes to tackle promoters and enablers who continue to market and enable tax avoidance schemes.

CIOT says that the government is right to be taking a robust approach to those who continue to promote or sell tax avoidance schemes and to try to address the challenges HMRC face in dealing with uncooperative and unscrupulous promoters. There should be no place for these people and their schemes in the tax services market.

The CIOT welcomes the fact that the consultation document highlights that the extensions being proposed to HMRC's powers are not aimed at advisers adhering to high professional standards, and is pleased to see it recognised that the promoters of tax avoidance schemes in the market now are rarely members of professional bodies. Indeed, many – perhaps a majority – are not tax advisers or tax agents at all. The possible interventions necessary to address this issue need to apply whether or not the promoters in question are giving, or purporting to give, tax advice.

Ideally, the CIOT favours HMRC targeting their resources on the activities of the small number of promoters still active in the market, rather than introducing new rules which might place additional compliance obligations on tax advisers and tax agents. Where, as in this instance, changes are being proposed to existing anti-avoidance regimes, the focus of the CIOT response has been on identifying whether the new measures might inadvertently impact upon tax advisers who do adhere to high professional standards and who are explicitly not the intended target of these proposals.

The CIOT suggests:

- that the angles that should also be explored in tackling the problem include dealing with the issue of generic tax counsels' opinions supporting packaged tax avoidance schemes;
- ensuring that regulatory or similar interventions bite on the provision into the UK of services from abroad;
- ensuring that the professional bodies enforce the provisions of Professional Conduct in Relation to Taxation (PCRT);
- effectively extending the requirements of PCRT to those parts of the market not subject to it; and
- focusing further on misleading advertising by promoters.

The CIOT also makes some specific comments about the details of some of the proposed changes to the Disclosure of Tax Avoidance Schemes, Promoters of Tax Avoidance Schemes and Penalties for Enablers of Defeated Tax Avoidance rules.

The ATT response observes that ensuring solutions to the issues raised in the consultation might require consideration of the introduction of some form of mandatory oversight of all who are involved in any way in any aspect of the tax advice market. It also observes that a public register of 'good' advisers might be more effective than the consultation's proposals for increased naming of the 'bad'. The response questions the proposal to introduce a provision which depends solely upon HMRC suspecting something; and asks whether there might be a role for an independent body, such as the GAAR panel.

The ATT response opposes on principle the suggestion that one section of the amending legislation might be introduced with retrospective effect from November 2017.

CIOT's full submission is here: www.tax.org.uk/ref697.

ATT's full response is here: www.att.org.uk/ref364.

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The non-resident stamp duty land tax surcharge

GENERAL FEATURE

The CIOT has raised concerns about how the draft legislation for the non-resident stamp duty land tax surcharge of 2% will be applied by non-tax specialists.

Draft legislation for the introduction of a 2% stamp duty land tax surcharge for non-UK resident purchasers of residential property in England and Northern Ireland was published on 21 July 2020. The measure will be included in Finance Bill 2020-21.

The non-resident surcharge also applies to a *UK resident* close company purchasing residential property that meets the non-UK control test.

We have raised strong concerns that the non-UK control test (based on the close company legislation in Corporation Tax Act 2010 Part 10 Chapter 2) is disproportionately complex. Given that it is conveyancers, most of whom are not tax specialists, who will need to apply the tests, there is a significant risk that the rules will not be understood or followed. For this reason, we recommend a simplified test based on the ultimate beneficial ownership.

The full submission is at www.tax.org.uk/ref711.

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Amendments to HMRC's civil information powers

MANAGEMENT OF TAXES

The CIOT has commented on draft legislation amending HMRC's civil information powers.

The draft legislation introduces a new Financial Institution Notice (FIN) that will be used to require financial institutions to provide information to HMRC about a specific taxpayer without the need for approval from the First-tier Tribunal. It also gives HMRC a new power to issue an information notice to collect a tax debt.

The driver for change is requests for financial information from overseas tax authorities, but UK law and some international treaties require HMRC to obtain information in the same way for both domestic and international requests. Therefore, the FIN will be available for both overseas and domestic requests for information. There is to be no right of appeal by the financial institution against the issue of a FIN. This raises questions about how the new power will operate in practice, particularly for domestic cases, as under existing FA 2008 Sch 36 powers, HMRC must now obtain tribunal approval before requesting the information unless the taxpayer has agreed to HMRC contacting the third party, and there is a right of appeal if it would be unduly onerous to comply with the notice. We ask that HMRC's intended approach to these questions is covered in guidance. Our submission is here: www.tax.org.uk/ref706.

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New tax checks on licence renewal applications

MANAGEMENT OF TAXES

The CIOT has commented on draft legislation introducing tax checks on licence renewal applications.

The draft legislation introduces measures to help tackle the hidden economy by bringing in a check on tax registration for applications for licences to drive taxis and private hire vehicles, operate a private hire vehicle business or deal in scrap metal from 4 April 2022. This includes the following new measures:

- Licensing bodies will have to signpost first-time applicants to HMRC guidance about their potential tax obligations. We ask how this will be done to ensure that it reaches the applicant and that the licensing authority can obtain confirmation from the applicant that they are aware of and understand the contents of that guidance. We also ask what provision will be made for an applicant who may be digitally excluded, and how HMRC will accommodate digitally excluded people in the tax check process for licence renewals.
- An applicant who is not a first-time applicant will have to carry out a tax check within 120 days of a licence renewal. We point out that it will be essential that applicants are aware in plenty of time of the requirement to complete a tax check to ensure that their financial livelihoods are not put at risk. We ask that guidance contains examples showing how this will work in practice along with how the 120 day period operates.
- A new digital service is proposed, which businesses will need to use to apply to renew their licences. This will need to be adequately tested before it goes live on 4 April 2022 and, if there is a risk of it not working properly, its implementation should be deferred.
- The licensing body will have to obtain information from HMRC that the applicant has completed the check before being able to consider their application. This may not be possible if someone is in the process of bringing their affairs up to date. We also note that it will be crucial that people can rely on the information HMRC holds on its systems, and that there are adequate safeguards in place in the event that HMRC's records are not accurate or up to date, leading to the refusal of a licence.

