September 2022

TAXADVISER

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att

Chartered Institute of Taxation.

Weathering the storm

As the risk of insolvency grows, we examine helpful measures and potential pitfalls within the tax code for stressed and distressed businesses

Business or non-business?

HMRC's two new tests for determining the nature of your activities

The post Brexit landscape

Importing and exporting goods and services to businesses and consumers

Stamp duty land tax

A back to basics review to help you negotiate the legal complexities

HELEN WHITEMAN JANE ASHTON

Welcome
Results of our independent survey

We hope you all managed to have a good break over the summer and if you travelled abroad, that you managed to avoid the chaos at ports and airports.

In our last issue, we promised to report on the findings of the EDI research survey which was conducted in March. We are pleased to report that over 3,000 responded to the independent survey which has provided us with a greater understanding of the profiles, views and experiences of members and students. That comprised more than 600 students and over 2,400 members. Thank you to all those that took part.

Key points from individual profiles include the following:

- Across the combined membership, there is an overall balance of females and males. The CIOT membership includes a higher proportion of older males. The ATT membership comprises more females than males and that applies across all age groups.
- About 15% of all *students* who responded to the survey are ethnically diverse, which is very much in line with statistics for the UK population. By contrast, *members* are more predominantly white.
- Members and students in part-time employment and/or with caring responsibilities are more likely to be female.
- About 5% of those responding to the survey identified as gay, lesbian or bisexual.

Overall, attitudes towards CIOT and ATT are positive but with the majority reporting a passive or occasional relationship – often because of being too busy or having family/caring responsibilities.

On personal experience:

- Around one in four or five responses reported having experienced inappropriate activity in the previous year – mostly related to gender, then age, then ethnicity.
- Many who returned to work after a career break found that difficult.

Our research agency, James Law, will be following up with some of you who experienced inappropriate behaviour, and who offered to help us further, so that we can better understand this area and what actions we might be able to take.

The EDI Committee discussed the findings at its June meeting and will be putting together an action plan at their September meeting. We will be focusing on a couple of areas initially so that we can make a positive impact.

September is the start of the new school year and certainly for us it's a very busy month. The CIOT is gearing up for branch activities and its Autumn residential conference on 16-18 September at Queens' College, Cambridge. If you haven't yet booked, there is still time, and we are looking forward to seeing everyone.

The ATT is holding the Prize Winners lunch for Prize Winners from the last three years, and we hope there will be no further delays due to train strikes! This Autumn we will be running our popular Sharpen your tax skills conferences jointly with AAT. The speakers this year will be Rebecca Benneyworth, and members of the ATT Technical team. It promises to be a very informative day.

A final, special mention to the #KiliTax2022 climbers for later this month. See www.justgiving.com/fundraising/KiliTax2022-Team for details of how to support their heroic fundraising efforts.

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CONTENTS

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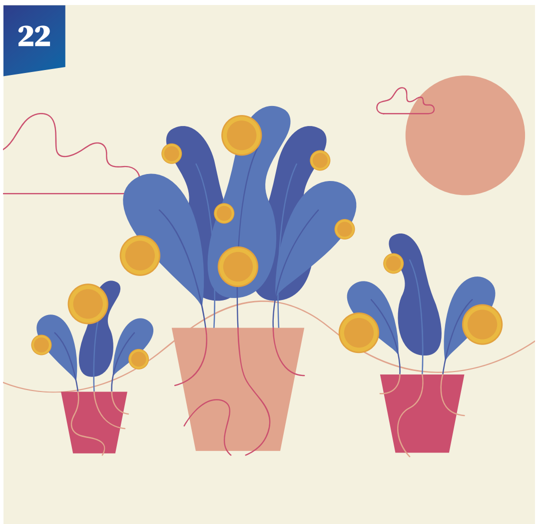


ONLINE PICKS OF THE MONTH

What constitutes the temporary workplace?
Applying the intention or expectation test
bit.ly/3KdwDWA

Capital gains tax treatment
Lost deposits: three recent cases
bit.ly/3T9rtPE

The rules of domicile
What issues impact an individual's tax status?
bit.ly/3PS9pqw

SUSAN BALL
PRESIDENT

No choice but to continue

> As often happens at this time of year, HMRC and HM Treasury issued a number of consultations, and responses to previous consultations, so there was no shortage of reading.

It might seem like it was an age ago but it's my first opportunity here to congratulate all those who passed their CTA and ADIT exams. Exam results day is memorable for many as it brought the news that they had jumped a major academic hurdle. I hope to welcome you all as members and meet you in person at an admissions ceremony. Congratulations. For those who still have more to go, stick at it and the very best of luck.

Passing your CTA exams is no mean feat. It is no surprise that preparing and studying towards the qualification can really get on top of you. You should all be proud of your achievements – pass or fail. Why? Well, finding the time to engage with all that material and studying, whilst holding down a job in the profession and juggling the many other things that we all have going on in our lives, requires a lot of persistence and dedication. So, a super well done.

The holiday period reduced my Presidential duties a little, allowing me some relaxing long weekends away from the day-to-day presidential pressures, something we all need. I hope if you got away or took a break you managed to enjoy some of the rather warm weather!

The holiday period also allowed me to dedicate a bit more time to my role as an RSM tax partner specialising in employment related taxes. As often happens at this time of year, HMRC and HM Treasury issued a number of consultations, and responses to previous consultations, so there was no shortage of reading. I feel sorry for our technical officers who have had to wade through them, catch up with those on their committees to seek views, and make sure we get responses in on time when I am sure, like the rest of us, they are also in need of a break.

One that caught my eye was on employment status. We finally had the response to the consultation that was issued in February 2018 – it's taken four years, although to be fair there was the small matter of a pandemic in the meantime. I have to say, however, that I was disappointed. The government has said there will be no legislation to improve the clarity of the employment status tests, nor alignment between rights and tax at this time, even though this was one of the Taylor review recommendations way back in 2017.

Instead, the government has stated it 'will work closely with stakeholders to explore longer-term options to improve the employment status system for tax to ensure it is as clear as possible and usable for all parties'. This is not something that should be forgotten about, especially as it impacts the off-payroll working rules as well.

We can only hope that this does mean active discussion now and not further delays and obfuscation. Interestingly, the proposal to align tax and employment law was somewhat overshadowed by another of the Taylor Review's related recommendations. 'The level of NI contributions paid by employees and self-employed people should be moved closer to parity', endorsing a similar proposal in Spring Budget 2017, but one that, in the event, was not proceeded with. That said, HMRC suggested the same recently when attending a Public Accounts Committee meeting so we must wait for the next instalment.

In the meantime, therefore, we have no choice but to continue to live with a system that is, at best, opaque, engenders uncertainty and, at worst, leads to inconsistency and inequity.

A couple of closing thoughts from me. First, please spare a thought for those who have been training over this long hot summer (and I am sure longer) for the Kilimanjaro trek challenge in aid of charities TaxAid and Tax Help for Older People. This is a 'tax hike' with a difference, not least because it is one that tax charities will welcome and those on low incomes benefit from in the long term. I wish the brave group taking on this challenge the very best of luck and hope they go well.

Lastly, it is National Inclusion Week from 26 September to 2 October. This year's theme is 'Time to Act: The Power of Now'. As feeling 'included' is a key aspect of all our lives, I ask you to think about what you can do to help, even if it's just a very small thing. In this context, every little certainly helps.

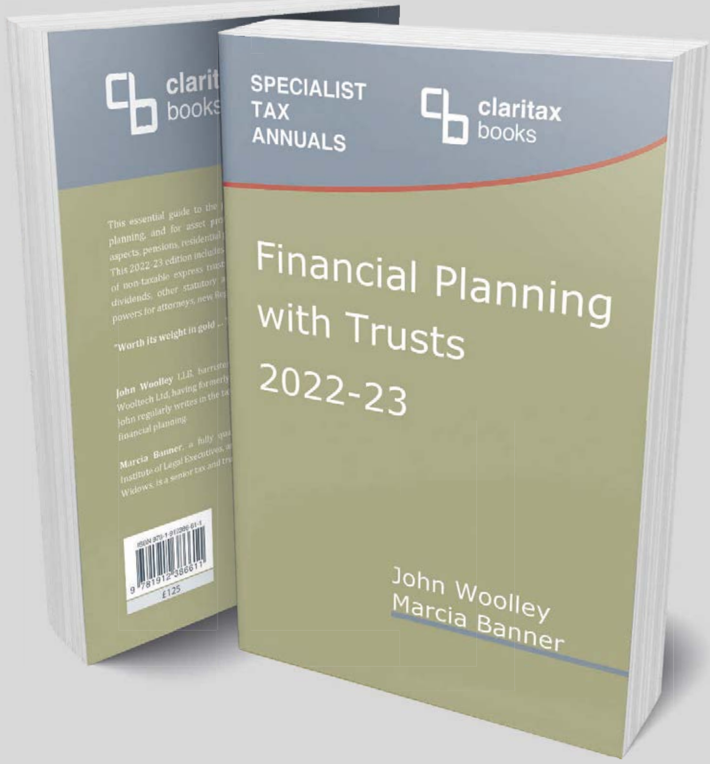
Susan Ball
President
president@ciot.org.uk

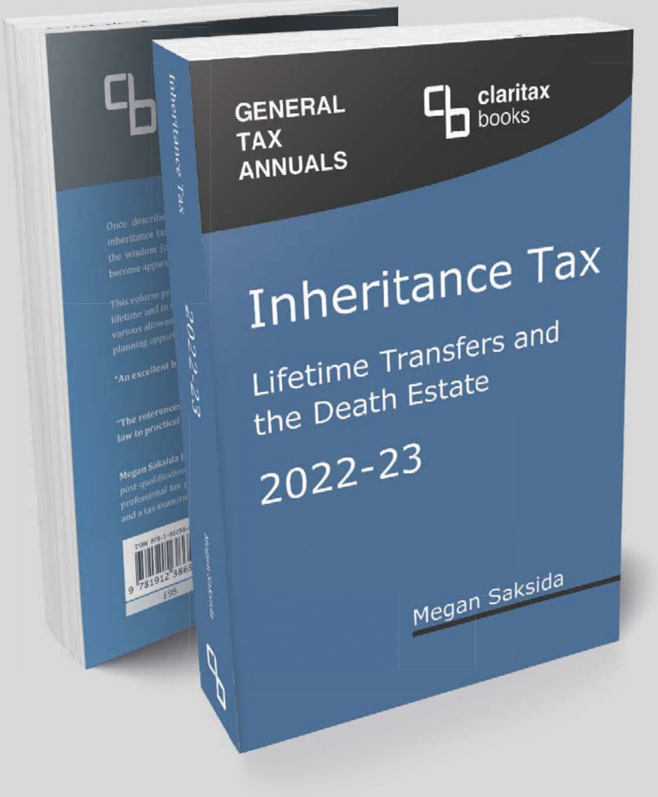
Chartered Institute of Taxation.

IN-DEPTH TAX COMMENTARY

This substantial work looks at a wide range of topical tax and financial planning strategies using trusts. Essential for tax practitioners and financial advisers alike, it demonstrates the effective use of different trusts to meet financial and tax planning objectives. The book includes CGT, income tax and IHT planning, and also examines the special trust arrangements used in the financial services sector.

Written by two highly qualified and experienced authors, this book helps readers to grasp the full implications, advantages and potential disadvantages of using a particular trust. The text is supported throughout by statutory references and case law precedents.





A comprehensive guide to all the issues faced when preparing lifetime transfer calculations, calculating the death estate and any related inheritance tax due, and advising clients on the associated IHT issues.

Written in clear, concise language, the book is appropriate for both seasoned practitioners and those new to the tax. The text is peppered with practical, understandable and relevant examples, with full reference to the relevant legislation, HMRC guidance and case law. Essential reading for accountants, solicitors and anyone needing detailed and user-friendly commentary on IHT law and practice.

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SIMON GROOM
ATT DEPUTY PRESIDENT

A passion for education

> Most of my working life has been involved in education and that passion for education was what interested me in getting involved with ATT in the first place.

Hello, and welcome to the Deputy President's page for September. I do hope that you've managed to avoid the worst of the heatwaves and have not been too overwhelmed by the media coverage of a certain leadership election, the result of which should be known by the time that you read this. Whoever is elected as the new Conservative Party leader and Prime Minister will, I'm sure, propose a number of tax changes that we'll need to get to grips with. But tax is always changing, and ATT members will do what they always do in these situations – work tirelessly to help their clients to understand the changes and comply with their obligations. It's all part of the job.

But talking of leadership changes brings me to why I am writing this page and not David Bradshaw. In time honoured tradition, David stepped up to be 'le grand fromage' at our July AGM, taking on the presidential role. In turn, I stepped up to the Deputy President's role, which is why I have the pleasure of penning a few words every month.

I guess I ought to start with a few words of introduction. I studied Maths at University and, upon graduating, decided to pursue my fascination with numbers. I trained as a Chartered Accountant and qualified in 1987 with Arthur Young. Whilst I learned a lot, I decided that there must be something more to life than being an auditor, so I embarked on a career as a trainer with The Financial Training Company (FTC) and fell in love with the idea of educating others. I particularly enjoyed the fact that some people actually listened to me – something that rarely happened at home.

I'm currently working at LexisNexis, heading up the Tolley Exam Training team, where I've been for the last 16 years.

I should add that at this point, if you think my name sounds familiar, it could be that I taught you over the years. If that's the case, I hope that it led to success in the examinations – if you are reading this as an ATT member then chances are that it did – success which would have been far more attributable to your hard work than my teaching. But if you think you remember me from presenting on Blue Peter, then you're showing your age! Also, we just happen to share a name...

My first involvement with the ATT came in 1992 when I started lecturing at the student training conferences. It has continued ever since, weaving a path that included stints on various working parties, the Audit Committee, the Business Development Steering Group and the Member Steering Group, which I chaired for three years. I now serve on the Finance Steering Group. I first joined ATT Council in 2003 and served for a very enjoyable 12 years and I was therefore delighted to be invited back in 2018. Presumably, this will continue until I finally get it right.

But enough about me. Most of my working life has been involved in education and that passion for education was what interested me in getting involved with the ATT in the first place. As you will know, ATT is an educational charity and given my background, this is particularly important to me. The ATT exams are an important part of fulfilling that objective, but not everyone is able to find the time to study for a formal professional qualification. That's why I was particularly pleased to be involved with the development of our Foundation Qualifications, which allow individuals to dip their toe into the water of the world of tax and study and sit their assessments where and when they want, to see if tax is for them.

Even the Foundation Qualifications are aimed at those who have completed their compulsory education, though. I believe that we need to do more to educate our wider society about tax, what we pay, why we pay it, and how it benefits the country as a whole. Looking back to my own school years, I wish that I'd learned more about how to deal with money, and been able to understand the fundamentals of tax.

I'm therefore delighted that the ATT is involved in a programme to encourage our young people to understand more about tax. Our Technical Officers have put together some lesson plans, which can be used in conjunction with the HMRC video, for members and volunteers to use in their local schools. These are interactive and really get children thinking about tax. If you would like to present a session in your local school, the lesson plans can be found at www.att.org.uk/hmrcs-junior-tax-facts

We would be interested to hear from any members who have presented in their local schools, and you never know – we might even feature you in *Tax Adviser*!

Simon Groom
ATT Deputy President
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Autumn Residential Conference

Friday 16 – Sunday 18 September 2022

Queens' College, Cambridge

Our conference starts at 12.30 on Friday 16 September and brings you a fantastic line up of topical and practical lectures by leading tax speakers.

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- Case law update

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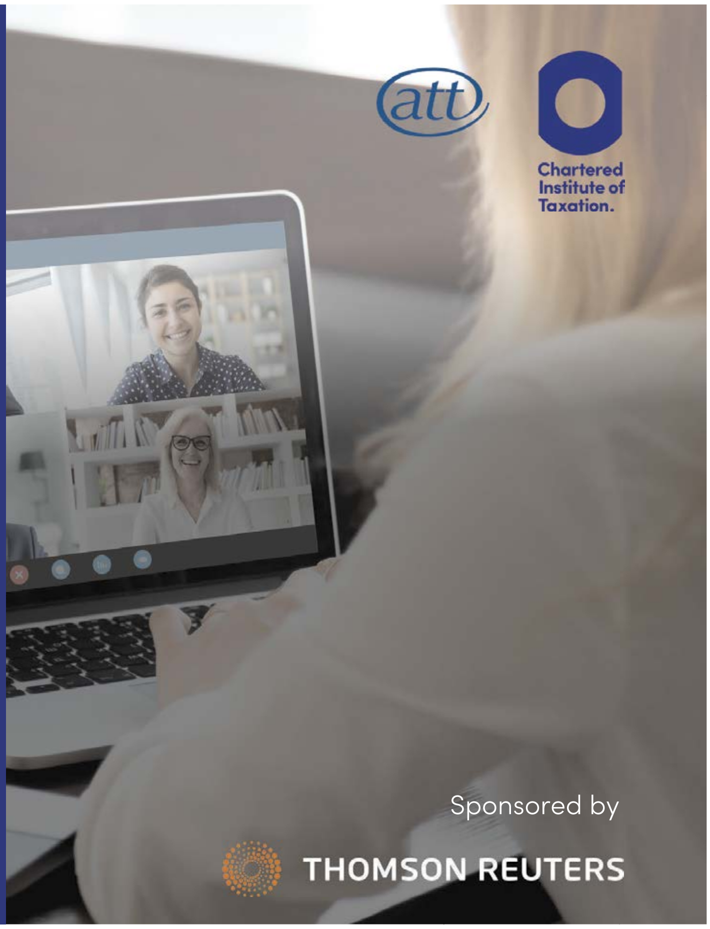
Visit www.tax.org.uk/indirecttaxes2022 for more information.



More life after Brexit
Complexities of B2B and B2C

In the second of two articles, we examine some more of the issues which Brexit has raised when importing and exporting goods and services.

by Michael Steed

Brexit introduced some important changes to the tax aspects of importing and exporting goods and to a lesser extent, services, in and out of the UK. In these two back to basics articles (the first, 'Life after Brexit' was in the July issue), I want to explain the issues and how the processes have changed.

In this second article, I will examine business-to-business (B2B) triangulation of goods and how the process has changed since Brexit. I will also look at business-to-consumer (B2C) sales of goods and services, particularly in respect of sales of goods and services from the UK into the EU27 and how the One Stop Shop simplifications (the One Stop Shop and the Import One Stop Shop) are used. We will also look at how cross-border B2B and B2C services have changed.

B2B triangulation: prior to Brexit

Prior to Brexit, the B2B triangulation process was a way to fix a particular problem that the EU had made for itself. To understand that, consider the pre-Brexit triangular supply chain that is shown on the page opposite.

A sells goods to B for £100. (The sale is zero-rated, as B gives A his VAT number.) B (the intermediate supplier) on-sells to C for £110. The goods are sent directly from A to C.

These were the original rules – and the UK version was contained in the Valued Added Tax Act 1994 until it was repealed by Brexit. The rules stated that for this one movement of goods, there are potentially two places of acquisition: one in C where the goods end up (which feels intuitively correct); but also in B because B had given A his VAT number to justify A's zero-rating of the sale of the goods. So, the rules themselves created the problem – one movement of goods and two possible places of acquisition.

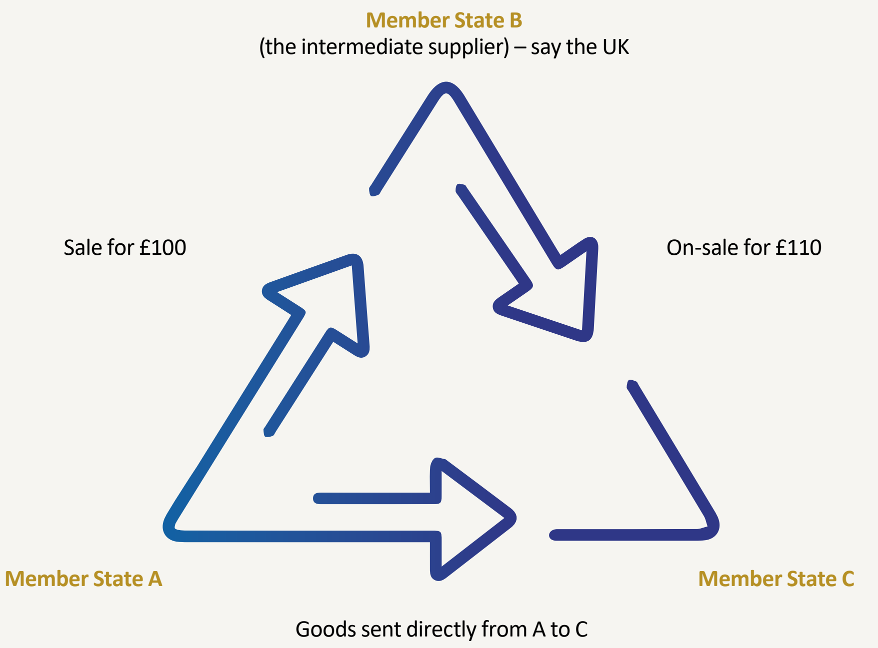
Key Points

What is the issue?
Brexit has thrown up some new issues in respect of the cross-border movement of goods and services. In this second article, we will look at some more of these.

What does it mean to me?
Advisers need to understand the new post-Brexit tax landscape that they are operating in.

What can I take away?
For post-Brexit UK to EU sales, some VAT simplifications have been removed and others have been introduced.

PRE-BREXIT TRIANGULAR SUPPLY CHAIN



The EU Commission came up with a work-around to solve this: the B2B triangulation simplification. In simple terms, this meant that the supply to B and the supply from B were ignored for VAT purposes. They were to be treated as outside the scope of B's VAT, thus leaving the A to C leg.

Note that although B's supply to C was outside the scope of B's VAT, it was still an EC sale, so it needed an entry on B's EC Sales List (but with a Code 2 in the indicator column of the EC Sales List to explain the discrepancy).

The point of this simplification was essentially to prevent B from having to register in C to deal with the acquisition. It avoided what the EU was trying to avoid – lots of unwanted VAT registrations.

B2B triangulation: post Brexit

So far, so good; but after Brexit, as the UK is no longer part of the EU, UK traders can't use the simplification process, because the triangle needs all three corners to be member states in the EU.

Actually, that's not quite true, as businesses with Northern Ireland VAT registrations (starting with 'XI' rather than 'GB') can still use the triangulation simplification as part of the Northern Ireland Protocol. As far as trading with the rest of the EU is concerned, it is treated as a mini-EU member state.

But this does mean that businesses in Great Britain (GB) cannot use the simplification in a post-Brexit world. GB here is a geographical term and not a political term, and means Scotland, England and Wales, and effectively the Isle of Man as well.

So what does this mean for GB businesses that are buying and selling B2B goods? Let's look at the diagram again. We've still got B in position as the UK trader, buying goods from A in the EU and selling goods to C in the EU; and the goods are still going directly from A to C, thereby not entering the UK.

How does all this work post-Brexit? The critical point is that GB traders will need to be registered somewhere in the EU to make the VAT work. There are a couple of obvious options:

- **Option 1:** B could VAT register in state A and buy the goods in A. It could then do a zero-rated despatch to C and complete an EC Sales List and Intrastat entries to the extent that the value of the goods exceed the Intrastat threshold. B may have to appoint a fiscal representative to deal with the VAT compliance in A (this requirement varies between member states), thus increasing B's costs.
- **Option 2:** B could VAT register in state C to deal with the acquisition from A and on-sell to the final customer in C. Intrastat entries will be needed above the Intrastat threshold. A fiscal representative may be needed.

In both cases, there will be VAT entries on a local VAT return. It's worth remembering that B would be a non-established taxable person in either A or C, so no local VAT registration threshold would be available.

A third way

However, there is another possibility post-Brexit. This is to make an EU triangle that is completed by B but in another member state that is neither A nor C. Although this may at first sight sound a bit strange, it does make sense as it puts B into the classic EU triangle, such that the triangulation simplification would then work.

The outcome is that B can now give an EU VAT number to A, and A can therefore zero-rate the supply to B. B will on-sell to C with no VAT (as this is outside the scope of B's VAT), remembering to make an EC Sales List entry with the appropriate marker to show that this is a triangular sale and not a direct sale. There are no Intrastat entries for B in either direction as there is no actual movement of goods. There would be no entries on the VAT return as the supplies in and out of B are outside the scope of B's VAT (so in contrast to registering in A or C).

As we have noted above, it will be necessary to check with the member state of choice whether a fiscal representative is required.

B2C movements of goods

Let's now have a look at B2C sales of goods. I want to restate an important point about B2C sales. Many of these do not exceed £135 (€150) per consignment and are very often sold via the internet. Therefore, when these are sold from GB into the EU (and vice versa), there is no customs duties or import VAT to worry about and the rules replace import VAT with supply VAT (i.e. final mile VAT in the place where the B2C purchaser lives). The responsibility for the final mile VAT rests:

- with the seller (who will need to VAT register where the B2C customer lives); or
- with the sales platform, such as Amazon or Ebay, which will do this on behalf of the seller.

GB to EU sales of goods sent from the UK: the Import One Stop Shop simplification

In this section, I want to consider a GB VAT registered seller of goods not exceeding €150, selling via the internet to EU B2C consumers across the EU.

