May 2024

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HELEN WHITEMAN
JANE ASHTON

Welcome
Levels of commitment

May is the first time in the calendar year when our students get ready to sit their examinations, and this year across both the ATT and CIOT we have over 3,600 students sitting a total of over 4,500 papers! Whilst we are sure that the work, preparation and revision have all been done, we want to wish them all the very best in their exams.

One thing that we are all going to have to prepare for is the advent of Making Tax Digital for Income Tax Self-Assessment (MTD ITSA). Although the start date is still just under two years away (April 2026), pilot testing their systems is a key part of HMRC's preparations. From 22 April, HMRC extended the pilot testing scheme with the focus now being placed on represented taxpayers, and HMRC is therefore encouraging agents to get more involved. Agents will be able to sign their clients up to the pilot directly (if the client has either a 5 April or 31 March year-end), without having to go through their software supplier (though they should, of course, have appropriate software in place, and the client's permission to sign them up).

Many members will be thinking, 'Why would I get my clients to do something early before they are legally required to? What are the benefits?' We think that one of the key advantages of joining the pilot testing scheme is that it will give agents the chance to test their own systems and processes ahead of the mandatory start dates. Whilst there have been some false starts and delays for MTD ITSA, this is definitely coming, so surely it is best to be prepared!

On 18 April, the government was due to announce a package of technical tax policy proposals aimed at supporting its drive to simplify and modernise the tax system, tackle non-compliance, make the tax system fairer for taxpayers and make the customs system work better for traders, known as Tax Administration and Maintenance Day (TAMD). TAMD did take place on 18 April, but it is fair to say that the four measures announced (see tinyurl.com/2dyr4n87) were singularly uninspiring and show just how little is being done to address what is, after all, a very ambitious goal. Will a consultation on the VAT treatment of private hire vehicles really help to simplify and modernise our tax systems?

The CIOT responded to the consultation on 'Tackling non-compliance in the umbrella company market', referenced during TAMD (see tinyurl.com/shdarc9n). Seven months later (at the time of writing), we are still waiting for HMRC's comments to those responses. If TAMD is to be an important day in the tax calendar where the government shows their genuine commitment to delivering a simple, modern tax system, then they need to do better than this.

CPD is, of course, a mandatory requirement, keeping your skills and knowledge up to date, and giving employers and clients comfort that you are competent in your work. For those seeking to increase their CPD, bookings for the ATT Annual Conferences are now open. We are running three conferences this year to give people a choice of dates – two virtual sessions on Tuesday 4 and Wednesday 12 June and a face-to-face session on Wednesday 19 June at our London offices in Monck Street.

This year, the conferences concentrate on topical tax issues with an emphasis on the practical challenges faced daily by tax practitioners. Topics will include a topical tax update by Barry Jefferd, tax partner at George Hay Chartered Accountants, along with sessions from the ATT technical team on Making Tax Digital (with an HMRC guest for the face-to-face session), avoiding Self Assessment processing problems, a capital taxes update and options for avoiding going to the tax tribunal. Find out more and register via the ATT website at tinyurl.com/yt33arw2.

Finally, a date for your diaries: CIOT's famous Cambridge conference will be held on 13-15 September. Further details will be communicated soon!

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

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UK print subscription rate 2024: £168.00 for 12 months
UK print subscription rate 2024: £297.00 for 24 months

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

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

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

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Printed by William Gibbons & Sons Ltd. West Midlands

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ISSN NO: 1472-4502

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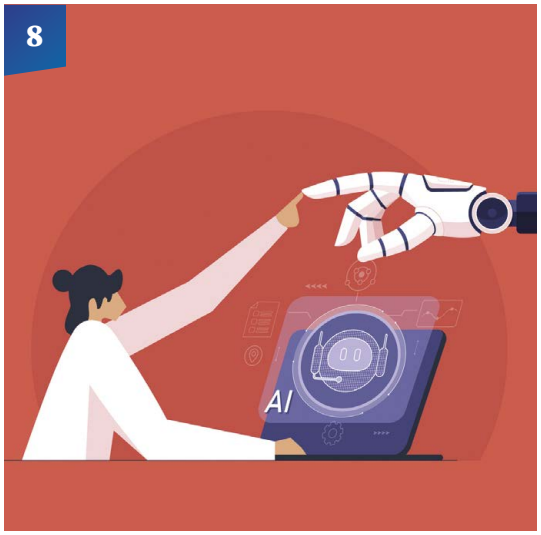

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ONLINE PICKS OF THE MONTH

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GARY ASHFORD
PRESIDENT

Time flies!

> I am so proud of this Institute, our members and everyone who brings it to life.

It has been an honour to serve as CIOT President for the past year. I hope I have used that time and this platform to represent the interests of our Institute, its members and the tax profession as a whole.

This is my last 'welcome' column as President, so I want to use it to reflect on the last twelve months and to thank everyone who has made this a hugely rewarding and highly enjoyable term.

When I became President last year, we were grappling with the seemingly never-ending challenge of HMRC service levels. But I don't think even we could believe it when HMRC announced in March that it would close its Self Assessment and VAT helplines for at least part of the year. However, we should take heart from the fact that no sooner had we spoken out than the Chancellor reportedly stepped in to put the plans on pause. That was an astute move, not least because it gives bodies like ours the chance to sit down with HMRC and help support their efforts to have more taxpayers interact with them online and in an orderly manner.

Good tax policy is core to our public interest remit, so it has been great having the chance to raise our concerns with people like the Financial Secretary to the Treasury and to discuss and debate topical tax issues alongside experts in their respective fields. The CTA address allowed us to explore the future of international reform and our events at Conservative and Labour conferences underscored our influence and impact at a political level. I want to say a massive thank you to our events and external relations teams, and the Institute for Fiscal Studies, for putting on a first-class programme of debates and for the plans underway for the next twelve months.

A real standout was being able to criss-cross the country and meet members at Branch events, dinners and other social settings. Our members are central to everything we do and seeing CIOT reach its 20,000 member milestone earlier this year was a real treat. We are delighted to welcome Rachael Brown as the 20,000th member of our CTA family (see page 48), as we are all of our newly qualified CTAs, many of whom I was honoured to meet at the recent Admissions Ceremony. I hope our new members see their membership as a springboard for their future successes.

I am looking forward to one final event as President later this month when ATT President Simon Groom and I host our annual Joint Presidents' Lunch in Edinburgh – a mainstay in the presidential calendar. It was recently joined by our inaugural Joint Presidents' networking lunch in London. After the pandemic put these events on hiatus, it has been great to see them return with vigour.

Before I sign off, I want to thank everyone who has contributed to my Presidential year. My fellow officers, Susan, Charlotte and Nichola have, along with our colleagues on Council, ensured the Institute stays true to our charitable objectives. Helen Whiteman and the executive team have done a sterling job leading our Institute to new heights, with the support of their fantastic staff. Helen, thanks for everything you have done to help me!

Being President would have been a lot harder without their support, and it would have been impossible were it not for the help of my colleagues at Harbottle and Lewis. I would especially like to thank my excellent Personal Assistant Eleanor Lawson, without whom I would never have been at the right place at the right time and much more besides!

And lastly, a special word of thanks to my family (Alistair and Ewan) and in particular my wife Clare for being a constant support in my life. Clare has been through the whole CTA journey with me; the decision to venture out from HMRC, studying for ATT and CTA, joining CIOT Council and the various moves that have led to me becoming a Senior Equity Partner at Harbottles and member of their Management Executive board.

At the AGM later this month, I will hand over the reins to Charlotte Barbour. I couldn't be happier to be leaving the Presidency in such capable hands.

I am so proud of this Institute, our members and everyone who brings it to life. Being its President is a memory I will hold dear. Thank you all for your support. And good luck to you all with your future careers!

Gary Ashford
President
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Chartered Institute of Taxation.

Chartered Institute of Taxation.

We did it! CIOT is now 20,000 members strong!

Thank you to all our members who have helped us achieve our 20,000 member milestone. Congratulations for being part of an elite group of committed tax professionals. This is a proud moment in the history of CIOT, and the wider tax profession.

CIOT membership remains the benchmark in tax qualifications, and we are the largest and most influential body in tax. We are your voice to effect change and influence. Through the CIOT, you can comment on HMRC and government consultations, shape policy and challenge the status quo.

It's an exciting time to join the CIOT, so if you have successfully completed all your CTA exams and have gained the relevant practical work experience, then apply for membership now. Join the CIOT and get recognised as a Chartered Tax Adviser.

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www.tax.org.uk/CTA-member-milestone

SENGA PRIOR
DEPUTY PRESIDENT

HMRC service levels

> The move to digital makes sense but the digital systems have to be fit for purpose.

Hello and welcome to the Deputy President's page for May. Last month's welcome page focused on U-turns. Since writing that page, we have had another significant U-turn from HMRC which beats all the others for speed of turnaround!

On 19 March, HMRC announced that the telephone helpline (although not the Agent Dedicated Line) would be closed from 8 April until 30 September. In addition, the VAT helpline would only be available for the five business days ahead of the deadline and the PAYE helpline would no longer deal with queries relating to refunds. This was to be an attempt to persuade the public to use digital methods to obtain information rather than calling.

The next day, however, HMRC announced that 'following feedback from concerned stakeholders', the changes would be put on hold to allow further discussions to take place.

There is no doubt that radical change is required to HMRC service levels, with wait times on the telephone helplines continually increasing. I have seen records from one call showing that 77 minutes were spent on hold. There are numerous reports of callers waiting for over an hour to then be cut off.

The move to digital makes sense but the digital systems have to be fit for purpose. The digital assistant carries the risk that unless the taxpayer knows enough about tax matters, they will not ask the correct questions. And if they cannot find the answer, they may turn to less reliable sources in social media.

If you can get through to an agent via WebChat, this can be very helpful for standard queries. However, if the situation is more complicated, then WebChat struggles. Given this, I think it's good that the system allows you to save a PDF copy of the conversation for your records.

In my experience, delays in mail handling are also still an issue. I am aware of overpayment relief claims which are now over 10 months old and HMRC cannot advise when they will be processed.

I do have sympathy for HMRC. As tax becomes more complicated, there will inevitably be the need for more support. The report published by the Public Accounts Committee on 28 February argued that the Treasury had not given HMRC enough resources 'to meet the service standards that customers expect'. Along with many other professional bodies, we will continue to liaise with HMRC to pass on our members' concerns and also to suggest where improvements could be made in a positive collaborative manner.

As we move into basis period reform, I imagine that HMRC will be fielding even more queries than usual. However, one positive system I must recommend is the online G-form that HMRC has made available to allow agents and taxpayers to request the overlap figures required for the transitional profits/losses calculations. The response time is only a few weeks and is much quicker than enquiring by post (see tinyurl.com/2s429hf6).

Although a Government Gateway account is required to complete and send the forms, agents are able to use their own account to sign in and complete the form for client's overlap figures.

Our Technical Officers are continually updating our basis period reform FAQs and I would suggest that you visit there if you have any queries (see tinyurl.com/4zkebj8y).

If you still have questions or you are looking to top up your CPD, our annual conferences are being held in June. There will be the option between two live online dates and one in-person session in London (see tinyurl.com/u7pzrys3). A Topical Tax Update will be given by Barry Jefferd and the following sessions supported by our Technical Officers include:

- 'Making Tax Digital: where are we now?' by Emma Rawson (a HMRC representative will join the face to face session);
- 'Avoiding Self-Assessment processing problems: help HMRC to help you' by Helen Thornley and David Wright;
- 'Capital taxes update' by Helen Thornley and David Wright; and
- 'Options for avoiding the tribunal' by Steven Pinhey.

I hope to 'see' some of you at one of these sessions!

And finally, may I wish all our students sitting exams this month all the best. We are getting close to our 10,000th member. Could this be you?!

Senga Prior
ATT Deputy President
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Our professional standards The evolution of AI

We set out the professional standards required for members of CIOT and ATT in relation to artificial intelligence.

by Marc Leach

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The progress of artificial intelligence (AI) is well documented, and the impact on tax professionals will continue to evolve. It is important to ensure that the professional standards of members continue to be observed when using AI.

The Professional Conduct in Relation to Taxation for the ATT (see tinyurl.com/msjn3fa2) and the CIOT (see tinyurl.com/3zn5e2sz) sets out the fundamental principles and behaviours that all members and students must follow in their tax work.

The Professional Rules and Practice Guidelines for the ATT (see tinyurl.com/4mvp97fz) and the CIOT (see tinyurl.com/2wujmz9j) expand on the fundamental principles, with related guidance which members must comply with.

We have outlined below how professional standards must continue to be adhered to when using AI.

Integrity

Members are required to be straightforward and honest in all professional and business relationships. Consideration should be given as to the level of transparency with clients when utilising AI in any work performed. Consideration should also be given as to any reliance placed on AI generated information and advice.

Objectivity

Members are required to avoid bias, conflict of interest or undue influence overriding their professional and business judgements. The bias that may be present in AI tools used must also be considered, which could be the result of underlying bias in the initial question asked of generative AI, any bias built into the system or bias arising from the data from which the tool generates a response. It is widely reported that some AI tools can 'hallucinate' information and data in order to generate an answer.

Professional competence and due care

Members must carry out their work with proper regard for the technical and professional standards expected. This includes not undertaking work a member is not competent to perform, unless appropriate advice, training or assistance is obtained. This applies to the services provided to a client and the use of AI where a member does not hold the necessary technical skills to understand and utilise the technology.

A member will remain ultimately accountable for the work prepared, even where AI has been utilised to structure this. The standards for tax planning in the Professional Conduct in Relation to Taxation state that members must ensure that any tax planning complies with the relevant laws and regulations.

Due diligence and professional scepticism are required to ensure that the data output from AI systems is correct, relevant and up to date. This is often referred to as 'explainability' in the context of AI generated information and data.

Confidentiality

Specific client authority is required before information is disclosed to third parties (unless there is a legal or professional right or duty to disclosure), and this includes entering data into AI systems. The data input should be anonymised and generic to ensure that client confidentiality is preserved.

Members may want to consider reviewing their engagement terms regarding how members may process client data prepared by the member; for example, inputting the client's data or member's work into a generative AI system.

Consideration needs to be given to where data is stored once input into an AI system, which could either be a proprietary system or publicly available system, and how long for. Specialist legal advice may be required. Members must ensure that they remain compliant with the legal requirements on the handling of data such as the General Data Protection Regulations. The Information Commissioner's Office has very helpful guidance in this area (see tinyurl.com/3wnzsnuw).

Professional behaviour

This encompasses the entirety of a member's business dealings, and when utilising AI a member must ensure their work is not performed improperly, inefficiently, negligently or incompletely.

Understanding the benefits and limitations of AI will help to determine appropriate use and identify any areas of concern when reviewing the work produced.

Should members have any queries in relation to professional standards or the application of the Professional Conduct in Relation to Taxation and the Professional Rules and Practice Guidelines to artificial intelligence, please contact the team atATT at standards@att.org.uk or the team at CIOT at standards@ciot.org.uk.

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VAT a mess! Private hire vehicles

Is it time to rationalise the VAT treatment of private hire vehicles?

by Bill Dodwell

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Very little happened on Tax Administration and Maintenance Day, with just two documents issued and two further topics mentioned (see tinyurl.com/2dyr4n87). Umbrellas remain a cause of concern to the government, which 'is minded to introduce a due diligence requirement to drive out bad actors from labour supply chains'. This sounds like an additional responsibility for engagers. There may be a new VAT relief where VAT registered businesses give low value goods to charities. And… drumroll… the government will 'mandate employers operating in a freeport or investment zone special tax site to provide their employee's workplace postcode to HMRC' where they are claiming National Insurance relief.

Private hire vehicles

The most interesting document concerns the VAT treatment of private hire vehicles (PHVs) (see tinyurl.com/5mrcwhxx). Most of us are aware of the transformation in the mini-cab market whereby, alongside traditional booking methods, platforms allow us to book journeys through an app.

For some reason, there is a much higher proportion of PHVs in England, compared to Wales (see the box below).

PHV operators need to be licensed in order to be able to accept bookings and dispatch vehicles. In 2023, there were 15,000 licensed PHV operators in England (1,600 of which are licensed in London), and 738 in Wales.

Until the arrival of Uber on the scene, everyone merrily proceeded on the basis that the PHV operators acted as agents for the PHV drivers – almost all of whom are self-employed. This meant that the operators might have needed to charge VAT on their services, if their turnover exceeded the VAT registration limit, but very few drivers registered for VAT. Consequently, they absorbed the VAT on their purchases of vehicles, fuel and maintenance and the operator fee but did not charge VAT on their own labour.

Strangely, though, there is a category of VAT registered PHV operators, which act as principal – which meant they charged VAT to business customers, most of which recovered it as input tax, unless unlucky enough to be exempt. Many of us would have found it hard to discern the difference between operators acting as agents and those acting as principal.

Implications of Uber

In Uber's case before the Supreme Court on employment rights for its drivers (*Uber v Aslam* [2018] EWCA Civ 2748), the court suggested that Uber might be acting as principal. Uber then asked the High Court whether their lordships had really meant that – and the High Court confirmed that in order to operate lawfully, a PHV operator licensed in London who accepts a booking from a passenger is required to enter as principal into a contractual obligation with the passenger to provide the journey.

Uber took a further case to the High Court to ask if this was the same outside London, where different licensing law applies. Again, the High Court confirmed that the PHV operator must act as principal. Thus everyone has been operating under a misconception for some 50 years.

This has VAT implications – and the reason for Uber's forays before the High Court has become clear. Uber, supported by other platforms, sought a level playing field, where all PHV operators need to levy VAT on all private hire journeys. The judgments do not affect the licensed taxi market, where operators do act as agents for taxi drivers.

Following the original London judgment, Transport for London has required that all PHV operators act as principal, which has meant that VAT has been levied on fares. However, up to now, this has not applied outside London.

This has sparked the government into action – hence this consultation. Those who seek coherence in tax policy would probably wish to see all PHV journeys subject to VAT. There is equally no obvious reason why taxi journeys should be effectively outside VAT.

However, fares would need to rise as a result. The government estimates that the net effect could be that fares rise by 1.25% to 2.5%, or between £2.70 and £5.60 per year, per consumer. There would also be an increase in administration for drivers, who would need to register and account for VAT, possibly using a simplified flat rate scheme.

Australia has considered this challenge and decided that all taxi and private hire journeys should be subject to goods and services tax, without a de minimis threshold (see tinyurl.com/ra7kefd5). Surely it is time that we do the same?

NUMBER OF PRIVATE HIRE VEHICLES

	England (2023)	Wales (2023)
Licensed taxis and PHVs	289,400 ● of which 232,200 (80%) are PHVs	9,753 ● of which 5,454 (56%) are PHVs
Licensed taxi and PHV drivers	346,300 drivers: ● 67% held PHV licences ● 11% held taxi licences ● 21% held dual taxi and PHV licences	10,789 drivers: ● 18% held PHV licences ● 1% held taxi licences ● 80% held dual taxi and PHV licences

Name: Bill Dodwell
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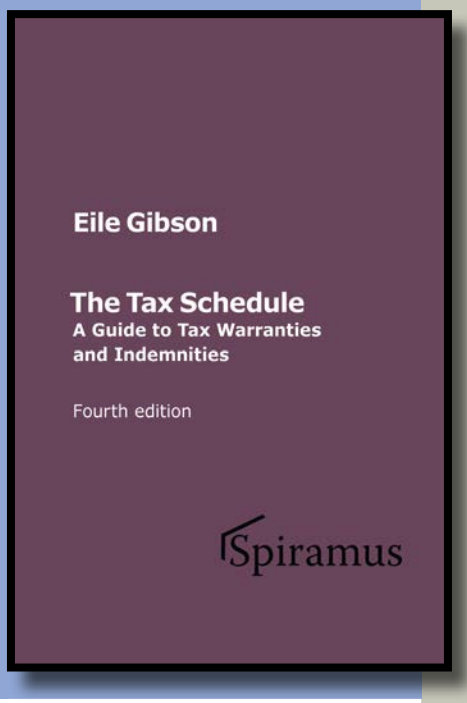

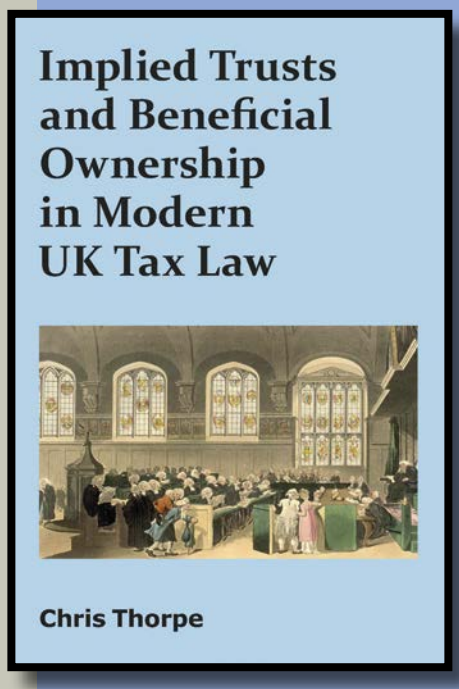

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by Chris Thorpe

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Compensation and termination fees

VAT treatment of payments

The Post Office scandal involving sub-postmasters has raised issues about the tax treatment of compensation they received. What is the VAT treatment of early termination fees and compensation payments?

by Neil Warren

If any reader is still unaware about the basic facts of the Post Office Horizon saga, the outcome was that hundreds of self-employed sub-postmasters were sacked and forced to repay large sums of money to the Post Office because of massive cash discrepancies falsely identified by the Horizon computer system in the early part of the century. These postmasters are now being paid massive amounts of money to compensate them for both the financial losses they incurred and the personal turmoil they suffered.

I'll say no more – there is plenty of reading material on the internet – and ask a VAT related question instead. Are these compensation payments subject to VAT? The good news is that the answer is 'no' – but it is not always the case that compensation payments and termination fees are non-VATable. I'll consider some practical examples in this article.

Revised HMRC policy from April 2022

HMRC changed its interpretation of the legislation about termination fees in April 2022 because it considered the outcome of two tribunal cases heard several years earlier in the Court of Justice of the European Union (CJEU). Both cases related to assessments issued by the Portuguese tax authorities in relation to fees charged by mobile phone suppliers for the early termination of contracts. The CJEU agreed that the payments were directly linked to a supply of services from the mobile phone company to their customers and were subject to VAT.