Our submission is here: www.tax.org.uk/ref715.

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HMRC's new guidance strategy forum

GENERAL FEATURE

CIOT, LITRG and ATT joined the first meeting of HMRC's Guidance Strategy Forum in September.

CIOT, LITRG and ATT attended the first meeting of HMRC's newly established Strategic Guidance Forum, aimed at bringing together representative bodies and other stakeholders to: inform and influence the direction of HMRC's guidance strategy; test thinking on guidance direction and plans; increase understanding of different users' needs; and help gauge the effectiveness of solutions put in place. The forum will convene every six months and concentrate on HMRC's high-level guidance strategy, with existing HMRC forums continuing to focus on guidance in particular areas of tax.

The forum supports one of the Office of Tax Simplification's (OTS) recommendations in the 2018 guidance report – to establish an advisory panel on guidance. CIOT and LITRG have met regularly with HMRC's central guidance team, following the publication of the OTS report to discuss issues with guidance and the OTS recommendations. One of the areas for discussion has been how best to provide feedback on HMRC's manuals as there are a few different routes. HMRC's article explaining how to do that, depending on what you want to say and whether you need a reply, is on the CIOT website (www.tax.org.uk/HMRCmanuals) and ATT website (www.att.org.uk/HMRCmanuals).

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CIOT and ATT seeking volunteers to join Digitalisation and Agent Services Committee

GENERAL FEATURE

Do you work in practice? Do you have experience of income tax self-assessment? Will you be advising your clients on implementing Making Tax Digital for income tax self-assessment? Would you like to get involved in contributing to the CIOT and ATT's technical work? If you can answer 'yes' to these questions, then you might be just the person we need to help us as we continue our engagement with HMRC on the roll-out of Making Tax Digital to income tax self-assessment.

We are looking for more volunteers to join our Digitalisation and Agent Services Committee and are particularly interested in hearing from members who will be involved in implementing Making Tax Digital for income tax self-assessment. The government announced over the summer that Making Tax Digital for income tax self-assessment will be made mandatory from April 2023, and the CIOT and ATT are expecting to have increased engagement with HMRC over the coming months as the design of the new system takes shape. The insight and experiences of members working in practice will be invaluable in helping us with this work.

The remit of the Digitalisation and Agent Services Committee and an online application form can be found at www.tax.org.uk/join DASC. The Committee is open to both ATT and CIOT members. Once accepted onto the Committee, you will be added to its email circulation list and be invited to its regular meetings (which are currently taking place virtually).

More information about our technical work, what our technical committees do and the benefits of volunteering can be found on the CIOT website (see www.tax.org.uk/join-technical) and the ATT website (see www.att.org.uk/volunteering). The Committee is open to both ATT and CIOT members. Once accepted onto the Committee, you will be added to its email circulation list and be invited to its regular meetings (which are currently taking place virtually). More information about our technical work, what our technical committees do and the benefits of volunteering can be found on the CIOT website (see www.tax.org.uk/join-technical) and the ATT website (see www.att.org.uk/volunteering). If you would like more information about volunteering for us before making up your mind, please contact us directly using the details below.

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Disguised remuneration: call for evidence

EMPLOYMENT TAXES

Despite the persistent efforts of successive governments to stamp them out, disguised remuneration schemes continue to operate. LITRG's response focuses on the problem of agency workers that work via umbrella companies getting caught up in disguised remuneration schemes.

In our response, we state LITRG's view that the disguised remuneration problem is driven by PAYE avoidance behaviour on the part of the umbrella companies, rather than the workers themselves having any kind of avoidance motive. This view is based on our understanding of the temporary labour market and emails we have received from workers, some of which we have shared with HMRC.

Based on our research into the types of schemes currently in circulation, we also query whether the arrangements are more akin to fraud than technical tax avoidance. Our submission states that it is vital that HMRC are clear on exactly what problem(s) they are trying to tackle; otherwise, their actions will fail to be effective.

We point out that the language used in the call for evidence demonstrates how the disguised remuneration problem is often misunderstood. It talks about taxpayers who should be *deterred* from entering schemes. The reality, as far as those LITRG represent are concerned, is that this is about workers who simply want a job – with no or little understanding that they are entering a tax scheme. This possibility is not addressed in the consultation document.

Our response suggests that HMRC need to focus resources on tackling the schemes at umbrella company level; for example, by working with the Advertising Standards Authority to intervene early when they see false advertising or marketing, or by demanding PAYE security deposits, which could help to stop potentially problematic providers entering the industry. On the basis that the way the insolvency regime works seems to allow the somewhat cavalier behaviour we have seen from certain umbrellas with regard to their PAYE obligations, we also urge HMRC to make use of their new 'joint and several liability' powers.

We highlight that once HMRC are clear on exactly what it is they need to tackle, it may be that there are other existing tools available to use. Or it may be that they need new powers. Ultimately, however, HMRC's ability to successfully tackle non-compliant umbrellas requires adequate resources, as well as a clear plan for action.

Overall, we think it would be hugely helpful if there was someone senior in HMRC with an overall responsibility for umbrella companies in general, under whom developing an action plan could sit. This could include the formation of some kind of trusted, expert stakeholder group to help challenge and guide HMRC in this area.

In our submission, we say that this expert group should include compliant umbrellas as many are potentially harmed by poor practices that undercut them. There is also a clear and unequivocal need for information sharing and working together between the employment law enforcement bodies and HMRC. Those umbrellas intent on escaping their PAYE obligations via the use of disguised remuneration schemes for some workers are also likely to be subjecting different workers to other violations.