In order to understand this, let's remind ourselves of what the drivers are. The place of supply of B2C goods post-Brexit is the place where the customer lives. A GB seller who is selling goods not exceeding €150 euros over the internet to B2Cs in different member states would be obliged to register for VAT in every member state that a customer lives in. This is a huge compliance burden and is the reason why the Import One Stop Shop simplification has been introduced to reduce that burden for third country sellers (including GB). Note that Northern Ireland sellers can use the EU One Stop Shop and don't need to consider the Import One Stop Shop.

The simplification works as follows. The GB seller signs up for the Import One Stop Shop in one member state (the member state of identification). This gives the seller what I think of as a 'toehold' in the EU from which it can 'springboard' into the other member states where he has B2C customers. The seller is required to complete a single monthly multi-member state Import One Stop Shop return through which it can account for the local supply (final mile) VAT remotely.

The system also works in reverse. The UK insists that overseas sellers supplying goods B2C to UK consumers have to account for the UK (final mile) supply VAT, unless a digital platform such as Amazon or Ebay will do this for them.

B2C services provided by UK providers to EU B2C customers

So far we have been considering the cross-border movement of goods, but I now want to turn to services.

Brexit has made changes to B2C services that will affect such businesses as accountants and tax advisers, builders working in the EU and providers of EU holiday accommodation.

The key point to appreciate is that Brexit has changed some of the place of supply rules in both Northern Ireland and GB. Under the old rules, the basic place of supply (so where VAT is charged) was where the supplier belonged. As accountants and tax advisers, we would have been quite familiar with this when billing EU B2C clients in the EU; we would have charged UK VAT.

This has now changed and the place of service for such services is now where the EU B2C customer lives. These supplies are now therefore outside the scope of UK VAT.

Logically, you'd conclude that this means that there would be an obligation for the UK service provider to have to register in the EU to account for the B2C VAT. However, as I see it, at the moment this has not yet happened.

The position is clearer for other services. Holiday accommodation is charged where the land is, so a UK owner of holiday accommodation in Spain would have to charge Spanish VAT. A UK builder working in Spain for B2C customers would similarly have to charge Spanish VAT. Remember that there is no registration threshold for non-established taxable persons.

If UK traders (so both GB and Northern Ireland) have customers in more than one EU member state, they can choose between multiple VAT registrations, or using the One Stop Shop simplifications.

B2B supplies of services

This is one area of cross-border VAT where the rules have changed the least.

Consider a GB business user of, say, Adobe software licences, purchased from Adobe in the Republic of Ireland. Before Brexit, this would have been a standard cross-border EU supply of services and the place of supply would have been the UK (i.e. where the customer lives). The supply would therefore be outside the scope of Republic of Ireland VAT and inside the scope of UK VAT, where the VAT would have been brought to account in the UK by the standard 4-box reverse charge on the customer's UK VAT return.

That has not changed as a result of Brexit; the rule is the same. The only change is that as we are now no longer members of the same VAT club, there is no need for the Republic of Ireland invoice to carry the words which in effect say 'please do a reverse charge at your end' for GB traders. Northern Ireland traders will still be in the same VAT club as the Republic of Ireland, so the pre-Brexit invoices will still be in play.

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Ambitions for simplification

The OTS review findings

The OTS reflects on what its mission should be and its ambitions for simplification in the tax system, as well as legacy issues impacting tax reporting and collection.

by Bill Dodwell

The Office of Tax Simplification published its review of simplification (see bit.ly/3AIpTwW) on 18 July – just before Parliament rose for the summer recess. The report was triggered by a formal request from the previous Chancellor and the Financial Secretary, following the Treasury's five-year assessment of the OTS.

The Financial Secretary wrote:

> 'The review recommends that the OTS "undertake a project to articulate its approach to and interpretation of 'tax simplification', including clarifying its aims as an organisation, and the success measures for assessing its progress". The Chancellor and I would like you to commence this work as a formal OTS review, focusing on conclusions that can inform how the OTS, and government, should prioritise simplification efforts over the next five years. I look forward to agreeing the detail of the terms of reference in the coming weeks, and to hearing your plans for own-initiative work over the coming months.'

It is useful for the OTS to reflect periodically on what its mission should be and what the ambitions for simplification in the tax system should be.

PRINCIPLES FOR POLICY MAKERS

'In the course of developing policy, officials and ministers may wish to consider the following four areas, including in considering mitigation strategies:

1. **Are the rules, their purpose and their consequences easy to understand and predict?**
   Are the tax rules logical, with their purpose understood and the outcomes of choices clear and running with the grain of the lives and businesses they encompass? Do they add complexity when taken in aggregate with the immediate and wider existing rules?
2. **Are the rules and their administration taking advantage of modern developments, including technology?**
   Can technology shoulder some of the administrative or process burden for taxpayers? Can technology help manage the complexity without undermining informed choice? Is this technology available and accessible for the majority, and how are the digitally excluded or challenged served? Are tax policies capable of being implemented in a digital manner?
3. **Is it easy enough to comply with the rules?**
   As well as the core rules themselves, can taxpayers understand the administration, processes, and obligations? Whether they are in scope, what they need to do and when? Is the cost to taxpayers, intermediaries, advisers and government proportionate?
4. **Can taxpayers be better supported?**
   Are there ways that intermediaries can take some of the burden away from taxpayers in reporting or payment, or by directing taxpayers to HMRC guidance? Is the guidance fit for the audience? Are advisors enabled to help their clients manage their tax affairs, including through access to taxpayer data and HMRC systems?'

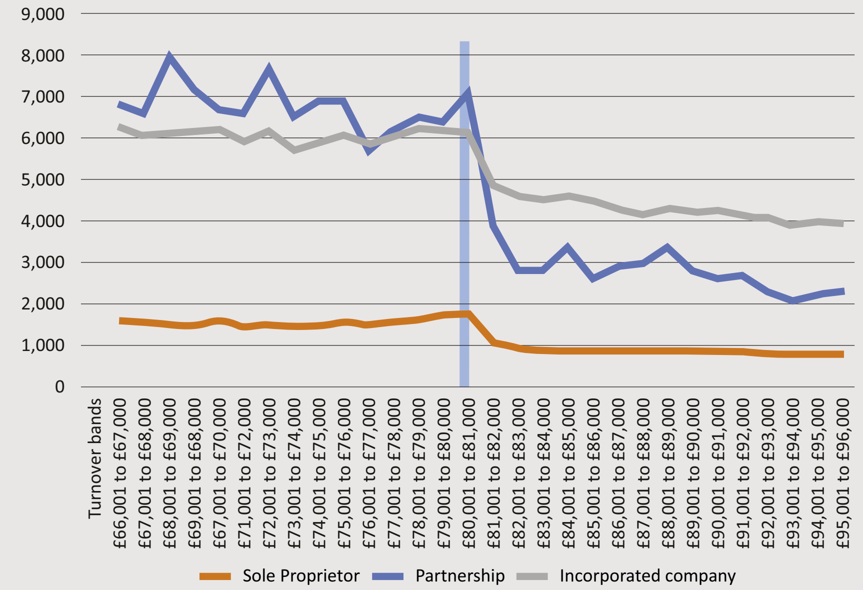
The purpose of simplification

The first place to start is to declare that simplification is not a policy goal in itself. Rather, it should be a core consideration for the government to support taxpayers through the design, implementation and administration of tax policy at every stage in the policy making process, and when measuring the success of a policy after implementation.

The primary purpose of taxation is to raise funds to support the provision of public services. Parliament may also have other objectives for a given tax policy, such as redistribution, supporting growth and productivity, encouraging or discouraging certain behaviours, and compensating for market failure. There are times when policy design will mean that simplification has to take a back seat. For example, there is the question of equity: different rates, thresholds and allowances all add to the complexity of the tax calculation, but they also ensure that the burden of tax is felt less by those who can afford to pay it less.

The purpose of simplification is to make it easier for taxpayers to comply with the policy and potentially to make it cheaper to comply. Simpler tax policies

CHART 1: NUMBERS OF ENTITIES BY TURNOVER BAND AROUND THE REGISTRATION THRESHOLD



Source: HMRC data from 2014/15, when the threshold was £81,000[8]

could also be cheaper for HMRC to operate, which could free up resources to aid other areas of tax. Simpler tax is also easier for taxpayers to understand, which helps us to make better business and family choices. Finally, broader understanding of the tax system and ease of compliance promotes trust, which is a vital ingredient in general support for the tax system.

The policy making process

The report recommends that the principle of simplification should be embedded in the general tax policy making process – but without making it part of a checklist (see ***Principles for policy makers***).

Those of us outside the policy making process perhaps do not realise the speed with which policies are developed, in response to political intent. Governments are elected for a maximum of five years and thus have limited time to make changes they view as important for the country, its economy and its tax system. There are also more technical changes to consider but even those need to fit into a delivery timetable.

Public and private sector IT systems have a big part to play in future delivery of tax policy – and they may often act as a constraint. The OTS looked at the UK's idiosyncratic tax year end in 2021 and it is obvious to everyone that a 5 April year end is a hindrance to taxpayers, intermediaries and to HMRC. Yet it is not simple to change it to the much more obvious 31 December or 31 March. This is because there are some legacy systems in HMRC, DWP and in major private sector payrolls which could not make any change easily or quickly. The UK will be much better enabled to make policy in a more easily deliverable manner when all such legacy systems have been modernised and ideally transformed.

Tax reporting and collection

One of the core principles of the UK's tax system is that it depends on intermediaries, who collect or withhold tax and report to HMRC. Employers are likely to hand over about £210 billion in PAYE this year. VAT-registered businesses will pay into the exchequer £154 billion (before VAT refunds of £23 billion). Businesses collect alcohol, tobacco and fuel duties, insurance premium tax, environmental levies and the apprenticeship levy.

However, there is more scope for intermediaries to support reporting to HMRC, even if not tax collection. For example, banks and building societies provide HMRC with data on interest received by individuals. The format of this data means that it is useful for HMRC's audit activities, but it is not easy to integrate it into personal tax accounts for wider use, including pre-population.

Going forward, more services from intermediaries should be a key part of future tax administration, to the benefit of all of us. We should all support investment in the forthcoming Single Customer Account (including devising a better name!) as the hub to receive data from a wide range of third parties and public bodies for display to us – and to receive our updates and corrections.

One of the areas that has traditionally been considered as an aid to simplification is the tax threshold – the level at which an individual or business starts to pay tax. Increasing a threshold means that there are fewer taxpayers. This is not always a good thing. One of the best examples of the problems created by a threshold is the VAT registration threshold, where regular readers may recall my June article.

Businesses are well aware that going above the threshold triggers VAT on the whole of their sales, albeit with a reduction for VAT currently paid on business purchases. This means that there is an incentive to keep trading just below the threshold – since going just above it is likely to reduce the business's net profit. Given the impact of inflation today, some of the businesses operating just below the threshold will find it hard to avoid going over it and we should expect that government will be asked to help.

There are two options: increasing the threshold; or adopting a new smoothing mechanism to help businesses move into VAT in a more gradual way. Putting up the threshold does not solve the underlying issue: it simply moves it up a bit. A smoothing mechanism – say a lower effective rate of VAT in a range above the registration threshold – may be a much more resilient and long-lasting approach. It could unlock current barriers to micro business growth.

Simplification should always be a core part of policy design and implementation. Ideas from taxpayers, agents and the business community on how to improve our systems will bring benefits to us all. Please therefore send the Office of Tax Simplification your ideas and share your experiences; they inform how we can all help government build and manage a better tax system.

You can contact the OTS at: ots@ots.gov.uk

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Principles of stamp duty land tax

Finding your feet

In a back to basics review of stamp duty land tax, we consider which transactions are chargeable, property purchases by UK resident and non-UK resident individuals, and corporate acquisitions.

by Jo White

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Key Points

What is the issue?
This article reminds us of the basic principles we need to bear in mind when considering stamp duty land tax on land transactions in England and Northern Ireland.

What does it mean for me?
Stamp duty land tax is applied to the acquisition of a chargeable interest in England and Northern Ireland for consideration or deemed consideration.

What can I take away?
Stamp duty land tax is payable within 14 days from the effective date of transaction. 'Effective date' is when the contract is substantially performed. In most cases, this is completion.

With the ever-changing landscape in property taxes, this article reminds us of the basic principles we need to bear in mind when considering stamp duty land tax on land transactions in England and Northern Ireland. Land transactions in Scotland and Wales are covered by their own taxes.

All statutory references are to Finance Act 2003 unless otherwise stated.

Exempt transactions

Before we go into the detail behind how and when stamp duty land tax is charged, we must first look at those transactions which we can disregard for this purpose. Schedule 3 includes a specific list of exempt transactions. Some of the more common ones are:

- no chargeable consideration (except for cases where s 53 applies);

EXAMPLE 1: A TRANSACTION WHERE CONSIDERATION IS NOT WHOLLY MONEY

Jenny acquires a plot of land from her neighbour, Patrick. Jenny agrees to pay £80,000 plus pay for some works on the property.

Consideration for this purpose is £80,000 plus the market value of the works incurred by Jenny.

EXAMPLE 2: REPAYMENT OR ASSIGNMENT OF DEBT FORMS PART OF THE TRANSACTION

Karl transfers 50% of his buy to let property to his civil partner Kasper. The property is subject to a mortgage equal to 80% of the property's value. Kasper is treated as being assigned 50% of the debt as part of the property transfer. Stamp duty land tax is payable on the debt that has been transferred.

This is a typical example of where Sch 4 para 8 applies.

- transactions in connection with divorce;
- assents and appropriations by personal representatives; and
- variation of testamentary dispositions.

It is normally pretty clear whether or not stamp duty land tax is expected to be payable on a transaction. It is, however, always worth checking that the exemptions can be applied.

Chargeable transactions

Stamp duty land tax is applied to the acquisition of a chargeable interest in England and Northern Ireland for consideration or deemed consideration. Chargeable interest is defined within s 48 to mean:

a) an estate, interest, right or power in or over land in England or Northern Ireland; or
b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power other than an exempt interest.

An exempt interest is any security interest (i.e. a mortgage), a licence to use or occupy land, a tenancy at will, an advowson (right to appoint a clergyman or vicar), franchise or manor.

A right over land can include an option (s 48 explains this further) and overage, therefore it is not just the 'normal' sale of the land itself or long leases.

Consideration

Chargeable consideration (Sch 4), except where expressly stated, is any consideration in money or money's worth given for the transaction. This can be either directly or indirectly by the purchaser or a person connected with them (Sch 4 para 1). Stamp duty land tax is chargeable on the VAT inclusive price (Sch 4 para 2). This will largely be relevant for non-residential transactions only. The timing of the transaction and any option to tax election on the specific property will be important to determine if VAT should be considered. Where the transaction is deemed to be taking place at market value, then this will not include any VAT.

> **Where transactions are linked, the total aggregate consideration is calculated to work out any stamp duty land tax payable.**

For circumstances where non-monetary consideration is applied, the value for this is its deemed market value. Non-monetary consideration can include fees, carrying out works or services (see ***Example 1: A transaction where consideration is not wholly money***). Special rules apply in circumstances including, but not limited to:

1. where a repayment or assignment of debt forms part of the transaction (Sch 4 para 8) (See ***Example 2: Repayment or assignment of debt forms part of the transaction***);
2. in the event of contingent consideration (s 51);
3. where the purchaser is a company and the vendor is connected with them – deemed market value (s 53). 'Connected' is defined under Corporation Tax Act 2010 s 1122.

Linked transactions

Where transactions are linked, the total aggregate consideration is calculated to work out any stamp duty land tax payable (s 108). Transactions are linked for the purpose of stamp duty land tax where they form part of a single scheme, arrangement or series of transactions between the same vendor and purchaser or persons connected with them. (Again, connection is defined in Corporation Tax Act 2010 s 1122.)

There is no time limit for these rules to apply. A transaction between the same vendor and purchaser could be linked even if they had taken place over 20 years apart. An important question to ask is: 'Would the transactions have taken place independently of each other?' Linked transactions are more likely to apply if the purchase price for one property has been discounted due to the acquisition of a second.

For properties acquired at auction we can look to the case *Cohen & Anor* [1936] 2 KB 246, which states these will not constitute a larger transaction or series of transactions.

Due date for payment

Stamp duty land tax is payable within 14 days from the effective date of transaction. 'Effective date' is when the contract is substantially performed. In most cases, this is completion; however, this is not always the case. 'Substantially performed' is defined in s 44(5) as when:

- the purchaser (or a person connected with the purchaser) takes possession of the whole, or substantially the whole, of the subject matter of the contract; or
- a substantial amount of consideration is paid or provided.

Things to note here are:

- A contract must exist for the effective date to be earlier than completion.
- Possession can include the receipts of rents or profits or rights to receive them (s 44(6)).
- When looking at a transaction involving rent, substantial amount can include the first payment of rent (s 44(7)).
- For non-rent-based transactions, HMRC guidance suggests 90% in the context of 'substantially the whole'.

In circumstances where the vendor allows the purchaser to access the land, this could also bring forward the effective date.

Property purchases by UK resident individuals

The default position for residential purchases is that shown in s 55 (Table A). However, we must also look to Sch 4ZA to see whether the surcharge rate needs to be applied.

Residential property

Residential property is defined within s 116 as:

1. a building that is used or suitable for use as a dwelling, or is in the process of being constructed or adapted for such use; and
2. the land that forms part of the garden or grounds of such a building; or
3. an interest in or right over land that subsists for the benefit of a building within (1) and (2) above.

The tests within the legislation refer to actual and suitability for use. The use for which the purchaser intends to apply after the transaction date is almost always irrelevant.

HMRC states that:

> '"Dwelling" takes its everyday meaning; that is a building, or a part of a building that affords those who use it the facilities required for day-to-day private domestic existence. In most cases, there should be little difficulty in deciding whether or not particular premises are a dwelling.' (SDLTM 09750)

It goes on to say that a dwelling also includes buildings under construction that are being built or adapted for such use. Off-plan purchases can also count towards the definition of a dwelling.

Whilst it is easy to identify the garden, it is sometimes harder to identify the grounds. HMRC guidance state that:

> '"Garden or grounds" includes land **which is needed** for the reasonable enjoyment of the dwelling, having regard to the size and nature of the dwelling. This is usually a question of fact depending on the individual circumstances of the case.' (SDLTM 30030) *[my emphasis]*

HMRC has confirmed that land which was part of a residential property remains that way even if it is sold separately.

> **A dwelling also includes buildings under construction that are being built or adapted for such use.**

If at the effective date of transaction there is no longer a residential building as it is derelict or demolished, then those grounds and gardens are no longer residential. In order for the property not to be suitable for occupation as a dwelling, it cannot be physically habitable.

Rates of stamp duty land tax

The stamp duty land tax rates for the residential property acquisitions by UK resident individuals are shown in ***Table A: Rates of stamp duty land tax***. Special exceptions to the surcharge rates exist where:

- The property purchased is not an additional dwelling.
- The property purchased is to replace the main home, even if the purchasers own an interest in another dwelling(s). Please note specific rules apply to other property interests which are inherited.
- The transaction is between spouses or civil partners if they are the only parties to the transaction and they are still living together.
- The purchaser is acquiring an additional interest in the same property to which they have an interest, and that property is their main residence.

Some key points to note:

- An overseas property will be classed as an interest in a residential property.
- A purchaser can look back up to three years from the effective date of transaction to see if a qualifying dwelling was sold and therefore the replacement home criteria has been met.
- A purchaser can claim a refund of the surcharge rate where they sell their former home within three years of the effective date of transaction of purchasing their new main residence.
- If the property is being acquired with another person, then the surcharge rate could apply to the whole transaction where they own an interest in another property and the main residence exemption does not apply to them.
- Spouses and civil partners are treated as one for the purpose of this part of the legislation. Even if one party to the relationship does not own another property, they will be treated as doing so if their spouse or civil partner does.
- Where trustees are acquiring properties the type of trust will impact the rate of stamp duty land tax payable.
- There are special rules of property transfers on divorce or dissolution of a civil partnership potentially restricting only one party being able to apply the replacement residence rules depending on the order of the transactions.

A good rule of thumb is to assume that the surcharge rate applies, unless you can prove otherwise.

TABLE A: RATES OF STAMP DUTY LAND TAX

Part of relevant consideration	'Normal' rate (s 55)	'Surcharge' rate (Sch 4ZA)
Up to and including £125,000	0%	3%*
>£125,000 to £250,000	2%	5%
>£250,000 to £925,000	5%	8%
>£925,000 to £1,500,000	10%	13%
The remainder (if any)	12%	15%

* For the surcharge rates where the consideration is more than £40,000, the rate of 3% will apply on the whole consideration within this band.

TABLE B: NON-UK RESIDENT RATES OF STAMP DUTY LAND TAX

Part of relevant consideration	'Normal' rate (s 55)	'Surcharge' rate (Sch 4ZA)
Up to and including £125,000	0%	5%
>£125,000 to £250,000	4%	7%
>£250,000 to £925,000	7%	10%
>£925,000 to £1,500,000	12%	15%
The remainder (if any)	14%	17%

Corporate acquisitions

Companies are always subject to the surcharge rate of stamp duty land tax for the purchase of a major interest in a dwelling.

Furthermore, the higher rate of stamp duty land tax (Sch 4A) could apply where consideration is in excess of £500,000. This means that 15% is initially charged on the whole consideration, not just the value in excess of £500,000.

Reliefs exist against this charge, but they need to be claimed. Where a claim can be made then the surcharge rates become due. Under Schedule 4A, these include:

- property rental business (para 5);
- business of trading in or redeveloping properties (para 5);
- making a dwelling available to the public (para 5B);
- financial institutions acquiring dwellings (para 5C);
- dwelling for occupation by certain employees (para 5D);
- flat occupied by a caretaker (para 5EA); and
- farmhouses (para 5F).

These reliefs can be withdrawn if the property's use changes within three years of the effective date of transaction, even if it is to another relievable activity.

Purchases by non-UK residents

The non-resident stamp duty land tax rules were introduced for property transactions with an effective date on or after 1 April 2021 (Sch 9A).

Where the purchaser is considered a non-UK resident, then an additional 2% rate is applied to the underlying residential property rates, as shown in ***Table B: Non-UK resident rates of stamp duty land tax***. The rate of stamp duty land tax under Sch 4A is 17% for properties with consideration of more than £500,000. This is subject to the relevant reliefs being available.

Whether or not the purchaser is non-UK resident for stamp duty land tax purposes is judged based on the effective date of transaction. A non-UK resident for stamp duty land tax purposes is defined differently to the rules set out in the statutory residence test, used for the purpose of income tax and capital gains tax. Nationality or citizenship are not considered. Visa policies or the right to reside rules are also not relevant in these circumstances.

Where the property is acquired by more than one purchaser, then the non-resident rates of stamp duty land tax will apply if only one of them meets the non-UK residence tests. The only exception is for married couples or those in a civil partnership where one party is UK resident (Schedule 9A part 5 para 12).

The tests for the main types of purchasers can be set out as follows:

Individual purchaser: An individual is considered non-UK resident if they are not present in the UK for at least 183 days in the 12 months before the purchase. An individual is UK resident where they are present in the UK at midnight (Sch 9A Part 3). Special rules exist for spouses and civil partners.

Trust: The residency position of the trustee is relevant. The exception being where the trust is a bare trust or the beneficiary is entitled to remain in the property for life or entitled to income arising from the purchased property. In these circumstances, the residency of the beneficiary is considered (Sch 9A Part 5 para 14).

Corporate purchaser: Corporate purchasers are considered non-UK resident if they are not UK resident for corporation tax purposes. This is a look back test only. Special rules exists under the company residency definition where a non-UK resident person directly or indirectly owns a UK company. Such companies are treated as non-resident where the company:

- is a close company – the same definition as corporation tax is applied here;
- meets the non-UK control test in relation to the transaction; and
- is not an excluded company (Sch 9A Part 4).

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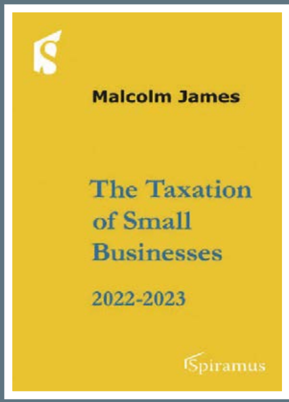

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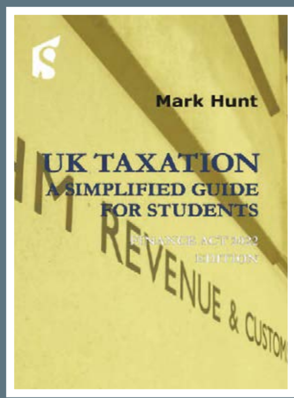

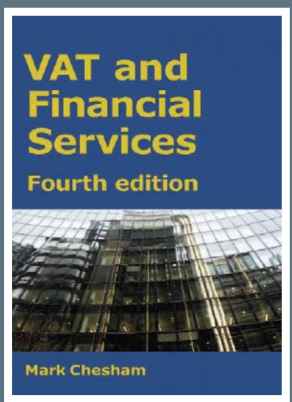

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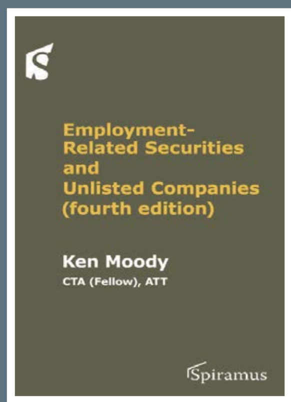

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Providing by will
Choosing the right sort of trust

In the first of two articles on providing for partners, children and minors by will, we examine how to identify the right sort of trust.

by Emma Chamberlain

Types of will trust

Even after the changes to the inheritance tax treatment of trusts that were made in March 2006, testators have a range of possible trusts that can be used for partners, young children and grandchildren in their wills. These are set out below and are only available to property passing on death.