There is a subtle difference between the cases. In *MEO* (Case C-295/17), the termination payment was equal to the full amount outstanding on the telephone contracts; while in the case of *Vodafone Portugal* (Case C-43/19), the final payment was discounted. However, the VAT outcome was the same; namely, that the court decided that the customers were getting a benefit in return for their payments – which was the right to exit the phone contracts early. The termination payments were standard rated. See ***Mobile phone contract cancelled early***.

Business Brief

To confirm its revised policy, HMRC issued Revenue and Customs Brief 2(2022) on 7 February 2022:

- If a customer pays a fee to a supplier to terminate any contract early, the payment will be subject to VAT if the payments made within the contract were also VATable.
- HMRC's previous policy was that a termination payment was always outside the scope of VAT because it did not relate to any ***specific*** supply of goods or services.

The new procedures will affect both payments received and made by a business to terminate contracts – see ***Termination of cleaning contract***. In this example, the significant issue is that the terminator – to quote the title of the 1984

Key Points

What is the issue?
Since April 2022, fees for terminating a contract early have been subject to VAT if the payments within the contract are VATable; e.g. mobile phone supplies. The article considers other examples of compensation and termination fees that are VATable because they relate to supplies of services.

What does it mean for me?
If a business pays compensation, such as for damage caused to hired goods, it must not accept a VAT charge from the supplier if it is incorrect because HMRC can disallow its input tax claim. Input tax can only be claimed if VAT has been correctly charged in the first place.

What can I take away?
Always stand back and consider whether a payment relates to a supply of benefits in return for the payment, which means that it will be subject to VAT in most cases. The right to receive a benefit – such as a hotel room that you have prepaid – is a supply, even if you subsequently cancel it without enjoying the facility.

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MOBILE PHONE CONTRACT CANCELLED EARLY

ABC Accountants took out a three-year mobile phone contract in 2022, paying £3,000 per month plus VAT to the supplier. The partners now want to cancel the contract early because they need a better quality phone system for their staff from another supplier.

The existing supplier has agreed to accept a single payment of £12,000 to cancel the contract early. This fee will be subject to VAT because it is classed as an extra payment for the supply of the standard rated phones. However, ABC will be able to claim input tax, as long as they receive a proper tax invoice from the supplier.

Note: As explained in the article, the supplier has agreed to do something for ABC in return for the final payment; i.e. cancel the contract early. As the original contract related to a VATable supply of services, the termination payment will be subject to the same rate of VAT.

TERMINATION OF CLEANING CONTRACT

Vilimore Insurance Brokers has decided to terminate its cleaning contract with Spick and Span because it is relocating its business to a different part of the UK.

There is a rolling two-year contract in place but the two parties have agreed a termination fee equal to six months of cleaning fees. Spick and Span will charge VAT because the cleaning services within the contract were VATable.

Note: Termination payments will still be subject to VAT, even if a payment is agreed by the two parties through a separate legal agreement; i.e. it is not relevant to a specific clause in an existing contract.

film starring Arnold Schwarzenegger – makes exempt supplies so cannot claim input tax. If they had traded as an accountancy practice or legal firm – or any fully taxable business – the VAT charge would not be an extra cost.

Commercial reality

What would be the situation if the wording on a sales invoice was changed from 'termination fee' to 'compensation payment'?

It is generally accepted that a compensation payment is outside the scope of VAT – like the payments to the Post Office sub-postmasters – because there is no supply of goods or services being made. However, the chosen words are irrelevant if the commercial reality of a deal is different. If an invoice says, 'I'm supplying hairdressing services but I'm actually doing VAT consultancy work', it's VAT consultancy that wins!

To directly quote from HMRC's policy note VATSC05910 in its VAT Supply and Consideration manual:

> 'Where a party agrees to do something in return for a fee, there is a supply. How that fee is described does not affect whether there is a supply for VAT. What matters is whether something is done and if there is a direct link between what is done and the payment received.'

In other words, it comes down to the usual VAT question: who is supplying what and to whom? Using words on a sales invoice such as 'compensation payment' or 'payment for damages' does not alter the VAT position if the commercial reality is different.

Practical examples

Here are three more examples of VATable termination payments.

1. Charge for returning a hired vehicle late

If a contract had been with a car hire company and the contract refers to an extra charge of, say, £15 per hour, for returning a vehicle after the deadline time, this payment is for additional hire services and is subject to VAT.

2. Access to a gym is denied because of a late or failed payment

VAT enthusiasts will recall the well-publicised case involving *Esporta Ltd v HMRC* [2014] EWCA Civ 155, which was finally resolved in the Court of Appeal.

The company signed up members for annual gym membership contracts, with monthly payments made in most

cases. If any members stopped making their payments during the contract, they were denied access to the gym.

Esporta subsequently enforced the contract but claimed that the belated payments were outside the scope of VAT because the member couldn't access the gym. The Court of Appeal agreed with HMRC that the payments were VATable on the basis that the member signed the contract to gain the right to access the gym for a year. A supply had therefore taken place and all payments were standard rated.

3. Hotel cancellation fees

If a guest has partly or fully prepaid for a hotel room – but fails to arrive and therefore forfeits their money – the money retained by the hotel is subject to VAT. This is because the hotel 'made the room available' for the customer, which is a supply of services, and this outcome does not change if the guest fails to arrive. However, if the guest receives a refund, this is a credit and output tax can be adjusted.

For further information, see HMRC's Revenue and Customs Brief 13(2018), which refers to the VAT treatment of 'unfulfilled supplies' and also states that 'VAT is due on all retained payments for unused services and uncollected goods.' (See HMRC Supply and Consideration manuals: VATSC05910, VATSC05920 and VATSC05930.)

Payments that are not subject to VAT

To balance the books, many compensation and damage payments are still outside the scope of VAT, despite HMRC's revised policy from April 2022. The challenge is to stand back and ask the question: am I giving or receiving any benefits in return for this payment?

For example, if a guest rents an apartment on Airbnb and ruins the white carpet in the lounge by spilling red wine on it, any correcting payment made by the guest will not be subject to VAT because it is clearly a compensation payment to enable the apartment owner to either pay for a cleaner to deal with the problem or – worst case scenario – to buy a new carpet.

In these situations, the compensator should not accept an incorrect VAT charge from a supplier, even if the supplier helpfully provides a proper tax invoice to show that VAT has been charged. Input tax can only be claimed if VAT has been correctly charged in the first place.

Another common example of a non-VATable compensation fee is a charge made by hotels and similar establishments if a guest smokes in their room. Even though the charge might be described as a 'cleaning fee', there is no supply of services being made by the hotel to the guest. The reality is that it is a fine for breaching the terms and conditions of the hotel booking; i.e. it is outside the scope of VAT.

What about dilapidation payments?

A dilapidation payment is paid by a tenant to their landlord at the end of a lease to compensate the landlord for any repair work that is needed to restore to the building to its original condition when the tenant first occupied the building.

Surprise, surprise. HMRC intended to treat these payments as being subject to VAT back in 2020 if a landlord had opted to tax the building in question but a U-turn swiftly followed. All dilapidation payments are still outside the scope of VAT and this outcome is helpfully confirmed by VAT Notice 742, para 10.12.

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The six million pound woman

When is a payment tax free?

We consider a case involving a substantial payment made to a former employee to settle proceedings in the Employment Tribunal.

by Keith Gordon

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Key Points

What is the issue?
In a settlement agreement, Ms Mathur's former employer agreed to pay her £6 million less any PAYE and National Insurance due in exchange for her dropping claims of misconduct. She submitted her tax return on the basis that none of the £6 million was taxable.

What does it mean to me?
The Upper Tribunal's focus was on the Income Tax (Earnings and Pensions) Act 2003 s 401(1), which brings into the scope of income tax any payments 'received directly or indirectly in consideration or in consequence of … the termination of a person's employment' (ITEPA 2003 s 401(1).

What can I take away?
The case should serve as a reminder that most payments made following the termination of an employment will be taxable (either on normal principles or as a result of s 401).

One of the issues that has regularly featured in the case law concerning employment tax is the taxation of payments received by former employees. When I first practised in tax in the 1990s, the focus was typically on whether a payment qualified as a tax-free payment in lieu of notice, or at least one where the first £30,000 would be exempt. It is notable that not only has the scope of that exemption been restricted over the years, but also that the £30,000 threshold has remained somewhat static since 6 April 1988.

The reduced value of the £30,000 exemption has meant that there are fewer payment in lieu of notice cases reaching the tribunals. Instead, there are more cases in which taxpayers have sought a complete exemption. The latest such case is *Mathur v HMRC* [2024] UKUT 38 (TCC), which was recently decided by the Upper Tribunal.

The facts of the case

Ms Mathur was employed by a UK company which was a member of an international banking group. In 2015, the banking group reached a settlement with the New York State Department of Financial Services following the latter's investigation into the manipulation of the interest rates of unsecured interbank lending. As part of the settlement, the banking group was ordered to terminate the employment of certain employees (including Ms Mathur) who had allegedly played a role in the misconduct. Ms Mathur's employment was terminated a week later.

In the employer's letter to Ms Mathur, it offered compensation for loss of employment of just over £82,000. A few months later, Ms Mathur commenced a claim in the Employment Tribunal covering complaints in relation to her (now previous) employment, as well as in relation to the termination itself.

The next year, Ms Mathur and her former employer took part in a mediation meeting and a settlement agreement was signed the following morning. In exchange for dropping her claims, the employer agreed to pay Ms Mathur £6 million less any PAYE and National Insurance due. (The parties agreed that the first £30,000 was exempt from any tax liability.) The employer applied PAYE and National Insurance to the balance, with the proviso that it would co-operate with Ms Mathur in any attempt she made to recover any surplus from HMRC. In addition, the employer made a payment of £400,000 direct to Ms Mathur's lawyers to cover her legal expenses and any VAT thereon.

Ms Mathur submitted her tax return on the basis that none of the £6 million was taxable, thereby claiming a refund of the tax deducted. (It is unclear whether she made a parallel claim for the National Insurance.) HMRC opened an enquiry into the return and, in its closure notice, amended the return so as to ensure that the £6 million (minus the £30,000) was taxable.

Ms Mathur appealed against the closure notice to the First-tier Tribunal, which dismissed her appeal. Ms Mathur then appealed against the First-tier Tribunal's decision to the Upper Tribunal.

The legal questions for the tribunal

The Upper Tribunal's focus was on section 401(1) of the Income Tax

(Earnings and Pensions) Act 2003. That brings into the scope of income tax any 'payments or other benefits which are received directly or indirectly in consideration or in consequence of or otherwise in connection with the termination of a person's employment'.

There was no doubt that the sum paid to Ms Mathur's lawyers was exempt from tax. This was because of an express exemption conferred by s 413A.

Ms Mathur first argued that the £6 million was not received in consequence of or otherwise in connection with the termination of her employment and that the First-tier Tribunal's decision to the contrary arose from it reading those words too widely.

Secondly, it was argued that the bulk of the £6 million related to a discrimination claim that addressed the 'sustained campaign of discrimination that [in Ms Mathur's view] had been suffered by [Ms Mathur] over many years'. Ms Mathur argued that she had a moral claim against her former employer which she was able to convert to cash in order to allow her former employer to avoid the embarrassment of the claims being public.

Finally, Ms Mathur argued that, given its findings, the First-tier Tribunal should have made an apportionment between the element of the payment which was connected with the termination and the element that related solely to the allegations of the previous discrimination.

The Upper Tribunal's decision

The appeal was heard by Mr Justice Miles and Judge Rupert Jones.

In respect of the first ground of appeal, the Upper Tribunal confirmed that s 401 is to be interpreted broadly (a point actually conceded by Ms Mathur's Counsel). In particular, the use of the words 'otherwise in connection with' means that there does not need to be a causal link between the termination and the payment, a factual connection is sufficient.

The First-tier Tribunal had expressly found that the termination was central to the claims made in the Employment Tribunal which were settled by the agreement reached. It did so by noting that the termination was the 'trigger and catalyst' for the claims in the Employment Tribunal and the subsequent settlement of those claims.

Furthermore, it was noted that, under s 413A, the payment to the lawyers could be exempt only if made 'exclusively in connection with the termination of the employee's employment'. It was not logical that that payment to the lawyers could be in connection with the termination of Ms Mathur's employment but for the £6 million she received somehow to be not so connected.

In respect of the second ground of appeal, the Upper Tribunal addressed the First-tier Tribunal's dismissal of Ms Mathur's argument that the payment was exclusively connected to the allegations of the previous discrimination (and had no connection with the termination). Again, mindful of the need to identify an error of law (or a perverse finding on the evidence), the Upper Tribunal in fact considered that the First-tier Tribunal's findings 'were rational and supportable'. It also made the point that the First-tier Tribunal 'had the benefit of seeing and hearing the Appellant give evidence'. It continued by concluding that there was sufficient evidence to justify the First-tier Tribunal's conclusions and that the tribunal gave reasonable and sufficient reasons for its findings. In other words, the Upper Tribunal addressed every conceivable complaint that Ms Mathur could have made against the First-tier Tribunal's decision and decided that none was applicable.

In relation to the final ground of appeal (apportionment), the Upper Tribunal noted that apportionment had not been argued by Ms Mathur when the case was before the First-tier Tribunal. Nor did she put forward any evidence to support any such apportionment. In other words, Ms Mathur's case before the First-tier Tribunal had been on an 'all or nothing' basis.

The Upper Tribunal ruled that it was not open for her to challenge the question of quantum for the first time in the course of an appeal in the Upper Tribunal.

Commentary

The outcome of the case did not come to me as any surprise. When reading the facts, it is difficult to believe that there was no factual connection between the termination and the settlement. I am more than prepared to accept that Ms Mathur had experienced discrimination over many years which she somehow endured and chose to pursue her moral claim only after her employment was terminated. In other words, I can accept that there was a possibility that the First-tier Tribunal would have allowed Ms Mathur's appeal.

On the other hand, it did not seem unreasonable for the First-tier Tribunal to have found that there was in fact such a connection (given the broad scope of s 401). As the Upper Tribunal commented, the reality of Ms Mathur's first ground of appeal was that it was 'a disguised challenge to the First-tier Tribunal's factual findings and evaluative judgments'. Absent of any error of law, it was difficult to see how the First-tier Tribunal's decision could be set aside by the Upper Tribunal.

It should, of course, be remembered that the First-tier Tribunal might have been able to reach a different decision. In other words, not every post-termination payment will be in connection with the termination.

For example, as the Upper Tribunal was aware, in *Crompton v HMRC* [2009] UKFTT 71 (TC) a former member of the Territorial Army received a compensation payment for the financial losses he suffered as a result of failings by army selection boards. The Special Commissioner (the hearing took place shortly before the abolition of the Special Commissioners and the decision was issued shortly afterwards – hence the FTT reference) had reached the factual conclusion that Mr Crompton's compensation was not connected with his leaving the army. (See my article in the September 2009 issue of *Tax Adviser*.)

However, first it is fair to say that the facts of the case were very different and, more importantly, the Upper Tribunal's role is not to retry the case but simply to decide whether the First-tier Tribunal's conclusion was legally sustainable.

What to do next

I do not suppose that this case will make its way to the Court of Appeal. It should serve as a reminder that most payments made following the termination of an employment will be taxable (either on normal principles or as a result of s 401). However, in exceptional cases (as illustrated by *Crompton*) it will be possible to demonstrate the lack of connection between the payment and the termination.

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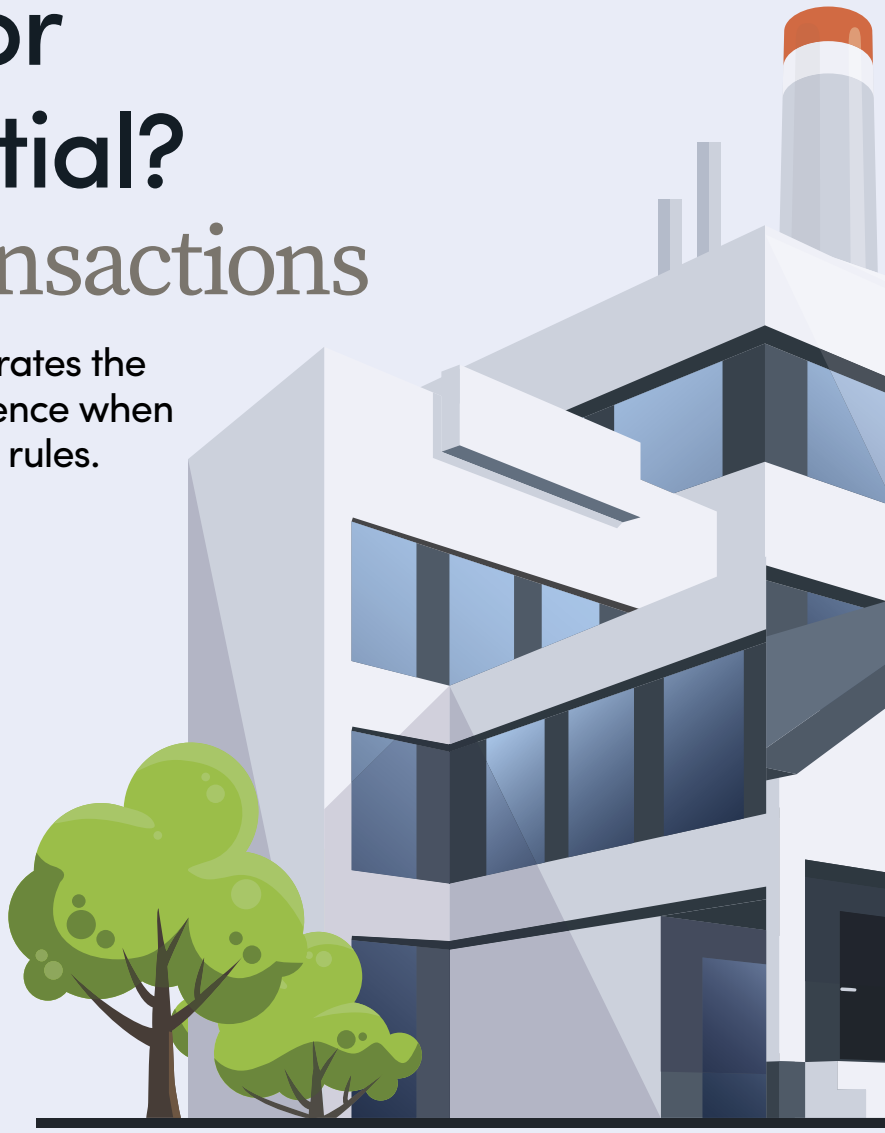
Residential or non-residential?

Mixed-use transactions

The case of *Daniel Ridgway* illustrates the complexity taxpayers can experience when applying the stamp duty land tax rules.

by Michaela Seager



Key Points

What is the issue?
The recent case of *HMRC v Daniel Ridgway* considers the stamp duty land tax rules in context of mixed-use transactions and multiple dwellings relief.

What does it mean for me?
The case hinged upon two conflicting legal restrictions – a clause in the lease preventing residential use and the planning permissions allowing only residential use.

What can I take away?
The case has highlighted the complexity of the stamp duty legislation and how important it is for taxpayers to understand the key areas of risk when submitting a stamp duty land tax return, particularly where a claim for relief may be relevant.

As the complexity of the stamp duty land tax legislation has grown, so has the number of cases heard at tribunal. We have seen an increase in disagreements between taxpayers and HMRC regarding the application of the stamp duty land tax rules, and a boom in 'boutique' stamp duty land tax repayment agents advising on treatments that may not match HMRC's interpretation. Perhaps these two factors are linked, showing the importance of obtaining balanced advice from reputable advisers.

This article reviews the recent case of *HMRC v Daniel Ridgway* [2024] UKUT 36 (TCC), where the Upper Tribunal overturned a decision of the First-tier Tribunal on the meaning of 'dwelling'; when s 75A (anti-avoidance) applied; and whether multiple dwellings relief required a claim where s 75A applied.

The key issues

Before we turn to considering the facts of the case, these are the key aspects of the stamp duty land tax regime that were considered.

Mixed-use transactions

Land transactions that include acquisitions of residential and non-residential land or property are considered to be 'mixed-use' transactions. For instance, the transaction could relate to a flat connected to a shop, doctor's surgery or office. Mixed-use transactions benefit from the non-residential rates of stamp duty land tax. As the non-residential rates are generally lower than the residential rates, this can provide an attractive outcome for taxpayers.

Multiple dwellings relief

Multiple dwellings relief is a tax relief introduced in 2011 to reduce barriers to investment in residential property; however, it has been subject to abuse and resulted in a number of cases being heard at tribunal. Perhaps as a result of this, it was announced in the 2024 Budget that multiple dwellings relief will be abolished, broadly for transactions with an effective date on or after 1 June 2024.

Prior to being repealed, multiple dwellings relief can apply where the main subject matter of any transaction involves at least two dwellings. If the relevant conditions are met, multiple dwellings relief can operate to reduce the rate of stamp duty land tax payable by taking the following steps:

1. Divide the total amount paid for the properties by the number of dwellings.
2. Calculate the stamp duty land tax payable on a residential property transaction for that consideration.
3. Then multiply the result by the number of dwellings in the transaction.

Effectively this provides a wider use of the lower bands of stamp duty land tax.

Anti-avoidance

Finance Act 2003 s 75A was introduced in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2006 to put a stop to the complex tax avoidance schemes that were prevalent at the time. In essence, it applies to counteract arrangements that involve a number of steps being taken to acquire an interest in land, whereby the total stamp duty land tax payable is less than it would have been had a more straightforward notional transaction with the same commercial substance been undertaken.

Importantly, this anti-avoidance provision does not include a tax avoidance 'main purpose' test and therefore the legislation can apply in a wide variety of circumstances.

HMRC v Daniel Ridgway: the facts

In *Daniel Ridgway*, the Upper Tribunal considered a property transaction involving two separate registered titles – a semi-detached house and gardens, and another property called the Old Summer House. The total purchase price was £6.5 million. Both properties had separate entrances. Before the effective date, Mr Ridgway received advice from his solicitor that if the Old Summer House was being used commercially at the date of completion, the whole transaction could be considered a 'mixed-use' transaction and therefore subject to a lower rate of stamp duty land tax.