Our full response can be found at: www.litrg.org.uk/ref394a.

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Cabinet Office review of government debt management

PERSONAL TAX GENERAL FEATURE

LITRG outlines its response to a recent call for evidence on government debt management.

The Cabinet Office recently published a call for evidence entitled 'Fairness in government debt management' (tinyurl.com/yxthzvvz). This was issued against the backdrop of the pandemic and represents the first step in the government considering how best to support people who have debts to government but who are vulnerable or facing financial hardship. The intention is to work together with interested parties to 'build a fair, ethical and compassionate approach to debt management that focuses on getting people out of debt, not on getting debt out of people'.

LITRG's response (www.litrg.org.uk/ref390) highlights practical issues regarding HMRC's approach to debt collection and offers case study evidence of the effect on taxpayers.

One of the biggest criticisms of HMRC's debt collection processes is its failure to check that the debt is correctly due before commencing collection action. Often when dealing with vulnerable taxpayers where apparent debts have been outstanding for some time, there are grounds to reduce or extinguish the debt which have not been explored. We give examples of this in our response, kindly provided by TaxAid.

One of the main reasons for this is the historic separation of duties between the tax side of HMRC (who calculate the amount of tax bills, issue penalty notices, etc) and the collection side (who receive information as to the amount outstanding and do not automatically receive details of how it has been calculated). We highlight this in our response and urge the Debt Management teams within HMRC to take greater responsibility for the accuracy of the debt, including making sure any possible claims for mitigation have been considered (for example, reasonable excuse claims in respect of penalties, or claims for special relief).

As the financial effect of the coronavirus pandemic becomes evident, it is clear that meeting the self-assessment tax payments due in January 2021 is going to be very hard for many individuals and small businesses. We therefore called for HMRC to be flexible around both recovery of tax and tax credit debt and around payment options to continue. As such, the Chancellor's announcement on 24 September to allow online applications for 12 month time to pay arrangements in respect of the January 2021 payments was very welcome.

Other points discussed in our response include:

- a call to publish a formal code of practice to ensure consistency across government departments;
- the use of a standard affordability calculator when considering repayments for all government debts;
- easy access to information about debts for voluntary sector advisers, such as tax charities, welfare rights advisers and money advisers, so they can advocate effectively on behalf of debtors; and
- making better use of a self-serve option to arrange 'time to pay' agreements, such as an online tool.

We understand that the responses to the call for evidence will be published towards the end of this year with legislation possibly being introduced in Spring 2021.

Sharron West
swest@litrg.org.uk

Child Trust Funds begin to mature from September 2020

GENERAL FEATURE PERSONAL TAX

Since 1 September 2020, individuals turning 18 have been able to access the first of 6.3 million Child Trust Fund accounts. HMRC estimate that 55,000 accounts will mature each month until January 2029.

Child Trust Funds (CTFs) are long-term tax-free savings accounts in which the funds – either cash or shares – are held in trust until the child turns 18. They were available for all children born between 1 September 2002 and 2 January 2011 for whom child benefit was claimed, funded by an initial £250 government voucher. In certain situations, a 'top-up' contribution to the accounts was provided.

Funds held in a CTF are exempt from income tax and capital gains tax and do not affect any claim to benefits or tax credits by the account-holder's parent or guardian. Upon the child turning 18, the funds are transferred into a 'protected account', which continues to benefit from the same tax-exempt status, until instruction is given by the fund's legal owner (that is, the 18 year old) to withdraw the amounts as cash or otherwise transfer them into an 'adult' ISA. Funds transferred directly into an ISA do not count towards the individual's annual ISA subscription limit (£20,000 for 2020/21).

If details of a CTF have been lost, they can be found via a form on GOV.UK or a postal application (see tinyurl.com/y3eqrb2t) to be be completed by either the parent/guardian or the 18 year old.

Parents or guardians who wish to access funds on behalf of children who lack the capacity to make financial decisions for themselves may need to obtain the legal authority to act on their child's behalf before they can access the CTF. If the child, on reaching the age of majority, does not have capacity, they will not be able to grant a power of attorney. LITRG understands that an order from the Court of Protection (or in Scotland, an intervention order or guardianship via the sheriff courts) may be required. Legal advice should be sought in this situation. LITRG has published further guidance on maturing CTFs at: www.litrg.org.uk/child-trust-funds.

Tom Henderson
thenderson@litrg.org.uk

CIOT	Date sent
Tackling the tax gap www.tax.org.uk/ref719	02/09/2020
Inquiry into the implementation of the Wales Act 2014 and operation of the Fiscal Framework www.tax.org.uk/ref716	04/09/2020
New tax checks on licence renewal applications www.tax.org.uk/ref715	10/09/2020
Amendments to HMRC's civil information powers www.tax.org.uk/ref706	10/09/2020
Tackling promoters of tax avoidance www.tax.org.uk/ref697	10/09/2020
New rates of Stamp Duty Land Tax for non-UK residents from 1 April 2021 www.tax.org.uk/ref711	15/09/2020
HM Treasury fundamental review of business rates: call for evidence www.tax.org.uk/ref698	17/09/2020
Budget 2021-22: Supporting the COVID-19 Recovery www.tax.org.uk/ref726	07/10/2020
LITRG	
Draft Finance Bill 2020-21: increasing HMRC's civil information powers www.litrg.org.uk/ref395	08/09/2020
Call for evidence: tackling the tax gap www.litrg.org.uk/ref385	11/09/2020
Call for evidence: tackling disguised remuneration tax avoidance www.litrg.org.uk/ref394a	23/09/2020
Protecting pension savers – five years on from the pension freedoms: pension scams www.litrg.org.uk/ref389	29/09/2020
Call for evidence: fairness in government debt management www.litrg.org.uk/ref390	05/10/2020
ATT	
Tax after coronavirus www.att.org.uk/ref361	08/09/2020
Tackling promoters of tax avoidance www.att.org.uk/ref364	15/09/2020

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CIOT/ATT/ADIT

Current and future international tax leaders come together

EVENTS

An audience of 140 international tax professionals from around the world attended the 13th edition of our annual Young International Corporate Tax Practitioners Conference, which took place as a series of online sessions on Thursday 24 and Friday 25 September.