A qualifying interest in possession trust

This is an immediate post-death interest, where the property must be settled by will on death, in which the trust property is for inheritance tax purposes treated as belonging to the relevant beneficiary (see Inheritance Tax Act 1984 s 49(1)). This gives the beneficiary a right to income (even if revocable) and there may (but need not) be power to advance capital to that beneficiary. It is not limited to a particular class but can be used for any individual.

Trusts for bereaved minors

This is only available for minor children of the testator (see Inheritance Tax Act 1984 s 71A). The key limiting feature of these trusts (known as Section 71A trusts) is that they can only be set up in favour of a minor child of the testator by will or intestacy (hence they cannot be set up for grandchildren by will). There is no inheritance tax payable on the death of a child under 18 or on the child reaching 18.

The terms must provide that the child takes capital at 18 but can take entitlement to income before that age. Before reaching the age of 18, capital entitlement can be deferred indefinitely, in which case there is no entry charge but the trust is now within the relevant property regime. If capital entitlement is deferred until the age of 25 under Inheritance Tax Act 1984 s 71D, the trust enters the s 71D regime, again with no entry charge.

Age 18-to-25 trusts

Known as Section 71D trusts, again

Key Points

What is the issue?
Testators have a range of possible trusts that can be used for partners, young children and grandchildren in their wills, including an immediate post-death interest, trusts for bereaved minors, and age 18-to-25 trusts.

What does it mean for me?
Because the inheritance tax treatment differs, it is necessary to provide for which form of trust takes priority over another.

What can I take away?
There is often confusion about what regime a will trust falls into, which can result in some missteps in calculating the appropriate capital gains tax and inheritance tax regimes to apply.

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these are only available for children of the deceased parent set up by will. The children must take capital no later than the age of 25 and in practice must not be entitled to income within two years of death. The price to pay is a maximum 4.2% charge on reaching 25. There are no ten year charges unless the trust terms are changed to defer capital beyond 25.

Other trusts

Other trusts that can be used for partners, young children and grandchildren include a bare trust and a discretionary trust (a relevant property settlement).

Priority and implications of having different types of trusts

There is some overlap in the different types of trust listed above. Because the inheritance tax treatment differs, it is necessary to provide for which takes priority over another. The 'pecking order' of trusts is as follows:

1. The bereaved minor trust (Section 71A trust): This takes priority over all others.
2. The immediate post-death interest: Any person takes an immediate right to income on the death of the testator.
3. The 18-to-25 trust (Section 71D trust): The child of the deceased parent must take capital and income no later than the age of 25.
4. The relevant property trust.

> **Confusion about what regime a will trust falls into can result in some missteps in calculating the tax regimes to apply.**

What is the position if the parent's will gives the minor an immediate right to income (Trustee Act 1925 s 31 is excluded) with capital vesting at the age of 18? Is that a bereaved minor trust or an immediate post-death interest?

Inheritance Tax Act 1984 s 49A provides that if the conditions of Section 71A are met, the interest in possession is not an immediate post-death interest (i.e. the bereaved minor trust rules take precedence). However, if the will gives the minor **grandchild** or another beneficiary an interest in possession with capital vesting at the age of 18, it **will** be an immediate post-death benefit. Also, if the will gives the child an immediate right to income and defers capital entitlement until the age of 25, this is an immediate post-death interest, not a Section 71D trust.

Hold-over relief or not?

There is often confusion about what regime a will trust falls into, which can result in some missteps in calculating the appropriate capital gains tax and inheritance tax regimes to apply. Hence, a will trust for 'my children at 25' – giving them an immediate entitlement to income on death – is an immediate post-death interest, not an 18-to-25 trust (Section 71D). A will trust giving 'capital to my children at 18' – but giving them income entitlement within two years of death while still minors – is a bereaved minor trust not an immediate post-death interest.

Beware the effect of Inheritance Tax Act 1984 s 144 if, say, settled property is held 'on trust for my children living at my death in equal shares at 25', and one child is 18 at the testator's death or becomes 18 within two years of death. Unless Trustee Act 1925 s 31 has been modified, the child takes an immediate post-death interest, not an 18-to-25 interest. Section 144 provides for automatic reading back. The fact that the trustees have not exercised any powers is irrelevant. However, if the child is appointed entitlement to income within two years of death and the will specifies that they become entitled to capital at the age of 18, the trust remains a Section 71A trust. This is in accord with the pecking order above.

Why do we care?

The type of trust has inheritance tax implications. On the death of a child under the age of 18 with a bereaved minor trust there is no inheritance tax; but with an immediate post-death interest there is! Furthermore, if the trustees exercise their powers to defer absolute entitlement as a child approaches the age of 18, there is no exit or entry charge at that point if it is a bereaved minor trust (or Section 71A) trust being converted. However, there would be an entry charge if, say, the beneficiary (such as a grandchild) had a qualifying interest in possession which was an immediate post-death interest.

It also has wider implications. For example, Section 71A and Section 71D trusts do not automatically need to go onto the Trusts Register provided the trustees have no UK tax liability.

Hold-over relief under the Taxation of Chargeable Gains Act 1992 s 260 is available on advancements of assets out of a Section 71A or Section 71D trust to the beneficiary on or under the age of 18, even though there is no exit charge; and also on advancements of assets out of a Section 71D trust to the beneficiary after the age of 18, as there is an exit charge then. However, no hold-over relief is available under s 260 if there is an outright advancement from an immediate post-death interest trust. Practitioners may wrongly submit an IHT100 form at the ten year anniversary if they think they are dealing with a relevant property trust rather than a Section 71D or immediate post-death interest trust.

Spousal immediate post-death interest trusts

In cases where the will of the first spouse or civil partner to die leaves residue on an interest in possession trust for the surviving spouse or civil partner (an immediate post-death interest), it should provide for trusts over to take effect on the ending of that spouse or civil partner's interest. These trusts can qualify as Section 71A (bereaved minor) or Section 71D (age 18-to-25) trusts but it is not possible to create successive immediate post-death interests.

> **It is not necessary that the terms of the bereaved minor trust are set out in the will.**

However, if the will provides for residue to be held on trust for the surviving spouse or civil partner and then for the children on interest in possession trusts, the trusts for the children will be taxed under the relevant property regime and the surviving spouse will make a chargeable transfer (not a potentially exempt transfer) if the spousal interest is terminated or surrendered inter vivos.

Testamentary general power of appointment

If the surviving spouse is keen that the children should take immediate post-death interests on his or her death, the trustees might advance the capital out to the surviving spouse. That spouse could then set up immediate post-death interests in their will for the children.

Alternatively, the spouse could be given a testamentary general power of appointment which they exercise in their will to create immediate post-death interest trusts for the children.

If the trust property is or includes the principal residence of the surviving spouse (or a share of it), the children need to become absolutely entitled to it on the death of the surviving spouse for their inheritance of it to qualify for the residence nil rate band, unless the surviving spouse has a general power of appointment which is exercised by will to create a new settlement of the property which gives the children qualifying interests (immediate post-death interest, Section 71D or Section 71A).

Immediate post-death interest followed by potentially exempt transfers

If the deceased leaves residue on immediate post-death interest trusts for the surviving spouse or civil partner and the survivor wishes to terminate that life interest inter vivos and make potentially exempt transfers for the children, the children must either take outright or on bereaved minor trusts.

Hence, it is not necessary that the terms of the bereaved minor trust are set out in the will itself. The trustees may exercise powers of appointment (given to them in the will) to secure that on termination of the spousal immediate post-death interest by death or during the surviving spouse or civil partner's lifetime the settled property is held on a bereaved minor trust.

If later it turns out that the children are not financially responsible at the age of 18, the trustees can exercise a power of advancement to defer absolute entitlement. At that point, the trust will fall into the relevant property regime but without an inheritance tax charge. (The trust could be converted into a Section 71D trust at that point, if it was felt preferable for the children to inherit at the age of 25, not 18. Then just before the age of 25, their interests could be postponed again, at which point the trust would become a relevant property settlement!)

Curiously, while it is possible to convert the spousal immediate post-death interest trust into a Section 71D trust on termination of the spouse's life interest, this would not be a potentially exempt transfer by the spouse but a chargeable transfer. But going into a Section 71A trust and then a Section 71D trust from that would work to avoid an entry charge!

In the second part of her article, Emma Chamberlain will examine how the challenges of identifying the right sort of trust work in practice.

A detailed survey of the technicalities of the relevant property regime, trust and will drafting issues is in the forthcoming 5th edition of Chamberlain and Whitehouse on Trust Taxation.

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Scotland Branch

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Young International Corporate Tax Practitioners Conference

SAVE THE DATE

Thursday 22 September 2022

The Chartered Institute of Taxation European Branch and ADIT in conjunction with the Young IFA Network will be holding their 15th Young International Corporate Taxation Conference this year on Thursday 22 September 2022 at the Deloitte Auditorium, 2 New Street Square, London EC4A 3BZ to highlight the current major international tax issues. The major topics covered will be:

- Tax in a post-Covid world
- International Tax Law and EU Tax updates
- OECD Pillars 1 and 2
- Brexit – where are we now?
- Windfall Taxes
- ESG & Taxation issues

For more details visit our website:
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Business or non-business
How does your income grow?

HMRC changes have impacted the way in which an activity is deemed to be business or non-business for the purposes of VAT. We ask what this will mean in practice.

by Neil Warren

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> **Key Points**
>
> **What is the issue?**
> HMRC has changed the way it interprets the law about whether an activity carried out by an organisation is deemed to be business or non-business. Revenue and Customs Brief 10 (2022) has replaced the six questions known as the 'Lord Fisher tests' with two completely new tests. You need to consider the new tests with immediate effect.
>
> **What does it mean for me?**
> There is no output tax to pay on income received from non-business activities and the income is also ignored as far as the VAT registration test is concerned. But input tax cannot be claimed on costs that directly relate to a non-business activity and an apportionment is necessary if costs are partly relevant to business and partly to non-business activities.
>
> **What can I take away?**
> The new rules are particularly important to consider if you act for any charities or not-for-profit making organisations. There could be sources of income that are now subject to VAT with the new rules or vice versa. You need to consider each activity in isolation to determine its VAT treatment.

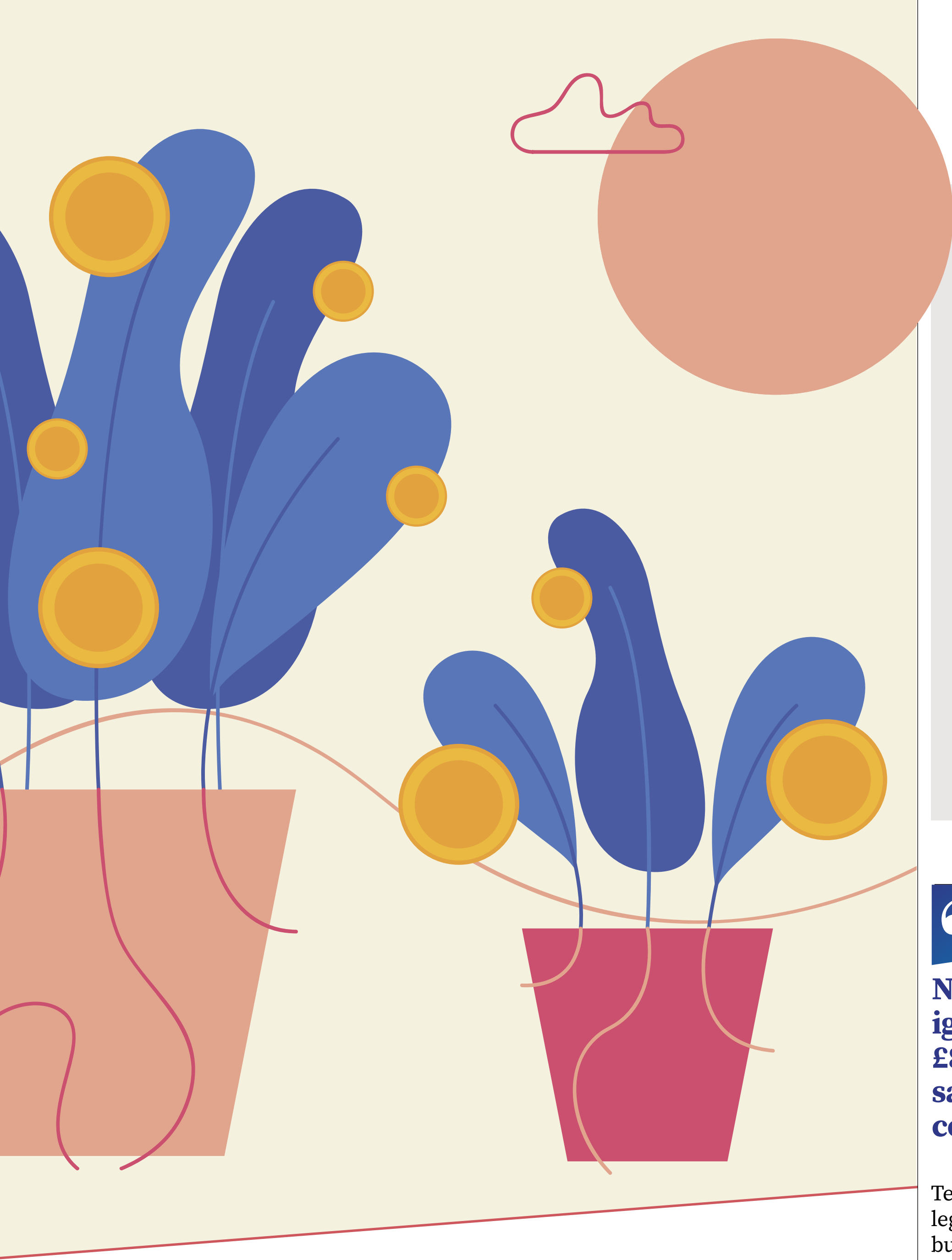
HMRC recently issued Revenue and Customs Brief 10 (2022) (see bit.ly/3BJGVvr), explaining its new interpretation of the legislation about whether an activity is classed as business or non-business for VAT purposes. It is a good time to address some practical questions about the revised procedures.

Why is the business or non-business issue so important?
If a source of income relates to a business supply, it will be subject to VAT in most cases. If it is non-business, it will be outside the scope of VAT, which means that there is no output tax to pay. And, equally importantly, non-business income is ignored as far as the annual £85,000 VAT registration sales threshold is concerned. A business or charity with only non-business income will never register for VAT.

You mention charities: presumably this issue is more relevant for charities and not-for-profit organisations than for a commercial business?
Definitely. HMRC's Revenue and Customs Brief 10 (2022) highlights the following entities that might be affected by the new rules:

- charities;
- not-for-profit making organisations;
- a business operating nursery and creche facilities;
- a business that receives grants or subsidies; and
- an organisation or business carrying out non-business activities.

However, just because an activity or source of income does not make a profit or surplus – and is not intended to do so – this does not mean that it is automatically classed as a non-business



BUSINESS OR NON-BUSINESS: TWO NEW TESTS

Test 1: Does the activity result in goods or services being supplied for a consideration? (Consideration means payment.) A legal relationship must exist between the buyer and seller.

Test 2: Is the remuneration earned from the activity obtained for the purpose of receiving income?

If the answer to Test 1 is 'no', then the activity or income is non-business and there is no need to consider Test 2.

HMRC's VAT Business/Non-Business Manual has been fully updated from 1 June 2022 to give further guidance on the new policy (see VBNB30200 to VBNB30400).

> **Non-business income is ignored as far as the annual £85,000 VAT registration sales threshold is concerned.**

activity. There have been many cases where HMRC, supported by the tribunals, have ruled that breakeven or loss-making activities are subject to VAT. That will continue to be the case.

What is the reason for HMRC moving the goalposts by issuing the recent Brief?

For over 30 years, HMRC has placed a lot of emphasis on what are known as the 'Lord Fisher tests' to determine whether supplies are business or otherwise. These tests consider six different questions and – by and large – have given clear guidance as to whether an activity is classed as being relevant to a business. They are not conclusive and very few scenarios will pass or fail all six tests. The questions were formulated by the judge in *Lord Fisher* [1981] STC 238, a high profile tribunal case about whether money collected by Lord Fisher from friends and relatives to take part in shooting events on his estate were subject to VAT.

However, times change, and HMRC's recent Brief takes account of two cases heard in the higher courts in recent years where the business/non-business issue was relevant:

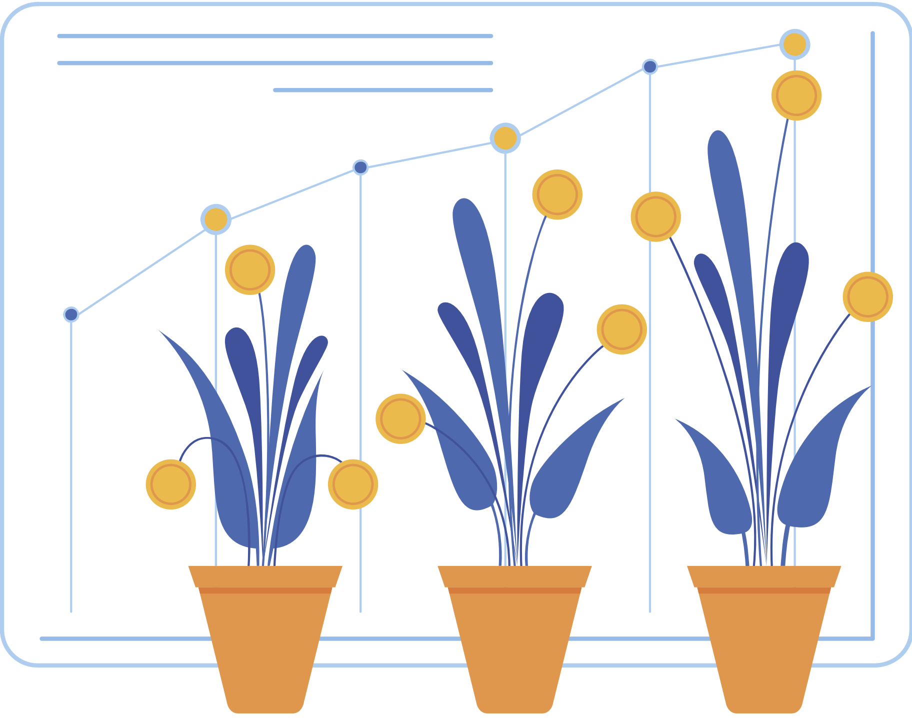
- *Wakefield College* [2018] BVC 22; and
- *Longridge on the Thames* [2016] BVC 33.

What has changed? Are the Lord Fisher tests no longer relevant?

The Brief has replaced the six Lord Fisher tests with two completely new tests – see ***Business or non-business: two new tests***. The first challenge is to consider Test 1: if the answer to this question is 'no', then an activity qualifies as non-business and no VAT issues are relevant. You don't need to consider Test 2. With Test 1, there needs to be a legal relationship between a seller and buyer; for example, if a street busker receives payment from passers-by for entertaining them on his guitar, his income is not subject to VAT because there is no legal agreement in place with the passers-by. The receipts will fail Test 1 and are therefore regarded as non-business as far as VAT is concerned.

It is also important to recognise that there is no such thing as a business or non-business organisation with these rules. You need to consider each activity carried out in isolation. For example, an animal charity that sells donated goods from a shop on the ground floor and treats sick animals free of charge on the first floor of the same premises is carrying out both business and non-business activities.

Regarding the Lord Fisher tests, I quote directly from HMRC's Brief: 'Businesses can no longer rely on the old "business test" to decide whether an activity is business or not, but it can be used as a set of tools designed to help identify those factors which should be considered.'



KEY ISSUES TO CONSIDER ABOUT BUSINESS OR NON-BUSINESS SITUATIONS

- The scale and regularity of a payment is relevant. To quote from HMRC's manual: 'If the consideration is much lower than the value of the supply, that might show that the activity is not for the purpose of obtaining income.'
- Some charges are made for a token amount in order to create a binding contract between a buyer and a seller; e.g. a peppercorn rent. These payments will not be subject to VAT because they do not tick the box for Test 2.
- If a payment for goods or services is very low compared to the going rate in the commercial market, this could indicate it is a non-business source of income.
- A common question is whether a source of income might not be subject to VAT if it is classed as a hobby rather than a business; e.g. selling small items on the internet. Each situation should be considered on its merits but to quote from HMRC's manual VBNB30300: 'A business activity is less likely to be done for pleasure as would a hobby or pastime.'
- Don't forget that charities are subject to the same VAT rules as other organisations. They get certain concessions in the legislation but not special treatment.
- A one-off sale can still be classed as business – for example, if you buy a plot of land in order to build a house and sell at a profit, this will be a business activity even though you will only make one sale at the end of the project.

Can you give an example of an activity that will possibly have a different VAT outcome with the new rules compared to the Lord Fisher tests?
Sticking with the animal charity scenario, some pet charities take in stray animals from the streets – mainly cats and dogs – and then re-home them when they are restored to full health. The charity will sometimes make a charge to the new owner but what is the motive for the charge?

If the charge is being made to help pay for some of the overheads of the charity – or to raise funds for other projects – then it will be business related income. But if the charge is being made because the charity's trustees think that a charge is to ensure the new owner has a genuine commitment to caring for the animal, this is a non-income motive – a 'no' answer to Test 2.

A key issue, I guess, is how much is being charged for a supply of goods or services?
That question will be relevant in many situations. To quote from HMRC's updated VAT Business/Non-Business Manual VBNB30300: 'An activity that is intended to bring in £10 per week is much less likely to be for the purpose of generating income than one intended to bring in £10,000 per week.'

A local charity where I live charges £2 for a very impressive quarterly magazine about its activities. It is very glossy and clearly costs a lot more than £2 per copy to publish. They told me that the purpose of making this token charge is to stop people taking away three or four free copies at a time; i.e. the 'purpose' of the charge is not linked to raising income but a way of controlling the circulation of the magazine.

What about claiming input tax?
Input tax cannot be claimed on any expenses that directly relate to non-business activities. If an expense is partly relevant to business and non-business activities – such as the premises rent for the animal charity I mentioned earlier – input tax can be apportioned in any way that gives a fair and reasonable outcome.

Don't forget that the business/non-business apportionment of input tax is completely different to the input tax apportionment that is needed for a business that is partially exempt, where the method of apportionment between taxable and exempt supplies is prescribed in law.

How should advisers deal with these new rules?
I feel very positive about the new Brief and, as a big fan of tax simplification, I am pleased that we have gone from six tests down to two.

There will still be some grey areas – and inevitable tribunal hearings – but the fact that HMRC has based its revised policy on two high-profile binding tribunal cases should keep those appeals to a minimum.

I have highlighted some final tips to help advisers. See ***Key issues to consider about business or non-business situations***.