Just two weeks before completion, and at the request of Mr Ridgway, the vendors granted a commercial lease of the Old Summer House for six months to a photography business. The lease included a clause that the property should not be used for residential purposes; however, no changes were made to the property to make it physically unsuitable for use as a dwelling, nor was any planning consent obtained – an important point for the Upper Tribunal in arriving at its decision.

In light of the advice taken, a stamp duty land tax return was submitted in September 2017 applying the non-residential rates on the basis that the subject matter of the transaction was 'mixed-use', comprising:

- the acquisition of the main home (a dwelling); and
- the Old Summer House (a commercially used property unsuitable for use as a dwelling).

Stamp duty land tax of £314,500 was paid.

HMRC opened an enquiry into the return in May 2018, subsequently determining that the property was not mixed-use and that residential rates of stamp duty land tax applied. A closure notice to this effect was issued to Mr Ridgway in February 2021, nearly three years later. HMRC concluded that the Old Summer House was residential property because it was suitable for use as a dwelling on the effective date of the transaction and therefore the residential rates of stamp duty land tax should be payable.

This gave rise to a stamp duty land tax liability of £888,780 – more than double the amount self-assessed in the original return.

Mr Ridgway appealed to the First-tier Tribunal (*Daniel Ridgway v HMRC* [2022] UKFTT 00412 (TC)) on the basis that legal restrictions in the lease meant that the Old Summer House was only suitable to be used commercially and therefore it was not residential property. In the alternative, he argued that if the Old Summer House was found to be suitable for residential use, he should be entitled to claim multiple dwellings relief, which HMRC also denied.

The First-tier Tribunal decision

On review of the facts, the First-tier Tribunal found that the non-residential stamp duty land tax rates ultimately did not apply. The tribunal decided that as the terms of the lease stated that the Old Summer House could not be used for residential purposes, it was not suitable for use as a dwelling.

However, the First-tier Tribunal concluded that the anti-avoidance provision at s 75A required the lease to be disregarded when calculating the amount of stamp duty land tax due, on the basis that there were a series of transactions (the grant of the lease followed by the acquisition of the property) the cumulative effect of which was to reduce the overall stamp duty land tax liability.

Although it considered that the property was not suitable for use as a dwelling, the First-tier Tribunal concluded that the transaction should be taxed at the residential rates of stamp duty land tax due to the operation of s 75A.

The tribunal further concluded that multiple dwellings relief should be applied in calculating the stamp duty land tax due on the notional transaction required to be recognised by s 75A, even though Mr Ridgway did not claim multiple dwellings relief because he submitted his stamp duty land tax return on the basis that the property was mixed-use.

This meant that, according to the First-tier Tribunal decision, the stamp duty land tax liability was £577,500.

The Upper Tribunal decision

HMRC appealed the First-tier Tribunal judgment, and the Upper Tribunal found that it was incorrect on a number of points.

Firstly, the Upper Tribunal noted that the test of a dwelling is an objective test. The judges considered the planning permissions granted for the Old Summer House to understand if this would provide further evidence of its suitability for use as a dwelling. It concluded that only residential permissions had been granted and that this fact had been incorrectly considered as irrelevant by the First-tier Tribunal.

The Upper Tribunal said: 'We recognise that it might not be easy to balance physical attributes against legal restrictions in carrying out the multi-factorial assessment required to determine whether a building is suitable for use as a dwelling. There may also be difficulty in balancing different types of legal restrictions. However … the existence of a legal restriction would not be determinative, it would simply be one factor in the analysis.'

As there were two conflicting legal restrictions – the clause in the lease preventing residential use and the planning permissions allowing only residential use – the Upper Tribunal found that, in these circumstances, the physical attributes of the property should be given more weight than legal restrictions in determining whether it was suitable for use as a dwelling on the effective date.

On that basis, and in light of the First-tier Tribunal's finding of the fact that, absent of any legal restriction, the Old Summer House would be suitable for use as a dwelling, the Upper Tribunal concluded that the property was entirely residential in nature.

Secondly, the Upper Tribunal decided (in agreement with both Mr Ridgway and HMRC) that the s 75A anti-avoidance provision was not engaged. Essentially, this is because the grant of the lease did not result in the stamp duty land tax otherwise payable when Mr Ridgway acquired the property being lower than it would have been if the relevant notional transaction had been undertaken.

Finally, the Upper Tribunal considered the availability of multiple dwellings relief. In the original stamp duty land tax return submitted by Mr Ridgway, no claim was made for multiple dwellings relief, because his position was that the Old Summer House was not a residential property. The deadline for amending the return and making a claim for multiple dwellings relief was in September 2018, some years before HMRC issued its closure notice.

Whilst the First-tier Tribunal concluded that multiple dwellings relief did, in effect, apply by applying s 75A, the Upper Tribunal rejected this, noting that stamp duty land tax is a self-assessed tax with strict deadlines to make various claims for relief. Although some would argue that this may give rise to 'unfairness' to Mr Ridgway and others in a similar position, a precedent was set by the Court of Appeal in the case of *Candy v HMRC* [2022] EWCA Civ 1447, and the Upper Tribunal was required to follow this decision.

In conclusion

As things stand (noting that the Upper Tribunal decision may be appealed), HMRC has successfully argued that two dwellings were acquired, and the subject matter of the transaction entered into by Mr Ridgway was entirely residential. HMRC has also successfully denied the claim for multiple dwellings relief, as the claim could only be made in a return and the time limit for amending the return passed without a claim being paid (partly because it took so long for HMRC to issue a closure notice). Some may therefore consider that the outcome allows HMRC to have its cake and eat it.

The multiple dwellings part of this case will only be of historical interest from 1 June 2024, in light of the recent Budget announcement. However, the case has highlighted the complexity of the stamp duty legislation and how important it is for taxpayers to understand the key areas of risk when submitting a stamp duty land tax return, particularly where a claim for relief may be relevant. In particular, it emphasises that the rules governing the administration of stamp duty land tax may not allow for consequential claims to be made following an enquiry.

Finally, the decision provides useful insight into the operation of the anti-avoidance rule at s 75A, and the weighting of the various factors that may be relevant to the determination of whether a property is suitable for use as a dwelling.

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Inheritance tax planning
A pragmatic approach

Some clients may find inheritance tax planning uncomfortable, but it is crucial to develop a tailored plan that aligns with their goals and circumstances.

by David Truman

The topic of inheritance tax is often clouded in ambiguity and apprehension. Aside from discussions around death and inheritance still being considered uncomfortable or even taboo for many families, there are myriad regulations, exemptions and reliefs to navigate. This emotional and regulatory complexity is even more reason to adopt a pragmatic approach when managing estates. This involves not only understanding the tax implications but also crafting a comprehensive plan that maximises the benefit for both the estate holder and their beneficiaries.

One of the fundamental aspects of navigating inheritance tax is being aware of the regulations in place. In the United Kingdom, inheritance tax is levied at a rate of 40% on the value of an estate above a certain threshold (the nil rate band), which currently stands at £325,000. There is a further £175,000 allowance (the residence nil rate band) where the estate holder leaves their main residence to children or grandchildren and the total estate is worth less than £2 million. A combination of long-stagnant thresholds and ever-rising property values – given that for many, the majority of estate value derives from property – has meant that more individuals are now finding themselves pulled into this tax net, highlighting the importance of proactive planning.

Four primary strategies

The introduction of pre-owned assets tax in 2005 and the changes to trust taxation in 2006 changed the historic landscape on inheritance tax planning, removing the use of tax schemes and reducing the effectiveness of trust planning.

As a consequence, there are four primary strategies which can be balanced for managing inheritance tax liabilities, though each will of course be tailored to individual circumstances.

1. Keep assets and pay the tax

Some individuals prefer to retain their assets, accepting the tax liabilities as a natural consequence. This approach suits those who prioritise maintaining control over their wealth and those who don't have strong intentions to pass on significant assets or who don't have dependents.

2. Insurance

For those concerned about leaving behind a substantial tax burden or having a reticence over making gifts, insurance can serve as a viable strategy. This is particularly the case if the family home forms the majority of the estate.

Insurance policies can provide a tax-free lump sum payout upon death, by ensuring that the beneficiaries receive sufficient funds to settle any inheritance tax liabilities without depleting the estate. Whole of life insurance is most usual for inheritance tax provision as the payout is certain and can be guaranteed. It is expensive, as it acts both as a savings plan and as life assurance. Term assurance can, however, also form part of a strategy as a temporary mechanism whilst developing a strategy particularly to protect against an unexpectedly early death.

3. Spend it

Individuals can also choose to spend their assets on themselves during their

Key Points

What is the issue?
A combination of long-stagnant thresholds and ever-rising property values has meant that more individuals are now finding themselves pulled into the inheritance tax net, highlighting the importance of proactive planning.

What does it mean for me?
There are four primary strategies which can be balanced for managing inheritance tax liabilities, though each will of course be tailored to individual circumstances.

What can I take away?
When planning for inheritance tax, it is essential to adopt a pragmatic mindset that prioritises both long-term financial sustainability and the wellbeing of beneficiaries.

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lifetime, whether it's on travel, hobbies, medical expenses or other expenditures, rather than leaving them to be taxed upon death. By reducing the value of their estate through spending, they can reduce the amount subject to inheritance tax. For individuals who have spent their working life saving for their retirement, it is important that they do also focus on enjoying the fruits of the labour.

4. Succession plan

Succession planning involves strategically gifting assets during one's lifetime to gradually reduce the value of the estate. By leveraging exemptions and reliefs, individuals can gradually diminish their estate size while minimising tax exposure.

Key reliefs

One significant relief is the potentially exempt transfer (PET), which allows individuals to gift assets during their lifetime. If the donor survives seven years after making the gift, it falls outside of their estate for tax purposes. However, if the donor passes away within the seven-year period, the gift may still be subject to inheritance tax, albeit with tapering reducing the burden on a sliding scale.

Another key relief is normal expenditure out of income. This allows individuals to gift assets as part of their regular spending habits, provided it does not significantly impact their standard of living. This strategy is particularly useful for individuals with surplus income who wish to pass wealth onto their beneficiaries gradually.

One common strategy is to make use of annual gifting allowances, such as the £3,000 annual exemption for gifts. Additionally, individuals can take advantage of small gifts exemptions, allowing them to gift up to £250 per person to any number of individuals per year without incurring inheritance tax.

Inheritance tax planning

Working closely with tax and financial advisers is paramount in developing a tailored plan that aligns with an individual's goals and circumstances. Advisers can help clients to assess their assets, expenditure requirements and long-term financial objectives to devise a comprehensive inheritance tax strategy. By taking into account factors such as age, health and family dynamics, advisers can tailor solutions that not only minimise inheritance tax but also ensure financial security for the individual and their beneficiaries.

A critical aspect of inheritance tax planning is striking a balance between meeting one's own income requirements and reducing tax liabilities. With people living increasingly longer lives, it might be a mistake to prematurely 'give it all away', only to find that one's lifestyle suffers in the later years of their life as a result.

Advisers can play a crucial role in assessing individuals' current and anticipated future income needs. This includes considering factors such as living expenses, healthcare costs and potential long-term care expenses. An understanding of short-term and long-term financial requirements and cashflow planning informs better decisions about how much wealth can be feasibly transferred while maintaining the desired standard of living.

Having a will is a vital part of estate and inheritance planning. Without a will, the rules on intestacy apply to determine who shares the estate holder's property.

> **Advisers can help clients to assess their assets, expenditure and financial objectives to devise a comprehensive tax strategy.**

It is also important that estate and inheritance planning are not seen as a once-and-done exercise. It should be an ongoing process that is regularly reviewed and adjusted as circumstances change. Life events such as the birth of grandchildren may involve updating wills and trusts to include provisions for new beneficiaries, setting up education funds or gifting to transfer wealth to younger generations in a tax-efficient way. For individuals facing health challenges, there may be a need to reassess long-term care provisions and insurance coverage to protect against potential healthcare expenses that could erode estate assets.

Tax laws and regulations are also subject to change, and updates to inheritance tax legislation can have implications for estate planning strategies. Advisers play a crucial role in keeping abreast of these changes and identifying new opportunities for tax efficiency. By staying informed and proactive, advisers can help clients adapt their plans to accommodate changes in their financial circumstances or tax laws, ensuring that their estate remains well-protected and optimised for tax efficiency.

Furthermore, ensuring that beneficiaries are well-positioned to benefit from the estate requires consideration and planning. It involves not only structuring the estate in a tax-efficient manner but also proactively addressing any potential tax liabilities that may arise.

Establishing mechanisms such as trusts can streamline the transfer of assets while minimising tax implications. By transferring assets into trusts, individuals can reduce the taxable value of their estate.

Moreover, trusts provide flexibility in asset distribution, allowing individuals to specify how and when beneficiaries receive their inheritance. Whilst the use of trusts has been reduced by legislative change, they do still form an important part of the equation. They are important for asset protection purposes (particularly for vulnerable beneficiaries) and on death of the first spouse (using an immediate post death interest trust) or a discretionary will trust.

Additionally, educating beneficiaries on their potential tax obligations is crucial for effective wealth transfer. A key cause of issues and frustrations in many instances is a lack of communication on the deceased's wishes and plans ahead of their death. However, providing them with the necessary resources and guidance to navigate tax matters ensures a smooth transition of wealth. Beneficiaries should understand their responsibilities regarding reporting and paying any taxes associated with their inheritance.

In summary

When planning for inheritance tax, it is essential to adopt a pragmatic mindset that prioritises both long-term financial sustainability and the wellbeing of beneficiaries. By leveraging exemptions, working with expert advisers, and aligning income requirements with tax planning strategies, individuals can effectively manage their estates while minimising tax liabilities.

While inheritance tax may seem daunting, it presents an opportunity for individuals to take proactive steps to safeguard their wealth and provide for future generations, ensuring that their legacy endures for years to come.

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The top ten risks
How to protect your practice

We examine the professional risks and claims that your practice could face, and how to take action to prevent them.

by Karen Eckstein

As all members of CIOT and ATT will be aware, the duty to manage their professional risk is an increasing obligation. Professional indemnity insurers ask searching questions in the proposal forms.

Firms that have had claims made against them may have to explain what risk management measures have been taken to prevent similar issues arising in the future. This also applies to firms that have notified matters which haven't resulted in payments but have significant reserves (insurers' estimates of what the matter might ultimately cost them).

Facing the true cost

Members have to act in accordance with the Professional Rules and Practice Guidelines, which set out clearly the duties to be followed.

Even more concerning than the regulatory and insurance requirements, however, is the fact that many issues which could easily be avoided have the potential to seriously damage – and in extreme cases destroy – a business.

In over 30 years that we have been dealing with professional risks and claims, we have seen cases where businesses have folded or business owners have lost their homes as a result of failing to take the relevant preventative steps. These cases are rare, but they do exist.

In practice, however, many members may find it difficult to review their processes to ensure that they are applying the rules correctly and minimising risk so as to prevent difficulties with their professional body and with their clients.

Issues with clients can cause claims, loss of fees, reputational damage and loss of future income streams – an unhappy client is hardly likely to recommend the

Key Points

What is the issue?
Issues with clients can cause claims, loss of fees, reputational damage and loss of future income streams.

What does it mean to me?
Many tax advisers may find it difficult to review their processes to ensure that they are applying the regulatory and insurance requirements correctly and minimising risk.

What can I take away?
By identifying the true root cause, firms can improve and learn from past problems to become a better business. The saying that 'there are no mistakes, only learning opportunities' is never truer than in risk management.

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firm to their network. And that is on top of the problems with getting professional indemnity insurance once claims have arisen. Therefore, in addition to the cost of dealing with the actual client dispute (which can be significant), the true hidden cost of a claim can be far greater than the immediate problem at hand.

Prevention is better than cure. But too many people feel overwhelmed by the scale of the issue. All too often risk management is put on the 'deal with later' pile, and it never gets dealt with.

Overcoming the risks

We have considered the ten key risks to professional firms, which are outlined below, together with practical tips to manage the common issues that arise in those areas. Practitioners who work through these ten key risks will have a good grounding in managing their overall risk exposure.

1. Securing the engagement letter

One common problem is that an engagement letter isn't issued or hasn't been returned before work is started. Quite often, no chaser is sent out for the return of the engagement letter, as the chaser isn't triggered until the engagement letter itself has been sent out – so if no letter is sent, the chaser isn't created!

The result is that the whole transaction between the tax adviser and client proceeds without a formal letter in place. This means that the scope of the retainer (what the adviser has agreed to do and not do, who they are working for, etc.) isn't clear when the work is done, resulting in ambiguity and significant risk.

This issue can be resolved by having stronger processes in place. The trigger to chase your potential client for the return of the engagement letter should be created at file opening stage, so that any failure to send out an engagement letter does not cause the process to 'fall over'.

We also see fee creep – where the actual fee charged can be significantly in excess of the estimate given at the outset. Often, this increase happens with no prior warning to the client and almost invariably gives rise to a dispute.

Having an alert on the file to warn when fees incurred have reached, say, 75% of the estimate, gives you a chance to assess where you are on the matter. If the work is not almost complete, you can assess why not. Is it because there has been scope creep (see below)? Is it because the client is difficult (and if so, why)? Or are there internal issues with a fee earner? This alert allows you to resolve any problems before it becomes too late.

2. Drafting the engagement letter

All too often, there is 'lazy' drafting of the engagement letter with a lack of clarity as to who is the client and what work is going to be carried out under the terms of the retainer. This ambiguity gives rise to claims by parties not anticipated by the adviser or for work not expected by them.

Include a simple list of questions establishing at the outset who the client is, and what work is going to be done, not done, who for and why. This will overcome any risks, and enable the client to correct any wrong assumptions as to the facts and purpose of the retainer from the outset.

3. Acting outside the scope of retainer

This is a key area of risk. It occurs when an adviser is instructed to undertake a particular task for a client (and agrees a fee for doing so). However, during the course of the retainer, the client asks 'quick questions' and advisers find themselves undertaking a number of additional tasks that are not covered by the protections in the engagement letter and for which no fee has been agreed.

A simple solution involves including an 'agreed further services' clause in the engagement letter, along with a policy and process for how to do the extra work and what extra work can be done under that clause. This enables the adviser to take on extra work, and can turn a high-risk unprofitable client into a low-risk profitable one.

4. Liability caps

Liability caps exist to protect firms against excessive claims that go beyond the limit of their professional indemnity insurance. All too often, we see liability caps that are likely to fail because they are poorly worded or are poorly calculated. The relevant legislation has specific requirements, which are often overlooked.

Too many caps are set at a level that is too low and are not drawn to the client's attention, both of which mean that they are unlikely to survive a challenge. In this case, they will be struck out, and as a result the firm's liability is unlimited.

In order to have an effective cap, it is recommended that firms take advice and ensure that their caps are drawn to their clients' attention, capable of negotiation and set at reasonable levels. Appropriate thought should go into setting the caps, rather than them being fixed at one level for all engagement letters irrespective of the risks.

5. Remote working

The increasing numbers of staff working away from the office can result in high levels of risk, and the issue of confidentiality in the home working environment needs to be addressed.

Confidentiality issues can often be easily resolved. Assess the home working environment of staff by asking simple questions in a questionnaire and provide appropriate support, which may include items such as privacy screens and headphones. Provide training and guidance on conducting conversations confidentially and managing paper.

Firms also need to prepare for the influx of requests for flexible working now that the law is changing. This doesn't just mean requests to work from home, but can also mean requests for job shares, flexible hours, etc. Having clear policies in advance and planning for how such requests will be managed means that businesses can accommodate reasonable requests whilst still servicing client needs.

6. Emails and filing

Another area of risk relates to the lack of formal policies about who can send out emails containing advice without the approval of a senior team member.

Most firms, when asked, say that they have an 'informal' policy. That leads to risk as junior members might not be clear as to what can and cannot be sent. Issues can arise if an employee sends out emails containing incorrect advice and continues to do so. Managing that employee can be complicated if there is no formal policy in place.

Having a formal policy supports junior staff and assists in reducing risk with less compliant staff.

7. Targets for caseloads and capacity

Too often, we see fee earners with very high targets. We see that as a risk as it can lead to 'time dumping', which in turn can lead to fee disputes with clients. It can also mean that staff don't take the time to go on training courses or take time off sick or do non-chargeable research, and can also impact on their mental well-being.

Working at too high a capacity can lead to errors and missed time limits, leading to claims against the firm. At a micro-level, it leads to a lower level of client service, leading to client dissatisfaction, which can lead to unmeritorious claims and client losses. By setting realistic targets and budgeting accordingly, staff will be under an appropriate level of pressure, and the firm will have realistic cashflows.

Look for the 'leaks' in the system. We often see areas where work has been done but the ability to recover the fees is hampered by poor processes. Instead of increasing the pressure on the fee earners to do more work, improve the systems and the recovery rates will improve – increasing the firm's profitability with very little effort and often improving the risk profile at the same time.

8. Diary management and deadlines

One issue we see is where firms don't have joined-up diary systems. Instead, important deadlines are managed on an individual basis. This means that if an individual is off sick, those deadlines can be overlooked. Having a team or firm-wide deadline system, with advance noting, can overcome and avoid potential very significant problems and is a relatively simple fix.

9. Artificial intelligence risks

No discussion of current risk would be complete without mentioning artificial intelligence. Many firms say that they don't need to consider AI because they don't use it in their business. But do they know if their staff are using it? Do they know if any of their IT programs use AI? Have they given training to their staff on how to use AI to ensure that client confidentiality isn't breached? Is there a firm policy – even if that policy is that AI should not be used?

Firms should consider their position in relation to AI and include an appropriate provision in their terms of business, so that clients are advised. They should have a policy so that staff know what they can and cannot do in relation to the use of internal and external AI (including relying on information provided by any AI research), as well as breaching client confidentiality.

10. Managing claims and near misses

Professional negligence claims are sadly a fact of business life and 'near misses' will occur in most, if not all, businesses. It is important to log all claims, circumstances (issues that could give rise to a claim) and 'near misses' (issues that could have developed but were resolved it before it got to that point). Then you must identify the 'root cause' and put measures in place to prevent that from happening again.