The event featured a diverse line-up of speakers from across the legal and accountancy sectors, industry, HMRC and academia, including several emerging international tax experts from the Young IFA Network and ADIT communities.

Subjects under discussion included the concept and practical application of substance in international operations; the implications of DAC6 for companies; the rapidly emerging tax consequences of Covid-19; beneficial ownership in international operations; and insights from HMRC and leading professional service firms on approaches to taxing financial transactions and raising standards in international tax practice.

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

YIN YOUNGIFANETWORK

- This annual event is held in partnership with the Young IFA Network, which as part of the International Fiscal Association (IFA) serves to support and cultivate international tax professionals during the early stages of their careers.

CIOT & IFS

The 2020 CIOT/IFS conference debates

EVENTS

Politicians urged to focus on tax reform as they remain silent on future tax rises

With the cost of the government's pandemic support measures in the hundreds of billions of pounds and rising, attention is turning towards how these will be paid for. Will this mean that tax rises are on the horizon? If so, will policymakers just raise rates or will they look at this as an opportunity to reform the tax system?

Financial Secretary to the Treasury Jesse Norman and Shadow Chancellor Anneliese Dodds joined the CIOT and Institute for Fiscal Studies to consider these issues at our annual Conservative and Labour Party conference events, which were held online this year as the parties adjust to the realities of the pandemic.

Both refused to be drawn on the prospect of future tax rises. Norman told the Conservative event that the cancellation of the Autumn Budget 'does not mean that the Treasury's policy about not commenting on fiscal measures between fiscal measures is going to be relaxed'.

But he did draw attention to the continuing evolution of government tax policy, including the introduction of the digital services tax. 'Even at this time, we've been extremely active as a Treasury in thinking about tax policy, irrespective of Covid-19,' he said.

On the subject of the digital services tax, CIOT President Glyn Fullelove said at the Labour event that online businesses had been perceived to have done well financially during the pandemic and that many people therefore believed they should bear a greater tax burden in the future.

At the same event, Dodds cautioned against immediate tax rises, warning that the prospect of tax rises in the near term had generated concerns about the future health of the economy.

As the party refreshes its policy offering under new leadership, Dodds, who described herself as an advocate for greater progressivity in the tax system, said Labour would be reaching out to stakeholders across the country as they develop their plans. Expect to see consideration of issues relating to greater security for the self-employed and a review of tax reliefs, both highlighted by Dodds during the debate.

Helen Miller of the IFS reminded both events that there is scope to look beyond rate rises and towards a more fundamental review of the tax system. 'Let's try to reform taxes as we go,' she told the Conservative event. 'Whichever tax you pick, we could do ourselves some favours by reforming it as well as increasing it.'

Beyond the 'quick and easy workhorses' of income tax and National Insurance, aligning tax rates on different forms of income, reforms to the tax base for capital gains, a review of zero and reduced rates of VAT and reform of local taxation are all fertile grounds for review, said Miller.

Whatever approach is taken, the CIOT Deputy President Peter Rayney urged government to protect small businesses and focus on economic growth. He told the Conservative event that as the economy recovers, 'it is very important that we do maintain our international tax competitiveness'.

The future of tax policy beyond 2024 will be influenced in large part by the 'Red Wall' voters in the North who delivered the Conservatives an 80 seat majority last year.

'They see they have political power,' the pollster Deborah Mattinson said, 'and they want to exercise it.'

Mattinson, who spoke at both events, said that, for the time being, these voters trust the Conservatives more than Labour to manage their money. But she noted that the perception that Labour will 'slosh your money around' is offset by concerns that 'the Conservatives will run the economy in a way that favours the rich and that they will starve public services, especially our beloved NHS, of funds'.

Do they support tax rises? 'They like it a lot more than they used to,' Mattinson said, 'a lot more than just after the financial crisis when there was a general consensus that cutting back, austerity as it became known, was the way forward.'

But do they understand what that means? Mattinson told the Conservatives: 'I've done focus groups where people have asserted how keen they would be to have an extra penny on their income tax ... to then discover when you dig a bit deeper that what they mean is a penny a year.'

More than 300 people watched each event live, with a further 800 to 900 watching each of the recordings in the days following. There were plenty of suggestions on the way forward for UK tax policy.

At the Labour event, there were questions on the future of self-employment, with Dodds arguing strongly in favour of a wider debate around workers' rights and entitlements.

At the Conservative event, there was a discussion on the future of council tax, with Jesse Norman stating that it was an 'astonishingly complex and difficult' area of tax reform.

A one-off 'solidarity' tax to cover the costs of the pandemic was also suggested. Mattinson said voters would want clarity and certainty over how it was spent. Both Miller and Norman, however, noted the challenges of hypothecation, Norman noting the Treasury's 'general rule of thumb' against the principle.

Both events looked closely at the future of income tax. Proposals for the equalisation of tax rates on income and dividends may help to provide 'greater simplicity', suggested Dodds. But Fullelove asked whether it was desirable, noting that dividends are intended to be a return on investment, not a payment for work done. The problem is not the rate of dividend tax but that it is used for the wrong purpose, he said.

And what of the Conservatives' manifesto pledge not to raise rates of income tax, NICs and VAT during the term of this parliament? Responding to suggestions from Helen Miller that the pandemic might provide the party with scope to revisit this commitment, the Financial Secretary didn't hold back. 'It's a bit difficult to say how important it is to have trust and consent in politics and then say that the recently elected government's early decision should be to set aside one of its principal manifesto commitments.'