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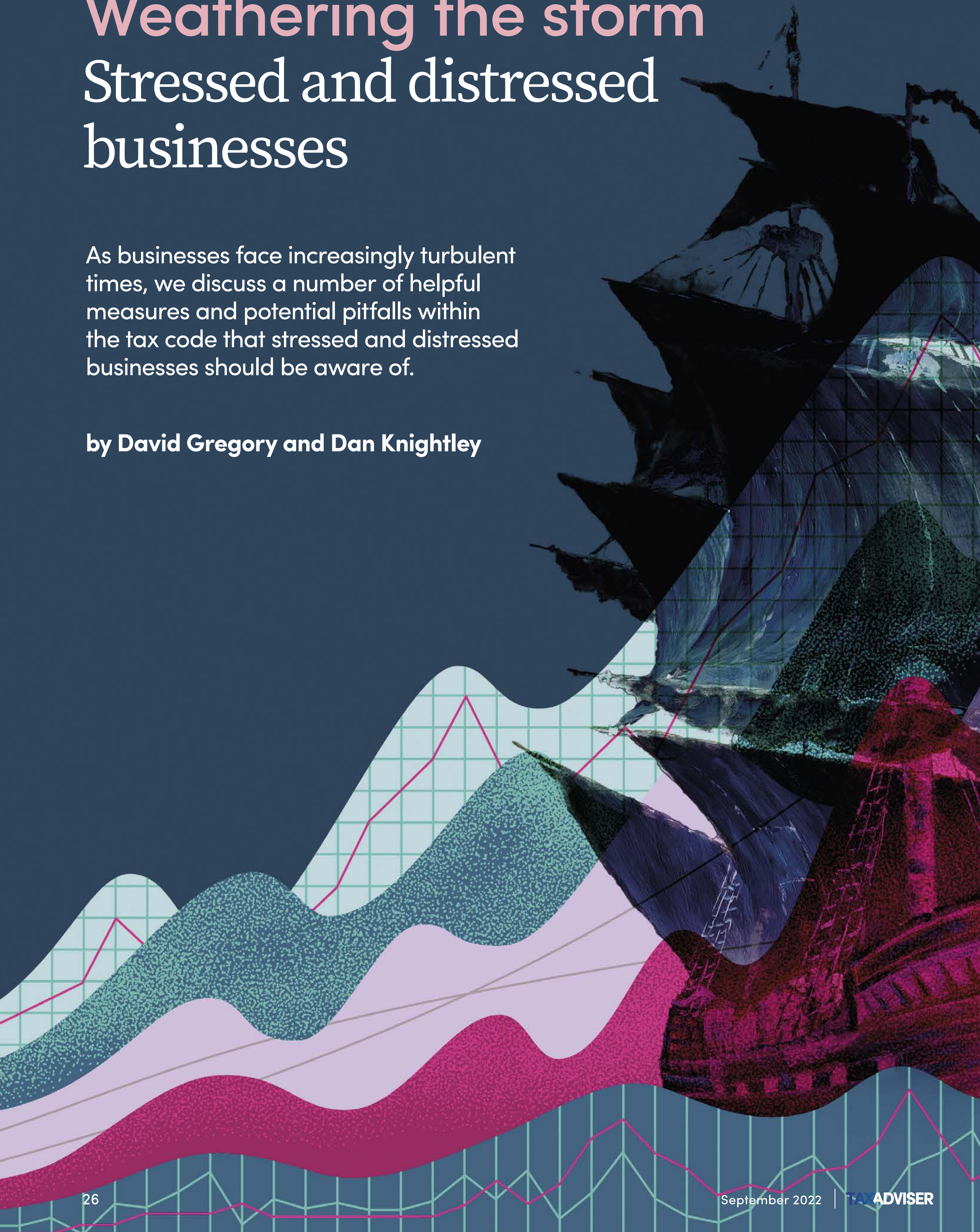
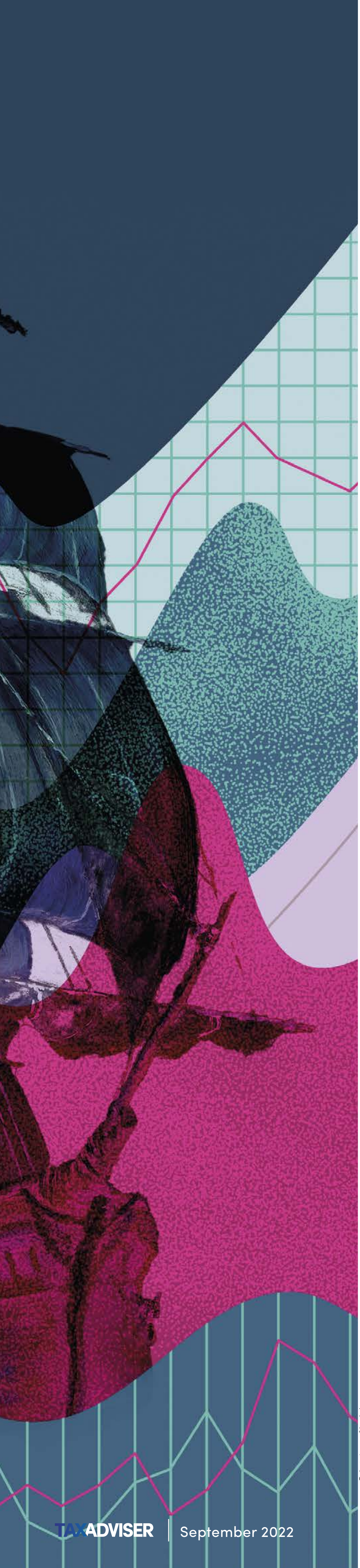
Weathering the storm
Stressed and distressed businesses

As businesses face increasingly turbulent times, we discuss a number of helpful measures and potential pitfalls within the tax code that stressed and distressed businesses should be aware of.

by David Gregory and Dan Knightley





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Over the past few years, businesses have been presented with an unprecedented array of challenges. Now facing economic uncertainty and double-digit inflation, combined with the government having turned off the taps that have provided significant support in relation to the Covid pandemic, there is widespread expectation that the number of businesses in financial distress and potentially facing insolvency will increase significantly. For many businesses (and their tax advisers), this will be the first time they encounter these challenges. The aim of this article is to provide an overview of some practical tax considerations of situations a business may encounter as they navigate periods of financial distress.

As a starting point, it is worth highlighting that almost any business can find itself in a position of distress, often through no fault of its own. A financially sound business may suddenly experience cash flow difficulties; for example, due to rapid increases in its cost base, the failure of critical suppliers or a large customer not paying for goods or services on time. With so many demands on management time and a rapidly changing business environment, it is easy for a business to lose focus or stumble into financial difficulty. Whatever the cause and the actions that management needs to take to overcome the challenges, tax will play a critical part.

Key Points

What is the issue?
There is widespread expectation that the number of businesses in financial distress and potentially facing insolvency will increase significantly. Tax will often play an important role in any steps taken by a business to navigate periods of uncertainty.

What does it mean for me?
A working knowledge of the relevant tax provisions and tools available, including in respect of time to pay applications, debt reorganisations and the impact of the appointment of insolvency practitioners, may prove essential to tax advisers and their clients over the coming months.

What can I take away?
There is a rarely a 'one size fits all' solution. However, there are various tools available to assist distressed businesses. When these are used correctly, businesses should have the best chance of successfully navigating such periods of difficulty.

Early interventions

There are a number of early interventions that can often provide breathing space to a business in distress. Many of these relate to good business practice, such as improving operational efficiency, managing exposures to risk, improved financial management and monitoring of liquidity. However, we have flagged two particular interventions below where tax is a key factor.

Time to pay agreements

Since the start of the pandemic, we have seen a rise in the use of both formal and informal time to pay arrangements. HMRC will often be a significant creditor in a distressed business, with a taxpayer either being in arrears or forecasting to become so in the coming months.

Agreeing a formal payment plan can allow a business the certainty to move forward, without fear of winding-up action from HMRC. However, when agreeing a plan, it is important to understand the parameters of what HMRC is prepared to accept.

HMRC will only consider a plan where it can be demonstrated that the financial difficulties are a 'one-off', with a clear route to recovery. It will expect the business to put forward a credible plan which pays down the arrears in the shortest possible time, whilst settling all future tax liabilities as they fall due. Only in exceptional cases will it consider a payment plan extending beyond 12 months. End loaded plans are likely to face substantial challenge or be rejected outright.

Ultimately, HMRC sees a time to pay agreement as the last resort for a business having first taken all necessary steps to obtain support from other stakeholders. Such measures may include stretching or obtaining improved terms from creditors, seeking early payment from debtors, obtaining additional funding from lenders and shareholders, curbing unnecessary expenditure and capex, collecting director loans and putting a halt on dividends and bonuses for senior management.

It is important to remember that HMRC has the benefit of seeing the pattern of other time to pay requests, so should be familiar with sector specific liquidity issues (as we saw with Covid), which may be helpful when agreeing a plan. However, each time to pay agreement will be bespoke. The key message is to engage early with HMRC once it becomes clear that a debt cannot be repaid on time, but directors should also be mindful of their statutory duties to members and creditors generally.

Additional debt funding

Whilst additional debt funding may be sought, the availability and cost of this may be impacted by HMRC's preferential status in any subsequent insolvency. Any unsecured debt, or debt secured only by a 'floating charge' (e.g. stock or work in process lending) will rank behind any preferential taxes in an insolvency. These are broadly any taxes collected by a business on behalf of HMRC, e.g. payroll taxes, CIS and VAT.

As a result, lenders are taking an increasing interest in the tax status of businesses when considering whether to advance funds, particularly where they are unable to obtain fixed charge security.

Disposal of business

One option that may be under consideration by a distressed business is the disposal of a non-core division or ancillary business. This may be to generate funds, stem the cash drain of a loss-making business or allow management to focus on its core activity. In making such a disposal, many of the usual factors will apply in considering the potential tax implications including:

- sale of trade and assets vs sale of shares;
- tax treatment of goodwill;
- availability of substantial shareholding exemption; and
- application of transfer of a business as a going concern provisions for VAT.

However, where a business is distressed, there are a number of additional points which are potentially relevant.

Allocation of consideration

A lender's security is likely to vary depending on the nature of the asset, and any allocation should therefore represent the true value of the assets disposed of, so as not to prefer one creditor group over another. This should apply notwithstanding that an unfavourable allocation may increase the overall tax liability for the vendor or reduce the tax relief available for the purchaser.

Company leaving a VAT group

Where an entity is sold which was previously part of the VAT group, all members of the VAT group will remain jointly and severally liable for any unpaid VAT that arose prior to the company leaving the group. Therefore, purchasers will need to understand the VAT risk of the group that is left behind and consider what would happen in the event that the seller subsequently fails and the debt goes unpaid (an indemnity from the seller may have little value in that circumstance). Likewise for the seller.

Use of losses

The corporate loss rules are complex and beyond the scope of this article, but some common pitfalls encountered in distressed scenarios include:

- being unable to offset (often substantial) trading losses against chargeable gains arising on assets disposed of after a cessation of trade has occurred;
- being unable to access losses/profits of a group member due to the existence of arrangements for the company to leave the group; and
- being unable to group relieve losses due to the appointment of an insolvency practitioner (see *Farnborough Airport Properties v HMRC* [2017] UKUT 394).

> **Lenders are taking an increasing interest in the tax status of businesses when considering whether to advance funds.**

Debt restructuring

An option often considered when undertaking contingency planning is agreeing a consensual debt restructuring with the secured creditors of the business. This is often combined with a refinancing exercise and/or a release of connected party debt. It can be preferred to an insolvency process by a secured creditor where that could disproportionately impact value in the business, or there would be a reputational risk for the creditor of enforcing on their debt.

We have assumed here that all transactions described involve debts which fall within the definition of a loan relationship or relevant non-lending relationship (see 'Avoiding the trap', *Tax Adviser* (November 2018)). It is important to confirm this, as many inter-company balances in particular can fall short of this hurdle and not qualify for the relevant exemptions described as a result.

Release of connected party debt

A release of a debt owed to a connected company (broadly, a company under common control with the debtor company, see Corporation Tax Act (CTA) 2009 s 466) would generally be expected to fall within the connected companies exemption, and therefore not give rise to a taxable credit in the hands of the debtor company. Similarly, any debit arising in the creditor would equally not be deductible.

Where the debt is instead owed to an individual shareholder, no such exemption exists. Instead, a company would generally need to rely on the provisions of CTA 2009 s 322, which exempts any credit arising on a release of a debt from tax in a number of different scenarios. The most relevant of those are the 'debt for equity' exemption and the 'corporate rescue exemption'.

There are a number of conditions that must be met, but for the 'debt for equity' exemption set out at CTA 2009 s 322(4), any release must not be a release of 'relevant rights' (broadly, a debt to which the old 'corporate rescue exception' at CTA 2009 s 361A applied); and the release must be in consideration for the issue of ordinary shares in the debtor company. Whilst the share capital issued does not need to equal the value of the debt released, it is important that shares are the only consideration given for the release (for example, scenarios where other associated rights or options are created may preclude relief) and that the shares possess genuine commercial upside for the former creditor.

Alternatively, a company may be able to rely on the 'corporate rescue exemption' at CTA 2009 s 322(5B). As above, this must not be a release of relevant rights and the following test must be satisfied:

> 'immediately before the release, it is reasonable to assume that, without the release and any arrangements of which the release forms part, there would be a material risk that at some time within the next 12 months the company would be unable to pay its debts.'

There are a number of ways in which a business may be able to demonstrate that this test is met, including an insolvent balance sheet or cash flow forecasts which show that it is likely to be unable to meet its liabilities at some point in the next twelve months. In many cases, there may be little, if any doubt on this point. Where the position is unclear, the directors may need to consult with experienced insolvency practitioners.

Release of third party debt

In many ways, the tax considerations on a release of a third party debt are very similar to a release of debt by an individual shareholder. Where the creditor is a mainstream lender, a release in consideration for the issue of shares may be less likely, but equally it should be easier to establish that the conditions of the corporate rescue exemption are met as a third party lender is unlikely to release a company from a portion of its debts where it is not necessary to do so.

Alternatively, a release may occur as part of a creditors' voluntary arrangement or a restructuring plan. In both cases, these are statutory insolvency arrangements within the definition at s 322(3) and so any credits arising as a result of a release in connection with such an arrangement should similarly be exempt from tax in the hands of the debtor company.

Acquisition of debt at a discount

Great care must be taken where debt which was previously held between unconnected parties becomes connected, as a result of a transaction involving the debt and/or equity of the business in question. A taxable credit, equivalent to any discount applied to the debt, may be deemed to arise where:

- debt is acquired by a connected company at a discount;
- debt is acquired by a third party at a discount, alongside a controlling shareholding in the debtor; or
- an existing lender acquires control of a company, having previously provided against amounts lent to it (see CTA 2009 ss 361 and 362).

The corporate rescue exemption, as described above, may apply to exempt any credit arising; however, there is the additional requirement in such scenarios of the creditor releasing some or all of the debt within 60 days of the connection arising.

Amendment to terms of existing debt

Where the terms of a debt are amended, for example the term (e.g. an extension of the lending period) or the applicable interest rate (e.g. an interest holiday), this may be a modification for accounting purposes, resulting in a credit to the profit and loss statement of the company.

As for most credits relating to a loan relationship, any such modification adjustment is taxable unless an exemption applies. The corporate rescue exemption may be of assistance but it is only available where the modification is 'substantial' (CTA 2009 s 323A(1)). This is an accounting concept and therefore specialist accounting support may be required in determining the tax implications of any such amendment.

Insolvency

Where a business is unable to find a consensual solution, either the creditors of the business or the directors may move to instruct an insolvency practitioner. The insolvency practitioner will act firstly with a view to rescuing the business or, if not possible, with an ultimate aim of executing a sale of its trade and/or assets, through either an administration or liquidation process. Where a sale of the businesses assets has been pre-arranged, this is known as a pre-packaged ('pre-pack') sale.

Once appointed, the insolvency practitioner becomes responsible for the tax affairs of the business, and specific rules within the insolvency code stipulate the order in which different taxes should be paid, depending on when the liability arose and what it relates to. For example, automatic rules may apply to set-off amounts that are due back to the company from HMRC against amounts owed to HMRC in relation to pre-appointment periods, and HMRC will have a preferential right to payment of certain tax debts ahead of floating charge or unsecured creditors.

From a practical perspective, a company entering administration or liquidation will result in the end of an accounting period for tax purposes. It may also result in any connections for loan relationship purposes or group relief groups ceasing to exist as mentioned above (depending on the level in the structure at which insolvency practitioners are appointed). However, it is still possible for an insolvency practitioner to surrender losses in respect of periods prior to their appointment, although they may seek payment for any such surrender.

Where only part of a group has entered insolvency, it may still be possible to benefit from group relief provisions on a sale of assets to another group member, both in respect of chargeable gains and stamp duty land tax, while the transfer of a trade without a change of ownership provisions also survive insolvency. This may allow for tax attributes such as tax written down values and trading losses to transfer, subject to any restriction in respect of relevant liabilities left behind.

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> **Great care must be taken where debt which was previously held between unconnected parties becomes connected.**

Pitfalls for directors

As well as the various company law risks, a director of a distressed or insolvent business must be mindful of a number of potential tax related risks that could see them facing personal or even criminal liability.

Where an individual has in a five year period been a director, shadow director or participator in at least two companies which have both entered into an insolvency process with tax outstanding, and is also a director (or shadow director/participator) of another company conducting the same or similar business, HMRC may hold the individual jointly and severally liable for any tax of the new company.

Separately, where HMRC considers there to be a serious risk that a business will not pay certain taxes when they fall due (most commonly VAT and payroll taxes), it can demand security from the business. This can be particularly relevant to pre-pack sales to the extent that such debts remain unpaid in the seller. For payroll taxes, HMRC can demand security of up to four months of tax, plus any arrears, and for VAT this can be up to six months of tax, plus any arrears. In certain circumstances, HMRC can issue the demand against both the company and its directors. Where a demand for security has been issued, it is a criminal offence not to provide it.

Whilst these are both powers that HMRC will not commonly resort to, when it does they should be treated with an appropriate level of respect, given the seriousness of non-compliance.

Conclusion

When facing financial distress, a business and its directors must tread carefully to ensure that no criticism can be levied in the event of an ultimate insolvency and that personal or criminal liability does not follow. As with many things in tax, there is rarely a 'one size fits all' solution and each case must be considered on its individual facts. However, there are various tools available to assist distressed businesses. When these are used correctly, businesses should have the best chance of successfully navigating such periods of difficulty.

Life in the metaverse
Let there be tax?

It once sounded like science fiction but the metaverse will soon be part of our reality. So, as virtual goods are bought and sold, or as real world goods are purchased virtually, how will they be taxed?

by Sal Visca

If one thing is certain, it’s that we’re going to live an increasing amount of our lives in the digital world. By 2026, research firm Gartner predicts that 25% of people will spend an hour a day in a virtual world or the ‘metaverse’ and they won’t just be playing games or interacting with friends (see bit.ly/3oci4si).

The metaverse, which is essentially the internet in 3D, will increasingly mirror the real world and this means people will be using it to go to virtual doctors’ appointments, business meetings and even house viewings. There will also be increasing commercial activity involving the buying and selling of virtual goods and services – as well as real world items that are purchased virtually but arrive at your door.

An early example of the commercial metaverse is Decentraland. A window into the future, this virtual marketplace allows avatars to buy and sell land, estates and wearables. And regardless of whether the transaction is in cryptocurrency, non-fungible tokens (NFTs) or through a credit card, when money is changing hands, a transaction is taking place. So what does this mean for indirect tax?

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Taxing a virtual world?

As it stands, the metaverse is currently a tax haven as transactions aren't subject to any controls, and the reason for this is simple – imposing tax on the metaverse is hugely complex.

There's just no precedent when it comes to taxing a virtual world as our tax legislation has developed based on geography, with physical location generally determining the tax jurisdiction you fall within. This longstanding approach can't be unpicked overnight, and as transactions in the metaverse can't easily be attached to any particular tax jurisdiction, reporting on and paying taxes in the virtual world is highly complicated.

The EU introduced destination-based VAT for certain digital transactions, which has been followed by other countries (and retained by the UK). However, the approach doesn't extend to the metaverse.

It's time to take a fresh look at taxes, and this means creating a global set of indirect tax rules for the metaverse. Perhaps it's a case of taxing an avatar based upon the user's real-world location. Imposing tax on the location of the server powering the avatar is unlikely as servers aren't tied to certain data centres so the tax jurisdiction could move. Another idea is to base tax on the location of the metaverse application owner. In other words, where each metaverse company is registered in the real world. But are these the best solutions? A global challenge requires worldwide collaboration – tax and virtual reality minds from across the world coming together to advise governments on indirect tax in the metaverse. And of course, governments would need to agree on it!

A crypto tax framework

These experts must ensure that the metaverse rather than tax takes centre stage when creating a crypto tax framework. Understanding how the metaverse operates and the different aspects of a virtual world are crucial here – from the legal status of avatars and which digital currencies are used, through to all the different ways the virtual world connects to the real world. Is the virtual world a game, potentially with winnings? Is it an investment or a trading business, with potential profits and losses? Is it a different way of carrying out a commercial transaction?

The tax complexities then need ironing out. Are all types of digital currency taxable, for example? We know that Bitcoin is taxable; however, what is the status of Decentraland's MANA tokens and Fortnite's V-Bucks currency? And can blockchain transactions be managed and reported on by using tax engines?

Importantly, tax must be approached from the perspective of the customer experience, making any transaction totally frictionless. As it stands, today's customer demands a seamless digital checkout experience, and the stakes will be even higher in a living digital world in which users want the ability to make impulsive purchases with no interruption to their virtual reality experience. By taking a meta-first approach, this will most effectively shape tax regulation and help to future-proof indirect tax, regardless of how the digital world evolves in 10, 20 or even 100 years' time.

The start of a new journey

It's time for indirect tax legislation to catch up. We've seen how the internet has totally transformed digital sales, with online sales tax proving highly complex and continuing to be an ever-changing landscape. The impact on tax departments has been significant with many investing in tax technologies to keep pace with change.

Could we be at the start of this same tax journey with metaverse transactions? We shouldn't be naïve about what could be in store for tax in the metaverse, which is why clear global rules must be put in place, and organisations must gear-up for change with the right tax technologies.

Although the 'metaverse' is still a new concept, we shouldn't be fooled into thinking it will take many years for it to become embedded into our everyday culture. Virtual reality is not new – virtual world 'Second Life' was launched way back in 2003, and recent advances in technology mean that opportunities to transact virtually will only gain pace. In fact, Microsoft plans to roll out Mesh in 2022 – a metaverse collaboration tool that will be an extension to Teams. It's therefore the responsibility of global governments to ensure that the digital world doesn't remain unregulated and tax free, or we'll soon be dealing with the fallout on an unprecedented scale.

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ESG: the link to taxation

More than good intentions

As environmental, social and corporate governance issues play an increasingly significant role in business strategy, we ask why taxation is pivotal in the debate.

by Simon Crookston

ESG – environmental, social and corporate governance – is the common banner under which sustainable, ethical and responsible activities are being badged. ESG is now definitely a boardroom agenda item as an organisation's ESG policies and activities become ever more important to investors, employees, consumers and the wider communities in which they operate.

At the same time, organisations are also needing to continually adapt to the current changing world, with increasing inflation, global tensions and shortages of raw materials. Shortages have arisen for a variety of reasons, including international transport logistical issues, semi-conductor/chip manufacturing problems, country lockdowns and extreme weather events.

Ultimately, for many organisations, it is currently a balancing act between pursuing their planned ESG agenda and being able to adapt their organisation to be flexible and profitably survive within the current environment. Unfortunately, the two may not always easily align.

The worldwide landscape

As companies continue to expand and establish operations in overseas countries, they will need to proactively monitor and adapt their strategy to the ESG related policies and taxes in each overseas territory in which they operate. There is no uniform set of ESG taxes that are being applied across all jurisdictions.

Each country is making its own commitments in relation to meeting its environmental, sustainability and social responsibility obligations for its citizens.

ESG strategy and the link to taxation

Organisations now operate in a world where tax is considered a reputational issue, with frequent news headlines about how an organisation manages its tax affairs. Consequently, many boardrooms and owner managers are focused on ensuring that their tax status is seen positively by their stakeholders, employees and society and that they do not face any negative publicity from their tax affairs.

Tax is pivotal in the ESG debate as the majority of actions which an organisation undertakes will have a tax consequence.

Environmental

Governments around the world are now introducing a range of taxes, levies and other measures as a mechanism to incentivise businesses to adopt improved environmental and sustainability strategies. The measures largely consist of additional taxes and reporting obligations, as well as additional incentives to encourage organisations to adopt greener practices. For many countries, these taxes focus on:

- carbon and emission taxes;
- environmental and ecological taxes;
- natural resources taxes;
- water taxes;
- waste taxes;
- fuel taxes;
- transport and mobility taxes;

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Key Points

What is the issue?
ESG – environmental, social and corporate governance – is now definitely a boardroom agenda item as an organisation's ESG policies and activities become ever more important to investors, employees, consumers and the wider communities in which they operate.

What does it mean for me?
Governments around the world are now introducing a range of taxes, levies and other measures as a mechanism to incentivise businesses to adopt improved environmental and sustainability strategies.

What can I take away?
Tax will be a critical tool in the development of global ESG governmental policies. Not keeping abreast of changes in this area is likely to lead to organisations being on the backfoot compared to their competitors.

- renewable energy taxes; and
- environmental exercise duties.

International organisations and finance functions therefore need to understand how any new taxes will impact their operating profits, pricing, cashflow and forecasting models, as well as be prepared to manage the additional compliance burden these will bring.

Tax incentives

Many governments globally are seeking to provide tax incentives to encourage organisations to innovate through research and development, to use greener sources of fuel (for example, biogas or hydrogen), invest in heat pumps or insulation products, or purchase energy-efficient technologies, electric or low-emission vehicles.

Some governments, such as the UK, are providing tax reliefs and incentives for employers to provide and employees to choose 'green' transportation options, including the installation of charging points at an employee's home with the provision of an electric company car.

Organisations should typically consider areas such as:

- What type of energy do they currently use in their processes and can this be substituted for something more environmentally friendly?
- How can they move their current transport and mobility policy to one which is electric or low emission?
- Can the organisation work with energy efficient technologies or move to a more environmentally friendly building?
- Can the materials used in manufacturing processes and packaging be switched for more environmentally friendly alternatives?
- Can waste be reduced, recyled or used elsewhere to generate energy?
- How do the organisation's activities impact on natural resources such as water? Can alternatives be sourced?
- How can pollution from the organisation's activities be reduced or feed into other processes such as energy production?

Attracting investors

Reducing emissions and achieving Net Zero is crucial to limit global warming to 1.5°C above pre-industrial levels and avoid the most catastrophic impacts of climate change which we are currently seeing.

An increasing number of organisations have now realised the strategic role that Net Zero plays in addressing climate change, and are working to align their organisation's strategy and activities with a Net Zero path. However, with the increased cost of inflation, increased taxes imposed by governments to pay for the Covid pandemic and the other challenges noted above this is not always easily achievable.