What is a root cause? All too often, we hear that a firm has sacked a maverick partner who didn't follow the rules, and therefore believe that they have solved the problem. However, that partner wasn't the root cause. If the firm's processes were robust, his behaviour would have been picked up early on, so that he wouldn't have been able to undertake the activities complained of. By identifying the true root cause, firms can improve and learn from past problems to become a better business. The saying that 'there are no mistakes, only learning opportunities' is never truer than in risk management.

We appreciate that many firms find the idea of dealing with these issues overwhelming. We offer free monthly risk training with our RiskBites programme, which is free to CIOT and ATT members (see https://www.kareneckstein.co.uk/join-the-club).

We have also developed the 'Risk insight report'. This takes less than 90 minutes to carry out and is available to CIOT and ATT members for the discounted price of £1,480 plus VAT. It provides members with a one page risk report with recommendations on any actions required. See tinyurl.com/595vwpjn or email us at contact risk@kareneckstein.co.uk quoting ATT or CIOT for further details.

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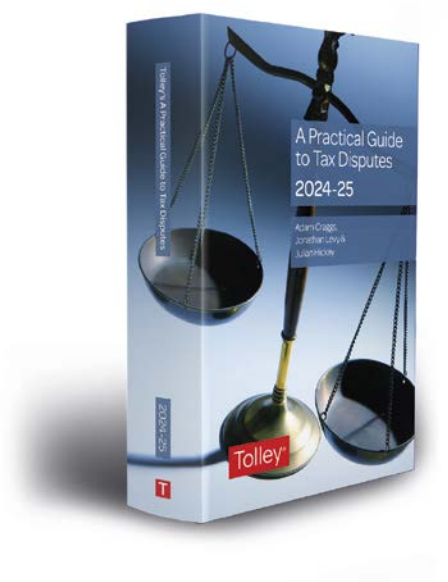


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Furnished holiday lettings
Tax advantages eliminated

by Julie Butler and Jennie Helm

The government will abolish the furnished holiday lettings tax regime from April 2025, and owners will need to move quickly to develop the appropriate action plan.

As announced in the Budget 2024, the government will abolish the furnished holiday lettings tax regime from April 2025. This will eliminate the tax advantage for landlords who let out short-term furnished holiday properties over those who let out residential properties to longer-term tenants. The reasons given for the loss of furnished holiday lettings tax relief are that the government considered that the tax advantages for such properties have been at the expense of local residents getting onto the property ladder. The changes are intended to give local residents more chance of being able to rent such properties.

Draft legislation will be published later in the year and it will be very interesting to see the detail. The legislation will include an anti-forestalling rule to prevent the obtaining of a tax advantage through the use of unconditional contracts to obtain capital gains tax relief under the current furnished holiday accommodation rules – essentially removing the 10% business asset disposal relief for sales on or after Budget Day, 6 March 2024. We await the full details to be able to fully understand the possible action plan and tax planning.

Some landlords, such as farmers and landowners, are perhaps being 'hit too hard' as they are generally offering the accommodation as part of a tourist experience. All such operations need to be closely reviewed for tax planning, together with an action plan being put in place as soon as possible to allow time to action any sales and changes.

The 'brightline' test

There has been ongoing consideration about the tax treatment of long-term residential leases as opposed to shorter-term furnished holiday accommodation. The Office of Tax Simplification report in November 2022 'Property income review: Simplifying tax income for residential landlords' outlined a suggested 'brightline' test to determine trading status. This test was to provide a clean distinction between second homes that are being let out, and where property letting activities subject to income tax should be defined as a trading business.

Some of the proposed factors for the brightline test included the minimum number of properties let, whether the letting is on a short term basis, whether there is no personal use of the property, and the level of owner management time that is devoted to the operation and the services provided.

The brightline test describes a lot of furnished holiday accommodation operations, which can merge into a larger tourist operation. There is a lack of clarity about when such operations are run as a trade in terms of claiming trading expenses. It is likely that there will be more litigation to establish whether activities should be treated as a trade. More tax will now be due, which will possibly force the landlord towards a sale or a long-term let.

Impact on diversified businesses

The reduction in the higher rate of capital gains tax on property from 28% to 24%, coupled with the abolition of the furnished holiday lettings regime, is clearly designed to bring more residential property onto the market and encourage the sale of second homes currently being treated as furnished holiday accommodation.

Key Points

What is the issue?
The government will abolish the furnished holiday lettings tax regime from April 2025. This will eliminate the tax advantage for landlords who let out short-term furnished holiday properties.

What does it mean for me?
In a diversified business holding a number of furnished holiday properties, it will be complex to process the tax where part of this is to be deemed non-business. It will take some structure and planning to 'disentangle' the elements to ensure that there is the best commercial business structure.

What can I take away?
There is a narrow window until April 2025 in order to facilitate possible overall tax planning, including sale and transfer of property.

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CURRENT FURNISHED HOLIDAY LETTING RULES

Under current rules, landlords who let properties that qualify as furnished holiday lettings can claim capital gains tax relief for traders and are entitled to plant and machinery capital allowances for items such as furniture, equipment and fixtures. Profits also count as earnings for pension purposes and interest costs are allowed in full.

To qualify as furnished holiday accommodation, the property must be available for letting for at least 210 days in the tax year. It must also be let commercially to the public for at least 105 days in the tax year, though an averaging election can be applied to landlords with more than one property.

If the total of all lettings that exceed 31 continuous days is more than 155 days during the year, the property will not qualify as a furnished holiday let for that year.

See the Help Sheet HS253 Furnished Holiday Lettings (2022) for further details.

This is understandable when a furnished holiday let is a second home held as an investment. However, when the accommodation forms a vital part of a diversified working rural business already pressured by rising costs and uncertainty around future agricultural support, this poses more of a problem as to the next steps and there will be those pushing for answers.

A lot of rural businesses have developed diversification by holding a number of furnished holiday accommodations as part of a tourist activity or hamlet. Others are incorporated into a tourist business, including glamping, farm tours, campsites and trekking.

It will be complex to process the tax for such a holiday or tourism business, where part of this is deemed non-business. It will take some structure and planning to 'disentangle' the elements to ensure that there is the best commercial business structure.

> **The brightline test describes a lot of furnished holiday accommodation operations, which can merge into a large tourist operation.**

Capital gains tax advantages until 5 April 2025

Many farmers and landowners who have been operating qualifying furnished holiday accommodation might want to use rollover relief from capital gains tax. This will not be possible after 6 April 2025.

The advantages of capital gains tax on furnished holiday accommodation have not been under the spotlight in the way inheritance tax has. There is therefore a window to 5 April 2025 to take advantage of all the capital gains tax reliefs, including gift holdover relief.

Such change could result in tax arising for individuals who may be looking for a change of business or to retire and pass on assets to successors.

The changes also means that these diversified businesses will lose eligibility for business asset disposal relief from 6 March 2024, which fixes capital gains tax at a 10% rate on qualifying capital gains when a furnished holiday let is sold or gifted, with an individual lifetime allowance of £1 million.

Action to take before 5 April 2025

The position of each furnished holiday property will be different, whether it be

as a second home or part of a whole tourist operation. The action plan will depend on the goals of the owners linked to more detail on the tax ruling.

There is no doubt that the rise in second (and third!) homeowners profiting from websites such as Airbnb has caused housing supply problems in certain areas. Where the government was once boosting UK tourism, there now seems a change of political pressure. Many will lobby to protect the UK holiday industry by switching from furnished holiday accommodation to allowing more glamping, campsites and camping pods (see the recent First-tier Tribunal case of *Acorn Venture Ltd v HMRC* [2023] UKFTT 995 (TC), which considered capital allowances for expenditure on camping pods).

It will be possible to use the holdover relief to pass down existing furnished holiday accommodation to, for example, children before the cut-off date – this can be 'free of tax' with the holdover. It will also be possible for farmers to sell furnished holiday accommodation and rollover the gain into business assets such as further glamping opportunities.

It can also be used to fund farm assets and other farm improvements. In the case of *S May and Others v HMRC* [2019] UKFTT 32), the First-tier Tribunal found that a grain storage facility qualified for plant and machinery capital allowances as a 'silo provided for temporary storage' within the meaning of s 23 list C under the Capital Allowances Act 2001 so that it did not fall under the exclusion for buildings.

In order to be able to use the capital gains tax reliefs, there will have to be furnished holiday accommodation compliance (as noted in ***Current furnished holiday letting rules***).

Inheritance tax relief

Fighting to obtain inheritance tax relief on furnished holiday accommodation has proved problematic over the years, especially for investment property. The case of *HMRC v Pawson (Deceased)* [2013] UKUT 50 (TCC) found that the holiday lets in the case should be treated as investments for tax purposes.

However, in the successful case of *Grace Joyce Graham (Deceased) v HMRC* [2018] UKFTT 306, the First-tier Tribunal considered whether her four self-contained self-catering flats should be treated as 'wholly or mainly' for the 'making or holding of investments'. The level of services including a pool, sauna and 'personal care lavished upon guests' meant that the business fell on the 'non-mainly-investment' side of the line and so qualified for business property relief.

There are many arguments to say that if the property is let out, then business property relief could be easier to achieve. In *HMRC v Brander* [2010] UKUT 300 (TCC), a business property relief claim was awarded on the grounds that commercially let properties in a mixed agricultural estate in Scotland, including farming and estate management, were held in a composite business. Provided that the investments do not outweigh the trading assets of the overall farming operation, relief should be available under Inheritance Tax Act 1984 s 105(3). A review will be needed and might prompt a sale.

> **The position of each furnished holiday property will be different, whether it be as a second home or part of a whole tourist operation.**

Interest, capital allowances and pensions

Other impacts on owner taxpayers of furnished holiday accommodation include the following:

- Owners can currently claim 100% of the mortgage interest as an expense. Finance costs will no longer be allowable when calculating taxable profits and will instead have to be claimed at a tax reducer at 20% of the mortgage interest costs.
- Under current rules, owners can claim capital allowances for 100% of the costs on fixtures and furnishings purchased within the property. This relief will no longer be available. Instead, relief may be available for the replacement of domestic items in line with long term lets. Guidance will be needed for unused balances brought forward.
- Currently, profits from furnished holiday lettings are treated as net relevant earnings for pension contributions. As this income will no longer from April 2025, this could reduce the ability for some taxpayers to make pension contributions.

VAT and incorporation

All holiday income is currently subject to standard rate VAT at 20% subject to the VAT threshold. The VAT threshold was increased to £90,000 from 1 April 2024. Some individual investors might look at moving properties into limited company structures where full interest relief is available. But any incorporation will have to be thoughtfully considered as there will be capital gains tax and stamp duty land tax on transfers. This all makes April 2025 seem very close in tax planning terms.

There has been some 'ring fencing' by farmers of farm furnished holiday accommodation to keep below the VAT threshold. However, that does go against the integrated tourist model.

If the furnished holiday accommodation is to lose business status from April 2025, then it should be considered whether the VAT will be exempt. If the furnished holiday accommodation property is to change to a long-term let, the supply will be exempt and there could be the *Balfour* advantage for inheritance tax. That brings us full circle to the brightline test – is the furnished holiday accommodation actually part of the trading operation?

It is clear that all tax planning around furnished holiday accommodation will have to be tailor-made and we await the full details of the Finance Act. However, there is a narrow window until April 2025 in order to facilitate possible overall tax planning including sale and transfer of property.

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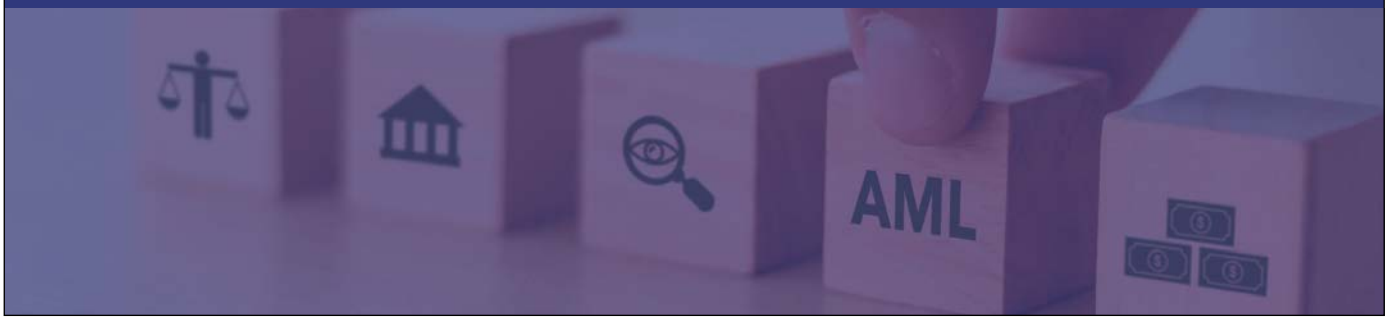
Action Required: It's time to renew your AML Supervision

Chartered Institute of Taxation.

If you are supervised for Anti Money Laundering by the ATT or CIOT it is time to submit your 2024/25 AML renewal. This **must** be completed, and your AML fee must be paid by **31 May 2024**.

It is a legal requirement for members in practice to be supervised for AML: Failure to complete your renewal on time or make payment will result in a fine or a referral to the Taxation Disciplinary Board.

Renew now in your portal account or by visiting: www.tinyurl.com/MACompliance



EAST MIDLANDS BRANCH TAX CONFERENCE & DINNER

Wednesday 19 June 2024 | 9:00am
The Makeney Hall, near Belper, Derbyshire

The Committee of the East Midlands Branch invite you to join their 2024 Tax Conference and Dinner at the historic Makeney Hall near Belper, Derbyshire.

The conference speakers will include:

Mark Morton – Head of Tax, Mercia Group
Michelle Sloan – Partner, Reynolds Porter Chamberlain
Nigel Holmes – Director of R&D, Ryan Group
Sehjal Gupta - Director, Menzies
Patrick Crookes – Director (Specialist Tax), Mazars

You will benefit from a day of essential technical tax skills training, as well as the opportunity to network with fellow professionals working in tax. Also take a walk around the historic Victorian Hall and its gardens and grounds in the scenic surroundings of the Derbyshire countryside. The Annual Dinner will commence from 5:30pm.

Members and non-members are welcome.

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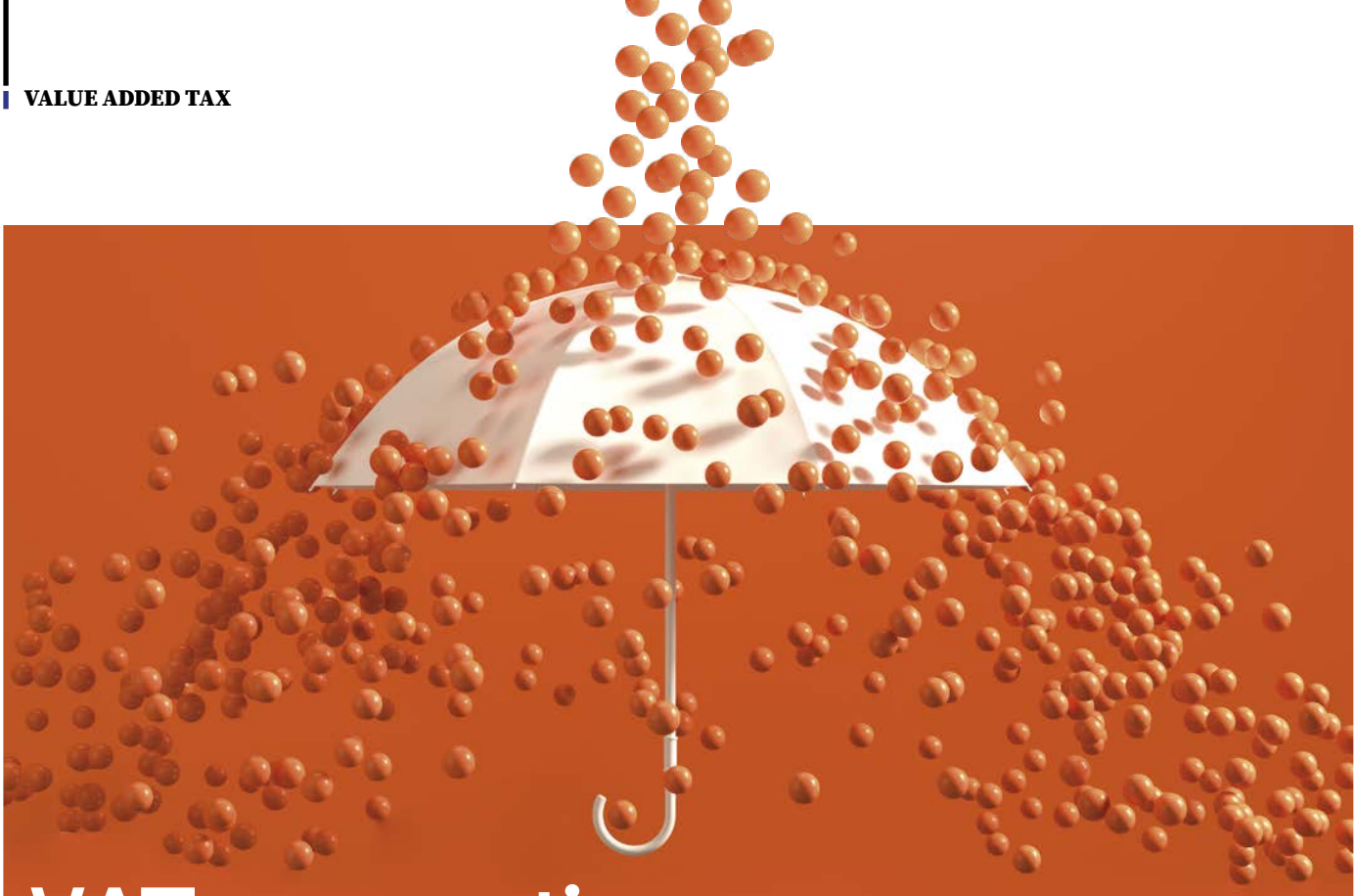

VAT exemption on insurance
No longer a safe bet?

A series of judgments by the European Court of Justice and the UK courts appear to have significantly narrowed the scope of the VAT exemption for insurance.

by Dr Michael Taylor

Key Points

What is the issue?
It was not until the European Court of Justice's judgment in *Card Protection Plan* (Case C-349/96) that any considerable attention was paid to the scope of the VAT exemption for insurance. We ask what remains of the exemption and whether the relevant legislation has kept pace with the case law.

What does it mean for me?
If the plain meaning of the UK's VAT legislation and the English law test for insurance gives a different answer from the CJEU's case law, must the UK courts now give effect to the former and disregard the latter?

What can I take away?
Businesses may wish to consider whether the supplies that they make, or perhaps the outsourced back-office services that they consume, should now fall back within the scope of this exemption.

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Just what is insurance? The Principal VAT Directive Article 135(1) mandates the exemption from VAT of 'insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents'.

These provisions have been transposed into UK law by way of the Value Added Tax Act 1994 Sch 9 Group 7 Items 1 and 4. But neither EU nor UK legislation has provided a definition of insurance for VAT purposes.

The scope of the insurance exemption

Despite the European Community (as it then was) implementing the Non-Life Insurance Directive in 1973 and the Life Insurance Directive in 1979, it was not until the European Court of Justice's judgment in *Card Protection Plan* (Case C-349/96) that any considerable attention was paid to the scope of the insurance exemption.

Here, the court held that: 'The essentials of an insurance transaction are, as generally understood, that the insurer undertakes, in return for prior payment of a premium, to provide the insured, in the event of the materialisation of the risk covered, with the service agreed with the contract was concluded.'

Moreover, the court thought that there was no reason for the interpretation of the term 'insurance' to differ according to whether it appears in the Non-Life Directive or in the Sixth Directive.

Taxpayers of the late 1990s might have been forgiven for thinking that any activity falling within the purview of the EU's insurance directives could be exempted from VAT. Since then, however, the court appears to have whittled away at the exemption and, in a series of well-known judgments, concluded that a range of insurance-related activities are nonetheless taxable.

Continual interpretations

In *Skandia* (Case C-240/99), for instance, the court found that a commitment by an insurance company to carry out the business activities of another insurance company 'does not constitute an insurance transaction'. In other words, certain

operational activities were not exempt as insurance.

A few years later, this principle was articulated more explicitly in *Arthur Andersen* (Case C-472/03), where the court found that 'back office activities … do not constitute the performance of services relating to insurance transactions'.

The case of *Aspiro* (Case C-40/15) revisited this issue, with the court finding that 'claims settlement services provided by a third party in the name and on behalf of an insurance company' also do not fall within the exemption. No matter then that a given service might have been essential to the fulfilment of an insurance transaction; it was only the insurance transaction itself that could avail of the exemption.

Most recently, in *United Biscuits* (Case C-235/19), the CJEU decided that despite the management of group pension funds being classified as insurance for the purposes of the Life Directive (now the Solvency II Directive), and despite the dictum of the court in *Card Protection Plan* that there was no reason for the definition of insurance to differ between the regulatory directives and the VAT Directive, such transactions – even where they were carried out by insurers – could not be regarded as insurance because they did 'not provide any indemnity from risk'.

Explaining away the court's comments in *Card Protection Plan*, the CJEU now held that: 'The court referred to the term "insurance" in general and not to the concept of "insurance transactions", within the meaning of the common system of VAT.' As such, an 'insurance transaction' has become a completely autonomous concept of EU law, far removed from the everyday practicalities of much insurance business.

Disparities with English law

Yet with all of these judgments appearing to narrow the scope of the insurance exemption, has UK law kept pace with the jurisprudence of the CJEU?

Apparently not. Through most of the period discussed above, the Value Added Tax Act 1994 Sch 9 Group 2 Note 1 had provided consistently – despite CJEU judgments that were adverse to the taxpayer – that services remained exempt if they consisted of carrying out work in preparation to concluding contracts of insurance or reinsurance; providing assistance in the administration and performance of such contracts, including the handling of claims; and the collection of premiums.

There also remained the question of whether certain insurance-related activities, even if they did not satisfy the strict test imposed by the CJEU, were to be regarded as insurance as a matter of English law.

In the aged case of *Prudential*, which was decided in 1904, the High Court defined insurance as a contract where:

- for some consideration, the insured party secures a benefit such as the payment of money upon the occurrence of an event;
- that event must involve some uncertainty, either that the event will happen or *when* it might happen;
- the event must be adverse to the insured party, such that the payment amends for some loss or detriment; and
- in the case of life insurance, the insured party's interest is not the measure of loss.