You can read our reports of both conferences at: www.ciot.org.uk/blog, as well as watch a video of both events at: www.presenta.co.uk/CIOT/IFS/220920/live-meeting.html (Labour conference) and www.presenta.co.uk/CIOT/IFS/051020/live-meeting.html (Conservative conference).

ATT

New member of ATT Council: Georgiana Head

COUNCIL

Georgiana was elected to Council at its meeting on Thursday 24 September 2020.

Georgiana Head is a tax and treasury recruitment specialist. She studied History of Art at the Courtauld Institute and whilst a student worked for the Capital Taxes Office, checking public access to the Tax Exempt Goods and Chattels List. After completing a master's degree, Georgiana joined Price Waterhouse in 1995 as a graduate trainee. She gained experience of personal, expatriate and employment taxes and qualified with the Association of Tax Technicians in 1997.

She subsequently worked in tax recruitment in London before moving back to Yorkshire in 2000 to found an office for a recruitment firm in Leeds. In 2007, she set up Georgiana Head Recruitment Ltd, which she has built to become one of the leading specialist tax recruitment firms in the north of England. She also runs a series of networking and technical support groups for tax specialists, including the In-house Tax Network and Private Client Ladies. She is a committee member of Women in Tax in Yorkshire and Manchester.

Georgiana is a member of ATT's Member Steering Group and Business Development Steering Group. She is also a frequent contributor to the tax press and has written for a variety of titles including Tax Adviser, Taxation Magazine, Tax Journal, Insider Careers, Independent Financial Accountant and International Tax Review.

Outside of work she is Chair of Governors of a secondary school, is writing a crime novel, and spends her free time walking her Newfoundland dog Hetty and acting as a taxi service for her teenage son.

CIOT & ATT

Thought leadership

TRAINING

Joanne Herman's blog series continues…

Welcome back to my improving your personal brand blog series. Since my last blog, I've been digging deeper into world of personal branding; particularly thought leadership. We are going to look at:

- What is a thought leader?
- Why is being a thought leader important?
- What types of thought leaders are there?
- Four core abilities that you'll need to establish for thought leadership.

So, let's make a start.

What is a thought leader?

Thought leadership has been defined by many but perhaps the best definition came from Elsie Bauer (of Apple fame and blogger of Symantec): 'Thought leadership is the recognition from the outside world that the company deeply understands its business, the needs of its customers, and the broader marketplace in which it operates' (see bit.ly/2SVeenE).

To be a thought leader means that you provide help and support, whilst offering the best and informed answers to your customers' biggest questions. It also means that you offer support in the formats your audience likes to consume.

Being a thought leader increases your own personal profile and, by default, your organisation. A win-win scenario!

Why is being a thought leader important?

It's especially important to be a thought leader in today's society because you effectively bridge the gap between the consumer and the digital world. Before the internet, we bought everything from shops, markets, auctions and people. There was human interaction. We relied on our senses before we made a purchase. Now we rely on reviews, testimonials and thought leaders to guide us. At a time when we have fewer opportunities to interact face to face with prospects, it is even more critical to build trust in the digital environment. Thought leadership is the answer and can help to bridge this gap.

What types of thought leaders are there?

According to GTL (Grooming Thought Leadership), there are three types of thought leaders today. I've searched high and low for the best definitions, and think that you will find these practical and constructive when you think about your approach (see groomingthoughtleaders.com).

Before we come to those, however, it's also worth noting that thought leadership is also often subdivided into a three-layered system approach; each playing a role defined by business needs.

- **Industry thought leadership:** The aim here is to build and offer new ideas based around evolution within your market niche. A good example of an industry thought leader is our mystery tax expert. Don't miss my next blog where our mystery influencer will be interviewed!
- **Organisational thought leadership:** The aim is to reflect the company's vision, uniqueness and expertise through informed and insightful content.
- **Product thought leadership:** The aim is to promote and highlight the best product, solution or service. Editors or technical writers, as well as content marketers, may fall into this category. Working alongside the product team, they will work to plan, produce, publish and promote content.

What type of thought leader do you think you are?

With this in mind, we can start to think about which types of thought leader suit us best in terms of insight, tone of voice, experience and vision.

The Bootstrapper: They are usually new to the thought leadership lane. They are passionate, adventurous, rebellious, independent with their thoughts and opinion, and are not risk averse. They are usually students, career starters or entrepreneurs. Think of a young Alan Sugar during the Amstrad days.

The Maverick: They are typically more experienced, with a proven track record. They are good at their job but are independent, results driven and highly ambitious. They are usually creative people who tend to approach business in an unconventional way. They can be artists, young start up CEOs or corporate juggernauts like Richard Branson.

The Maven: They are true experts in their field with years of experience, insight and knowledge. As intuitive individuals, they can predict trends in the market. They are usually authoritative figures with a global reach, having published books and journals. They can be CEOs, researchers, scientists and industry professionals.

With this in mind, ask yourself: where are you on your career journey? Can you identify yourself and relate your business with one of the above? If you can focus your energies on the category that best fits you, you should be well on your way to becoming a thought leader with the help of four key tools.

Four core abilities

Regardless of the path you decide to take, you will need four abilities in your thought leader toolbox:

- Writing;
- Speaking;
- Leading; and
- Storytelling.

In my next blog, I will reveal our mystery taxation thought leader. An expert in their space, their experiences and journey will help you to see first-hand how they did it and the benefits personal branding has brought to their business.

If you enjoyed reading this article then please follow me: LinkedIn/com/in/joanneherman

KEY TAKEAWAY

- Think about which category you fall into based on: industry thought leadership, organisational thought leadership or product thought leadership.
- Think about which type of thought leader resonates with you: the Bootstrapper, the Maverick or the Maven.