Successful organisations will be those that make ESG commitments, set targets to achieve them and are able to adapt, innovate and identify opportunities in a rapidly changing world, so that they can add value to their customers, employees and local communities.

Investor attitudes

Institutional investors, banks and fund managers are now taking a forward-looking approach and seeing ESG as being one of the criteria used to inform their investment decisions. Investors are starting to exclude those organisations which they perceive to be non-compliant from an ESG and tax transparency perspective. Others are publicly divesting of businesses which have weak tax reporting strategies or are perceived to not be paying the right amount of tax globally.

ESG considerations need to be sincere, embedded within an organisation's strategy, and not be seen as obvious 'greenwashing', which can cause more harm than good. Organisations which manage their ESG considerations well are typically seen to be more aligned to consumer preferences, more efficient and have less exposure to regulatory risk.

Reporting and transparency

Many large organisations already have a requirement to consider and provide transparency around their taxation affairs. We are seeing a shift among businesses away from just being compliant and reporting information on their tax affairs and tax strategy, towards seeking to demonstrate why an approach has been adopted and how this interlinks to their wider purpose and ESG strategy.

This approach is also starting to be mirrored by some forward-thinking SME organisations. They may not have an obligation to report, but wish to disclose their approach in order to be able to demonstrate their sustainability and social capital credentials to their customers and the communities in which they operate.

What should organisations do?

The pace of change is increasing as world events impact organisations, and environmental and sustainability matters continue to grow in significance. It will be important for businesses to have robust processes and controls in place to enable their ESG strategy and tax affairs to be integrated.

In the context of taxation, in our experience, the eight actions we recommend organisations take to ensure that the full range of benefits from their ESG initiatives are delivered are:

1. Link their ESG activities to their organisation's purpose and strategy. Ensure that tax risk is considered as part of the Board's overall strategy towards risk management.
2. While understanding the relevant tax legislation, drive their ESG and tax agenda from a business perspective, in the knowledge of the constraints in which they operate.
3. Keep their activities practical, with a clear destination in mind. The best firms focus on those areas which they can realistically change and influence, particularly in relation to the environmental and social components of ESG.
4. Have a process for the identification and implementation of new taxes and reliefs which will impact their business.
5. Think about what they have learned from Covid-19, in terms of operational resilience, a greater sense of social good and the need to innovate and develop new products and services in response to global disruptors which are outside their control.
6. Review the organisation's existing (tax) structures and consider whether the affairs of the organisation can be simplified, with more efficient supply chains and greater transparency.
7. Continue to focus on regular communication and any cultural challenges. These are often the hardest part to get right!
8. Track progress and delivery of the benefits. Be honest about failures and share successes.

Final thoughts

In the short term, there will be a tension between ESG and flexibility/profitability for many organisations as they face inflation and other global challenges outside their control. However, those that succeed will continue with their ESG strategy, recognising change in this area, often at a pace driven by the media.

Tax will be a critical tool in the development of global ESG governmental policies. Forward thinking organisations that are able to embrace ESG for the benefit of their business, their employees and wider communities should be able to prosper, achieve positive reputational benefits and a competitive advantage.

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Filing RTI returns

The early bird gets penalised

In the case of *Quayviews Ltd*, HMRC sought to penalise a company for making its RTI returns too early.

by Keith Gordon

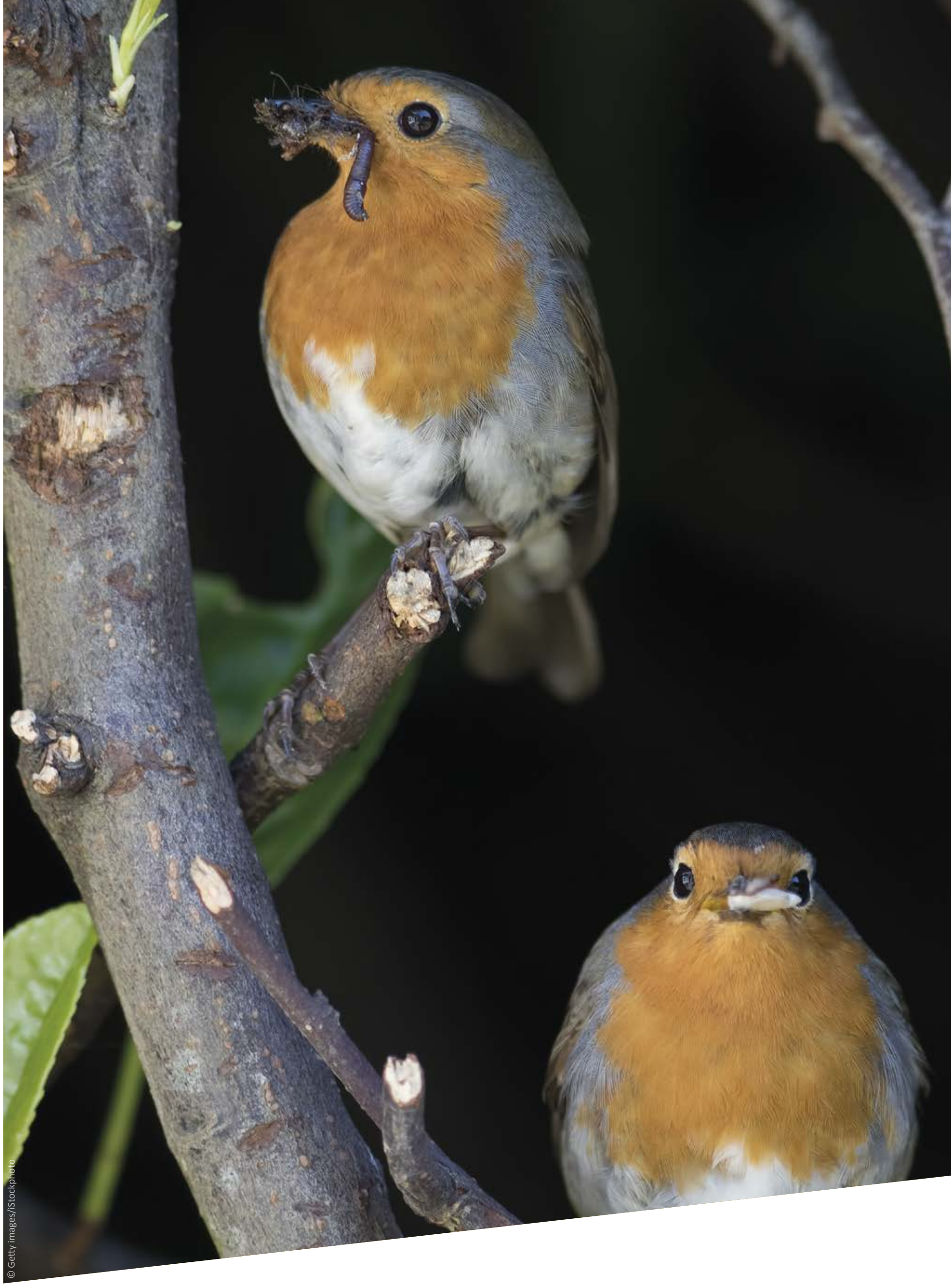
Key Points

What is the issue?
Quayviews Ltd sought to avoid the risk of penalties by submitting a batch of RTI returns for the 2020/21 year in a single go. Its diligence backfired as HMRC issued penalties, arguing that the returns had been submitted too early.

What does it mean for me?
HMRC acknowledged that it had received the returns but that they were not received at the right time (they were too early) and that is why HMRC's computer did not process them properly.

What can I take away?
Advisers are now on notice that RTI returns should not be made before the beginning of the relevant tax month. The cautious approach must now be to wait until the relevant month has begun before submitting each return.

I suspect that few readers will disagree with the proposition that, as a matter of principle, HMRC should have the power to issue penalties in cases where tax returns are submitted late. Indeed, the company in the present case (*Quayviews Ltd v HMRC* [2022] UKFTT 190 (TC)) had previously incurred penalties for late Real Time Information (RTI) returns. As a result, it sought to avoid the risk of further penalties by submitting a batch of RTI returns for the 2020/21 tax



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year in a single go. Nevertheless, its diligence backfired as HMRC issued penalties, arguing that the returns had been submitted too early.

The facts of the case

Before 2018, the company had experienced difficulties in making its RTI submissions in time, receiving penalties for its failures. In February 2018, the company received a letter known as an 'HMRC education letter' which (per HMRC) set out the correct procedure for making RTI returns.

In the subsequent two years, the company had tried to avoid the risk of further penalties by filing in advance but HMRC's software did not seem to accept such early returns. However, on 4 September 2020, the company tried again and submitted returns for the three PAYE months ending on 5 November 2020, 5 December 2020 and 5 January 2021. HMRC's software responded to say that the returns had been successfully sent.

Initially, HMRC denied having received the three returns and, accordingly, issued three £100 penalties. At the hearing, however, HMRC acknowledged that it had received the returns but that they were not received at the right time (they were too early) and that is why HMRC's computer did not process them properly. Nevertheless, HMRC maintained that (because the returns were not received at the right time) penalties were due.

HMRC acknowledged that the company would have no penalty liability if it could show a reasonable excuse for its failures. However, HMRC argued that the terms of the education letter sent to the company in early 2018 explained how to make a correct RTI return and, therefore, the company had no excuse not to have filed the returns properly.

The First-tier Tribunal's decision

The case was heard by Tribunal Judge Anne Fairpo and Member Rebecca Newns. The tribunal referred to the relevant paragraph in the penalty provisions (Finance Act 2009 Sch 55 para 6C) which states that a penalty is payable if the person due to make an RTI return 'fails during a tax month to make a return on or before the filing date'. (The tribunal noted that there is an exception for the first failure in the tax year but noted that that this statutory relaxation had already been used up by the company. I wonder, not that it is critical, whether that was in fact the company's RTI return for the month ended 5 October 2020, which is not mentioned in the decision.)

Given the wording of para 6C, the tribunal accepted HMRC's principal argument being that there had been a failure and so, subject to the question of reasonable excuse, the liability for the three penalties had been established.

As the tribunal summarised, reasonable excuse focuses on whether the company had acted 'as a reasonable [person] conscious of and intending to comply with [its] obligations regarding tax, but having the experience and other relevant attributes of the [company] and placed in the situation that [it] found [itself] at the relevant time [would do]'. Accordingly, the tribunal asked itself whether filing early was reasonable, given the company's ignorance that this was not permitted by law.

In this regard, the tribunal noted that there was nothing in any of the HMRC correspondence previously sent to the company (including the education letter in 2018) that said that RTI returns should not be sent in advance. Indeed, the education letter (as well as HMRC's general guidance) emphasises the last date for returns but does not explain that there is also a cut-off before which returns may not be validly submitted. The message repeatedly given to the company by HMRC was that it must file its RTI returns 'on or before the payment date'.

Furthermore, HMRC's guidance makes it clear that RTI submissions may be made before a worker's regular payday if 'for example … payroll staff are going on holiday'. This guidance makes the point that an employer should not file too early because there is a risk that codes might change or an employee might leave. The only express restriction in the guidance is that returns cannot be made for a period within a new tax year before the March at the end of the previous tax year. As the tribunal noted, this strongly implies that there is no other restriction on submitting returns early. As the tribunal concluded, 'HMRC's own guidance would indicate to a reasonable taxpayer that it is possible to file returns early'.

The tribunal learned from HMRC that it considers a 'successful' submission is one that is received by the HMRC computer, not necessarily one that has been filed correctly and therefore not one that will necessarily be processed as a return by HMRC's software. As the tribunal concluded, 'this is not a model of clarity on the part of HMRC'.

For all these reasons, the tribunal concluded that the company did indeed have a reasonable excuse for its failure and, therefore, the appeal against the penalties was allowed.

Commentary

When I first read this case, my immediate reaction was a combination of 'Why?' and 'How on earth?' How did a government department actually think that this was a case that should be taken to the tribunal? For these reasons, I am glad that the tribunal's intervention means that common sense has eventually prevailed.

However, the more I think about the case, the more questions arise.

I will first address the point arising from my initial reaction to this case. Is there anyone at HMRC who has sufficient oversight of cases going to the tribunal and who can make the decision to stop a case going that far? This is the type of case that gives HMRC a bad name and this is something that someone in the process should take into account.

By way of contrast, let's look at some of the most aggressive tax avoidance cases that might still be being touted. We, as advisers, might (despite any initial reservations) be persuaded that the schemes are in fact fully compliant with the law (let's leave the GAAR and PCRT on one side for the time being) and that there is indeed a gap which provides a very favourable tax outcome for our clients. However, as professionals, we must also step back and ask whether our client wishes to be associated with something of this nature. Indeed, HMRC would want us to do just that. On that basis, why should HMRC not aspire to the same high standards of common sense?

But, on further reflection, is the solution really to stop these cases going to tribunal? Indeed, that risks sweeping a deeper problem under the carpet. The real problem here is that penalties should simply not be issued in the first place. Why should common sense prevail in these cases only if the taxpayer feels empowered (or sufficiently irritated) to go to the tribunal?

Of course, I am assuming that the upper echelons of HMRC would not want penalties being issued in cases where otherwise correct returns are made 'early' and that the problem is insufficient oversight of the system further down the hierarchy. However, we are regularly assured that the senior management of HMRC do reflect on tribunal defeats with a view to changing the way that things are done in the future.

Given the regularity with which cases such as these are appearing in the tribunal, there can be only two real possibilities: either HMRC's internal processes are not working properly or it is indeed a deliberate policy for such cases to be taken. I would suggest that an urgent clarification of HMRC's approach should be sought.

Moving back to the facts of the case itself, I was somewhat disturbed to read HMRC's submission that the contents of its education letter meant that the company could not reasonably believe that sending the returns before the beginning of the relevant tax month was an acceptable thing to do. As the tribunal noted, there was nothing in the guidance that made this clear and, furthermore, the guidance implied that early returns were generally permissible. This strongly suggests that HMRC officers were using stock responses bearing no relationship to the actual facts of the case. Again, I must ask whether this is the reflection of a deliberate policy within HMRC to win at all costs or merely a consequence of allowing correspondence to be sent by HMRC officers without sufficient quality checks over the process?

Finally, I will address a technical point that arises from the case and where I respectfully reach the provisional view that the tribunal reached the wrong conclusion as to the company's primary liability for the penalties. As the tribunal correctly noted, the consistent message from HMRC's guidance was that the obligation on employers is to submit RTI returns 'on or before the payment date'. In other words, the guidance gives no impression that there is any earlier cut-off. Readers might not be surprised to learn that guidance is usually written with the underlying legislation in mind. And, if one looks at the Income Tax (Pay As You Earn) Regulations 2003, which is where the RTI obligations may be found, regulation 67B sets out the duty as follows:

> 'on or before making a relevant payment to an employee, a Real Time Information employer must deliver to HMRC the information specified in Schedule A1 in accordance with this regulation.'

In other words, it is not just that the company followed the guidance, but the guidance actually adhered to the underlying law.

What seems to have happened is that the penalty provisions inserted an additional requirement, being that the return must be submitted during the tax month itself. I just wonder whether that was in fact a slip and that the statutory words 'during a tax month' were actually meant to say 'in respect of a tax month'. After all, it is strange that there are two separate temporal requirements ('during the tax month' and 'on or before the payment date') within para 6C which are expressed in such different ways and in different parts of the sentence.

However, even if we have to take as read the statutory wording as it was enacted, there is still an argument that no penalty should be payable. After all, para 6C is said to apply only in the case of a failure. In respect of any tax month, regulation 67B imposes an obligation on an employer to make a return on or before making a payment to an employee. If, at the beginning of the tax month, no return has yet been made, then of course the return must be made 'during' the tax month (and on or before payment). However, if the return has already been made, then there is no longer any obligation to make the return 'during' the tax month and, therefore, there cannot be any failure. On that basis, no penalty is due and there is no need to consider reasonable excuse.

What to do next

Subject to the point made in the preceding paragraph, advisers (and, therefore, their clients) are now on notice that RTI returns should not be made before the beginning of the relevant tax month. This could, in due course, lead to a reduction of the availability of the reasonable excuse defence going forward. Accordingly, the cautious approach must now be to ensure that one waits until the relevant month has begun before submitting each return.

It is noteworthy that the tribunal has suggested that HMRC modify its guidance to make its position clearer. However, before it does so, I wonder whether the better approach would be to modify the penalty legislation so that it aligns more closely with the underlying obligation. Or as the Mikado puts it, let the punishment fit the crime.

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Mind the gap
From theory to practice

The tax gap between what is owed to HMRC and what is actually paid remains stubbornly high. We ask what can be done to improve tax compliance.

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by Dawn Register and Helen Adams

The tax gap is the estimated difference between the amount of tax that should in theory be paid to HMRC and what is actually paid. It remains stubbornly high when reviewed year on year: the most recent published data (July 2022) estimates it at £32 billion for 2020/21 (see bit.ly/3d4L3Mn).

Given the Treasury's need to raise funds, areas highlighted by the tax gap statistics are obvious sources of funds. It is also important, in a fair tax system, that the right amount of tax is assessed and paid by UK taxpayers of all types.

Key Points

What is the issue?
HMRC estimates that the tax gap between tax due and declared remains stubbornly high, even after excluding Covid-related errors.

What does it mean for me?
HMRC may increase its compliance efforts, making use of its considerable data resources, and consider further legislative changes to close the gap.

What can I take away?
Many areas of tax are complex, so clients will still need advisers who can support and educate them on their obligations and the tax rules, particularly as the scope and involvement in the digital economy grows.

The size of the tax gap

In understanding HMRC's tax gap estimates, there are two material numbers to highlight. Firstly, estimates of Covid-related fraud are published separately (see bit.ly/3vDW91b) and are not part of the main tax gap analysis. Secondly, the total tax debt figure is also materially higher; the amount included in the tax gap is only tax debt written off as uncollectable by HMRC, not unpaid taxes which HMRC thinks are recoverable.

We should always start with some good news: the loss of tax through tax avoidance is low (relative to other sources of errors) and significantly reduced compared to 2005/06. This is just one element of the tax gap, which also includes taxpayer behaviours ranging from non-payment, legal interpretation, error, failure to take reasonable care, tax evasion and the hidden economy.

HMRC estimates that the loss of tax via avoidance is now only 4% of the total (£1.2 billion). It will be interesting to see if this results in less HMRC activity in the future. Success came through a wide range of activities to tackle avoidance promoters, prevent the use of schemes by individuals, and the settlement and litigation of arrangements by HMRC's Counter Avoidance Directorate. This is unsurprising given the plethora of new powers and procedures since 2010, including GAAR, POTAS, enhanced DOTAS, follower notices, accelerated payment notices and a focus on professional standards. And let's not forget the regular publicity to deter the use of avoidance (including with the Advertising Standards Authority), plus a HMRC litigation success rate exceeding 80%.

The tax gap analysis can also be used to dispel myths. For example, contrary to popular rhetoric that most tax losses are solely or mainly by large multinationals not paying corporation tax in the UK, these statistics tell a different story. The 2020/21 tax gap for income tax, National Insurance contributions and capital gains tax is £12.7 billion – this is the biggest share of the total tax gap when viewed by type of tax (39.5%), with the second largest gap being for VAT at £9 billion (28.0%). Large businesses account for 11% of the tax gap (£3.6 billion). However, in the 'small print' it notes that the tax gap excludes BEPS arrangements where they cannot be addressed under UK law, as they need to be tackled multilaterally via countries joining the Multilateral Convention.

Problems paying the right amount of tax are shown across all industries and revenue streams. However, small businesses are estimated to be by far the worst offenders – here the gap rose by £500 million. In 2020/21, 48% (£15.6 billion) of the tax gap is attributed to small businesses, whereas 'wealthy' customers account for the smallest share at just 5% (£1.5 billion).

So where is the 'bad news' or obvious areas of improvement?

Crime and tax evasion

The statistics show that criminal attacks, tax evasion and the hidden economy (individuals or 'ghosts' not registered for tax) remain consistently high despite HMRC's plentiful civil and criminal investigation powers. The combined effect is 41% or £13.2 billion of the 2020/21 tax gap. This is an obvious area for HMRC, especially its Fraud Investigation Service, to tackle. Detailed analysis of data accessible by HMRC and internationally with other tax authorities is crucial to identify such cases.

As commentators have already highlighted, the need to maintain HMRC resources, in particular funding for technology and the training and development of experienced investigators, is part of the solution. Resources should be devoted to publicising tax rules too: for example, HMRC's recent research indicates that many taxpayers simply do not understand their obligations in relation to cryptoassets, which will contribute to the hidden economy (see bit.ly/3OW5Ajv). Prevention through licensing controls may reduce the hidden economy tax gap: since April anyone wanting to renew a taxi-private hire or scrap metal licence must complete a formal tax check to prove they are registered as a taxpayer before a licence is issued. New powers to tackle and penalise electronic sales suppression (Finance Act 2022 Sch 14) should also reduce the evasion tax gap over time.

Errors without culpability

The combination of legal interpretation and errors despite taking reasonable care account for £6.7 billion (21% of the tax gap), which is similar to the £6.1 billion caused by careless errors. Despite the Office of Tax Simplification's best efforts, UK tax legislation and guidance remains complex and voluminous. Ultimately, the choices of whether to change rules or offer new reliefs are often down to politics and economics, which often trump simplification.

Access to good quality tax advice for those with complex affairs is a priority. For the unrepresented public, HMRC focuses on guidance and education with more online resources (including YouTube). With Making Tax Digital for income tax on the horizon, making tax administration simpler so that taxpayers can understand what they need to do and when is a priority. It will also be interesting to see whether the new Uncertain Tax Treatment notifications (Finance Act 2022 Sch 17) help to reduce the 'legal interpretation' tax gap for larger corporates.

HMRC needs to ask itself: 'Will our tax system stand up to the intuitive test in a digital world?' The new digital tax account may help some taxpayers to keep up with their tax obligations, but agents need good digital access too. The 'digital world' also presents technical tax challenges, such as the tax rules for cryptocurrencies, digital assets and Decentralised Autonomous Organisations (see bit.ly/3bq1JO2).

Unpaid taxes

The tax gap includes £4.9 billion of tax which HMRC cannot collect, e.g. due to insolvencies. HMRC performance data (outside of the tax gap reporting) highlights that the tax debt balance was £41.6 billion at 31 March 2022 (see bit.ly/3BEFcaW). Given the financial difficulties facing individuals and businesses, personal insolvencies and business bankruptcies may rise and some taxpayers may be unable to pay HMRC.

A sustained focus on support to pay tax debt is needed for the next few years. Over 800,000 businesses and individuals had formal Time to Pay arrangements with HMRC at 31 March 2022. These arrangements to pay taxes, albeit over a longer period of time, should be encouraged where sensible. In addition, HMRC aims to recruit around 2,000 people in 2022/23 to fill existing vacancies and find around 500 additional debt management staff over the next three years. Debt collection and enforcement action against those who are deliberately not paying is increasing post pandemic. Again, HMRC has wide-ranging powers, including enforcement by deduction from bank accounts (Finance (No. 2) Act 2015 Sch 8), its recently revived 'preferential creditor' status, and joint and several liability notices (Finance Act 2020 Sch 13).

Closing the gap

A key question for HMRC and the government is what more can be done to significantly reduce the tax gap. HMRC can use several methods to engage with taxpayers and their professional advisors.

Education and nudge letters

The use of behavioural science and so-called 'nudge letters' to prompt and promote tax compliance remains a 'go-to' strategy for HMRC because of its simplicity. The most prominent campaign (and, in our experience, quite successful) is using Common Reporting Standard (CRS) data to identify and contact taxpayers about undeclared or incorrect reporting of offshore income and gains. HMRC plans to publish a new 'offshore tax gap', estimating the amount of offshore tax not being correctly reported by UK taxpayers next year, for the 'Measuring tax gaps 2023 edition'.

HMRC now issues nudge letters on a wide range of issues, including let properties, P11D discrepancies, deemed domicile status, tax residency, transfer pricing and undeclared property gains. In future, HMRC may issue nudges to a wider range of taxpayers if the OECD's Reporting Rules for Digital Platforms and Crypto-asset Reporting Framework are widely adopted globally.

Nudge letters should impact on the tax gap, although measurement is tricky. Most letters encourage seeking professional tax advice and making disclosures where necessary, although some are purely educational. Inevitably, there remains some criticism where poorly targeted letters are sent to those with no problems and there is apparent lack of upfront checks against filed tax returns.

Voluntary disclosures

Encouraging taxpayers to make voluntary disclosures should be a 'no brainer' for HMRC in terms of reducing the tax gap. This is far less resource heavy for HMRC, and those minded to disclose voluntarily (or after being nudged) may be more likely to remain tax compliant in future. Further work by HMRC to promote and support taxpayers making disclosures in a user-friendly manner is to be welcomed.

The key campaigns for disclosures include:

- property income and gains via the Let Property Campaign;
- offshore income and gains via Worldwide Disclosure Facility;
- transfer pricing and diverted profits corrections via the Profit Diversion Compliance Facility; and
- tax fraud via the Contractual Disclosure Facility.

Expert tax advice regarding voluntary disclosures should always be sought in advance to decide the most appropriate process based on the specific circumstances of the case.