In these ways, therefore, English law and UK legislation have gone further than CJEU jurisprudence, which appears to have limited the insurance exemption specifically to the indemnification of a non-life-related risk. The differences in English law include:

- including within the scope of insurance any uncertainty regarding the *time* of the adverse event;
- explicitly incorporating life insurance; and
- retaining a range of back-office services within the legislation which mandates exemption.

One might well question whether traditional life insurance – where there is no uncertainty about whether someone will die, since everybody dies – actually meets the CJEU's definition of an insurance transaction.

This disparity between English law and EU law shines a light on several well-known cases. In *Century Life* [2000] EWCA Civ 336, the Court of Appeal held that the outsourced review and remediation of mis-sold pension policies was properly VAT exempt. However, in the wake of *Andersen* and *Aspiro*, many VAT advisers took the position that *Century Life* had been wrongly decided.

Much more recently, the Upper Tribunal in *Intelligent Money* [2023] UKUT 236 (TCC) held that the administration of a self-invested personal pension satisfied the English law conditions laid out in *Prudential*, yet could not be regarded as insurance as a matter of EU law.

Negotiating the incompatibilities

One might ask now, however, whether the provisions of the Retained EU Law (Reform and Revocation) Act 2023 have effectively reversed the CJEU's direction of travel. Since 1 January 2024, UK courts have been prohibited from quashing or disapplying any enactment of the British Parliament because it is incompatible with EU law or a general principle of EU law. So if the plain meaning of the UK's VAT legislation and the English law test for insurance give a different answer from the CJEU's case law, must the UK courts now give effect to the former and disregard the latter?

According to a recent update to the internal VAT Manual, it appears that HMRC might share in this interpretation. HMRC's VAT Insurance manual at VATINS5210, updated in February 2024, now reiterates the point that: 'It will no longer be possible for any part of any UK Act of Parliament or domestic subordinate legislation to be quashed or disapplied on the basis that it was incompatible with EU law. This will mean that businesses will no longer be able to rely on [the] direct effect of EU law.'

And after directing readers to new guidance on the scope of the intermediary exemption at VATINS5220, this provides that some services falling within the UK exemption at Item 4 (such as claims handling or the administration of contracts of insurance provided separately from introductory services) 'can be treated as outside the exemption and therefore taxable, in the event that a business wishes to apply [the] "direct effect" of EU law. This does not apply to periods following 1 January 2024.'

HMRC appears to suggest that it had formerly been open to UK businesses to choose whether to follow the plain language of UK legislation or the direct effect of the CJEU's interpretation of 'insurance transactions', but that such a choice has been removed by the Retained EU Law (Reform and Revocation) Act 2023, leaving only the broader scope of the UK's implementation of the exemption by way of Item 4 and Notes (1) to (6).

Businesses may therefore wish to consider whether the supplies that they make, or perhaps the outsourced back-office services that they consume, should now fall back within the scope of this exemption.

Moreover, businesses and their advisers may well ponder whether the plain wording of UK legislation now trumps the case law of the CJEU when it comes to back-office and intermediary services related to insurance and whether that same principle of interpretation applies to insurance transactions themselves, as well as to other, broader areas of VAT law.

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Good guidance
One year on from LITRG's report

A year after the publication of the report, 'Good guidance: the importance of effective guidance for unrepresented taxpayers', the CIOT's Low Incomes Tax Reform Group reviews the progress made to date on its recommendations.

The CIOT's Low Incomes Tax Reform Group (LITRG) published a report in April 2023 – 'Good guidance: the importance of effective guidance for unrepresented taxpayers' (see tinyurl.com/kuubet6t) – in which it set out to answer the question of what makes good guidance, identifying several attributes which every piece of taxpayer guidance should exhibit and 40 general recommendations for the improvement of taxpayer guidance on GOV.UK.

The report was well received by HMRC. Its publication coincided with an internal recognition within HMRC that investment in guidance pays off, and guidance has since remained high on HMRC's agenda.

A focus for HMRC's guidance team over the past year has been delivery of the Spring 2023 Budget commitment to undertake a systematic review of tax guidance and forms for small businesses. LITRG has been involved as a stakeholder for this review, which has provided a valuable opportunity to put some of the themes of the report into practice.

In addition, HMRC's guidance strategy forum has met quarterly, and LITRG has met monthly with representatives of HMRC's guidance team. These monthly meetings have been a particularly productive means through which LITRG has been able to raise more specific guidance issues with HMRC and, in return, gain a better understanding of the internal mechanics behind HMRC's guidance provision. HMRC has responded to many of the specific issues raised by making improvements to its guidance tools.

LITRG's report divided its recommendations into five areas. This article provides some selected observations on the progress that has been made in the past 12 months.

GOV.UK structure and development

The initial set of recommendations made by LITRG considered the architecture and navigability of guidance on GOV.UK, as well as how guidance is built and then maintained. Our recommendations on this were based on the principles that good guidance should exist, be easily found, be easily navigable and be presented in a suitable format.

Improvements are in train to the lamentable GOV.UK search function (Recommendation 8). LITRG was told through the guidance strategy forum in January 2024 that the Government Digital Service (GDS) is integrating a new search engine within GOV.UK. This function appears to return results of much improved relevance. For example, at the time our report was published, a search for 'claim tax back' returned as the top two results information on phishing and Statutory Off Road Notifications. Now, the top result is the more appropriate 'Check how to claim a tax refund'. Similarly, a search for 'tax on interest' now brings up the page 'Tax on savings interest' as its first result, rather than the irrelevant page on inheritance tax thresholds.

HMRC has also undertaken a lot of work in the past year on its 'coherent document' concept. This is a new format of guidance on GOV.UK which is intended to bring together all relevant guidance on a particular topic, replacing some collections which might have previously been published in PDF format.

A PDF is not considered to be an accessible format, especially for those looking at guidance on mobile devices (now the majority of internet users).

Key Points

What is the issue?
On the anniversary of LITRG's report on what makes good guidance, LITRG considers how far HMRC has come over the past year in improving their guidance offering.

What does it mean for me?
Poor guidance is an issue for both taxpayers and advisers alike.

What can I take away?
HMRC appears to be heading in the right direction with its guidance provision. It has made improvements in some areas, but progress is slower in others. More work is needed to ensure HMRC's guidance can support taxpayers more fully.

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HMRC is therefore keen to find a replacement format for guidance like 'Booklet 490' (see tinyurl.com/24zb9dfh), which as far as possible retains the benefits of a PDF (in relation to searchability, for example) and allows taxpayers to view the whole guidance at once at the same time as being able to easily navigate it (Recommendation 15).

For an example of the 'coherent document' might look like, see the GOV.UK content design manual (see tinyurl.com/ms3r4d3d). Advisers will note the resemblance to HMRC's manuals. LITRG has commented in its engagement with HMRC that the coherent document has some benefits; however, it seems to depart from LITRG's suggestion that the level of technical detail offered by a page of guidance should be immediately clear when landing on a page (Recommendation 1). It is therefore hoped that when this format is finalised, clear links to guidance in both greater and lesser detail should be included. However, we understand HMRC's goal is that the taxpayer lands on the most suitable 'Tier' of guidance without needing to worry how it fits within the wider GOV.UK structure.

In terms of how guidance is maintained and improved, LITRG has had conversations with HMRC about feedback routes on GOV.UK, and how that feedback should be analysed and interpreted. HMRC acknowledges that existing multiple feedback routes are not ideal – we note the route which offers a reply to the user is still as difficult to find as it was 12 months ago (Recommendation 5).

HMRC has spoken to other tax authorities to understand best practice to analyse feedback. It informed us that it received around 20,000 comments last year on GOV.UK pages – too many to review manually – so it is considering how artificial intelligence can help to synthesise those comments so that they can be actioned more efficiently. This seems to be an intelligent use of resource.

Attributes of good guidance

One of LITRG's starting attributes of what makes good guidance is that it must be clear in scope. The report gave the example of HMRC's inheritance tax checker tool not making any reference to the domicile of a transferee spouse or civil partner. Although the landing page has been updated in this respect, the tool itself still states quite clearly that 'You do not need to pay inheritance tax' in the case where, say, a property worth £500,000 is left to a surviving spouse or civil partner who may not be domiciled in the UK.

HMRC appears to be maintaining the position that no change is necessary because the number of estates for whom the point is relevant would be very small. However, those for whom the point *is* relevant might continue to be misled. HMRC tell us that it has been adding a new page type for its interactive guidance products to try and clarify the scope of these tools (Recommendation 35), so we look forward to seeing continued improvement in this area.

Sadly, this is not the only inaccuracy which was highlighted by the report and which still remains on GOV.UK. At the time of writing, the page www.gov.uk/income-tax-rates still speaks of one's personal allowance being 'bigger' if you claim marriage allowance (a false and potentially misleading description of how the allowance operates). HMRC says that there is no evidence of it causing any confusion but that it is in discussions to get the page updated. The same page also continues to use the phrase 'taxable income' in an inconsistent way with other parts of GOV.UK. And the Tier 2 guidance on the trading and property allowances (see tinyurl.com/2ajtzshy) continues to have out of date references to the 2018/19 tax year.

Opportunities for improved clarity and reduced ambiguity also remain. This is especially the case where bullet points are used to list conditions and it is not clear whether one or all of the conditions are required (Recommendation 21). For example, www.gov.uk/renting-out-a-property/paying-tax is still unclear on the self assessment criteria in relation to property income, as is www.gov.uk/understand-self-assessment-bill/payments-on-account on the triggers for needing to make payments on account. But, at least, the GOV.UK style guide has been updated to instruct guidance writers to avoid this kind of ambiguity in new pieces of guidance.

HMRC has made some improvements to its 'Check if you need to send a self assessment tax return' tool (see tinyurl.com/5dfje6hx). This has been part of a wider focus on HMRC's interactive guidance offering, which we discuss further below. The improvements are welcome, given that the tool has become increasingly referenced from other parts of GOV.UK (and in HMRC correspondence) as the

'definitive' assessment of whether the self assessment criteria have been met.

For example, the question on child benefit has been improved to make reference to the possibility that the high income child benefit charge can transfer in the case where contributions towards a child's upkeep are being made. Simplifications in the way adjusted net income is described for this purpose have been addressed by the conclusion now saying that a tax return 'may' be required – and the taxpayer is then sent off to the (more accurate) child benefit tax calculator to confirm the point.

However, there is still scope for improvement in the tool. For example, the question on savings and dividend income isn't especially clear about what is or isn't in scope (for example, it isn't clear that tax-free interest and property income are *not* included), and there is no link to any guidance to help taxpayers understand whether tax is due on income from outside the UK (Recommendation 34).

More broadly, the tool is in some sense set up to confuse taxpayers from the outset, by using the phrase 'need to send a … return' to refer to whether or not the self assessment criteria are met, rather than whether the taxpayer has a legal obligation to file (which would only be the case if they have been issued a notice under the Taxes Management Act 1970 s 8).

An issue which cropped up last autumn concerned taxpayers who had savings interest in excess of their personal savings allowance. Several taxpayers in such a position who did not file self assessment tax returns wondered whether they 'needed' to file a return and, if not, what they needed to do in order to declare and pay that liability.

But the GOV.UK page on savings interest (see tinyurl.com/3956ekwf) dissuades taxpayers from taking any action at all if the interest is less than the £10,000 threshold – arguably contrary to their legal obligation to notify chargeability under Taxes Management Act 1970 s 7 – suggesting that they simply need to wait for HMRC to assess it.

To add to the confusion, the 'Check if you need to send a tax return tool' makes no explicit reference to savings interest in the conclusion page – talking vaguely in terms of 'untaxed income … between £1,000 and £2,500'. When we raised this with HMRC, we were told this was not intended to refer to savings interest (it was not clear how it was considered that taxable interest paid gross was not 'untaxed income') – which, even if that were understood to be the case by a layman reading it, does not help clarify the position. HMRC says it is expecting the page to be updated based on our feedback.

Interactive guidance

HMRC has been very active over the past year in expanding and enhancing its suite of interactive guidance products, which is driven not only by a desire to make the guidance as useful as possible, but also to try and give taxpayers the tools to self-serve where possible to help with a reduction in contact demand and to facilitate a digital channel shift.

In our meetings with HMRC on interactive guidance, we have found that it has welcomed, and in many cases been receptive to, feedback on its interactive tools – though in some cases, basic improvement to tools (e.g. clarifying a definition, or making data entry easier or more intuitive) appears difficult without user evidence that it is causing any issue.

> **Being clear to taxpayers what they can do if they were misled is one thing – not misleading them in the first place is another.**

One recently published tool has been 'Check when to appeal a Self Assessment penalty for late filing or late payment' (see tinyurl.com/bddyj3e5). HMRC tell us that this tool is designed to help taxpayers check 'when and how' to appeal – yet it does not reference the 30-day deadline to appeal against a penalty notice. Though we find this bizarre, we understand this is because the tool's purpose is to let taxpayers know that HMRC may not be able to progress an appeal before the relevant obligation has been met (presumably because a reasonable excuse claim requires the individual to demonstrate that the obligation has been met as soon as reasonable after that excuse ends).

Other new interactive tools have included a new 'tax code checker' (see tinyurl.com/4ye596e7) – originally launched towards the end of 2022, after our report was first drafted – which makes a laudable attempt to explain the ever-confusing jumble of numbers and letters which determines how much PAYE tax is deducted from employment or pension income. The tool is welcome, although stakeholders have concerns that it does not cover certain situations. We note that HMRC has not unnecessarily placed this tool behind a government gateway login (Recommendation 31), which would have reduced its accessibility.

While not strictly interactive guidance, HMRC also introduced an online form for individuals to deregister from self assessment (see tinyurl.com/mr2w7fs8), including for a particular year. This is welcome. It leads on nicely from the 'Check if you need to send a tax return' tool and means that taxpayers can now complete that journey digitally without needing to speak to an HMRC adviser on the phone.

Guidance as advice

HMRC's guidance statement, 'How HMRC advice and information can help you', was updated in June 2023 and is now more user-friendly (Recommendation 39) – though we understand they will not be issuing a public consultation at this stage (Recommendation 40). The updated page makes it clear that it applies not just to static pages on GOV.UK but also communication from HMRC more widely, including webchat, posts on Twitter and HMRC's community forums. It also expands on what is required – in layman's terms – for HMRC to be bound by its advice because a legal legitimate expectation was created.

We do, however, have some concern that the page does not make clear that taxpayers may have grounds for complaint and, in HMRC's eyes, be eligible for some form of redress – well before the high bar of legitimate expectation has been met.

It is regrettable that the GOV.UK general disclaimer (which states that there is no 'advice' on GOV.UK, and information which is published on it cannot be relied upon to be accurate) still conflicts with the reliance on guidance statement and the HMRC Charter. We urge HMRC to review this as part of its ongoing work in this area (Recommendation 38).

Being clear to taxpayers what they can do if they were misled is one thing – but not misleading them in the first place is another. In the case of HMRC providing direct answers to taxpayers in public forums, in an effort to be helpful and give a quick answer HMRC can sometimes neglect to ask pertinent questions and end up giving incorrect advice. Even worse, this incorrect advice can propagate, and is likely to come up when a taxpayer searches the internet for an answer to their question. HMRC therefore needs to urgently consider how it provides 'advice' in this way, to prevent this from happening.

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NEWSDESK ARTICLES

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WELCOME

Richard Wild
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September Technical newsdesk

Like many of my colleagues in the technical teams, I joined the CIOT to 'give something back'. The CIOT and ATT are both charities, and we do our technical work in pursuance of our charitable objectives. Broadly speaking, the CIOT's primary purpose is to promote education in taxation, with a key aim of achieving a more efficient and less complex tax system for all affected by it. The ATT's primary charitable objective is to promote education and the study of tax administration and practice, with a strong emphasis on the practicalities of the tax system.

In my early years at the CIOT, when describing to people what we do, I would say that we try to make the tax system better. Eight and a half years later, I have become accustomed to saying that we try to make the tax system less worse.

I would like to think that this is not because I have become jaded or glass-half-empty about our role, but rather recognise the reality that each year (if not more often) governments keep changing and adding to our already complex tax system. In many cases, the best that we can do is to make sure that those changes land as smoothly as possible.

Against this backdrop, you can see why it is necessary to celebrate our 'successes'. At the CIOT, we have started to capture these and will share them in Technical Newsdesk and on our website each quarter.

Our first article this month covers the first quarter of 2024. We have struggled to define what is meant by 'successes', but in brief they represent positive changes that we have influenced – either solely or in conjunction with others, or circumstances where our input has received specific mention or praise. In the greater scheme of things, some of the successes might seem small or niche – but as with anything tax-related, if they affect you they can have a huge impact.

If we had started work on this process last year, we would have included several elements relating to Making Tax Digital (MTD), such as the removal of the End of Period Statement and the move to making quarterly updates cumulative.

One of the first events I attended after taking up my role with the CIOT was a launch event of MTD in December 2015. I still have a copy of the document and road map that was shared during that event, and it is instructive for all policymakers to compare the ambition in 2015 with the reality eight years later. While we have had several 'successes' along the way, the government's unyielding commitment to MTD has meant that our impact has necessarily been limited.

It is particularly topical to mention MTD again, as the 'private beta' testing (aka pilot) for Income Tax Self Assessment has just (re)opened. The tax year 2024-25 is the only opportunity for a full cycle of testing before the requirements become mandatory for businesses with a turnover above £50,000 in April 2026.

Most agents will have received emails from HMRC about the pilot already, and we recently held a webinar on MTD, a recording of which is on the CIOT and ATT websites.

If you have joined the pilot, we would like to hear from you – please contact us at technical@ciot.org.uk or atttechnical@att.org.uk.

GENERAL FEATURE

CIOT Technical Team successes

An outline of the changes influenced by the CIOT's technical team, alongside the recognition of efforts made by the CIOT to deliver on our charitable objectives for a better, more efficient tax system for all affected by it.

Each quarter, we will publish a list of changes in which the CIOT was instrumental and occasions where the CIOT's contribution was singled out for recognition by revenue authorities, the government, the devolved Parliaments in Scotland and Wales, the national Assembly in Northern Ireland and more generally in the UK.

Here are our successes for the quarter ending 31 March 2024.

Changes to guidance, interpretation and procedures

- HMRC will now accept voluntary VAT registrations concerning financial services that are ordinarily exempt, but which contain certain services that may treated as taxable. HMRC had been rejecting applications that include a SIC code relating to supplies of these services. Thanks to the matter being raised by the CIOT, HMRC have said that applications will now be accepted if the applicant enters the words 'SPECIFIED SUPPLIES' in the box marked 'business descriptions'.
- Several changes are being made to the VAT online calculator as a direct result of the CIOT's feedback. This remains in development.
- HMRC's guidance has been updated on relief for remediation costs regarding residential property development tax following concerns raised by the CIOT.
- HMRC have amended their Capital Allowances Manual (CA11145 and CA23163) with regards to full expensing and super deductions for companies in a mixed partnership because of discussions with the CIOT.
- HMRC have changed the statutory reference for the definition of research and development (R&D) in letters issued under Finance Act 1998 Sch 18 para 16 to amend R&D tax relief claims following discussions with the CIOT. Reference to Corporation Tax Act 2010 s 1138 will be substituted for Income Tax Act 2007 s 1006.
- Following discussions with the CIOT regarding electric vehicle home charging and Income Tax (Earnings and Pensions) Act 2003 s 239(2), HMRC concluded that the benefit exemption does apply to electric company vehicles charged within a domestic property if it can be demonstrated that the electricity was solely used to charge the company car.

Changes to tax legislation

- Following the CIOT's 2018 proactive submission to HMRC on an anomaly in the tax treatment of alternative finance, HM Treasury's recent consultation on Tax Simplification for Alternative Finance proposes legislative change to address the issue.
- New regulations for the Construction Industry Scheme came into force on 6 April 2024 to simplify the criteria for payments from landlords to tenants being excepted from the scheme. The CIOT made detailed representations on the issues in practice over a long period and worked with HMRC through its representation on HMRC's Construction Forum to effect this change.
- Finance (No 2) Bill 2024 Clause 8 (First-time buyers' relief from stamp duty land tax: acquisition of a new lease on bare trust) corrects a defect in the legislation for first-time buyers' relief. This removes a pitfall for buyers and is therefore to be welcomed. The amendments in clause 8 follow the representations made by the CIOT and the Stamp Taxes Practitioners Group in January.

Parliamentary mentions

- During the passage of Finance Act 2024:
  - The CIOT was cited by the Shadow Financial Secretary to the Treasury (FST) in debates with respect to representations made.
  - The CIOT was also cited in committee with respect to the pension lifetime allowance, cash basis and off-payroll PAYE 'deemed employer' offset.
  - The CIOT (along with LITRG, ATT and ICAEW) were singled out for thanks in committee by the Shadow FST.
  - Evidence was given by the CIOT and ATT before the House of Lord Economic Affairs Finance Bill sub-committee, and 60 references were made to the CIOT and ATT during committee proceedings.
- The Scottish Parliament's Finance and Public Administration Committee cited several points made by the CIOT as part of an evidence-gathering session on the Aggregates Bill in March 2024, including the new wider administrative changes contained within Part 2 of the Bill. Eric Brown represented the CIOT, alongside representatives from ICAS and the Law Society of Scotland.
- Three committees of the Welsh Senedd published reports calling on the Welsh government to amend legislation currently going through the Senedd on business rates and council tax. Two of the committees drew on the CIOT's evidence to criticise the wide powers being granted to ministers to make future changes through subordinate legislation.
- The CIOT's submission on changes to the land and buildings transaction tax additional dwelling supplement was quoted on several occasions in an evidence session of the Finance and Public Administration Committee of the Scottish Parliament before Tom Arthur MSP (Minister for Community Wealth and Public Finance). Michelle Thomson MSP raised specific points made by the CIOT concerning executive discretion and inherited property from completion of the missives. The CIOT's calls for a separate Scottish Finance Bill were also taken up by Liz Smith MSP.

Other recognition of the CIOT's contribution

- HMRC thanked the CIOT and the Stamp Taxes Practitioners Group for highlighting issues concerning first time buyers' relief.
- The CIOT's influence on improvements to guidance, through our participation in HMRC's Guidance Strategy Forum, was acknowledged in Kevin Newton's *Tax Adviser* article 'HMRC Guidance: providing information to individuals, businesses and agents' (see tinyurl.com/ydy89z98).