WCOTA

WCOTA's charity work

CHARITY SUPPORT

The Worshipful Company of Tax Advisers is one of 110 Livery Companies in London with over 27,000 Liveryman. Each Livery Company has its own traditions of philanthropic fellowship. Ancient or modern, they are all dedicated to serving others. From the start, the companies cared for their members in sickness and old age. Today, they also have wider charitable aims and activities, including supporting education and training. Several schools in the UK are associated with the livery companies.

A survey of Livery Companies by the Mercers Company in 2011 showed that in 2010 Livery companies gave a total of £41.85 million to charitable causes. As a Company, we support:

- the Tax Advisers' Benevolent Fund (TABF), which supports members of the tax profession both personally in times of hardship and in the advancement of tax education; and
- the Tax Advisers' Charitable Trust (TACT), which supports charities connected to the City of London and surrounding boroughs, the tax economy and organisations to which the Company is affiliated.

Many Company members support both charities and TABF also receives funding each year from the CIOT and ATT. The original funds were raised by members of the Guild prior to becoming a company over 25 years ago.

Whilst we partly rely on the income from our investments to make our contributions, in late 2019 we agreed that we would make some larger contributions to support the work from the accumulated fund. As a result, in 2019/20 we made contributions of £23,467 – which exceeded our income of £18,861. Over 25 years, we have made donations to the two charities of over £500,000.

Across the two charities our support fits into five broad areas:

- benevolent support to tax professionals who fall on hard times and financial support to students during their professional studies;
- tax charities such as TaxAid, Tax Help for Older People and Bridge The Gap and supporting prizes in tax examinations;
- charities affiliated to the City of London, such as the Lord Mayor's Appeal, taxi drivers' annual Magical Taxi Tour, the Royal British Legion, ABF The Soldiers' Charity, Ironbridge Gorge, Treloars and the Clergy Support Trust;
- charities to which the Company is affiliated, such as the City of London and NE Sector Army Cadet Force and St John Ambulance; and
- charities which approach us.

The last category has resulted in some of our most rewarding donations. We have supported KEEN London, where we purchased some play equipment; Caritas Anchor House, where we supported some refurbishment; and Hackney Quest. Our original intention for Hackney Quest was to support a homework club but at the time of the Covid-19 the inequality due to the lack of IT in the community was identified. Our contribution was used to purchase reconditioned laptops which were loaned to young people to enable them to access online support sessions and access school homework sites.

To celebrate the 25th anniversary of the company, we have an appeal – '25 for 25' – to raise £25,000 to distribute amongst the charities that TACT typically supports. However, in April 2020 during Covid-19 we agreed to make a substantial contribution to St John Ambulance to support their work in support of the NHS.

You can support our '25 for 25 appeal' by joining our '25,000 for 25' walk – a sponsored event that will run throughout our 2020/21 Company year. Details are at https://zentoevent.com/walk-25000-for-25. Participants will walk (at least) 250 miles over the course of the year (0.6 miles a day) and obtain sponsorship for the distance walked. The walk was launched at our History of Tax Lecture in October and will run until September 2021. Our intention is to raise at least £25,000 in the year.

Disciplinary reports

Findings and orders of the Disciplinary Tribunal

TAXATION DISCIPLINARY BOARD

Mr Daniel Shaw

NOTIFICATION

At its hearing on 19 August 2020, the Disciplinary Tribunal of the Taxation Disciplinary Board considered complaints raised against Mr Daniel Shaw of Brighton, a student member of The Chartered Institute of Taxation.

The Tribunal found the following Charges proved against Mr Shaw:

Charge 1

1.1 On 16 January 2019, Mr Shaw made a false representation to his employer by sending an email containing a forged statement of examination results, which:
(a) represented that he passed his examination in Awareness sat in November 2018, when he had not; and
(b) represented that his mark for his examination in Taxation of Major Corporates sat in November 2018 was '46', when in fact it was '41'.

1.2 At the time of sending the email referred to in charge 1.1, Mr Shaw knew that he was making a false representation.

1.3 On or before 16 January 2019 Mr Shaw created the forged statement of examination results referred to in Charge 1.1.

1.4 Mr Shaw acted in breach of rule 2.1 and 2.2.1 (integrity) in that his making of the false statement and/or creating the forged statement of examination results was dishonest.

1.5 Mr Shaw acted in breach of rule 2.1 and 2.6.3 in that:
(a) his actions discredit the profession; and
(b) he conducted his professional work and/or the duties of his employment improperly to such an extent as to be likely to bring discredit on himself, the CIOT, or to the tax profession.

Charge 2

2.1 Mr Shaw failed to respond to correspondence from the TDB without unreasonable delay or at all.

The Tribunal determined that that the appropriate sanction was a recommendation that Mr Shaw be removed from CIOT's student register and that he pay the TDB's costs in the sum of £4,356.65.

A copy of the decision of the Tribunal can be found on the TDB's website at: www.tax-board.org.uk/disciplinary-hearings.

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November 2020

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Pricing Key

M Member | S Student | NM Non-member

Employment Taxes - Benefits in Kind
Sarah Hewson
2 November
5 - 6:30 PM
London Branch
M £40 | S £36 | NM £44

Personal and Employment Taxes Update - Including IR35
Mark Morton
3 November
5 - 8 PM
Sheffield Branch
M £75 | S £67.50
NM £82.50

A practical view on employee share schemes
Ritchie Tout & Andrew Evans
4 November
2 - 4 PM
South Wales Branch
M £50 | S £45 | NM £55

Tax Issues on Importing and Exporting
Matthew Clark
5 November
1 - 2 PM
Edinburgh Branch
Free

Implementation Period Completion Day – Where is the Customs Law?
Jeremy White
9 November
6:45 - 8 PM
Harrow and North London Branch
M £40 | S £36 | NM £44