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Profile: Helen Adams is a Tax Dispute Resolution Principal at BDO. Helen is experienced at managing and resolving complex tax enquiries and disclosures, as well as investigations into cases of tax avoidance and suspected serious tax fraud. Her clients include individuals and companies. Helen chairs the CIOT's Management of Taxes technical committee.

Encouraging informants

HMRC remains keen to hear from disgruntled employees, property tenants and ex-partners about any suspected tax fraud or avoidance – a tactic used to address furlough fraud. Making whistleblowing more accessible to the general public via online reporting should help to generate more HMRC investigations, if HMRC has the resources to make good use of the information.

Intelligence led tax return enquiries

For small business, cross-tax enquiries are an understandable solution. For businesses where one or more individuals is a controlling director, tax errors in one area may well indicate that many taxes, both business and personal, are also underpaid; for example, where a director uses their Director's Loan Account as a 'money box', or if there are insufficient controls leading to errors in payroll, bookkeeping and personal tax compliance could point to wider problems.

Of course, such enquiries are more resource intensive and must be targeted using intelligence from HMRC's Connect data analytics system, combined with other government and public data to be cost-effective. Unsurprisingly, HMRC is now consulting on collecting more precise information; for example, the job roles of individual employees and SIC codes for self-employed individuals' industry sectors (see bit.ly/3Jsdv6W).

Serious tax investigations

As crime, evasion and the hidden economy comprise a big part of the tax gap, HMRC must focus its efforts on catching those who deliberately evade taxes. This should include those who may not immediately identify themselves as tax evaders (e.g. those using 'old-fashioned' methods to extract cash from businesses or more modern methods using cryptoassets or electronic sale suppression). This essential work stream for HMRC can be measured via the use of Code of Practice 9 (the Contractual Disclosure Facility) for suspected tax evasion, which is traditionally more cost effective in generating yield for HMRC, alongside the more costly, time-consuming criminal investigations for cheating the public revenue, fraudulent evasion and corporate criminal offences.

Complex investigations (e.g. under Code of Practice 8) can be part of the solution too. HMRC will soon get access to Companies House's new register of offshore entities owning UK real estate, in addition to the Land Registry data it already accesses.

Whilst data analysis may identify relatively straightforward cases for which nudge letters may be appropriate, others may involve complex offshore trust structures, corporate residence issues and transfers of assets abroad for which COP 8 could be useful unless serious tax evasion is suspected (for which COP 9 should be used).

Assisting tax compliance

Finally, HMRC and professional advisors' efforts in supporting compliance by taxpayers must be part of any solution to reduce the tax gap. Resources, education, training and awareness remain top priorities for both HMRC staff and the tax profession but over the last ten years many new 'motivations' were put in place for the right amount of taxes to be paid. However, to keep reducing the tax gap, a 'doubling down' of efforts and enforcement is urgently needed by everyone working in tax.

Improve your member portal experience

Join one of our workshops where we will share how to log in to the portal, pay your subscription online, reset your password, navigate your profile to update contact details, and find and submit your Annual Return.

The membership team for the CIOT and ATT are keen to provide the right level of support in advance of renewals this year to improve your experience online. Hosted by Emma Barklamb, Head of Member Services.

Access the drop in workshop via Zoom from 12 to 2pm, on the following dates: 5, 12, 19, 26 October 2022:

Zoom link: https://tinyurl.com/CIOTATTOctWorkshops2022

For more information or if you prefer to set up a one to one call with a member of the team email: membership@tax.org.uk with the subject line "October Workshops".

Getting our member communications in order

The CIOT and ATT prides itself on holding, managing and using student and member data with integrity.

We want to ensure we are sending the most relevant communications, and will soon be emailing all students and members to invite them to select their communication preferences.

Please update your preferences when you hear from us.

NEWSDESK ARTICLES

Contact

To contact the technical team about these pages, please email:
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WELCOME

September Technical newsdesk

As some of you will be aware, I used to be a VAT specialist, and I try to maintain an active interest in the topic. You will also have seen me reporting on our significantly increased level of engagement with HMRC during and since the pandemic. These two elements collided recently when the new VAT Registration Service (VRS) went live on 1 August, with little forewarning, resulting in a flurry of activity to help agents navigate the new process.

Last November, HMRC announced in Agent Update 90 (tinyurl.com/4663ey6p) forthcoming changes to the VRS. In particular, the new service would be extended to agents, and further updates would be provided to enable them to prepare for the new system. In January, we attended a bespoke meeting of the Agent Digital Design and Advisory Group (ADDAG), which focused on the new VRS. HMRC walked us through some of the screens, giving us the opportunity to ask questions and provide feedback, which we did. HMRC said they would provide more information in the coming months.

It was news to us, therefore, when HMRC announced in Agent Update 98 (tinyurl.com/ywdymvbh), released on 20 July, that the new VRS for agents would go live on 1 August, which was just eleven days later. There had been no further engagement prior to this, no communications from HMRC, nor had guidance been updated.

Unsurprisingly, considerable teething problems arose. We (and others) are working with HMRC to bring some clarity and to address the difficulties being reported by numerous members. Considering our generally close relationship with HMRC, the feedback provided at the ADDAG meeting, and the user testing which has apparently taken place, it is difficult to understand this lack of communication, and the flaws in the new system.

HMRC are arranging a further ADDAG meeting about the new VRS, which will take place this month. In the meantime, the CIOT and ATT will continue to publish guidance and updates (see www.tax.org.uk/technical-news/1 and www.att.org.uk/news respectively).

Users of the trust registration service, or the report and pay capital gains tax on UK property service, will be feeling a sense of déjà vu, having experienced similar problems with these new services.

It is important that we also investigate what went wrong during the roll-out of the new VRS, so we can try to prevent a repeat occurrence with the next new digital process.

GENERAL FEATURE

Crypto assets working group

The CIOT and ATT join the crypto arena with a joint crypto assets working group.

In the light of the growing popularity of crypto assets, the CIOT, including the Low Incomes Tax Reform Group (LITRG), and ATT have recently formed a joint working group to address the tax implications concerning this new and developing form of asset. According to recent research (tinyurl.com/ejtxk3bd), 10% of UK adults said they hold or have held a crypto asset, but there was a limited understanding of their tax treatment. Gary Ashford (CIOT's Deputy President) was appointed as Chair of the working group, with Hayley Perkin (ATT Council member) as Vice-Chair.

The remit of the crypto assets working group covers all aspects of the taxation of crypto assets, including (but not limited to) working to ensure that existing legal regimes and guidance are adequate, promoting a greater understanding of the taxation of crypto assets, and working collaboratively with HMRC and other stakeholders to encourage tax compliance.

There have been several recent consultations from the government concerning crypto assets. The first concerned expanding the Investment Transactions List for the Investment Management Exemption and other fund tax regimes. The CIOT used this as an opportunity to call for a single, universal definition of crypto assets for tax purposes, to ensure that this is made clear (see our response here www.tax.org.uk/ref960). A more recent call for evidence (tinyurl.com/25nfy9jk), to which we will reply, concerns decentralised finance, and the lending and staking of crypto assets.

The first meeting of the working group took place in early July. Discussions revolved around those topics forming the remit of the working group: the practicalities surrounding compliance and crypto assets; the concern that not all software is capable of recording the (sometimes thousands of) daily transactions; and whether this software could be construed as giving tax advice (and if that advice is even correct). There were suggestions about whether HMRC could sanction specialist crypto software and/or a calculator to assist, in particular, those taxpayers who are unrepresented. Concern has been expressed by the working group, and others within CIOT, about the accuracy of HMRC's guidance, in particular surrounding the situs of crypto assets and the resulting confusion this may cause. Many members of the working group are also members of the HMRC crypto assets roundtable, to which these concerns and others raised and discussed at our working group can be taken and, hopefully, resolved.

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PERSONAL TAXES MANAGEMENT OF TAXES

UK Property Reporting Service: latest news

ATT and CIOT have received answers from HMRC to some of their concerns about capital gains tax on the UK Property Reporting Service.

Further to our article in July's *Tax Adviser* 'UK Property Reporting Service: ongoing issues', the ATT and CIOT have received some answers from HMRC to concerns raised at the start of this year.

HMRC have now confirmed that where a property return should have been filed in-year but this was not done, **a paper return must now be filed** – even if the disposal has subsequently been reported (and the CGT paid) via self-assessment. Although there are some limited circumstances where a tax return can replace a property return, in general the submission of a self-assessment return including the property disposal does not satisfy or remove any in-year reporting requirements. Retrospective property returns must be done by paper, as the online system will block the submission of a property return once a self-assessment return has been filed. We are still in discussions with HMRC over whether such late returns will be penalised.

We have confirmed with HMRC that late filing daily £10 penalties (under FA 2009 Sch 55 para 4) are not imposed by HMRC for late property returns under the CGT on UK property disposal service. HMRC point out that this has always been the case in respect of the service.

Paper returns (form PPDCGT) must be requested from HMRC by phone. HMRC are expecting to revise the current paper form shortly so agents must be careful to ensure that they have the correct version. HMRC have been unwilling so far to provide a downloadable version of the form on the grounds that the service is digital by default. The ATT and CIOT have formally written to HMRC to request improved access to the PPDCGT, given the range of taxpayers who are excluded from the online service. Indeed, in our short survey, members expressed a clear preference for a downloadable form to be available.

HMRC's manuals now confirm that where an overpayment has arisen on a property return, if it cannot be offset against other self-assessment liabilities, taxpayers or their agents **must** contact HMRC to recover the overpayment, otherwise it will remain on the taxpayer's CGT account. It is possible to submit bank details via the online service, but only as a separate document via the upload facility. We have asked HMRC to improve their guidance in their manuals and on the service as a number of members have found this unclear.

We are still awaiting an update on the telephone authorisation route for digitally excluded clients who cannot complete the digital handshake.

We have also raised the lack of guidance for non-resident portfolio investors in UK rich property collective investment vehicles.

More detail on all of these points, together with the latest information we have on the service, can be found in the ATT User Guide (which is available at www.att.org.uk/UKCGT).

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MANGEMENT OF TAXES OMB

Making Tax Digital for Income Tax Self-Assessment: draft notices

The ATT and CIOT have submitted comments to HMRC on draft notices for Making Tax Digital for Income Tax Self-Assessment.

On 1 July, HMRC published draft notices to be made under the Income Tax (Digital Requirements) Regulations 2021 for a short, four-week consultation (see tinyurl.com/35txwum3).

These comprised four separate notices:

- a Software Notice setting out specific conditions with which functional compatible software must comply (including the requirement for digital links);
- an Update Notice setting out the information which needs to be included in quarterly updates submitted under Making Tax Digital for Income Tax Self-Assessment (MTD for ITSA);
- an End of Period Notice setting out the information to be included in the end of period statement (EOPS); and

- a Retail Sales Notice which allows retail businesses to keep a single digital record of daily gross taking for their retail sales.

Overall, both the ATT and CIOT expressed disappointment that, despite HMRC taking so long to produce these draft notices, they were still lacking in important details.

While they helpfully clarify some points (especially regarding the contents of quarterly updates and the EOPS), there remain a number of essential, unanswered questions regarding how MTD for ITSA will work in practice. For example, the notices do not address the practical application of digital links, how record keeping and reporting will work for jointly owned property or how the EOPS will interact with the final declaration process.

This can be contrasted with the MTD for VAT Notice 700/22, which provides detailed, practical guidance to assist taxpayers and their agents in understanding their MTD obligations.

The ATT and CIOT responses also raise a number of specific comments on the detail of the notices, querying particular requirements and highlighting the lack of clarity over cash vs accruals accounting and the treatment of accounting and tax adjustments.

You can find the ATT response at www.att.org.uk/ref400 and the CIOT response at www.tax.org.uk/ref971.

ATT and CIOT are calling on HMRC to publish detailed, practical guidance without further delay so that taxpayers and their agents understand their obligations well before April 2024, particularly those who wish to join the MTD for ITSA pilot.

The consultation closed on 28 July, and we are expecting final versions of the notices to be published this autumn.

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LARGE CORPORATE OMB

Land Remediation Relief

The CIOT has made a short proactive submission on the qualifying date for Land Remediation Relief for derelict land.

Land Remediation Relief (LRR) is available for the remediation of derelict land provided certain conditions are satisfied, including that the land has been derelict throughout the period beginning with the earlier of 1 April 1998 or the date of acquisition of a major interest in the land by the claimant company or a connected party.

The issue in practice is that providing confirmatory evidence of non-productive use for up to 24 years is very challenging, as records are unlikely to have been retained throughout the whole of such an extended period.

We suggest that in view of the time that has elapsed since the date of 1 April 1998 was fixed and given the practical difficulties in establishing non-productive use over a lengthy period, the date should be reviewed to ensure that the relief is meeting its objective.

The full CIOT submission is at www.tax.org.uk/ref966

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PERSONAL TAX MANAGEMENT OF TAXES

Low-income trusts and estates

The CIOT and ATT both responded to the recent consultation by HMRC on reducing the reporting requirements for low-income trusts and estates.

HMRC's consultation 'Income Tax: Low-income trusts and estates' proposed to formalise and extend a concession that removes trusts and estates from reporting and paying income tax where the only source of income is savings interest and the tax liability is below £100. Under the proposals, trusts and estates with income from any source (including, therefore, dividends and rental for things such as wayleaves) up to a *de minimis* amount (to be decided following the consultation) will not be subject to income tax.

Both the CIOT and the ATT supported these proposals to ease compliance burdens. HMRC took a collaborative approach and held an exploratory meeting with representatives of the professional bodies.

The proposals will be particularly helpful for personal representatives of estates with a small amount of income, who will be spared the burden of having to make an informal report of estate income, and the subsequent income tax payment. HMRC will also be saved the cost of dealing with such small sums.

The mechanism proposed is that if the net income of personal representatives and trustees is equal or less than the *de minimis* amount, then for the purposes of Step 2 in the Income Tax Act (ITA) 2007 s 23 calculation it is to be taken as being £0. ATT and CIOT both agreed with this approach as it will afford consistency of treatment to all low-income cases, even where personal representatives or trustees otherwise within the terms of the dispensation may have filed a self-assessment return (for example, to report capital gains).

The proposals inevitably create a cliff edge so that income tax will have to be paid on the entire estate or trust income where the *de minimis* amount is exceeded. However, the benefit to those cases which fall within the proposal (28,000 in the impact assessment) is considered to outweigh that disadvantage.

The CIOT suggested that the *de minimis* amount of income be indexed. If it is not, then (noting that the current limited concession has been unchanged since 2016) both the CIOT and ATT consider it is essential that it is reviewed regularly to maintain its efficacy.

There is no particular difficulty in how the proposals interact with the current tax regime whereby an annual assessment is made on personal representatives and trustees, but the liability of most types of beneficiary (other than trust beneficiaries with an entitlement to income) depends on income being received by them in a given tax year. That distinction is not affected by these proposals. However Guidance on GOV.UK and the Notes to the various forms R185 should be clear as to how those forms are to be completed when gross income is paid to a beneficiary with no tax deducted.

The CIOT and ATT both agreed that the mechanism to apply to payments made from trusts taxable at the trust rate is appropriate. Where the income has not been taxed in the trustees' hands, a discretionary payment to a beneficiary will be taxed on the trustees at 45% under ITA 2007 s 496, subject to any set-off from the tax pool. It was considered unlikely that, given the limited scope of the proposals, this deferment of tax would provide sufficient incentive to alter behaviour.

Similarly, it seemed sensible to align the anti-disaggregation rule for *de minimis* income with that which reduces the £1,000 band of trust income subject to the lower rates of tax where more than one trust created by a settlor exists in a given tax year.

The ATT was concerned that where a return has been issued but the trust's income is below the *de minimis*, it will be sufficient for the trustees or their agent to call HMRC to confirm that the low-income concession applies, and for the tax return to be cancelled on that basis.

Since October 2020, all trusts (unless excluded) have been required to register on the Trust Registration Service (TRS). However, less information is required of non-taxable trusts (which currently include those that fall within the concession of paying less than £100 tax on interest). If the proposals are enacted, the CIOT and ATT urged that trusts within the new income level be treated similarly for TRS purposes and that guidance on GOV.UK and in HMRC's TRS Manual be updated accordingly.

The full CIOT response can be found here: www.tax.org.uk/ref953

The full ATT response can be found here: www.att.org.uk/ref399

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MANAGEMENT OF TAXES
LARGE CORPORATE OMB

Stamp duty land tax: company addresses for service of documents

The CIOT responded to a recent consultation on draft regulations to extend the stamp duty land tax (SDLT) deemed service provisions to a company's registered office address and to the address provided in the SDLT return.

The CIOT has responded to the consultation on the draft The Stamp Duty Land Tax (Service of Documents) Regulations 2022 (tinyurl.com/4r4cnwrc).

Under the Interpretation Act 1978 s 7, a notice or other document is deemed to be effected by properly addressing, pre-paying and posting a letter containing the document. For stamp duty land tax (SDLT), FA 2003 s 84(3) provides that a letter is 'properly addressed' for this purpose if it is addressed to the company at its principal place of business, or to a liquidator if one has been appointed, or to any other place prescribed by regulation. These draft regulations prescribe **additional** addresses for deemed service by post under Interpretation Act 1978.

As a result of the amendment, there will be four possible addresses for deemed service of a notice to a company for SDLT purposes (the proposed new addresses are in bold) in addition to the address of an appointed liquidator:

- **The address of the company's registered office, if the company is UK incorporated.**
- **If the company is incorporated outside the UK, the address of any place of business it is required to register in its place of incorporation.**
- **The address provided to HMRC on the company's SDLT 1.**
- The address of the company's principal place of business.

We said that the guidance for completing the online and paper return should be much clearer for taxpayers on the address to be included on the SDLT 1 return, and should state that HMRC may use this address for the service of notices in the future. For example, taxpayers need to be aware that the address inserted should be one that will remain in use (not, for example, the address of the premises that the business is in the process of moving from) and that there are arrangements in place to forward post if the address is not regularly monitored. The current guidance at question 56 for completing a paper SDLT 1 is not particularly clear and will need updating.

Consistent with HMRC's Charter commitments, the guidance could also helpfully confirm that notices will be copied to any agent listed in the SDLT return, or authorised by a subsequent letter of authority.

The full CIOT response can be found here: www.tax.org.uk/ref1013.

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OMB LARGE CORPORATE GENERAL FEATURE

Business rates revaluation 2023

Business rates revaluations are moving to a three-year cycle from April 2023. The CIOT responded to the consultation on the form of transitional measures to phase-in increases in rates bills for the 1 April 2023 revaluation.

The CIOT's Business Rates Working Group responded to the recent business rates consultation on the form of transitional arrangements for the 1 April 2023 revaluation (tinyurl.com/4xh2fpzf).

Business rates revaluations will move from the current five-yearly cycle to a three-yearly cycle, starting from the next revaluation taking effect on 1 April 2023 in England. Historically, revaluations have led to substantial changes in rates bills for taxpayers. Since 1990, governments have applied a transitional scheme to phase in increases in rates bills based on annual caps on the percentage by which a ratepayer's bill can increase for that year. The cost of the relief for those ratepayers facing increases is funded by other ratepayers by way of a transitional surcharge.

We said that in principle, more frequent revaluations that achieve the aim of allowing the full impacts of the revaluation to feed through to rate bills quickly should obviate the need for any form of transitional scheme. Transition is at odds with the objective of more frequent valuations as businesses do not benefit from reduced bills immediately. Similarly, businesses with higher rateable values are temporarily shielded from higher bills.

Historically, transitional schemes have been a somewhat blunt instrument when judged against the principles of good tax design. It is not predictable in its first year of operation and businesses have little time to prepare for the impact, given that the transition regulations are not generally issued until a few months before new year rates bills. Nor is it aligned with other relatively more targeted permanent business rates reliefs. The self-funding undermines the principle of tax neutrality by introducing an economic subsidy for one set of ratepayers funded by ratepayers whose bills are artificially high.

Despite the inherent drawbacks of transition, and depending on the outcome of the 2023 revaluation, there may be a case for retaining some limited form of transition for the 2023 revaluation only, given the exceptional circumstances of the Covid-19 pandemic.

Given the ongoing debate about where the burden of business rates lies and the fairness of that burden, we suggest the government should evaluate the implications of the shorter revaluation cycle and any transitional scheme for the effective economic burden of business rates and for economic coherence when compared to other models.

The full CIOT response can be found here: www.tax.org.uk/ref963

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INDIRECT TAX

Postponed VAT accounting and the non-business use issue

Postponed VAT accounting was introduced on 1 January 2021, as a method of deferring the payment of import VAT from the time at which the goods are imported at the UK border to their inclusion in the next VAT return. The aim of the administrative simplification was to increase efficiency at the UK border and ease the VAT cash flow burden on business when importing goods as a result of changes following the UK's exit from the EU. The postponed VAT accounting scheme includes imported goods both from the EU and outside of the EU, as these are treated the same following Brexit.

Prior to the UK's exit from the EU, UK businesses importing goods from the EU would have self-accounted for the tax due on the goods in their VAT return under the acquisition VAT rules. After leaving the EU, if the postponed VAT accounting (PVA) rules had not been introduced, businesses in Great Britain would have had to start declaring import VAT at the border or via a duty deferment account in respect of goods being imported from the EU. This would have been new for businesses that had only ever purchased goods from within the EU (post-Brexit, the acquisition VAT rules are still available to businesses in Northern Ireland).

The legislation for the PVA scheme is The Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019 (tinyurl.com/4hd39cxa) and goods imported under PVA are termed 'relevant goods' defined as: 'goods imported into the United Kingdom by a registered person used or to be used for the purposes of any business carried on by the registered person'.

Business and non-business use

On 11 February 2021, six weeks after the PVA rules came into force, HMRC added new wording to the PVA guidance (tinyurl.com/3zbptwk9) as follows: 'You cannot account for import VAT on your VAT return if you import goods you know will be used solely for non-business purposes.'

This additional guidance from HMRC made it clear that two meanings of '*used for non-business purposes*' were relevant for the PVA rules (which are based on importation rules). These two meanings are:

1. The goods are imported for private use with no business use at all.
2. The imported goods are used in the business, though as the use is attributed to income deemed 'non-business' for VAT purposes (for example a grant), the input VAT recovery is restricted.

Although it was widely understood that imports for private use (as per scenario 1) were not eligible for PVA, and this was the same position as under the EU acquisition rules that had previously applied, it was a surprise to taxpayers affected by the non-business PVA rule described in scenario 2 above. These goods are used in the business even though they are designated as being for non-business use for various reasons, and this was a change from what the position had been under the EU acquisition rules. These taxpayers had already used PVA since 1 January 2021 in respect of goods imported in scenario 2 circumstances. Affected businesses had to make error corrections for these transactions and change their processes going forward. The administrative simplification only delays the point at which import VAT is due. It has no impact on the amount of VAT paid to HMRC.

On 8 April 2021, HMRC's PVA business/non-business guidance was further updated to allow 's 33 bodies' (for example, local authorities) to ignore the scenario 2 non-business restriction: 'You cannot account for import VAT on your VAT return if you import goods you know will be used solely for non-business purposes, **unless you are a body that is eligible to reclaim import VAT through a VAT refund scheme (Section 33).'** (tinyurl.com/mr3j78km)

This was good news for 's 33 bodies' but still left taxpayers that are importing goods to be used in the business, but some of which are deemed as non-business use, with having to implement different rules for different types of import classification. For larger and/or complex taxpayers, this increases the scope for error, not only with their own staff but with logistics providers too.

Next step

Following feedback from several affected taxpayers that the non-business rule is causing increased resource, bureaucracy and errors to the extent that some taxpayers no longer use PVA, the CIOT has submitted a request to HMRC that the position is reviewed to simplify the position. Affected taxpayers already self-account for VAT on reverse charges and use PVA for imports with a full or partial input VAT restriction if they are partially exempt, so we have suggested that it would be pragmatic to have a single administrative process for scenario 2 non-business imports used in the business too.

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EMPLOYMENT TAXES

Employment Taxes Forums

A brief overview of recent forum meetings attended by representatives of the CIOT, LITRG and ATT, including the Employment and Payroll Group, the Collection of Student Loans Group, the Expat Tax Forum and the Employment Status and Intermediaries Forum.

In this article, we summarise the main points from meetings of various groups that have taken place recently, and which are attended by CIOT, LITRG and ATT volunteers. HMRC publishes the minutes of the meetings of these forums on GOV.UK.

Employment and Payroll Group (EPG)

This group is the main HMRC forum for employment tax related matters. The forum is attended by representatives of CIOT and ATT and meets quarterly. The main topics of discussion at the last meeting were the Health and Social Care Levy, International A1s (social security process), electric company cars and the Starter Checklist.

Collection of Student Loans Consultation Group (CSL)

CIOT, LITRG and ATT representatives all participate in this group. Topics discussed included the Scottish student loans, the Lifelong Loan Entitlement scheme and the Student Loan Company's Online Repayment Service.

Employment Status and Intermediaries Forum (formerly the IR35 Forum)

This forum is attended by the CIOT and recent discussions have concentrated on tax offsets in off-payroll working compliance enquiry settlements.