To find out more about the CIOT Technical Team's work, please visit the CIOT website at tinyurl.com/3xd4jmpz, and follow our progress in the weekly member emails.

Chris Thorpe *cthorpe@ciot.org.uk*

GENERAL FEATURE

HMRC consultation on raising standards in the tax advice market

HMRC have issued a consultation document on raising standards in the tax advice market. Their preferred option is to put in place mandatory membership of a recognised professional body. The outcome of this consultation could have far ranging consequences for both CIOT and ATT members.

On Budget day, HMRC published a consultation document relating to their intention to raise standards in the tax advice market, 'Raising standards in the tax market: strengthening the regulatory framework and improving registration' (see tinyurl.com/3uha9r3a).

HMRC recognise in the consultation that most tax practitioners are competent and adhere to professional standards. They also recognise that many practitioners belong to established professional bodies and are subject to their oversight. It is, however, a fact that not all tax practitioners meet high professional standards and there can be limited 'levers' to address these failings.

The consultation sets out three possible approaches to strengthening the framework within which tax advisers operate in order to improve standards:

- Option 1: mandatory membership of a recognised professional body;
- Option 2: joint HMRC and industry enforcement; and
- Option 3: regulation by a separate statutory government body.

The CIOT and ATT have been in discussion with HMRC for several years about steps that could be taken to raise standards in the tax advice market. In previous responses to consultations and calls for evidence, both bodies have been clear that if regulation is required the government should build on the work undertaken by the professional bodies. However, there are several practical considerations to be looked at in terms of how this might work, both for those who are already members of professional bodies and those agents who are currently unaffiliated to a professional body.

The consultation indicates that at present HMRC propose to focus on bringing within the scope of regulation only those who interact directly with them, and that all such agents must register with them. How this differs from current agent registration requirements needs to be explored as part of the consultation.

The consultation seeks views on which professions or practitioners should be in scope. This includes accountants, those providing payroll services, bookkeepers, repayment agents and R&D specialists, but not those in some other professions such as barristers, solicitors and financial advisers, where their activities are already subject to statutory regulation. Those acting for friends and families look likely to be outside the scope. Other advisers are still under consideration, such as charities and those providing pro bono advice, where there are important questions about how to balance any regulatory burdens with ensuring reliable and high quality, professional advice.

The consultation sets out that regulation would apply at a firm level, rather than in relation to individual members. Therefore, regulation is likely to follow current anti-money laundering (AML) supervision, so the CIOT and ATT's scope as potential recognised professional body regulators would broadly be as regulator for those firms that are within scope for AML supervision by the CIOT and ATT. Other CIOT and ATT members would more likely fall to be regulated by their or their firm's current AML supervisor.

The consultation recognises that time will be needed to ensure professional bodies can build the capacity for taking on new members without reducing the standards for current members. It is envisaged that a period of at least three years would be needed for this transition.

Members who wish to contribute comments can email them to the CIOT and ATT at standards@tax.org.uk. The consultation closes on 29 May 2024, so we would welcome comments as early as possible in May.

Jane Mellor *jmellor@ciot.org.uk*

GENERAL FEATURE PERSONAL TAX MANAGEMENT OF TAXES

Finance (No.2) Bill 2023-24: LITRG briefing high income child benefit charge changes

LITRG has submitted a briefing to MPs on the changes to the high income child benefit charge from 6 April 2024. The group also comments on the proposed change to household assessment from 6 April 2026.

Clause 5 of Finance (No.2) Bill 2023-24 increases, from 6 April 2024:

- the adjusted net income threshold at which the high income child benefit charge (HICBC) starts to apply, from £50,000 to £60,000; and
- the adjusted net income level at which child benefit is clawed back entirely via the HICBC, from £60,000 to £80,000.

There is also an administrative easement to prevent some backdated child benefit payments triggering a HICBC in 2023-24. LITRG says that this provision is broadly sensible, even if it may mean some unfairness compared with those who were already claiming child benefit prior to 6 April 2024.

LITRG says that the increase in both thresholds is a welcome step, but observes that the increase to the first threshold does not compensate entirely for inflation to date. According to the Bank of England's Consumer Price Index calculator, to do so would have meant setting the threshold at around £67,000. As a round figure is likely to be easier for taxpayers to understand and remember, an increase to £70,000 (rather than £60,000) would have been a better reflection of the inflationary increases since the introduction of the charge. Such an increase could also have future-proofed the threshold to some degree ahead of a potential move to household assessment from April 2026.

The increase to the level at which child benefit is fully clawed back, to £80,000, reduces the impact of the HICBC on marginal rates for those with income between the two thresholds, but widens the band of taxpayers who are affected by those higher marginal rates and who would need to file a tax return because of the charge.

On household assessment, the Spring Budget 2024 framed this as part of a wider move to target support to households (including economic support in times of crisis). LITRG says that household assessment of the HICBC would be challenging to achieve through the tax system, and will likely breach the principle of independent taxation even more than the HICBC does at present.

It calls for the government to issue a call for evidence that sets out its objectives and tries to understand alternative ways of meeting them. A full range of options should be considered, including abolishing the charge altogether (thus reinstating the original intention of child benefit as universal), abolishing the charge and making child benefit taxable, or means-testing child benefit via the benefits system. Alternatively, the government might abolish both the charge and the benefit, and instead provide additional support to families with children via means-tested benefits. LITRG looks forward to responding to the consultation in due course.

Tom Henderson *thenderson@litrg.org.uk*

INDIRECT TAX PERSONAL TAX

VAT and Income Tax Self Assessment penalty reform stakeholder event

On 20 March 2024, CIOT and ATT representatives attended an HMRC stakeholder event to review the journey of the penalty reform for VAT project, and to review how changes in VAT could assist in preparing for the roll out of Making Tax Digital and penalty reform for Income Tax Self Assessment mandated taxpayers in April 2026.

Discussions at the stakeholder event focused on what went well, what could have been done differently and what could be changed for the Income Tax Self Assessment (ITSA) implementation. The audience was a mixture of HMRC staff from different departments and external stakeholders from tax and accounting, software developers and industry to bring together differing perspectives. It was positive to hear HMRC's commitment to consistent engagement with external stakeholders, which they said was critical to readiness and was a success of the penalty reform for VAT project. HMRC said that the same engagement would continue in preparing for changes for ITSA.

The breakout sessions had three focuses.

1. What went well in penalty reform for VAT?

External stakeholders said that there was a lot of goodwill on VAT penalty reform from both practice and business, as the former VAT penalty regime was capable of creating quite punitive results and was subject to many appeals and tribunal cases. Therefore, reform was definitely welcomed. Stakeholders said that it would be interesting in future to compare the statistics for appeals and tribunals for the new penalty system. At the launch of the new VAT penalty system, the 'reset' to a nil point starting point for all businesses, even those incurring 15% default surcharges, was also positive.

Several external stakeholders mentioned that there was currently little feedback from members or agents on poor outcomes, which usually means that things are going well. The CIOT raised what appeared to be an isolated case of a stagger/penalty period mismatch.

2. What would you have done differently in penalty reform for VAT?

Stakeholders suggested that the agent journey should have been considered at an earlier time in the project, including user testing via agents. It was noted that VAT penalty letters issued to agents were still not in an ideal format and caused difficulties; HMRC appreciated that this was an ongoing issue.

The timing of publishing HMRC guidance was also discussed, with stakeholders saying that it was published too close to the launch date, which created uncertainty for businesses.

Some HMRC attendees raised concerns that the 'penalty free' period after the required VAT return submission date would cause more businesses to use it. Representatives from professional bodies noted that the Professional Conduct in Relation to Taxation rules require affiliated agents and in-house tax professionals to ensure that the right amount of tax is declared at the right time, though it was appreciated that not all agents belong to a professional body.

The CIOT said that it was disappointed to see the loss of HMRC's discretionary powers to block VAT default interest in cases of non-commercial restitution, adding that we would still like to see these powers restored.

3. What would you like to see Making Tax Digital (MTD) take into penalty reform for ITSA?

Whilst many of the points raised related to internal HMRC communications and systems processes, external stakeholders were still able to make suggestions. These included: the lessons learned in the VAT sessions on agent consideration; timing of ITSA guidance; possible uses of nudges and prompts in MTD; appreciating the additional complexities for ITSA quarterly reporting and uploading; the change to mandated digital recordkeeping; digital links requirements; and the requirement for communications to businesses advising of new obligations.

Member feedback

The CIOT and ATT are still interested to hear from members with feedback about experiences of MTD for VAT penalties, particularly where there could be an element of learning for the ITSA project. Please email us at technical@ciot.org.uk or atttechnical@att.org.uk.

Jayne Simpson *jsimpson@ciot.org.uk*
Steven Pinhey *SPinhey@att.org.uk*

INDIRECT TAX

Introducing the new UK carbon border adjustment mechanism

Following consultation, the government announced in December 2023 that the UK will introduce a carbon border adjustment mechanism from 1 January 2027 on imports of certain emission intensive imported goods as part of the drive to reach its 2050 net zero target. Budget 2024 announced a further consultation.

HM Treasury and HMRC launched their joint 'Consultation on the introduction of a UK carbon border adjustment mechanism' (CBAM) (see tinyurl.com/mr37v5yv) on 21 March. The consultation seeks views on proposals for the design and administration of the mechanism. Virtual meetings for launch events, roundtable and sectoral deep-dives are also running during the period of consultation.

CBAM is primarily a behaviour changing measure. Whilst there is no doubt that it will raise revenues for the exchequer, its primary purpose is to prevent carbon leakage in the supply chain. Carbon leakage is where carbon intensive manufacturing is moved offshore, so that UK carbon targets can still be met. The CBAM rate will be based on the embedded emissions of these goods.

What products will be within the scope of the CBAM?

The CBAM will apply to imported product from the aluminium, cement, ceramics, fertiliser, glass, hydrogen,

iron and steel sectors. This differs slightly from the EU CBAM, which currently excludes glass and ceramics. It is interesting to note that each sector for the UK scheme will be subject to its own CBAM rate due to the differing levels of carbon emission intensities in the manufacturing process.

Launch events

CIOT and ATT representatives attended both consultation stakeholder launch events on 5 and 10 April, where HM Treasury and HMRC officers presented an overview of the focus areas of the consultation document and then ran a question-and-answer session.

It was also mentioned that the UK's CBAM has been designed as a 'tax', so that it is able to comply with the terms of the Windsor Framework as being a UK wide tax; hence, Northern Ireland is included in the UK rather than the EU CBAM.

Consultation document

The consultation first sets out an overview of the issue of carbon leakage risk, UK carbon pricing policies currently in operation and a high-level overview of how a CBAM will operate. The design and administration question look at:

- what the CBAM will apply to, including sectoral and product scope, and exemptions;
- how liabilities are calculated, including calculating embodied emissions and how to factor in adjustments from overseas carbon pricing; and
- administration, payment and compliance.

If you would like to contribute feedback on any of the consultation questions (there is no need to answer all questions), please contact us at technical@ciot.org.uk or atttechnical@att.org.uk, with CBAM in the email header, ideally before the end of May. The consultation closes on 13 June.

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David Wright *dwright@att.org.uk*

INDIRECT TAX

Opening hours for a simplified alcohol duty regime

In Budget 2020, the government announced its Alcohol Duty Review, which aimed to bring simplification, reform and reduced administration to the alcohol duty system, as the UK could depart from EU excise rules because of exiting.

Since 2020, new alcohol duty legislation has come into effect (1 August 2023), including the primary legislation (see tinyurl.com/mrkmcrtj) and The Alcoholic Products (Excise Duty) Regulations 2023 (see tinyurl.com/3v87xk7j).

On 5 February 2024, the government published further draft legislation, The Alcoholic Products (Excise Duty) (Amendment) Regulations 2024 (see tinyurl.com/bddmyxez), which amend the above-mentioned 2023 regulations. The draft regulations and its schedules include:

- the single digital approval for producers: the approval application requirements and details of situations when you must notify HMRC about changes;
- the holding of alcoholic products without payment of alcohol duty, including what records and documents are required;
- the definition and rules around 'constructive removal' of alcoholic products;
- a single digital return covering all alcohol duties, with standardised dates for payment; and
- dealing with spoilt alcoholic product.

CIOT response

The CIOT's response (see tax.org.uk/ref1289) welcomed the anticipated simplification and considered that the draft legislation broadly met its aims. Our feedback focused on two main areas: clarity and certainty.

In several paragraphs, the legislation stated that applicants 'must' provide specific information for applications but also referred to supplying information 'that may be' specified in a public notice. We would like the legislation to be clear: either embed the further requirements in the legislation, which would be preferred; or be clear that there 'are' rather than 'may' be further requirements in a notice.

With regard to paragraph 24(2)(b), we said that whilst we support HMRC's conditions for the protection of the revenue, the current scope of the paragraph is broad. We would like to see clarity in the notice on the circumstances when a guarantee may apply or equally, should not apply, to provide more certainty for applicants and increased consistency when HMRC officers issue requests for a guarantee.

Future developments

It is anticipated that in March 2025, HMRC should launch a new digital service simplifying and modernising the alcohol duty approval, return, and payment processes for UK producers. Industry stakeholders are currently working with HMRC on this project.

Jayne Simpson *jsimpson@ciot.org.uk*

PERSONAL TAX PROPERTY TAX

Welsh land transaction tax

The Welsh government recently consulted on extending the time limit to reclaim higher rates of land transaction tax when transactions are impeded due to an emergency government restriction or because of fire safety defects. The CIOT, Stamp Taxes Practitioners Group and the ATT responded to the consultation.

The recent Welsh government's land transaction tax (LTT) consultation looks at extending the time limit indefinitely for reclaims and exemption from higher rates in limited circumstances.

The proposed change

For individuals, the higher rates of LTT apply broadly to the purchase of additional residential property. The higher rates are 4% more than the standard LTT residential rates. Refunds and exceptions to the higher rates can apply where the new dwelling is intended to be the only or main residence and the buyer has been unable to sell the old home or has been unable to purchase a new one within a three year period. The Welsh government's view is that in most cases three years is a sufficient period but that time limit may be too short where transactions are impeded due to fire safety defects or where housing market activity is prohibited by government emergency restrictions.

CIOT and the Stamp Taxes Practitioners Group (STPG) suggested that it would be helpful to articulate the policy rationale in guidance to ensure taxpayers understand the objective. Therefore, stakeholders who wish to make representations about new circumstances that they consider should be the subject of an extended period would understand the approach.

CIOT, STPG and ATT thought the approach of defining specific limited statutory circumstances instead of a

broad revenue authority discretion (as for stamp duty land tax (SDLT)) has the advantage of certainty; on the other hand, it is less flexible. We are pleased, however, to see that taxpayers will have the safeguards of a right to request a Welsh Revenue Authority (WRA) review and the right to appeal to the First-tier Tribunal (unlike the SDLT discretion).

Awareness

CIOT and STPG noted the challenge of ensuring that eligible taxpayers are aware of the right to make a refund claim because of the extended claim period. We understand that the WRA have maintained a list of taxpayers who have contacted them about a refund.

Easily accessible guidance

Most taxpayers affected will probably not be represented at the point a claim needs to be made, so easily accessible guidance with worked examples and explanations of the WRA's interpretation of key terms will be essential. In addition, it will be important to explain what material and evidence needs to be included in the claim.

ATT also called for greater clarity in some of the terminology included in the draft legislation, to increase certainty as to the circumstances that should qualify for reclaim of and exemption from higher rates of LTT.

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David Wright *dwright@att.org.uk*

GENERAL FEATURE EMPLOYMENT TAX PERSONAL TAX

Do you have clients in the hospitality industry?

In July 2024, the Employment (Allocation of Tips) Act 2023 is expected to come into force, via secondary legislation. This will see several changes to tipping practices, culminating in a right for workers to bring a claim against non-compliant businesses to the Employment Tribunal. Here we set out some of the main points that businesses need to know and may require practical help with.

The Act (see tinyurl.com/yn65e7wy) ensures that:

- workers (including agency workers) receive all qualifying tips, gratuities and service charges in full without deductions, except in very limited scenarios, such as deduction of income tax;
- tips are allocated fairly to workers – the legislation is silent as to what fair allocation would look like in practice, instead deferring that to a Code of Practice (see below); and
- payment in full of any tips due is made no later than the end of the month following the month in which the tips were paid.

Businesses will need to:

- be open and transparent about how tips are allocated;
- maintain a written policy on how tips are dealt with at their place of business, and ensure this policy is made available to all their workers;
- involve workers in forming a consensus on how tips should be allocated; and
- maintain a record of all tips paid at their place of business and their allocation and distribution between each worker, to which workers have the right to request access.

The new law means that some employers will pay service charges over to workers for the first time (as opposed to keeping them). If an employer is going to start passing on service charges to workers for the first time, then they must understand that this needs to be done under the Pay As You Earn (PAYE) system and that income tax and National Insurance (NIC) liabilities on the tips should be deducted before workers receive them. However, this also means that the workers should not have to do anything else to notify HMRC or the Department for Work and Pensions about the tips for tax or universal credit purposes.

Alternatively, to avoid incurring costs and/or to discharge some of their obligations (for example, the obligation to ensure that tips are allocated fairly or the obligation to operate PAYE), from a practical perspective, it seems to us that businesses may:

GENERAL FEATURE EMPLOYMENT TAX PERSONAL TAX

National minimum wage and salary sacrifice arrangements

Employers and those advising them need to be aware of the minimum wage increase and review any salary sacrifice arrangements to avoid inadvertent breaches of the national minimum wage legislation.

Provided they are implemented and operated correctly, salary sacrifice arrangements can be used to gain an advantage in a limited number of circumstances, such as pension saving, cycle to work or low CO_2 emission cars. You can read more about salary sacrifice on GOV.UK (see tinyurl.com/bdh8xx2d).

The main advantage of salary sacrifice is that both employers and employees can save on National Insurance. Recent decreases in the employee National Insurance contributions rate may mean salary sacrifice is losing its appeal for employees, so some employers may be taking the opportunity to review their arrangements.

Part of any review must include checking compliance with the national minimum wage (NMW) for any lower-paid employees. This is because as the minimum wage encompasses more workers (from 1 April 2024, the main rate not only increased to £11.44 but also includes 21 and 22 year-olds), fewer of them can use salary sacrifice. This is because the rules essentially mean that a salary sacrifice arrangement cannot reduce an employee's cash earnings below the appropriate minimum wage rate.

There are unexpected consequences for employees slightly higher up the income ladder too, because an increase in the minimum wage rate may restrict how much salary they can sacrifice. We give an example on the LITRG website (see tinyurl.com/4nsrw855).

Although the government have confirmed that in some instances penalties will not be charged for NMW breaches related to salary sacrifice, employers will still be required to make good any underpayments (see NMW enforcement guidance on GOV.UK, para 3.7 at tinyurl.com/4jay38kk).

Many employers offer one or more salary sacrifice arrangements, but some may not have revisited these since implementation. The risk of breaching NMW is higher where employers offer a suite of salary sacrifice arrangements to their employees, as it is the aggregate of all salary sacrifices in the pay reference period that must be monitored. If any of this sounds familiar, now is a good time to review your arrangements to ensure compliance with the NMW.

Meredith McCammond *mmccammond@litrg.org.uk*

- Use a tronc system to allocate the tips independently of the employer: If operated correctly, such tips will not attract a Class 1 NIC liability. The draft Code of Practice (at paragraph 29, see tinyurl.com/t7yt92x3) says: 'Various tronc arrangements are permitted. An employer may directly appoint a member of staff to be responsible for allocating and distributing tips; and that member of staff can act as an independent tronc operator. An independent tronc operator may also be an external payroll or accountancy firm or alternatively a member of staff elected or agreed upon by the workers. Care is needed to maintain independence. Section 27F(6) of the 1996 Act provides further information on this.'
- Change their approach by adopting a no service charge policy: This means that workers are more likely to receive tips directly (for example, informal cash tips left on the table). It is important to understand that the new rules do not change the underlying tax position for workers concerning these type of tips (see LITRG website guidance at tinyurl.com/3y8fb5nk).

A statutory Code of Practice that, among other things, would set out the principles of fairness and transparency that businesses must take into account will support the measures in the Act. This Code is currently being developed and was subject to formal consultation earlier this year.

LITRG responded to the consultation, making the point that the Code or other supporting guidance should instruct employers to signpost workers to some good and clear official government guidance on: how their tips are taxed (however their tips are paid); and what, if anything, they need to report (and to whom). You can read our short submission on the draft Code of Practice on our website: (see www.litrg.org.uk/10878).

Meredith McCammond *mmccammond@litrg.org.uk*

GENERAL FEATURE

HMT consultation on improving the effectiveness of the money laundering regulations

Members will be interested to know that HM Treasury have issued a consultation on improving the effectiveness of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations.

The consultation on changes to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations (money laundering regulations) is one of HM Treasury's (HMT's) commitments as part of the Economic Crime Plan 2023-26. HMT have proposed several technical changes that could increase the effectiveness of the money laundering regulations, whilst reducing burdens and ensuring proportionality for firms and their clients. The consultation includes 55 questions across four main themes, as well as a cost of compliance survey for regulated businesses.

Themes

The core themes of the consultation are:

- making customer due diligence more proportionate and effective;
- strengthening system coordination;
- providing clarity on the scope of the money laundering regulations; and
- reforming registration requirements for the Trust Registration Service.

The full list of questions is in Annex B of the consultation document (see tinyurl.com/5d4nyk97). Responses are welcome from stakeholders, including regulated businesses and their customers and members of the public. The consultation closes on 9 June 2024.

Cost of compliance survey for regulated businesses

Alongside the consultation, HMT are conducting a survey on the cost of compliance with the money laundering regulations. This will help to understand better how regulated businesses comply with the regulations and to assess the impact of future changes to the money laundering regulations. Firms are encouraged to share as much information as possible; HMT will not publish any firm-level data provided. Firms can respond to the short survey using the link provided (see tinyurl.com/bdz6tfae).

How to provide comments

There is further information on the GOV.UK website (Improving the effectiveness of the Money Laundering Regulations at tinyurl.com/mrz4p3zc).