Update on Trusts, Wills and Pre-Owned Assets - Planning for 2020/21 and Beyond
Robert Jamieson
10 November
2 - 5 PM
South Wales Branch
M £75 | S £67.50
NM £82.50

IHT Planning by Will, Variation and Lifetime Gifts
John Bunker
11 November
1:30 - 4:30 PM
South West England Branch
M £50 | S £45 | NM £55

LinkedIn and Networking
Katrina Sargent and Angus Grady
11 November
2 - 5:15 PM
Thames Valley Branch
M £40 | S £36 | NM £44

VAT Update - A Year of Change
Anne Holt
11 November
6:30 - 8 PM
Suffolk Branch
M £40 | S £36 | NM £44

Digital Taxation - Where are we now?
Glyn Fullelove
13 November
2 - 3 PM
South London and Surrey Branch
Free

Commercial property taxation: what could possibly go wrong? Tax pitfalls and some possible solutions
Panel Discussion
16 November
2 - 4 PM
Merseyside Branch
M £50 | S £45 | NM £55

Buying, Selling and Letting Property - Eight Tax Points you must know
Robert Jamieson
18 November
2 - 5 PM
South West England Branch
M £75 | S £67.50
NM £82.50

Trusts, in case study!
Amanda Fisher
19 November
5 - 6:30 PM
Essex Branch
M £40 | S £36 | NM £44

Stamp Duty Land Tax Update
John Feaster
20 November
2 - 3 PM
Leeds Branch
M £25 | S £22.50
NM £27.50

Liquidation and administration for SMEs
Nicole Southwell
23 November
6:45 - 8 PM
Harrow and North London Branch
M £40 | S £36 | NM £44

Penalties for Enablers of Defeated Tax Avoidance
Ken Curran & Lesley Shakles
25 November
2 - 3 PM
Edinburgh
Free

Farming
Julie Butler
26 November
2 - 5:15 PM
Thames Valley Branch
M £75 | S £67.50
NM £82.50

The Generation Game
Jodie Barwick-Bell & Rennie Hoare
30 November
2 - 3:30 PM
Leeds Branch
M £45 | S £35 | NM £65

UK/US tax and succession issues for private clients
Mark McKeown, Andrew Aldridge, Sarjul Patel
1 December
1 - 2 PM
Edinburgh Branch
Free

Tax Cases Update
Michael Thomas
3 December
6:45 - 8 PM
Harrow and North London Branch
M £40 | S £36 | NM £44

Capital Allowances Update
Steven Bone
8 December
2 - 5 PM
East Anglia Branch
M £75 | S £67.50
NM £82.50

Current Tax Strategies for Owner Managers
Peter Rayney
9 December
1 - 2:30 PM
East Midlands Branch
M £40 | S £36 | NM £44

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In-House Corporate Tax Manager
Blackburn – £excellent + benefits

You will be responsible for the UK tax compliance and group reporting. This includes quarterly and annual consolidated reporting, drafting the financial statement tax disclosures for the stand-alone UK entities, maintaining and reviewing Corporate Tax SAO and CCO procedures and documentation, transfer pricing, country-by-country reporting, diverted profit tax and monitoring the position on CFCs. You should be ACA/CTA qualified, with compliance and reporting experience along with some US GAAP knowledge. **Call Alison Ref: 2972**

Mixed Tax Compliance Associate
Liverpool – £excellent + benefits

This role is in the compliance team of an international accountancy firm. You will be responsible for reviewing corporate and personal self assessment tax returns and managing a team of junior reviewers. You will also have the opportunity to get involved with employment tax and new compliance projects within the team. You should be ATT/ACCA/CTA/ACA qualified or qualified by experience. You must work well in a team, have great communication skills and have good time management and organisational skills. **Call Alison Ref: 2973**

Business Development Manager - Tax
Manchester or London – £excellent

Our client is a large independent firm of accountants. They seek a business development manager with a background in tax to work with a director on building sales of accountancy and tax services including R&D, Capital Allowances, corporate finance services and all round advice to property investors. It is likely that you will have trained in tax or will have already worked in business development for another accountancy firm. This is a fast growing, dynamic firm where there is plenty of opportunity for progression. **Call Georgiana Ref:2984**

In-house Group Tax Manager
Leeds – £48,000 to £70,000 +benefits

Great role for an experienced manager or senior manager to lead an in-house team and manage the tax for a large group. Your focus will be the UK and Ireland, and you will be involved in managing and developing more junior staff. You will manage the organisation's tax charge, help minimise tax liabilities across the group and oversee the management and reporting of tax risks. Below you will be a team of specialists in corporate tax, VAT and employment taxes. Currently working from home, it is envisaged that in the future the role will be worked at least partially in Leeds. **Call Georgiana Ref: 2971**

Corporate Tax Manager or Senior Manager
York – £excellent + benefits

This independent accountancy firm is looking for an ACA/CTA qualified manager or senior manager to work alongside the Tax Partner on a portfolio of compliance and advisory projects. It is a client facing role, and you must have experience of managing client portfolios with large companies including those with international subsidiaries and/or parents, and familiarity in advising groups on areas like withholding tax, cross border structuring, M&A issues etc. You must have experience of managing a team. This is a full time or 4 day week role. **Call Alison Ref: 2979**

www.georgianaheadrecruitment.com

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

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

Business Tax Manager or Senior Manager
Leeds – £excellent

This large independent accountancy firm is looking for an ACA/CTA qualified manager or senior manager in their business tax team to undertake tax compliance and advisory projects. It is a client facing role, and you must have owner managed business experience. You should be able to deal with giving advice on technical areas like share option plans (EMI etc), (S)EIS, company reorganisations and demergers, and other advisory projects. Experience on property transactions including capital allowances would also be advantageous. **Call Alison Ref: 2978**