Joint Forum on Expatriate Tax and NICs (Expat Tax Forum)

This forum is attended by the CIOT, and recent discussions have included HMRC service levels and delays, international social security, double taxation issues, and HMRC's interpretation of 'exceptional circumstances' in the statutory residence test.

Share Scheme Forum

CIOT and ATT representatives attend this forum. The main topics discussed at the last meeting were HMRC's guidance (some updated guidance is to be published), the Trust Registration Service and the Spring Statement's announcements on enterprise management incentives and company share option plans.

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GENERAL FEATURE PERSONAL TAX

Financial education: All-Party Parliamentary Group inquiry

The LITRG, CIOT and ATT made a joint submission to an inquiry by the All-Party Parliamentary Group on Financial Education for Young People into the barriers facing schools as they deliver financial education.

Paying tax and national insurance contributions is part of life and it is essential that people understand both why we pay them and gain an understanding that citizens have tax obligations. CIOT and ATT members (and LITRG in its work relating to unrepresented taxpayers) see far too many cases in which tax problems could perhaps have been avoided if those concerned had a better understanding of tax. This experience is supported by research showing that many people have insufficient understanding of tax. This can lead to non-compliance, tax debt and penalties, which can in turn impact on people's general wellbeing.

This joint All-Party Parliamentary Group (APPG) submission (see www.litrg.org.uk/ref2643) therefore emphasised the importance of introducing a basic understanding of tax throughout the education system. While the tax system is extremely complex, it is relatively easy to introduce some of the key concepts to children of school age, starting with a basic foundation at primary level. These foundations can be built upon as the child progresses through the education system.

However, at present, tax does not appear anywhere in England's national curriculum in its own right. Until tax is given more prominence within the national curriculum, it is hard to see how schools will commit the necessary resources to educate their students on this important matter.

The submission suggests to the APPG that a co-ordinating strategy is needed which matches potential volunteers from the tax profession to schools to help deliver lessons. We know that some tax professionals already support local schools in delivering financial education on an ad hoc basis, but a nationwide scheme – promoted by professional bodies such as CIOT and ATT – to pair up their members with schools could help more to get involved.

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PERSONAL TAX

Helping savers understand their pension choices

LITRG and CIOT have responded to a Department for Work and Pensions call for evidence on how people can be supported in making pension choices.

LITRG's response makes a brief but important point: that all pension schemes must provide members with information on the wider financial impacts of pension choices so that individuals understand their net income position.

Failure to understand tax and benefits consequences can leave people worse off in retirement than they otherwise might have been. It is therefore imperative that guidance on these aspects of pension decisions is provided by schemes whenever members are accessing, or thinking about accessing, their savings.

Members should also be signposted to how they can get further guidance or individual advice, including non-digital channels for those who struggle to engage online. Such guidance could perhaps be provided by pension schemes via a simple standard factsheet sent alongside other 'wake up' communications. This might signal where further information on tax and welfare benefits consequences of pensions decisions can be found online. For the digitally excluded, alternatives must also be provided, such as a telephone number for Pension Wise.

The CIOT's response is also brief and makes the point that when a member decides how to use their pension savings, the member should be aware of the tax consequences of their options. In addition, the CIOT recommends that information is provided as clearly and simply as possible to help individuals make informed decisions.

The full LITRG response can be found here: www.litrg.org.uk/ref2659

The full CIOT response can be found here: www.tax.org.uk/ref986

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PERSONAL TAX

Personal tax account: challenging customer journeys

LITRG has provided feedback to HMRC on the challenges taxpayers face when using the personal tax account.

As part of LITRG's involvement with HMRC's Individuals Stakeholder Forum, we were invited to put forward our thoughts on the personal tax account (PTA) and, in particular, what we consider to be the top three 'challenging customer journeys' when using the PTA.

In addition to making comments about the difficulties some people face accessing the PTA in the first place, and the confusion created by the PTA/business tax account distinction, the journeys we highlighted are set out below.

Check income details

It is a fairly straightforward journey to get to the correct part of the PTA but once there, the taxable income figure may not match back to the figure the taxpayer is expecting. For instance, the figure in the PTA will include any monthly payrolled benefits which may not show on a payslip. We suggested that having an explanation about the makeup of figures (for example, elements of pay included in the taxable income figure) would be helpful to taxpayers.

Claiming employment expenses

Taxpayers are told that they can check and claim a PAYE tax refund from their PTA (although in reality this 'service' specifically refers to the ability to ask for your P800 refund to be sent to your bank account and not by cheque), meaning they may expect to find the P87 form etc. inside the PTA. Once inside the PTA, only the working from home micro service appears on the home page, even though you do seem to be able to access a P87 to claim wider expenses by clicking on this tile, albeit via a very circular process.

Amending tax codes

We demonstrated that the process for amending tax codes is extremely unclear as is the terminology used on the PTA itself. If a taxpayer clicks on the link 'If you think you tax code is wrong, check or update your employment details', they are taken to summary page for that particular employer. At the bottom of that page, a taxpayer can 'Add a missing company benefit' or 'Add a missing company car' – but there is no mention about adding a claim for tax relief. This sits in a different part of the PTA altogether. If a taxpayer manages to find it, it is entitled 'Tell us about your tax free allowance'. Whilst we expect many taxpayers will understand 'tax free allowance' in the context of their personal allowance, it is used here to refer to the tax relief that can be claimed via their tax code, which although technically correct, is probably not very intuitive.

The last two points are clearly very important in the context of high-volume repayment agents. If taxpayers are unable to easily self-serve, then this could be a contributing factor to them going down the repayment agent route to obtain the tax relief they are entitled to.

If you have noticed any difficulties when using the PTA, feel free to contact us on litrg@ciot.org.uk and we will feed comments back to the forum.

Antonia Stokes astokes@litrg.org.uk

GENERAL FEATURE

HM Treasury: Consultation on a new Statutory Debt Repayment Plan

LITRG has responded to HM Treasury's consultation on draft regulations to introduce a new Statutory Debt Repayment Plan.

The proposed Statutory Debt Repayment Plan (SDRP) scheme is designed to be a new statutory debt solution available to individuals in England and Wales with problem debt (of all kinds). Whilst not commenting on the suitability and design of the scheme in the context of the wider debt advice landscape, LITRG have responded to HM Treasury's consultation with comments and concerns relevant to tax debt, highlighting these key points:

- Government must bear in mind that a person's level of tax debt can, in some cases, be incorrect, particularly if there are outstanding tax returns where HMRC have raised determinations and/or penalties that could be appealed. Debt advice providers will therefore need to be equipped with sufficient knowledge to identify and deal with or refer cases where the quantum of tax debt may be disputed.
- Clarity is required as to how the proposed SDRP regulations would interact with HMRC's own internal debt management processes, particularly in the context of existing 'time to pay' arrangements. Government departments will need to work closely so that implementation of the proposed SDRP scheme is joined up and any incompatible internal practices are ironed out.
- We have suggested that safeguards ought to be built into any joint debtor arrangements so that individuals are adequately protected and not put into a SDRP that does not suit them.
- We raised concerns that the proposed payment breaks set out in the draft regulations may not provide adequate flexibility for individuals suffering unforeseen financial difficulties.

HM Treasury's consultation document can be found here: www.tinyurl.com/3wkmktb8

LITRG's submission can be found here: www.litrg.org.uk/ref2668

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CIOT		Date sent
Financial Education for Young People	www.tax.org.uk/ref959	09/06/2022
Potential Reforms to UK's Capital Allowance Regime	www.tax.org.uk/ref955	30/06/2022
Land Remediation Relief	www.tax.org.uk/ref966	05/07/2022
Income Tax: Low income trusts and estates	www.tax.org.uk/ref953	15/07/2022
Expanding the Investment Transactions List for the Investment Management Exemption	www.tax.org.uk/ref960	18/07/2022
The Stamp Duty Land Tax (Service of Documents) Regulations 2022	www.tax.org.uk/ref1013	21/07/2022
Business Rates revaluation 2023: transitional arrangements	www.tax.org.uk/ref963	25/07/2022
Helping savers understand their pension choices	www.tax.org.uk/ref986	25/07/2022
Tertiary legislation for Making Tax Digital for Income Tax	www.tax.org.uk/ref971	27/07/2022
Paper forms PPDCGT	www.tax.org.uk/ref1015	05/08/2022
ATT		
Financial Education for Young People	www.att.org.uk/ref398	09/06/2022
Income Tax: Low income trusts and estates	www.att.org.uk/ref399	22/06/2022
Potential reforms to the capital allowances regime	www.att.org.uk/ref397	29/06/2022
Tertiary legislation for Making Tax Digital for Income Tax	www.att.org.uk/ref400	26/07/2022
CGT on UK Property (PPDCGT) form	www.att.org.uk/ref408	04/08/2022
LITRG		
APPG on Financial Education for Young People: Inquiry into the barriers facing schools as they deliver financial education	www.litrg.org.uk/ref2643	09/06/2022
Low Pay Commission consultation 2022	www.litrg.org.uk/ref2648	22/06/2022
Helping savers understand their pension choices – call for evidence	www.litrg.org.uk/ref2659	12/07/2022
Draft regulations to introduce a Statutory Debt Repayment Plan	www.litrg.org.uk/ref2668	05/08/2022
Tertiary legislation for Making Tax Digital for Income Tax	www.litrg.org.uk/ref2669	12/08/2022

New ATT President speaks out against HMRC staff cuts

New ATT President David Bradshaw has issued a plea to the government not to cut HMRC staff levels until HMRC has improved its customer service to frustrated taxpayers and their tax advisers.

David was speaking as he took up his new post at the Association's AGM on 14 July. Alongside him in the ATT presidential team for 2022-23 are Simon Groom as Deputy President and Senga Prior as Vice President.

Changes to the tax system

Focusing on imminent changes in the tax system, David said: 'You will all know from experience that HMRC have faced their own challenges during Covid, and we receive a lot of feedback from members raising concerns. This leads me to worry whether HMRC are sufficiently resourced to deliver these two major projects [Making Tax Digital and basis period changes] and support taxpayers and their agents through the transition to digital record keeping and quarterly reporting on top of their existing workloads.

'Given the significant changes that are coming, the demands on HMRC for support and guidance will only increase over the next couple of years, and it is hard to see how any significant changes to the tax system can happen effectively unless HMRC have appropriate resourcing. It is deeply concerning therefore, to hear talk of potential cuts to staff numbers. Given HMRC's current performance issues, we should not have cuts made to HMRC staffing until performance is first restored and then maintained at high levels. I do not see this as special pleading. The public and the Exchequer both benefit from effective and efficient tax administration.'

David's comments came after an HMRC dashboard went 'live' recently for tax advisers to check current processing times and service levels for post and online requests. The dashboard backed up the existing concerns of tax professionals, showing significant delays in many areas, including R40s, VAT group registrations and paper self-assessment registrations. This came at the same time as concerns about planned civil service job cuts, although the government has not yet said where the cuts will be made.

Making Tax Digital for Income Tax

Specifically on Making Tax Digital for Income Tax, David said: 'The government could take a more pragmatic approach to the challenges of Making Tax Digital (MTD) and basis period reform and consider a more phased approach. A good starting point could be to revisit the level at which businesses are brought into the complexities of MTD for Income Tax – the astonishingly low annual turnover threshold of just £10,000.

'Think about that for a moment. If that is the only or main source of income for someone who is self-employed, their gross income even before any expenses is likely to be way below the national living wage. Wouldn't it at least make more sense to require more financially secure businesses to be the guinea pigs for MTD and then extend its ambit once the system was running smoothly?

'I am pleased to see the start of a series of regular meetings [between professional bodies such as ATT and HMRC] specifically focused on the issues faced by smaller practices, who will feel


David Bradshaw

acutely the additional workload these measures will create as they seek to support their clients through these changes.'

HMRC's online systems

Turning to access to HMRC's online systems, David added: 'Pressures on HMRC's own resources could also be significantly reduced if the concept of HMRC's single digital account was exploited to its full potential. Previous rounds of spending cuts have seen development halted so the existing Personal and Business Tax Accounts lack essential DIY functions. That means that taxpayers must contact HMRC unnecessarily – absorbing HMRC's scarce resources. The promise that agents would be able to see and do what their clients can see and do was renewed in 2020 but we have seen little evidence of it.'

Outgoing President praises ATT for prompting review

In his AGM remarks, outgoing ATT President Richard Todd praised the Association's technical work and particularly highlighted the Association's role in encouraging HMRC to launch a review into how it treats disclosures in relation to penalties.

Richard explained: 'In November last year, we proactively sent HMRC a discussion document that posed the question: "When is a nudge not a (statutory) prompt?" It made the case for a detailed review of how HMRC's increasing reliance on "one-to-many" nudge-type communications sat with the distinction made in penalty legislation as between prompted and unprompted disclosures.

'HMRC have embarked on a wide-ranging review, which encompasses consideration of the legal framework and definitions, guidance, communications and impacts – intended or otherwise – relating to such nudge type interventions. It is too early to know how this will all work out. But it is good to know that the ATT planted the acorn from which this sapling oak is emerging.'

Richard also used his speech to thank his ATT Council colleagues and the Association's staff for their support during his presidential year. In turn, David Bradshaw, taking over as President, thanked Richard for his work helping ATT to manage and then evolve through the pandemic.

Finance Bill measures hailed

CIOT and ATT have welcomed the publication of draft Finance Bill legislation containing measures the two bodies had been calling for.

Draft legislation on support for pension saving addresses a longstanding inequality which the CIOT's Low Incomes Tax Reform Group (LITRG) have been campaigning on since 2018.

The legislation aims to address the issue of an estimated more than one million low-income workers (mostly women) not receiving a government incentive to save into their workplace pensions. The issue arises because workers contributing to net pay arrangement workplace pensions do not get tax relief on some or all of their pension contributions if they do not earn enough. By contrast, if their employer chooses to operate a relief at source scheme, the worker obtains tax relief via a separate mechanism, even if they are a non-taxpayer.

The government's proposal will give equivalent payments to those missing out on tax relief, enabling those affected to claim an average estimated rebate of £53 a year.

CIOT President Susan Ball said: 'This is another step towards ending this pension injustice affecting more than a million low-income workers. LITRG deserve huge credit for their role in building support and momentum for this much-needed change.'

However, Kelly Sizer, who has been leading LITRG's campaign on this issue, expressed disappointment that HMRC will only be implementing payments to those affected from 2025/26 – backdated to 2024/25. 'Given that this issue has been known about for many years, and the numbers affected have been steadily increasing, we would have liked to have seen backdating to at least the 2021/22 tax year,' she said.

CIOT and ATT also both welcomed draft legislation making it less likely that divorcing couples will be hit by capital gains tax (CGT) charges. The proposal to give separating couples a longer window in which to transfer assets on a 'no gain, no loss' basis had been suggested by both bodies during an Office of Tax Simplification (OTS) review of CGT which reported last year, and reflects a recommendation from that review.

Jon Stride, Vice Chair of the ATT Technical Steering Group, said: 'The proposals will benefit many divorcing couples. It can take time to agree a fair split of assets and the current rules operate in an unfair and inconsistent way.'

The easement for divorcing couples is the second recommendation from the OTS CGT report to be legislated for, following the extension of the UK property CGT return window (another measure CIOT and ATT had pressed for). However, CIOT have pointed out that most of the OTS's recommendations for simplifying CGT remain unimplemented, including some measures accepted by the government.

Draft legislation on support for pension saving addresses a longstanding inequality which the LITRG have been campaigning on since 2018.

One measure not in the draft Finance Bill is any change to the timing of when the self-employed and landlords have to register with HMRC, following HMRC's announcement that it has decided against changes in this area. CIOT and ATT welcomed this announcement. In responses to HMRC's call for evidence, both had argued that any advantages to requiring earlier registration would be outweighed by the disadvantages.

John Cullinane, CIOT Director of Public Policy, said the proposed change would have meant 'significant upheaval' for the newly self-employed and first time landlords.

Jon Stride said he was 'very disappointed' not to see any response to the criticism from ATT and others about HMRC's IT systems. 'Feedback from our members suggests that improving the operation of HMRC's IT systems and processes for dealing with self-assessment registration would greatly improve the experience both for taxpayers and their agents,' he said.

More from L-Day at tax.org.uk/lday2022

In the news

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

ATT's Emma Rawson told the BBC that the main driver behind cutting corporation tax is to stimulate businesses to invest and make the UK more internationally competitive.

BBC News Channel, July 2022

'To go from the small numbers in the pilot to the millions of businesses and landlords that need to comply in less than two years is a mammoth task.'

CIOT's Richard Wild commenting on HMRC's plans to expand the MTD trial The Times, 18 June 2022

'Two of the leading professional bodies representing taxpayers, the Chartered Institute of Taxation and the Association of Taxation Technicians, are calling on HMRC to increase their publicity on MTD for Income Tax, noting this lack of preparedness and enthusiasm among many businesspeople.'

Daily Telegraph, 21 June 2022

'The economic support measures undoubtedly helped many businesses survive the pandemic but [we] will probably have to wait a number of years [to] find out how much of the tax deferred in 2020-21 will ultimately go unpaid due to business failure.'

John Barnett, quoted in The Independent, 23 June 2022. Our analysis of the 'tax gap' also appeared in the Evening Standard and City AM

'Advisers are so concerned that they have written to Myrtle Lloyd, the director-general of customer services at HMRC, about "long-standing concerns over service levels". The letter was signed by the CIOT, the ATT, and the Institutes of Chartered Accountants in England and Wales and Scotland.'

The Times, 9 July 2022

Tax Charities

Interview with Rebecca Benneyworth

Alison Lovejoy talks to Rebecca Benneyworth about her support for the tax charities.


Rebecca Benneyworth

Rebecca Benneyworth is a past chair of the ICAEW Tax Faculty, a practitioner and popular tax lecturer. She is also a long-time supporter of both tax charities.

How did you first get involved with the tax charities?

About 20 years ago, Rosina Pullman, then TaxAid's Director, asked me to present at one of TaxAid's fundraising CPD seminars. I did several, but then became more closely involved with the introduction of tax credits and developed and presented a course for accountants. I later rewrote this for Citizen's Advice Bureau staff and presented it on behalf of TaxAid around the country.

How did your interest in the work of the charities develop further?

I was keen to contribute more to the work of TaxAid, but being based in the south west of England made this difficult. However, I was introduced to Tax Help for Older People, whose working model suited me down to the ground, and I started work as a volunteer, visiting older people around Gloucestershire, solving their tax problems.

Where did this take you after that?

When I became chair of the ICAEW Tax Faculty, I was keen to ensure that the tax charities were supported at our flagship events. Collections were made at both the Hardman dinner and the Wyman debate each year. Personal circumstances forced me to take a year out to receive treatment for cancer but following this I was so pleased to be able to contribute again. I currently lead and present one online CPD event a year, which raises much needed funds for the charities.

What are the major issues facing taxpayers today that the tax charities can help with?

Tax remains a mystery to many people – whether comfortably off or in financial need. I work with HMRC to help them understand the needs of a wide variety of taxpayers. And I am a passionate educator: I have presented sessions on tax in many local schools.

With a better understanding of tax, people would be better able to deal with their own affairs. But inevitably there will be some vulnerable people who can't cope, and who can end up in real difficulty – the tax charities are a huge help to them.

As technology becomes more embedded in the tax system, I regularly meet older people who have no way of accessing information or creating a HMRC personal tax account. They have no credit record, passport or any way of gaining secure access to the services they need. The world is running away from them just when they need things to be easier.

Finally, there is Making Tax Digital. Small businesses and pensioners in receipt of rental income will soon be required to keep digital records and make quarterly submissions to HMRC. This will be an important area for the tax charities to help with – both in spreading the word and providing advice and support to those who need it but are unable to pay.

> **Tax remains a mystery to many people – whether comfortably off or in financial need.**

So, plenty to do – and funds are needed for all of it! Dig deep folks – if everyone reading this annually donated their fee for just one hour of their time, it would make a huge difference. Just think, one hour out of the 8,760 in each year!

If you want to learn more about the tax charities, contact Rose Over at Rose.Over@taxvol.org.uk.

Pensions

CIOT and IFS debate tax and pensions

There are plenty of flaws with the way we tax pension saving, but a lack of consensus about the way forward and the complexities of the various options for change is likely to scupper the chance of significant reform. That was a central conclusion from the CIOT/IFS debate, 'How should the tax system treat pension saving?' held in London on Tuesday 5 July.

Carl Emmerson, Deputy Director of the IFS (Institute for Fiscal Studies) was the first of four speakers. He argued that taxing income when received is a good basis for the tax treatment of pension saving. Emmerson said that help towards saving into a pension could be better targeted. He suggested that there is plenty of scope to improve design of the tax-free lump sum, the National Insurance treatment of employer contributions and the treatment of pensions at death.

Glyn Bradley is Principal, UK Wealth, at Mercer and a member of the CIOT Employment Taxes Committee. In his remarks, he questioned why the tax regime generally gives the highest incentive to save into pensions to people with the most money. He also highlighted some peculiarities around how marginal rates of relief vary within income brackets and queried whether this was truly the policy intention. He suggested that if the government cut tax relief, the savings might be diverted to increase the state pension.

Kelly Sizer, Senior Technical Manager at the Low Incomes Tax Reform Group, gave her 'wish list' for complexities to avoid in any future pension system in the UK. She argued for clear and understandable rules and greater consideration of how pensions interact with welfare benefits. She welcomed the government commitment to act on the 'net pay vs relief at source' anomaly (see page 51).

Charlotte Clark is Director of Regulation at the Association of British Insurers and was formerly head of pensions at the Treasury and Department for Work and Pensions. She argued that there is no such thing as a UK 'pension tax system', rather we have separate pension and tax systems, and each is trying to do something different, with separate people involved and using different levers. That is why it is so difficult to reform pensions, she said. Clark said pensions reform was high on the political agenda pre-Covid but is less so now because any anticipated Exchequer savings look less worthwhile compared to mountain of pandemic-related public debt.

The panel (left to right): Kelly Sizer; debate chair Mubin Haq, CEO of abrdn Financial Fairness Trust; Charlotte Clark; Glyn Bradley; and Carl Emmerson

An audience poll during the debate asked what one change to the taxation of private pensions people would make. A third of respondents said they would restrict upfront income tax relief to a single rate (which was the most popular answer), while just 8% said they would reform the tax-free lump sum.

Watch a recording of the debate at: tinyurl.com/CIOTIFSpensions

Admissions

ATT Admission Ceremonies

After such a long absence, we were delighted to hold our first face-to-face admission ceremonies for new ATT members since 2019.

On one of the (at the time) hottest days in June, we welcomed 117 new members to two admission ceremonies held in the lovely setting of the Law Society's Hall in Chancery Lane, London.

Following the formal ceremony where new members were presented with their certificates by the then ATT President, Richard Todd, new members and their guests were invited to a reception where they mingled with members of Council and Head Office Staff, as well as using the opportunity to network and take informal photographs.

Admissions ceremony 1

Admissions ceremony 2

Diploma In Tax Technology

Handling technology in taxation

Ian Hayes explains why CIOT is launching a new tax technology qualification.

Are there any terms in the word cloud above that you do not recognise? If you know and understand the significance of all of them, you are probably keeping pace with mainstream technological developments – and would probably not consider someone talking to you using these words as communicating in a different language. Some of the words are legacy and reflect a more sedate profession. Others reflect what has appeared and disappeared over the past two decades.

Against this background of change in tax and expenditure, changes to the administration of tax have been made and are being set. The need to preserve legacy systems at the same time as new digital systems are being devised, constructed and implemented has resulted in redundancy, reskilling, recruitment and continuous education for the administration. It still does.

Tax advisers are beginning to go through the very same process and problems from a compliance and advisory standpoint. As they do so, they must continue to understand and meet the needs of their clients. Education in tax technology will be one of the tools available to them, ready and able to assist. What does this mean for a tax adviser who needs to understand the digital impact on taxation? What do they need to know? Can reliance be placed on an expert to advise and assist? How can the value and efficacy of tax advice be checked?

Governments and revenue administrations have given much time and money to these issues and are firmly committed to a digital future. Their building work is well underway. Taxpayers are already expected to be conversant with much of the underlying technology. Legacy systems have had a relatively short shelf life. The same truth applies to tax advisers.

Those who do not comprehend and adapt to the changes that have happened are failing both themselves and their clients. They are unable to fulfil the basic line of client service – communication.

The role that tax advisers play is referred to as a 'virtuous circle'. Essentially, tax advisers – both as themselves and through their professional organisations – have connections to academics, political parties, governments and revenue administrations. They are an essential part of the dialogue which creates, maintains and adapts a living tax system.

This virtuous circle worked with legacy systems and, with adaptation, will work as well, if not better, with digital systems. The difference between the two is that digital technology is at the heart of that circle, and, if you cannot participate in communications either for strategy, policy, administration, compliance or supportive litigation, your circle will no longer be virtuous and will fail.

For tax advisers, as for any professional facing the challenge of digitalisation, the ultimate and real question is – how do we change? There are several answers, all centred around an awareness of digital technology and an understanding of how it works, how it can be used and how those key professional principles and practices can be transposed and embedded within the digital world.

The solution to this challenge is education. The CIOT understands the significance of digital change, which is an important part of tax practice and as relevant as tax law. CIOT's first response is the development and launch of the Diploma in Tax Technology.

Register your interest to find out more at www.tax.org.uk/DITT for more information in advance of the launch of the new Diploma later this year.