HMT have advised that responses can be submitted through HMT's online Smart Survey form, which can be found at tinyurl.com/mupr6ck4. Alternatively, members can provide comments to the CIOT by emailing standards@ciot.org.uk or to the ATT by emailing standards@att.org.uk.

Chelsea Hayward *chayward@ciot.org.uk*

CIOT	Date sent
Land Transaction Tax Higher Residential Rates: proposals to amend the refund and exception rules www.tax.org.uk/ref1267	12/03/2024
Draft regulations: The Alcoholic Products (Excise Duty) (Amendment) Regulations 2024 www.tax.org.uk/ref1289	18/03/2024
Tax Simplification for Alternative Finance www.tax.org.uk/ref1287	05/04/2024
Abolition of the Furnished Holiday Lettings (FHL) tax regime www.tax.org.uk/ref1321	10/04/2024
ATT	
Land Transaction Tax Higher Residential Rates: proposals to amend the refund and exception rules www.att.org.uk/ref454	13/02/2024

Briefings

Online debate
Should VAT be charged on private school fees?

Labour's plans to charge VAT on private school fees will affect smaller, specialist schools as well as prestigious institutions such as Eton, said speakers at an online debate hosted by CIOT and the Institute for Fiscal Studies.

The event on Monday 15 April was chaired by **Charlotte Barbour**, Deputy President of the CIOT, and featured speakers: **Stuart Adam**, Senior Research Economist at the Institute for Fiscal Studies; **Sam Freedman**, Senior Fellow at the Institute for Government and Senior Adviser to Ark Schools; **Julie Robinson**, Chief Executive of the Independent Schools Council; and **Kerry Sykes**, Director of Big for Tax and Technical Adviser to the Charity Tax Group.

Speaking first, Kerry Sykes explained the VAT rules that apply to education are quite 'nuanced'. You have to be an 'eligible body' to benefit from the VAT exemption, which includes schools and colleges but not CPD providers or secretarial colleges, for example. Private tuition is exempt provided it's a subject ordinarily taught in school, while nursery fees are exempt, but only as they are deemed to be the provision of care, not for educational reasons.

Stuart Adam said Labour's proposals could raise more than £1 billion, which is 'not negligible' but is also 'not going to be transformative revenue for the state system'. He argued that private education could be seen as an investment, generating higher earnings which get taxed in turn. He also acknowledged the counter-arguments around whether private schools have wider costs to the public purse, such as poaching the best teachers or creating higher-paid jobs only at others' expense.

Sam Freedman backed putting VAT on school fees, saying that private school is a 'luxury good', with most benefits 'social and personal' rather than educational. The countries around the world which have the most successful education systems are not heavy users of private schools, he added. Sam noted that New Zealand already charges a similar levy – a goods and services tax – on private school fees at 15% and it hasn't changed the take-up of pupil places much.

Julie Robinson said that people should beware of believing the stereotype about private schools, based on ancient, prestigious institutions such as Eton. More than half have fewer than 150 pupils, a third have opened since 2010 and only eight are exclusively boarding, she said. She was concerned about what Labour's policy would mean for smaller specialist schools, which won't have the capacity to cut running costs by a fifth. It will mean cutting staff, she said, and we can't assume those staff will move into the state sector.

The speakers agreed that the state sector can mostly absorb additional pupils who may move from private schools in coming years in response to the plans. Asked whether private education is 'better' than state, Sam said that parents with children at private schools are often buying a better 'experience' in terms of facilities and networking, rather than a better education per se.

Kerry said that if you were simplifying the VAT system, you would probably remove many of the exemptions, but he didn't think it followed that putting VAT on school fees should lead to VAT on university fees. The key difference is that there isn't a free alternative to university, and tuition fees are basically dictated by the government, he said.

Watch the full debate at: www.presenta.co.uk/CIOT/IFS/150424

Political update

CIOT, ATT and LITRG work with politicians from all parties in pursuit of better informed tax policy making

The second Finance Bill of the year was published in March following the Budget. CIOT, ATT and LITRG all contributed to an online briefing session for members of the Labour Treasury Team, including Shadow Financial Secretary James Murray. Written briefings on changes to the high income child benefit charge (LITRG), transfer of assets abroad (CIOT) and stamp duty land tax measures (also CIOT) have been produced to support parliamentary scrutiny of the Bill.

Two committees of the Welsh Senedd (Parliament) cited CIOT extensively in reports published in late March, which called on the Welsh government to amend legislation currently going through the Senedd on business rates and council tax. The main focus was criticism of the wide powers being granted to ministers to make future changes through secondary legislation (which gets less scrutiny).

Additionally, CIOT has written to the Welsh Finance Secretary Rebecca Evans congratulating her on her reappointment under a new First Minister and looking forward to continuing to work with her on devolved taxes.

Meanwhile in Scotland, Eric Brown gave evidence on behalf of CIOT at a Scottish Parliament committee hearing on the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill.

At an earlier committee session, CIOT evidence on the land and buildings transaction tax was cited during questioning of Scotland's tax minister. The Institute's Deputy President Charlotte Barbour continues to sit on the Scottish government's Tax Advisory Group, which has now met three times since it was formed in the summer of 2023.

CIOT Officers
CIOT's new team

CIOT has announced its new team of Officers for 2024-25. Current Deputy President Charlotte Barbour will become the President, with Nichola Ross Martin as Deputy President and Paul Aplin as Vice-President. The appointments were approved by CIOT's Council earlier this year and the Officers will take up their new roles on 30 May at the Institute's Annual General Meeting.


Charlotte Barbour


Nichola Ross Martin


Paul Aplin

Charlotte Barbour was Director of Regulatory Authorisations at ICAS until her retirement in March, and is a former ICAS Director of Taxation. She sits on the Scottish government's Tax Advisory Group and has served as Secretary to the Joint Professional Bodies PCRT (Professional Conduct in Relation to Taxation) Group.

Nichola Ross Martin is Managing Director of Tiger Dog Media & Publishing Ltd and Ross Martin Tax Consultancy Limited. Her firms offer online tax resources and virtual support services to small and medium-sized companies of accountants and tax advisers. She has been a CIOT Council member since 2017.

Paul Aplin is a well-known tax writer and speaker, particularly on issues around tax administration and technology. He was a partner with West Country firm A.C. Mole & Sons for many years, retiring from that role in 2020. He is a former President of ICAEW and board member of the Office of Tax Simplification. In 2009, he was awarded an OBE for services to the accounting profession.

HMRC
HMRC helplines climbdown welcomed

CIOT and ATT welcomed the announcement by HMRC that they will be putting planned helpline closures on hold while they consider how best to help taxpayers harness online services.

HMRC announced on 19 March that they would implement a series of cuts to telephone helplines, including closing the Self Assessment line from early April to September, with taxpayers being directed to online services instead. However, amid a storm of criticism, including from ATT and CIOT, as well as politicians across the parties, it was announced the following day that the plans would be halted.

CIOT President Gary Ashford commented: 'This is welcome news. The government are right to be putting these big, permanent cuts to HMRC's telephone helplines on hold for the time being.

'This pause is a good opportunity for HMRC to press a reset button on their attempts to force people into digital services by withdrawing phone help, rather than taking people with them by making the online option the attractive choice.'

Senga Prior, chair of ATT's Technical Steering Group, also welcomed the announcement, saying: 'The message we continue to receive from members is that HMRC's digital provision is not yet good enough.

'We continue to support HMRC's ambition to push more taxpayers towards digital platforms, but until these services are up to scratch, we believe helplines should remain open.'

Victoria Todd, Head of LITRG, said she hoped HMRC would use the pause to consult widely on their customer service provision. 'HMRC's strategy is based on diverting most enquiries to their online guidance or automated digital assistant – that is an algorithm rather than an actual person at the other end of the chat,' she explained. However, 'HMRC's own research shows that taxpayers want reassurance that they are getting things right and at present they can't get that sufficiently from these automated digital services.'

She said that evaluations of trial helpline closures published by HMRC alongside the original announcement left many questions unanswered, including around the quality of tax returns submitted. 'Additionally, we still haven't seen any evidence to back up HMRC's claim that around two-thirds of callers to the self assessment helpline can deal with their enquiry online,' she added.

AGM
Chartered Institute of Taxation: Notice of Annual General Meeting

The Annual General Meeting of Members of the Chartered Institute of Taxation will be held on Thursday 30 May 2024 at 16.45. The meeting will be held via Zoom.

Civica have been appointed as scrutineers for the CIOT AGM 2024. Access to the AGM Notice, Annual Report and Statutory Accounts and information regarding those standing for election to Council was provided through links in an email, sent to members by Civica in late April. The Civica proxy voting site can also be accessed via that email, together with information on how to book attendance at the virtual AGM. There will be a reminder email sent in May.

If you prefer to receive a hard copy of the proxy form, please email: support@cesvotes.com or telephone: 0208 889 9203 and a form will be sent to you in the post with a reply-paid envelope. You will have until 28 May 2024 at 10am to return the form.

A copy of the proxy form, AGM Notice and Annual Report and Statutory Accounts are also available on the Institute's website at: www.tax.org.uk

Special Interest Groups
ATT Special Interest Groups

What are the ATT Special Interest Groups and how can you get involved?

The ATT have been trialling Special Interest Groups, which aim to provide an informal and welcoming online platform for members to discuss and examine a particular area of special interest within the field of tax, including that area's development, administration, processes and practical application.

The groups are led by an ATT Technical Officer and take place regularly, usually over lunchtime. Whilst we are keen for members to register their interest in one group (or more!), there is no expectation of members other than to join in the conversations and bring their insight and practical experiences to our occasional meetings.

At present there are three Special Interest Groups.

HMRC One-to-Many letters

The ATT is actively involved in HMRC's One-To-Many Compliance Advisory Board (OCAB), which meets quarterly to discuss issues relating to HMRC's One-to-Many approach. We regularly review proposed One-to-Many campaigns and feedback to HMRC with comments on the proposed content, as well as suitability for a One-to-Many approach and potential risks or other issues with a planned campaign.

Despite the best efforts of HMRC's One-To-Many Compliance Advisory Board, not every One-to-Many campaign goes through the group review and refinement process, and final versions are not always shared with us. We are therefore keen to gather feedback from members regarding any issues with particular One-to-Many letters received, so we can take feedback to the Board with a view to helping improve HMRC's One-to-Many messaging going forward.

Influencers and content creators

More and more agents are now acting for clients engaged in influencing and/or content creation. There is no specific legislation or HMRC guidance aimed at influencers and content creators, so in theory the usual tax rules apply.

However, because of the nature of their work, influencers and content creators face many tax issues that other traders and professionals do not encounter.

The ATT has followed the development and treatment of this group of taxpayers, but we are keen to understand the pressures and concerns that members see in practice.

Tax disputes and resolution matters

Most members in practice will have clients who, for one reason or another, have been subject to HMRC's compliance activities. Dealing with and handling both the client and HMRC compliance officers during these processes can be complex and stressful.

The ATT is actively involved in discussions with HMRC's Customer Compliance Group (who are responsible for overseeing HMRC's compliance activities) via the Compliance Reform Forum and the Dispute Resolution sub-group. These groups meet regularly to discuss compliance issues and provide feedback on activities in this area.

We are keen to talk to members to provide feedback on issues and concerns they encounter when dealing with HMRC's compliance activities.

Get involved!

If you'd like to receive invitations to any of the above discussion groups or have any suggestions for future groups, please do get in touch via: atttechnical@att.org.uk

Employment Taxes
Employment Taxes Voice 2024

The CIOT's Employment Taxes Committee has published its annual online edition of Employment Taxes Voice.

Employment Taxes Voice has been published online at: www.taxadvisermagazine.com/employment-taxes-voice

Employment Taxes Voice is a specialist, technical online supplement from the CIOT's Employment Taxes Committee that is published annually around the end of each tax year. It provides an insight into the work of the committee and includes practical advice on a wide range of topical issues relating to employment taxes.

In the 2024 edition, the committee's chair, Colin Ben-Nathan, looks at the work the committee does throughout the year, including participation in various HMRC Forums, responding to consultations and our proactive submissions to HMRC and HM Treasury. All of these are aimed at improving life for employers, employees, practitioners and HMRC alike.

Over the last year, the committee's public submissions included:

- a response to the consultation on tackling non-compliance in the umbrella company market;
- two responses to consultations on off-payroll working: calculation of PAYE liability in cases of non-compliance; and
- several joint responses with other committees covering topics including the Construction Industry Scheme, changes to the data HMRC collects from its customers, the taxation of employee ownership and employee benefit trusts, and a submission to the House of Lords Economic Affairs Finance Bill Sub-Committee regarding the draft Finance Bill 2023-24.

Employment Taxes Voice 2024 features articles from twelve authors, covering the following topics:

- reform of non-domicile status;
- the government's proposals to mandate the payrolling of benefits in kind;
- electric cars, car allowance drivers and double cab pick-ups;
- umbrella companies;
- the Construction Industry Scheme;
- HMRC's national minimum wage investigations;
- non-resident directors' tax and national insurance; and
- termination payments.

Hopefully something for everyone!

Matthew Brown
matthewbrown@ciot.org.uk

Anti-Money Laundering
Your 2024/25 AML Renewal

Handy tips and guidance for completing your submission.

Members currently supervised by CIOT and ATT for anti-money laundering (AML) supervision will receive an email reminder to renew their AML supervision at the beginning of May when the 2024/25 AML renewal application process goes live.

Here are our top tips to help you complete this year's renewal.

1. You can access your renewal either through the link in the email, or by logging into your member account here: https://pilot-portal.tax.org.uk/Secure-area/Members-Area/Compliance.
2. The form works best if accessed through the following browsers:
   - Microsoft Edge v86 or higher
   - Google Chrome v86 or higher

   Members have reported problems when using Firefox and Internet Explorer, so these browsers are best avoided.
3. Your AML renewal form and fee payment **must** be completed by midnight on **31 May 2024.** You will be directed to pay online immediately after you have submitted the form. **If your fee payment is outstanding after 31 May, you will have failed to renew your AML supervision on time** (see point 4 for consequences).
4. It is a **legal obligation** under The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, as amended, to be supervised for AML. If you fail to renew on time, you will be fined or referred to the **Taxation Disciplinary Board** for disciplinary action.
5. The cost of annual supervision for 2024/25 is £340. The AML supervision year covered is from 1 June 2024 to 31 May 2025.
6. There are some new questions included this year. In particular, we now require the registered number for firms listed at Companies House, as well as further details on the types of tax services you provide to your clients. We recommend you have these details to hand before you begin completing the form.
7. From our review of answers in the form, some members appear to be unclear on what Trust or Company Service Provider work (TCSP) constitutes. We recommend that you review the guidance (see below links) on TCSP work **before** you begin completing the form to be able to answer this question correctly.

   See 'HMRC TCSP register Q&A for businesses' on the CIOT website (see tinyurl.com/44897uy6) or ATT website (see tinyurl.com/mwrajd2p) for further information on these services.
8. At Question 34, you are asked: 'Do your AML policies and procedures ensure you undertake all sanctions-related checks necessary as part of your client due diligence procedures to ensure you are allowed to act for a client?' This continues to be important given the ongoing Russian sanctions in place following Russia's invasion of Ukraine. Further information can be found on the CIOT website (see tinyurl.com/mv8bj92d) and the ATT website (see tinyurl.com/5n897px3).
9. For sole practitioners, on questions that relate to 'all staff and principals', you should include yourself as a principal in your response (except for Question 38 which relates to communicating policies and procedures to staff where you can put 'N/A').
10. When putting the number of beneficial owners, officers and managers (BOOMs) on your form at Question 50, please remember to include yourself. See section 3.2.5 of AML Guidance for the Accountancy Sector to assess who is included as a BOOM (see tinyurl.com/55zp6tbv).
11. Relating to Question 51, you do not need to repeat criminality checks for existing BOOMs but you do need to carry out criminality checks for any **new** BOOMs appointed on or after 1 June 2023 (if you have not done this already) and email the results to us separately at: aml@tax.org.uk.
12. There is a function at the end for you to **review your answers** and, if necessary, edit any errors before you submit the form. This is particularly helpful when completing the form on a mobile phone, as experience has shown that it is easy to hit the wrong button and give an erroneous non-compliant answer.

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

'People often don't know that they need to plan ahead for that tax bill. You really need to take stock if you receive one of those calculations.'

LITRG technical officer Kelly Sizer on BBC Radio 4's Money Box, discussing how frozen thresholds have led to more people being taxed on their pensions, 2 March

'It's a really interesting Budget this year because we're in that context of it being an election year. There's pressure growing from MPs to cut taxes but, at the same time, [the Chancellor] has not got as much wiggle room as he'd like to do that.'

ATT technical officer Emma Rawson on BBC Radio Essex ahead of the Budget, 4 March

'Cutting National Insurance rather than income tax means the Chancellor can say that his decisions on personal taxes benefit taxpayers across the UK. Had he chosen to cut income tax in England, this would have resulted in further divergence with Scotland.'

Sean Cockburn, chair of CIOT's Scottish technical committee, in the Herald on tax cuts in the Budget, 6 March

'The Chartered Institute for Taxation has said it is concerned the summer trial could have led to a drop in the number of people filing on time. Gary Ashford, of the CIOT, said the decision to make the summer closure permanent was "misguided". Victoria Todd, of the Low Incomes Tax Reform Group, said: "HMRC's online services, including guidance and the automated digital assistant, are not yet at the standard required to support a forced channel shift to digital."'

The Daily Telegraph was one of many media outlets to carry CIOT reaction to the news of HMRC's helpline closures on 20 March, also including The Times, Financial Times (which also quoted ATT), Guardian, Daily Mail and BBC Radio 2 and 4. A Press Association story quoting CIOT was syndicated across more than 200 regional and local media websites.

'HMRC has reversed a decision to close its self-assessment telephone helpline for half of the year. Gary Ashford, from the CIOT , said that while many people wanted to use HMRC's online services, the system was not yet functioning well enough.'

BBC News Online were among more than 40 media outlets to quote CIOT on the following day's reversal of the announcement, 21 March

Event

CIOT Admission Ceremony: Thursday 14 March 2024

The President and Council of the Institute were delighted to welcome new members admitted in 2023, CTA examination prize winners and members who have reached 50 and 60 years of membership to the March Admission Ceremony.

Two ceremonies were held, one in the afternoon and one in the evening, on Thursday 14 March in the splendid surroundings of Drapers' Hall in the City of London. The events were attended by 194 new Associates, 11 prize winners, four 50 year members, three Fellows, two Past Council Members and one 60-year member, along with their guests.

The Institute holds a double admission ceremony each year for new members and their families. The next will take place on 6 March 2025 for members who have been admitted during 2024.

New Chartered Tax Advisers at the afternoon Admission Ceremony

New Chartered Tax Advisers at the evening Admission Ceremony

The President, Gary Ashford, with some prize winners from the November 2021, May 2022, November 2022, May 2023 and November 2023 sittings for the Chartered Tax Adviser (CTA) examination.
Front row (left to right): Shona Barker (Avery Jones Medal, November 2023), Isobel Kimber (Spofforth Medal, November 2023), Angelique Landry (Ian Walker Medal, November 2022), Gary Ashford (CIOT President), Harris Bone (Ian Walker Medal, November 2021, Victor Durkacz Medal, May 2022 and Wreford Voge Medal, November 2022), Hollie Best (Spofforth Medal and Croner-i Prize, May 2023) and Matthew Poole (Chris Jones Prize, November 2023).
Back row: Cameron Murgatroyd (Wreford Voge Medal, May 2023), Andrew Bywaters (John Tiley Medal, May 2023), Thomas Andrews-Faulkner (Ronald Ison Medal, May 2023), Jack Saunders (Gilbert Burr Medal and Croner-i Prize, November 2023), Paul Moth (Ronald Ison Medal, November 2023), Jordan Kelly (Avery Jones Medal, May 2023) and Owen Apedaile (Institute Medal, May 2023).

Front row (left to right): The 50 and 60 year members, Raymond Brett, William Daniels and Michael Taylor, Gary Ashford (CIOT President), John Pearce and Geoffrey Banwell.
Back row: The new Fellows Dr Stephen Daly, Thomas Dalby and Hannah Hurley with the two Past Council Members John Endacott and Chris Lallemand.

Disciplinary reports

NOTIFICATION

Mr Christopher Bugden

At a hearing on 11 January 2024, the Disciplinary Tribunal of the Taxation Disciplinary Board determined that Mr Christopher Bugden of Hassocks, a member of the Chartered Institute of Taxation, having been convicted on 9 June 2021 of an offence of driving a vehicle when in excess of the alcohol limit, was guilty of the following charges, namely:

a) having engaged in or been party to illegal behaviour, contrary to rule 2.2.2 of the PRPG;
b) having conducted himself in an unbefitting, unlawful or illegal manner, which tends to bring discredit upon himself, contrary to rule 2.6.3 of the PRPG; and
c) having failed to inform the Head of Professional Standards at the CIOT in writing of his conviction within two months of 9 June 2021 in breach of rule 2.14.1 of the PRPG.

The Tribunal made an Order that Mr Bugden be censured and that he pay a fine of £750. It also ordered that he pay costs of £3,127.

NOTIFICATION

Mr Graeme Davis

At a hearing on 11 January 2024, the Disciplinary Tribunal of the Taxation Disciplinary Board determined that Mr Graeme Davis of London N21, a member of the Chartered Institute of Taxation, having been subject to disciplinary action by the Institute of Chartered Accountants of England and Wales, was guilty of the following charges:

a) having conducted himself in an unbefitting, unlawful or illegal manner, which tends to bring discredit upon himself, contrary to rule 2.6.3 of the PRPG; and
b) having failed to inform the Head of Professional Standards at the CIOT in writing of regulatory action having been taken against him by ICAEW within two months of 26 January 2022 in breach of rule 2.14.2 of the PRPG.

The Tribunal made an Order that Mr Davis be censured. It also ordered that he pay costs of £3,443.

The decisions of the Tribunal can be found on the TDB's website at: www.tax-board.org.uk.

A MEMBER'S VIEW

Garima Gupta

Manager, US/UK Personal Tax, Hansen Sweeney Accountants

This month's ATT member spotlight is on Garima Gupta, Manager of US/UK Personal Tax at Hansen Sweeney Accountants.

How did you find out about a career in tax?