Personal Tax Senior
Bradford – £market rate

Our client is a large independent accountancy firm. They seek an experienced tax senior to run a complex portfolio of personal tax cases. This role is compliance focused, helping with the day-to-day management of client work. Clients range from HNW individuals to owner managers. This firm will consider a range of backgrounds such as ex HMRC, ATT qualified or someone who is qualified by experience. Ideally looking for someone full time. You will be part of a tax team, and this role would be ideal for someone who can work reasonably autonomously. **Call Georgiana Ref: 2970**

Tax Advisory Senior Manager
Manchester – £excellent + benefits

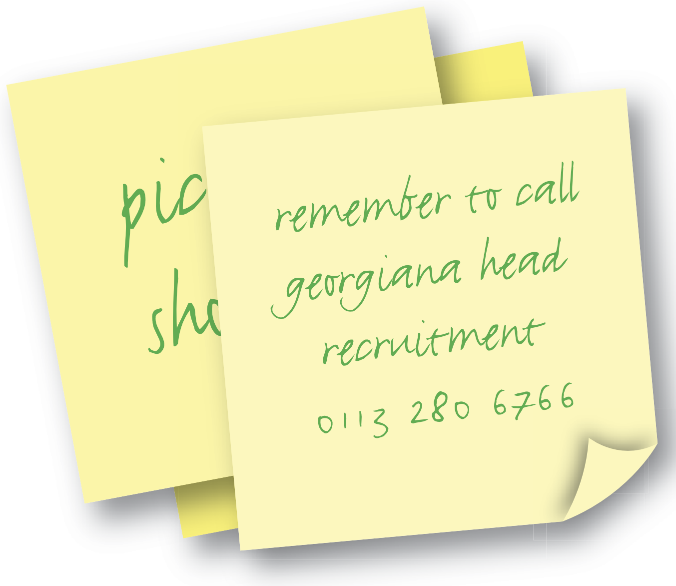
This is a newly created role that comes with clear progression to partnership. In addition to man management and business development responsibilities, you will work on technical assignments including restructuring, shareholder tax planning, employee share schemes, dividend planning, tax efficient share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

Tax Consultancy Partner
Leeds – £excellent

This is a fantastic opportunity to join a supportive firm and help grow their tax consultancy offering in the North of England. You may either be an experienced partner looking for a change or a senior manager or director with barriers to progression at your current firm. This role encompasses all of the taxes, and the client base is primarily owner managed businesses and their owners. In addition to the technical work, you will also have man management and business development responsibilities. **Call Alison Ref: 2960**

Trust Tax Specialist
Chester or Widnes – £excellent

A trust tax specialist is sought by large independent practice. You are likely to be ATT or STEP qualified, and will have experience of trust accounts, trust administration and trust tax. Could suit a personal tax specialist who does some trust work and who would like to specialise. Would consider any level from experienced senior to experienced manager. In this role, you will run a portfolio of cases. Home based at present, it is envisaged that in the future the role will be at least partly office based. Would suit someone who enjoys building long term client relationships. Flexible and part time working also available. **Call Georgiana Ref:2975**



BARKER GOTELEE
• SOLICITORS •

barkergotelee.co.uk

Private Client Department Tax Specialist

Suffolk
£competitive + benefits

Barker Gotelee is a highly regarded Chambers/Legal 500 rated firm established in 1988, based at Martlesham Heath, on the eastern outskirts of Ipswich, in Suffolk. We are seeking a capable and committed Private Client Lawyer, Legal Executive or Accountant with specialist knowledge and interest in taxation, to join our growing and ambitious Private Client Department (PCD).

This role will require managing and developing a caseload of predominantly high net worth (HNW) clients, drawn mainly from Suffolk, but also from across East Anglia.

Like all other members of the PCD team, the ideal candidate will enjoy an interesting, challenging and varied workload. The work will involve understanding and applying technical areas of taxation law, to a high standard and with strong attention to detail. Consequently, there will be opportunities to become meaningfully involved in technically challenging projects for HNW clients, where your expertise will be valued. You will be given responsibility within a supportive environment, which encourages continuous professional development.

An interest in, and enthusiasm for, tax advice is vital. Experience in advising farmers, land owners and HNW clients would be an asset. We would expect applicants to be members of STEP, to hold a CIOT or other professional tax advice qualification, or to be in the process of acquiring such a membership or qualification. The ideal candidate will be able to advise on Inheritance Tax, especially APR and BPR, Capital Gains Tax, Stamp Duty Land Tax and Income Tax.

This role will ideally suit a lawyer, chartered legal executive or accountant circa 5 years + PQE. However, these professions and associated PQE are offered as guidelines only. We would be interested to hear from anyone who can demonstrate the necessary capabilities required effectively to fulfil the role.

Applicants must be commercially minded, team-oriented, able to work confidently and efficiently and put excellent client service at the heart of their work. This will include being able to deliver key information clearly and succinctly to clients. Applicants must also have proven fee-earning, case management and client development skills, together with excellent organisational and financial management discipline. The ability to see the bigger picture, whilst not missing any of the finer details will also be important, as will the ability to work independently, from time-to-time, demonstrating your initiative.

A desire and ability to contribute effectively to marketing, networking and business-development activities, both for the Department and the firm as a whole, is also required. You will be encouraged to develop long-lasting relationships with clients.

A competitive salary, dependent on qualifications, experience and record of achievement, together with an attractive benefits package, is offered for this role. The benefits package includes a minimum 24 days' holiday per year (pro-rata) plus Public Holidays, a contributory pension scheme, private medical insurance, life insurance and free car-parking. The firm's premises are within easy access of the A12 and 66 Bus Route.

To apply, please send your up-to-date CV, attaching a covering to David Woollard, HR Consultant, **david.woollard@barkergotelee.co.uk**. Your covering letter should explain why you are interested in the role and why you think you would be successful in it, highlighting your stand-out career achievements to-date, together with your professional plans and ambitions.