Examinations

Success in CIOT and ATT May 2022 exam results

On 21 July 2022, the CIOT and ATT announced the results from their examinations taken at the May 2022 exam session. 922 CTA candidates sat exams in May 2022 with a further 354 candidates who sat one or more papers on the ACA CTA Joint Programme (with ICAEW) and 64 candidates who sat a paper on the CA CTA Joint Programme (with ICAS). 784 ATT candidates sat exams in May 2022 and 948 ATT CTA Tax Pathway candidates sat a combination of ATT and CTA papers.

The Institute President Susan Ball, commenting on the results, said: 'I would like to offer my very warmest congratulations to all the candidates who have made progress towards becoming a Chartered Tax Adviser as a result of passing one or more papers at the May 2022 examination session. I strongly applaud their resilience and commitment.

'288 candidates have now successfully completed all of the CTA examinations. This is a fantastic achievement, and we very much look forward to welcoming them as members of the Institute in the near future. Included in this figure are 50 candidates who were on the ACA CTA Joint Programme and 81 candidates who have now fully completed the ATT CTA Tax Pathway by passing the CTA element.

'We are very pleased that we have been able to resume holding our Admission Ceremonies in person so we can meet as many of our new members as possible and celebrate with them.'

The Association President David Bradshaw, commenting upon the results, said: 'I am delighted to congratulate all the successful candidates from the May sitting of our exams. In total, 1,273 ATT candidates sat 1,774 papers and 1,308 passes were achieved with 84 distinctions awarded for outstanding performance. All the tax exams continued to be held remotely and I would like to applaud the candidates for their commitment and resilience.

'Our modular system means that candidates can study at their own pace, whether they are working towards full membership or simply wishing to obtain one or more Certificates of Competency in their specialist area. This flexibility continues to be popular.

'I look forward to meeting as many new members as possible at one of our future admission ceremonies.'

Information regarding these results, including pass lists, can be found on the CIOT, ATT and Tax Adviser websites.

Technical Work

Spotlight on the ATT Consultation Responses

For this month's spotlight, we are looking at a particular aspect of the work carried out by the ATT technical team – responding to consultations. This is one of the more formal parts of the role since it generally involves producing a written report, setting out the ATT's comments regarding a specific area of tax where the government is seeking views.

The consultations we respond to are usually issued by either HMRC or HM Treasury – or sometimes both. They can cover any area of tax and range from early stage consultations calling for evidence about a particular problem or issue, through to final stage consultations on a policy to which the government is committed and where there may already be draft legislation. In our responses, which need to be in line with our charitable objectives, we seek to reflect members' views and concerns about the issue in question and to highlight potentially unintended consequences or aspects which we think could be difficult to operate in practice.

Obviously, the earlier in the policy development stage that we can get involved, the better the chance we have of influencing the outcome. All our consultation responses can be found on the ATT website at www.att.org.uk/technical/submissions.

Some recent examples of consultations we have responded to include:

- **Potential reforms to capital allowances regime**: This was a wide-ranging review on the future of capital allowances. In response, the ATT called for more consideration to be given to simplifying capital allowances for small businesses. See www.att.org.uk/ref397.
- **Online sales tax:** The government was looking for views on the consequences of introducing an online sales tax. The ATT considers that the proposals were not the best way to achieve the policy aim of funding a reduction in business rates, and should be reconsidered. See www.att.org.uk/ref395.
- **ITSA registration for self-employed and landlords:** We were grateful to a number of ATT members who attended various HMRC roundtables to discuss proposals to change self-assessment rules prior to the submission of our written response. Our conclusion was that taxpayers would be best helped by HMRC focusing on improving their IT systems and processes, rather than changing the nature of the obligations. See www.att.org.uk/ref392.

In addition to consultation responses, the ATT also submits written representations, including:

- **Budget representations:** In advance of the Budget and other fiscal events, we submit other suggestions for improvements to the tax system. Recent representations include a call for an extension to the Covid testing benefit-in-kind exemption.
- **Finance Bill briefings:** Here, we are focusing on the detail of the Bill. For example, we consider whether the legislation does what the government intends and it is clear how the law should operate or if there are gaps, unintended consequences or contradictions.

A list of the consultations which we are currently working on is available on our website at www.att.org.uk/technical/ consultations and feedback to: atttechnical@att.org.uk is always very welcome. In all of these responses, the views and comments we receive from members are invaluable as they help to ensure that our responses to HMRC reflect the views of our membership and are informed by members' practical experiences. Only by making well-considered submissions and contributions can we hope to influence the development of tax law and practice.

Conferences

Highlights of the ATT and CIOT East Midlands Tax conference

Dipti Thakrar, East Midlands Branch Chair

The East Midlands branch conference took place this June at the beautiful location and grounds of Wollaton Hall and Deer Park, Nottingham. As Chair of the East Midlands Branch, it was great to be at a physical event at such a beautiful venue, which was well received by delegates, sponsors and all involved. Just some of the highlights from the day included:

- **The Branch Chair Medal:** I have been the branch chair for nearly a year now and I was expecting to pick up the medal from the branch's previous chair Stephen Foulkes one day. It was a total surprise when Susan Ball presented this to me formally and this was orchestrated by dear Stephen. Very exciting and all caught on camera!
- **Delegates and networking back again:** It was lovely to see the room full of familiar and new faces. Face to face conferences have their own charm and we hope to have one every year.
- **Speakers and sponsors:** Thank you to all supporters on the day. The Branch look forward to welcoming you back next year.
- **East Midlands branch committee:** The Branch was pleased to have your continued support and hope to see you soon. Catherine Cox, Dan Ellerton, Giles Lang, Margaret Curran, Melissa Dunkley, Paul Gayton, Primrose Gwata, Rachel Cobb and Stephen Foulkes.

The new Branch starts this year with the AGM on 30 Sept 2022 and will discuss the highlights of last year and the planned scheduled for the coming year. If you wish to speak at future events; become sponsors; or host an event then please email us at: eastmidlands@tax.org.uk

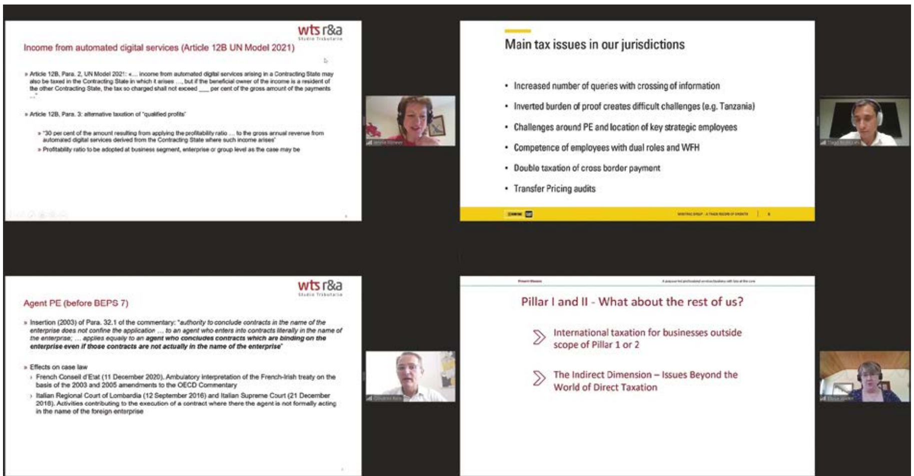
ADIT

This year's Joint International Tax Conference

A global audience of nearly 150 tax professionals and international tax law students tuned in for the 12th Joint International Tax Conference, which took place online on 14 and 15 July. The conference was once again held in partnership between King's College London (KCL), the CIOT, ADIT and the International Fiscal Association (IFA)'s UK Branch, appealing to a diverse audience of members and students from around the world.

Chaired by Jonathan Schwarz, barrister at Temple Tax Chambers and director of KCL's International Tax Law LLM programme, this annual event has become a fixture in the calendar for many international tax specialists. The conference attracts some of the most influential thought leaders in the field, while providing an invaluable opportunity for the next generation of international tax leaders, including students at KCL and members of the ADIT community, to gain real-world insights into the practical application of international tax concepts.

This year's conference featured keynote speeches from the Head of the OECD's Transfer Pricing Unit, Manuel de los Santos, and Liselott Kana, Co-Chair of the UN Tax Committee and Head of the International Tax Legislation Department within the Chile Ministry of Finance. Manuel and Liselott were joined by an international roster of expert speakers from across the legal, accountancy and corporate sectors, who between them explored a number of emerging topics in the international tax discourse in a series of panel sessions.



The programme included a panel session entitled 'Pillar I and II: What about the rest of us?', chaired by Jennie Rimmer CTA(Fellow) ATT, Head of Tax at Canopius.

The first day's agenda included analysis of the key current issues in transfer pricing, and a deep-dive into some recent international cases featuring tax law professors and senior lawyers from Europe and North America. The second day saw discussion of the likely international tax prospects for businesses outside the scope of the OECD's two-pillar solution, followed by a look at the taxation of digital nomads following the pandemic.

CIOT President Susan Ball gave an address, while the delegates were also able to enjoy an online networking session, meeting with the speakers and helping to keep the conversation flowing even in the absence of the traditional drinks and canapés!

If you missed the live event but would like to view recordings of the sessions, these are available to purchase at: https://cvent.me/rv1GOQ

Obituary

Christopher K Hanson

The Hanson Partnership (1952-2022)

It is with great sadness and a heavy heart that we report the recent passing of Chris Hanson. Those of you who attend our residential tax events are very likely to have met or spoken to Chris as he was a frequent attender of these conferences. He was a dedicated tax professional and he was always keen to increase his tax skills and knowledge.

Chris was extremely proud of his Scottish heritage and always lived life to the full. He was known for his love of fine dining and wines.

Chris trained and qualified as a chartered accountant at the Hastings-based firm, Manningtons (previously known as Mannington Bishop & Bryant) and went on to qualify as a member of our Institute in 1978. In 1987, Chris joined Solomon Hare in Bristol as a partner, where he worked with owner-managed businesses and high net worth individuals and opened the firm's Cirencester office.

He proudly established his own Cirencester-based practice in 2004 called the Hanson Partnership LLP. Chris's clients always appreciated his practical and first-rate accountancy, tax and business advice and he was highly respected in his local business community.

Chris was devoted to his wife Elaine. She speaks of Chris's amazing love, vitality, sense of adventure and wonderful support.

We will all really miss his enthusiasm and chirpy personality at our residential conferences. RIP Chris.

Donations in memory of Chris will benefit Noah's Ark Children's venture:

Mark Smyth, Business Lead
Macaroni Wood
Eastleach
Cirencester
Glos., DL7 3NF

01367 850356

A MEMBER'S VIEW

Ele Theochari

Director and Chartered Tax Adviser, Liberty Collins Ltd.

This month we are excited to shine the spotlight on Ele Theochari, Director & Chartered Tax Adviser at Liberty Collins Ltd.

How long have you worked in tax and was it always with your current employer?

I've been working in tax since I left university in 2015, starting at Grant Thornton in corporate tax, then specialising in R&D at both Forrest Brown and PwC before joining Liberty Collins in 2020.

Why did you pursue a career in tax?

In my last year of university, I wasn't settled on any role in particular. I went to see the careers advisor, who mentioned that accountancy more generally would suit my skill set as I enjoyed analytical, numbers-based roles. I then applied to a range of accountancy firm graduate schemes, and landed in direct taxes. I didn't know what this meant at the time, but haven't looked back since!

Why is the CTA qualification important?

The CTA qualification is considered the gold standard of tax qualifications and instantly shows to prospective clients and employers that you have a deep understanding of tax. I have also found that clients feel at ease when you mention that you're Chartered as they know they're in safe hands.

Studying towards the qualification teaches you how to consider the wider picture of any issue, and how to assimilate multiple pieces of information, which is a valuable skill.

How would you describe yourself in three words?

Personable, positive and hard-working.

What are the highlights of your career?

I have a few highlights so far, even though it's only been a short time! Passing my ATT and CTA exams was such a huge achievement for me.

From very early on I wanted to be part of a start-up environment, so joining Liberty Collins and becoming a Director was another highlight.

My third highlight is being nominated as a finalist for the Tolley's Taxation Awards 2022 Taxation's Rising Star award. The judges said there had been a record number of entries so I was over the moon!

> **Your network is one of your biggest assets, so be someone that everybody wants to work with.**

What advice would you give to people starting off in their career?

Be curious, ask questions, and always go the extra mile. Your network is one of your biggest assets, so be someone that everybody wants to work with, and make genuine, long-lasting connections wherever you can as this will open doors throughout your career.

Finally, your career doesn't have to be linear. If you want to take a less traditional route, there are so many skills you'll pick up along the way, so take a risk!

What advice would you give to your future self?

Remember to enjoy every win, and don't sweat the small stuff!

Contact

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

The Association of Taxation Technicians is recruiting
Technical Officer – full-time, home based
Salary Circa £67,000

att

The Role

The ATT is seeking to appoint a full-time permanent Technical Officer, to work alongside two existing Technical Officers to improve the tax system to make it more efficient for all affected by it - taxpayers, their advisers, and the authorities.

In this role, you will:

- Drive forward the ATT's technical work and enhance its reputation as a contributor to technical policy developments across the full range of taxes by working with its Technical Steering Group (TSG), VAT sub-group and various other committees.
- Develop responses to consultations and take forward issues raised by TSG, the VAT sub-group and Council.
- Represent the Association in meetings with HMRC and other professional bodies.
- Research and prepare reports on aspects of the tax system.
- Contribute to Tax Adviser, press releases and wider technical submissions.

The Person

This is an exciting opportunity for a professionally qualified and experienced individual seeking to contribute nationally to the development of taxation policy and practice.

Applicants should:

- Be ATT, CTA, ICAEW or STEP qualified, or hold equivalent qualifications.
- Have at least five years practical experience in tax work, at a level undertaken by typical ATT/CTA members.
- Have a good awareness of the range of taxes covered by the ATT qualification.
- Be willing to work on their own and as part of a small, enthusiastic and adaptable team.
- Demonstrate initiative, planning skills and strong communication skills.
- Be willing to work from home and travel to meetings in the UK as required.

This is a full-time home-based role with a requirement to attend meetings and our Head Office in London. Part-time applications will be considered.

Please email Renata Sandra-Toth at RSandra-Toth@ciot.org.uk for further information or visit www.att.org.uk. The application deadline is 5pm, 5 September 2022.

Director
Taxation Disciplinary Board

Chartered Institute of Taxation.

The CIOT is looking to appoint a Director of the Taxation Disciplinary Board.

The Taxation Disciplinary Board (TDB) was established as an independent body in 2001 by the Chartered Institute of Taxation (CIOT) and the Association of Taxation Technicians (ATT) to investigate complaints against their members. The Director of TDB will succeed the current CIOT appointed Director whose term will expire in May 2023.

As educational charities, the CIOT and ATT have together over 38,000 members and students, and are the leading professional bodies in the UK with a sole focus on taxation. Their mission is 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 their members.

In establishing the TDB as an independent body in 2001, the CIOT and ATT took into account the Human Rights Act and in particular the need for complaints regarding breaches of professional rules of conduct to be considered by a tribunal which was independent of the body establishing the rules.

To apply for this role, you must be a member of the CIOT and be familiar with the CIOT and its workings in order to win and retain the trust of the Council of the CIOT. You may have relevant experience of disciplinary tribunals/models but this is not a prerequisite.

Applications must be made by 30 September 2022 by 5pm, and should include a copy of your CV and covering letter. Interviews will be held on 12/13 October (1st stage) and 19/20 October (2nd stage). If you're interested in applying for this role, and would like to request the job pack please email Renata Sandra-Toth: rsandra-toth@ciot.org.uk.

Think Tax. Think Tolley.

A selection of jobs recently posted on

TAXATION-JOBS

For further information and hundreds more jobs, go to www.taxation-jobs.co.uk

Indirect Tax Manager Hertfordshire £70,000 – £80,000 brewer morris	As the Indirect Tax Manager, you will report to the Group Head of Tax and be part of our Group Finance Team who are responsible for financial reporting, management accounting, tax, treasury and debt and equity investor relations. Within this role, you'll have the opportunity to take the lead for all aspects of indirect tax compliance and advisory matters, redesign and implement processes which are fit for purpose and future proof.
Corporate Tax Associate Director Birmingham £70,000 – £85,000 + benefits ct creative tax recruitment	A real fast track to director. You will not be in a "talent pool" competing for the same position. The position will involve providing tax advisory services to a diverse range of clients. These will include large OMB's and corporate entities. The team deals with a wide range of business tax work that includes: transaction and due diligence work, international tax, R&D tax-related work, complicated compliance and Ad-hoc advisory. The partner wants someone they can work closely with. An experienced tax professional who can get involved in mentoring and managing the team and contributing to the business with ideas. Hit your personal targets and you will almost certainly make director in this team.
Senior Manager – Tax Transformation London Cash allowance + bonus + benefits Pure	The team has a market leading reputation; bringing together a unique blend of consulting, technology, tax technical and tax reporting experience to help businesses meet the challenges of multi-jurisdictional tax operations. We are looking for a Senior Manager to join the team, in a leadership role, supporting our clients primarily in the area of tax operating model and tax governance design and implementation. This role sits at the heart of what the team does, working collaboratively with Tax and Finance leaders. The role requires a consultative approach to supporting client leadership through strategic transformation initiatives.
Personal Tax Senior Bristol £30,000 – £40,000 HAYS Recruiting experts in Taxation	A well established accountancy practice in Bristol is seeking a Personal Tax Senior. Working as an experienced Personal Tax Senior you will manage a varied portfolio of clients, providing the highest quality compliance service to these private clients. To succeed in this role you will have gained significant personal tax exposure in a recognised accountancy practice. This is a fantastic opportunity to work for a friendly and supportive firm, who have lovely offices.
Group Tax Manager – In-House London £80,000 – £100,000 + bonus PROTAX	Are you a tax professional looking for an in-house move? Do you want tax experience with a global business? Are you looking to broaden your tax knowledge? As Group Tax Manager you will be involved in: group transfer pricing; maintaining with international tax compliance; keeping up to date and present changes in the tax environment; line management responsibility for a Tax Accountant. You will be professionally qualified in tax or accountancy, have strong corporate tax knowledge with international groups and be collaborative, a good communicator and able to build relationships

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Do you currently work in R&D tax in a technical role or a business development function? randd is a specialist tax practice focused on Research & Development Tax Incentives. Founded in 2008, what truly differentiates randd are highly experienced consultants who have an unrivalled breadth and depth of senior level experience covering wide ranging industry sectors. The business has an excellent reputation and prides itself on 100% success rate on the claims that they handle. They also have a great relationship with HMRC. It is for these reasons that randd were acquired by K3 Capital Group plc in 2020. K3 are a UK AIM listed professional services firm providing advisory services to SMEs, headquartered in Greater Manchester and with operations throughout the UK and overseas.

As part of the next stage of their development and expansion randd seek:

R&D Tax Director or Associate Director

You will be an experienced tax professional with proven knowledge of R&D tax and the incentives regime. You will enjoy building relationships with clients and will be able to manage your work load and a team of more junior staff. A key element of this role is technical focused – you will be the quality control for the reports prepared by your team. You will help the Business Development and Marketing Team by writing client literature, articles and blogs. Experience of the software and FS industries an advantage. Would consider a Manager looking for a step up to Associate Director or an Associate Director looking for a step to Director and future equity participation.

Client Relationship Manager

It is likely that you will have a background in either taxation or a science/technology focus and will be looking for a business development role. This role focuses on expanding the current network of clients and work referrers (such as accountancy firms) and developing existing relationships to gain further referrals. Previous experience of R&D tax sales an advantage but experience of selling other tax services also considered. Would also consider a tax qualified individual who would like to focus on a more client facing sales role.

Business Development Associates

Bright individuals who actively enjoy sales and cold calling sought. You may have a background in science, technology or tax and will be motivated by a great commission structure. B2B sales experience also considered.

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

www.georgianaheadrecruitment.com

Univar Solutions

EMEA Senior Tax Analyst/Assistant Manager In-house – Bradford – £50,000 to £55,000 + bens

Univar Solutions is a global partner to our customers and suppliers for the value-added distribution of chemistry and related products and services. We are a committed ally, with the capabilities and know-how to help their business run smoothly, and the expertise to help them anticipate, navigate and leverage meaningful growth opportunities.

Our in-house tax team seeks a qualified corporate tax professional to join our team in Bradford. In this role, you will deal with all-round international corporate tax compliance and reporting work and you will assist tax directors with advisory work. Your role will include:

- Preparation of quarterly tax reporting under US GAAP for the EMEA entities in the group;
- Review of annual tax computations, including liaising with advisors and the relevant teams in Finance and the wider business;
- Review of tax disclosures for statutory accounts;
- Management and coordination of external advisors in EMEA jurisdictions;
- Assistance with transfer pricing reporting, modelling and documentation;
- Assist senior tax staff with tax audits and analyses;
- The opportunity to get involved in VAT work.

What you'll need:

- Experience of working in a fast paced, large corporate environment whether that be an accountancy firm or in-house.
- Some transaction experience is advantageous.
- Qualified ACA, CTA or equivalent.
- Strong interpersonal and communication skills, to build credible relationships, and influence all levels of the Finance team.
- Knowledge and understanding of IFRS and tax compliance reporting.
- A self-starter with the ability to tackle issues as they arise.

This role has clear potential for progression. Based in Bradford, the office has free parking and hybrid working is available (minimum of 2 days a week in the office).

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

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CORPORATE TAX MANAGER

NEWCASTLE To £50,000

Large independent firm looking to recruit an experienced corporate tax manager (or assistant manager) to manage a portfolio of clients, taking responsibility for the tax compliance work and supporting on varied ad-hoc tax advisory work. Great opportunity to join this well respected and dynamic firm.

REF: **A3353**

IN HOUSE INDIRECT TAX MANAGER

MANCHESTER (PLUS UK TRAVEL) To £70,000

You will take responsibility for all aspects of Indirect Tax advisory and compliance across the European entities to ensure timely and accurate submission of VAT returns, annual returns, EC sales lists, Intrastat, and all other submissions required to be made to HMRC. You will also provide indirect tax advice and recommendations to support the business in its decision making on global projects and overall strategy.

REF: **R3387**

MIXED TAX M'GER / SENIOR M'GER

MANCHESTER To £85,000

Unique opportunity to join this Big 4 firm in a truly varied role that spans both corporate and personal tax and involves working with some exciting businesses and entrepreneurs. You will be joining a growing and close-knit specialist team and be well supported for future progression and development. This is a great opportunity if you are looking to broaden out your experience from PT into CT (or vice versa) and take on a fresh challenge. Flexible and hybrid working and fantastic salary and benefits package on offer for both full or part-time candidates.

REF: **A3392**

CORPORATE TAX ASSISTANT M'GER

YORKSHIRE To £45,000

Fantastic opportunity for a recently qualified ACA / CTA Tax professional to join this leading regional firm. You will work on a portfolio of high-quality corporate tax clients and get involved in complex compliance and advisory work. You will ideally have a few years corporate tax or mixed tax experience and be looking to build on this in a supportive and dynamic environment where you can build a long-term career. Joining a firm of this size is such an opportunity for future growth including moving into more specialist areas should you choose.

REF: **C3383**

HEAD OF TAX & PARTNER SERVICES

FLEX ON LOCATION ACROSS NORTH £GENEROUS

Exciting Senior opportunity to work with a prestigious international law firm and oversee a small but experienced in-house team including the partnership tax and business tax managers. You will take responsibility for all Group Tax matters and relationships with LLP members and management of the firm's tax position including VAT, Payroll, Corporation and Partnership taxes. Great next step for an experienced Senior Manager or Director with corporate and / or personal tax experience looking for a new challenge.

REF: **R3388**

TRUST MANAGER

MANCHESTER £Highly competitive

This global law firm are seeking a Private Client Trust Manager to join an established and growing specialist team. The firm offers hybrid and flexible working combined with a modern, inclusive and approachable culture. You will manage your own mixed complexity portfolio and be involved with prep of annual trust accounts, IHT computations and UK income tax and CGT returns. Ideally you will be STEP qualified with strong communication skills and a passion for building long term relationships.

REF: **C3386**

R&D SPECIALIST

CHESHIRE Up to £45,000

Exceptional multi-location, regional accounting firm seeking either a full-time or part-time R&D Specialist. There is a strong pipeline of work already established for the firm, and it offers hybrid working and highly competitive salary packages. Ideally you will be someone interested in developing the longer-term R&D business, but you will also be able to take part in other tax work if you so wish.

REF: **C3389**

TAX DIRECTOR / PARTNER

NORTH WEST £SIX FIGURES

As a result of strong performance and growth this long-standing independent firm based in the North West is looking to recruit a senior manager, director or established partner with excellent tax advisory knowledge and experience in the OMB space. A great opportunity if you are looking to move into director or partner role with a firm that has a fantastic reputation, a great client base and dynamic, friendly team.

REF: **A3393**

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Mike Longman FCA CTA: mike@taxrecruit.co.uk; **Ian Riley ACA:** ian@taxrecruit.co.uk; **Alison Riordan:** alison@taxrecruit.co.uk; **Claire Randerson Smith:** claire@taxrecruit.co.uk


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