When I was exploring which qualification to pursue to change my career, I settled on the ATT to be the best qualification amongst all other accounting qualifications to enter and grow rapidly in the tax domain in the UK. Many people still don't know about ATT, and confuse it with a similarly named very famous accounting qualification but I believe that makes it unique and niche.

Why is the ATT qualification important?

ATT recognises you as a logical person with reasoning ability and someone who will be hands on from day one of working in a tax role. Completing the ATT qualification stands out on your resume, throwing a lot of career opportunities your way. You feel empowered and independent while working on tax roles which every employer will like.

Why did you pursue a career in tax?

I like things that challenge me to harness my potential. Having explored tax qualifications, ATT ticked a number of boxes while simultaneously offering a niche, respectable work profile with a lot of growth potential. Additionally, I am fortunate to be in a role where we work on the intertwined tax laws of two countries, making it ever interesting and challenging with no place for the word 'boring'.

How would you describe yourself in three words?

Disciplined, proactive and ethical.

Who has influenced you in your career so far?

There is no single name to this answer as I have always been influenced by people who are articulate and have strong command in their domain, be it in the workplace, society or family. So far in my tax career, I have been greatly influenced by the advisory skills of one of my seniors, something which I aspire and aim to reach one day.

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

This may be one of the best thoughts you ever have. On a serious note, ATT is power packed, covering what you need to know to prepare for a role in tax in a relatively short span of time. This is achievable if you are totally committed and on top of the course and exams. Tax has wider horizons with no limits to growth and one can choose between multiple domains depending on what best suits your personality.

What are your predictions for tax advisers and the tax industry in the future?

Franklin rightly said, 'In this world nothing can be said to be certain, except death and taxes.' The tax industry is ever growing, and no AI can replace it due to the real-life challenges and variable situations of clients. It is always an exciting and evolving domain.

What advice would you give to your future self?

Keep growing and widening your knowledge. Never stop learning as the day you stop learning, you are obsolete.

Tell me something about yourself that others may not know about you.

Tax is the second innings of my career, having lived one career already. I am a doctorate in Finance and have taught students in university for 14 years.
A teacher is always learning, and this background has helped me to easily transition and foster myself into tax where learning also never ends.

Contact

If you would like to take part in A member's view, please contact: Salema Hafiz at: shafiz@ciot.org.uk

Spotlight: the CIOT's 20,000th member!

Rachael Brown

Tax Manager (Private Client) at Claritas Tax

Rachael Brown has completed both ATT and CTA and we welcomed her as our 20,000th member in February 2024. We took the opportunity to ask her about the CTA qualification and how it felt being our 20,000th CTA member.

Congratulations on completing your CTA qualification, and becoming our 20,000th CIOT member. The CIOT welcome you into our membership!
Thank you, I am delighted to become a Chartered Tax Adviser and honoured to be the 20,000th CIOT member!

What made you decide to study the CTA qualification?
Working in tax, you always hear about the work and activities of the CIOT and there was no question that CTA was the qualification I needed to pursue. I also wanted the intellectual challenge and to increase and consolidate my tax technical knowledge.

What motivated you to want to complete your studies and become a CIOT member?
I wanted to become a member as it is the gold standard for tax advisers. Completing the qualification proves you have mastered taxation to employers, clients and intermediaries and shows that you can undergo a rigorous testing process in order to earn those letters after your name.

How do you think achieving the CTA membership designation will help your career development?
It has and will increase my confidence and awareness of areas of tax outside of my specialism. As I progress in my career, it is key that I hold the CTA badge of honour as evidence of my technical tax expertise.

What benefits do you think your CTA qualification and CIOT membership bring to your employer?
My firm prides itself on offering high technical excellence and in competing with bigger firms in terms of quality. Having highly qualified and well-trained staff is part of that offering and my employer really values the additional kudos that having CTA qualified staff confers. CTA membership offers wider benefits, including branch membership, and local and online webinars, which can be invaluable in building professional networks and maintaining CPD.

What has been the highlight of your career so far?
I chose to take the ATT/CTA route early on in my career and this meant that I was studying for ATT while juggling a three year-old and a full-time job. I passed with a distinction in personal tax and gained a promotion at work, which was definitely a highlight! Completing my CTA feels like the culmination of a journey of hard work advising clients, writing technical articles and, of course, passing exams!

What was your perception of taxation before your CTA training began and how has this changed?
CTA hasn't changed my perception because I have always loved the changing nature of tax and the technical challenge this represents. I do think that CTA often opens people's eyes to just how *much* there is to know about tax.

What advice would you give to someone thinking of doing the CTA qualification?
Go for it. Ignore the noise about it being difficult and the pass rates being low, especially if you already have practical experience. The qualification should take you from having tax knowledge to giving a client succinct, valuable advice and it is the gold standard that employers and clients are looking for.

Tell us something about yourself that others may not know about you?
Outside of my day job I write practical tax articles and news updates for a newsletter aimed at tax professionals, and I'm an author for Bloomsbury Professional. I'm also about to have a baby girl!

Taxation Disciplinary Board

Jane Brothwood appointed Lay Director, Taxation Disciplinary Board

The Taxation Disciplinary Board (TDB) has appointed Jane Brothwood as Lay Director from February 2024.

Jane Brothwood

Jane has a background in complaints management, having been Head of HMRC's Adjudicator's Office until 2020, Chair of the Ombudsman Association Casework Interest Group from 2017 to 2020, and a member of the Waterways Ombudsman Committee from 2020 to 2023.

Jane is a lay member of the Teaching Regulation Agency Teacher Disciplinary Panels. She is also Chair of Governors for a local infant school and nursery and, until June 2024, Foundation Governor for a CofE Primary School Federation.

A qualified Programme Manager, Jane held a range of roles in HMRC and was Lay Public Interest Observer for CIOT Council from 2018 to 2021.

On her appointment, Jane said: 'I am thrilled to be joining TDB, as I am passionate about the value and importance of maintaining professional standards to ensure trusted services for citizens, and recognition for the tax profession, along with opportunities for learning.

'Whilst the vast majority of students and members maintain the highest standards of conduct and professionalism, the Taxation Disciplinary Board exists to ensure there is suitable independent protection and redress for those who may have cause to complain.'

Quality Assurance Manager – Corporate Taxation

Chartered Institute of Taxation.

Part time: Contracted for 21 days per annum (inclusive of holiday)

To be a vital part of the quality control process for the CIOT examinations taking responsibility for a particular set of CIOT examination papers.

You'll be ensuring that the allocated papers and their accompanying answers are fit for purpose and maintain and enhance the reputation of the CTA qualification. Providing effective support to the Chief Examiner.

Key aspects of the role include:

- Attendance at the annual examiners meeting
- In conjunction with the Chief Examiner, make decisions regarding examiner appointments
- Mentoring the examination team, particularly new examiners
- Liaising with the Chief Examiner and updating on the progress of draft questions
- Participating in conference calls organised by the Chief Examiner
- Sitting draft examination papers in the required time and feeding back comments to the examiners
- Undertaking a detailed technical review of the draft questions and answers as well as considering whether the questions are "good" questions
- Moderating a small sample of scripts before marking gets fully underway and then speaking to the examiners
- Managing the response to the tutorial bodies to pass to the Chief Examiner

You will be a CTA with extensive experience of Corporate Taxation and preferably experience of the examinations process. Further details of the skills needed to fulfill the role are included in the job description which you can obtain by contacting our HR Operations Lead, Rakhi Patel at rpatel@ciot.org.uk. If you are interested in applying, please send your CV and Covering letter to Rakhi, by 7 June at 5pm.

Advertise in the next issue of

TAXADVISER

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- Writing and updating content for TolleyLibrary (our comprehensive deep research product)
- Writing and updating content for TolleyGuidance (our practical research product)
- Supporting our international author network for the global mobility content that covers over 60 countries
- Providing currency updates and technical reviews
- Supporting the Marketing, Product and Sales Team

Requirements:

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- Good technical knowledge of employment taxes including some experience of international and expatriate aspects, both advisory and compliance
- Strong English writing skills
- Ability to communicate complex tax concepts in an understandable way

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Our client is the Real Estate Tax team of a Top 10 Accountancy practice. This successful team grew topline by 30% in 2023 and is looking for further team members to help with growth and client management. Their client base is high profile and includes: real estate funds; global institutional investors; REITs; private investors; the public sector including Universities and charities, on investment into UK and pan-European real estate providing tax structuring, tax compliance and tax due diligence advice. This practice works in all real estate sectors including commercial, office, student housing, industrial logistics, retail and hotels, advising on Stamp Taxes, Capital Gains, Inheritance Tax and every other related niche in this market.

This a is a National Team and as such the following vacancies could be based in a range of offices including: **London, Manchester, Liverpool, Birmingham, Leeds, Leicester, Liverpool, Milton Keynes, reading, Cambridge, Edinburgh, Glasgow, Hull, Chelmsford, Gatwick or Cardiff**.

Associate Directors:

Full-time, part-time, flexible working, hybrid (minimum 1 day a week in the office), and job share options all available:

- Be a part of a high performing team with a great deal of tenure within the firm and the sector. On offer opportunities to work with high profile clients and on challenging projects.
- Lead on client projects, providing expert technical advice on tax structuring, transactions and a full range of other topics.
- Work with the biggest names in the market on some of the most interesting projects around – multi-jurisdictional transactions across real estate and infrastructure with current transactions on in the £60m, £250m and £500m ranges and recent deals over £1bn. The growing number of large clients means there are huge opportunities for rapid promotion at all levels.
- Own your own work – a team of self-starters and will give you the opportunity to cut your own path within the role. With the support of the Partner and Directors, you'll lead from the front when it comes to dealing with clients, delivering work and engaging with the Real Estate and broader Tax teams. We'll ensure that you are supported by a team of capable and engaged tax colleagues.
- Take responsibility for developing more junior team members, understanding their career aspirations.

Tax Managers:

Full-time, part-time, flexible working, hybrid (minimum 1 day a week in the office), and job share options all available:

Day to day, this role will include a variety of compliance management and advisory work on clients with property interests.

- Support clients' tax compliance requirements, and related tax advisory work.
- Be a part of a high performing team with a great deal of tenure within the firm and the sector.
- You will get to work on high profile clients and on challenging projects.
- Take responsibility for developing more junior team members, understanding their career aspirations.
- Work with the biggest names in the market on some of the most interesting projects around – multi-jurisdictional transactions across real estate and infrastructure. The growing number of large clients mean opportunities for team members to grow and develop and get promoted.
- Own your own work – this is a team of self-starters and will give you the opportunity to cut your own path within the role. With the support of the Partners and Directors, you'll lead from the front when it comes to dealing with clients, delivering work and engaging with the Real Estate and broader Tax teams.

This firm is also interested in applications from capital allowances specialists, stamp taxes practitioners and individuals with experience of Not for Profit including the public sector.

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

Group Tax Manager Role
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MAG is a leading UK airport group that owns and operates Manchester, London Stansted and East Midlands airports, together with a significant property business. MAG provides airport facilities and travel services. As the largest UK owned airport operator, they serve over 60 million passengers a year and cover 270 destinations across the globe.

The inhouse tax team seeks a qualified ACA or CTA to join in key role in which you will work closely with the Director of Tax & Pensions to ensure that the MAG tax function provides the best possible support through efficient compliance, governance and relevant advice, to the MAG business. This will include:

- Responsibility for the day-to-day tax matters of the business, across all taxes, across all territories, to ensure efficiency and compliance with our legal obligations.
- Responsibility for the preparation of tax computations and returns and tax figures for group reporting purposes, including statutory accounts. You'll forecast effective tax rates and cash tax payments for budgets and medium-term planning.
- You'll review group VAT returns, preparation of PSAs, oversee the preparation of P11Ds. You'll also support the Director of Tax & Pensions in managing the relationship with HMRC as well as identifying, developing and implementing planning strategies for optimisation of the group's UK and International tax position.
- You'll assist in providing support and advice on tax due diligence and related structuring for M&A activity for global growth opportunities.
- You'll also manage relationships with US tax advisors and US FD to ensure compliance with US filings.

What will make you successful in the role?

You'll be a qualified Accountant and/or Tax Professional (ACA and/or CTA) of graduate calibre with experience of managing a corporation tax reporting and compliance cycle within a Group. You'll have a broad UK tax experience and knowledge of UK tax legislation as well as some knowledge of/exposure to US tax, indirect tax and employment taxes. Applications welcome from those with direct tax or indirect tax backgrounds You'll have a willingness and desire to broaden skills and experience across all taxes across a number of territories. You'll also have experience of tax software and have strong Excel analysis skills. You'll be an enthusiastic and flexible team player who can interact and work well with a wide range of individuals.

MAG believe in the importance of diversity & inclusion for all. The business is committed to creating a workforce that is reflective of our society. As such MAG welcomes applications from candidates from all backgrounds and is Disability confident Employer committed to creating an environment where candidates and employees can perform at their optimum.

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

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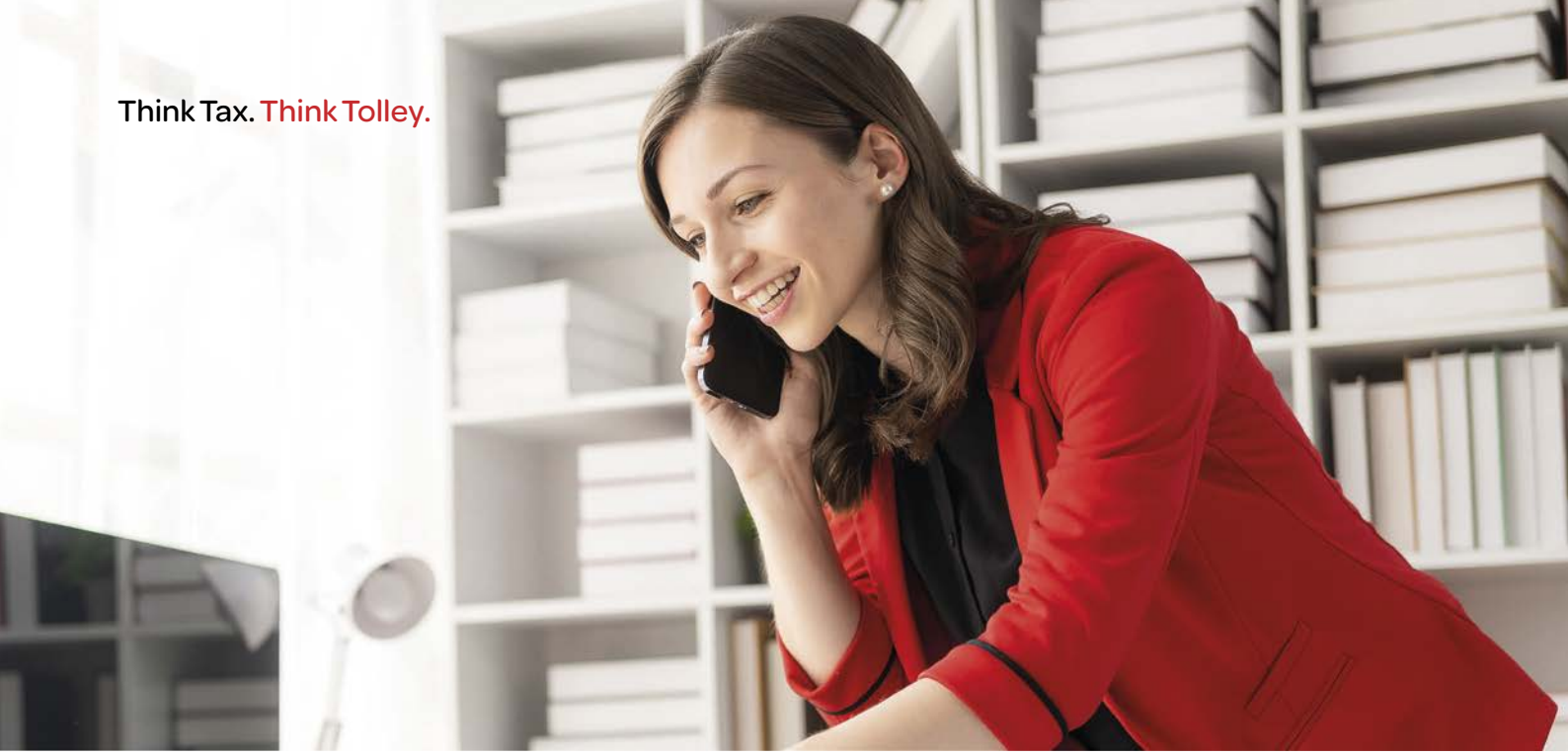

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Pierce | Business Advisory & Accountancy Group

Private Client Senior Tax Manager / Director

Lancashire – Blackburn / Bolton

About the role

A fantastic opportunity to advance your tax career with a leading Lancashire-based accountancy firm. You'll manage key client relationships as their go to adviser, identify opportunities for tax planning work and lead the delivery of end-to-end engagements.

This is a dynamic role in a fast-growing accountancy firm suited to individuals looking to make an impact. The role is highly client-centric, leading the delivery of tax advisory projects from planning through to implementation across matters including:

- shareholder structuring
- inheritance tax and trust planning
- offshore structuring
- residency and domicile advice
- estate and succession planning

Salary

Excellent salary based on experience + varied benefits package.

Who we are

Pierce Group is a leading independent firm of business advisers supporting owner-managed businesses. Based in Blackburn and Bolton, Pierce Group employs over 120 people and works with an exceptional client base of prominent owner-managed businesses, HNWIs and entrepreneurs based in the UK and internationally.

Apply direct to our HR Director Lisa Kennery

l.kennery@pierce.co.uk

Goodwin PLC | Est. 1883

Head of Group Tax and Treasury

Goodwin PLC is an international group which specialises in the design, manufacture and supply of high-quality and high precision mechanically and refractory engineered products and solutions.

The Group subsidiaries manufacture and operate in over ten countries worldwide, exporting to numerous others, enabling the Group to capitalise on local market growth and take new products to market quickly, in both established and emerging markets.

With such diverse global operations, extensive innovation and R&D activity across all facets of the business, the decision has been made to expand the Group Finance Team and bring the tax capability inhouse and augment the role with responsibility for the treasury requirements of the Group – previous treasury experience is NOT a prerequisite for the role. The business is based in Stoke-on-Trent with relocation options available.

As Head of Group Tax and Treasury, you will have the exciting opportunity to shape the role based on your expertise and career development aspirations.

Naturally, strategic tax planning is the key requirement, but effective management of elements such as;

- Transfer pricing;
- Capital Allowances planning;
- Patent box claims;
- R&D tax relief claims;
- Forex hedging and of course, the intrinsic value of a detailed and dynamic cashflow model, will all provide crucial risk mitigation and financial savings.

The successful candidate will be a fully qualified Tax Accountant (ACA, ACCA or CTA) with a background of working in a commercial environment and have;

- UK Corporation Tax experience together with knowledge of tax reporting under UK GAAP and IFRS;
- International tax experience would be useful but not essential;
- Extensive working knowledge of UK tax laws and regulations alongside experience working with tax advisers to oversee other territories' compliance requirements.

Key to success will be an approach that is proactive and business-first, able to cultivate strategies across tax and treasury and present these to the board in an effective and comprehensible way. The Goodwin Group is a highly innovative orientated business and there will be multiple capital projects that will also require review, similarly with regards to further global expansion through the acquisition of either property or business entity.

This is an outstanding opportunity to join a well-established and forward thinking business as a key member of the senior finance leadership team, and embed tax as a key strategic function within the business going forward.

Scan the QR code to apply.

MAGNETIC NORTH

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

TAX DIRECTOR

YORK £attractive

Fantastic opportunity for an ambitious Senior Tax Manager or Director looking for a role with good scope for further progression and development. Reporting to the tax partners you will manage and develop the tax team, oversee the compliance work and be responsible for helping grow the department. You will also largely focus your time on undertaking wide ranging tax advisory work in the OMB space. **REF: A3561**

IN-HOUSE INDIRECT TAXES M'GER

SOUTH MANCHESTER £75k to 85k + bens

Indirect Taxes Manager required to support the management of global indirect tax risks and opportunities across the Group. Working as part of the international tax team you will be key to driving improvements in the indirect tax process. This is fantastic role for someone with strong UK/EU VAT technical knowledge who enjoys working in a global business which is growing quickly. You will work with multiple departments throughout the business to implement best VAT practice, working to improve processes and controls. **REF: R3559**

IN-HOUSE TAX MANAGER

STOCKPORT c£60k to £68k + bonus

Brand new tax role, reporting to the Head of Tax. This role will primarily focus on managing UK tax compliance across the groups expanding portfolio, covering UK corporation tax, VAT and CIS as well as providing support on property and corporate transactions. You will need experience in managing all areas of tax compliance, dealing with tax advisors, lawyers and HMRC as well as core tax accounting and reporting knowledge. Property tax experience would be an advantage. **REF: R3558**

TAX INVESTIGATIONS SM

MANCHESTER / HYBRID £80k +

Our client is a national specialist advisory firm, and its Manchester office is seeking a Tax Investigations Manager or Senior Manager. Clients include UHNWIs with extremely complex portfolios that generate highly complex work including investigations. This includes COP9, COP8, HMRC Nudge letters and all types of contentious tax disputes and tax resolutions work. In return you will not only have flexible remote working opportunities and a highly rewarding package (including a non-discretionary profit-sharing bonus scheme) there will be many opportunities for career advancement and professional growth. **REF: C3543**

CORPORATE TAX AM/M

LIVERPOOL To £55,000 dep on exp

Our client is a leading independent accounting firm based in Liverpool with a fantastic reputation. Working as part of a friendly and supportive team your main responsibilities will include managing a portfolio of corporate tax clients including overseeing the corporate tax compliance work and supporting the Tax Director with a broad range of corporate tax advisory projects. **REF: A3554**

PERSONAL TAX AM

LEEDS/HYBRID £market rate

Opportunity to join an outstanding specialist firm in its brand-new Leeds office. Supported by the senior tax team you will be working with a diverse and genuinely exciting range of clients, on interesting and challenging tax work including both compliance and advisory. This role will suit someone studying towards the CTA, who is confident in their ability and driven to progress their career. An attractive and competitive package is on offer, together with a wide range of benefits including discretionary bonus and attainable medium to long-term career progression prospects. **REF: C3556**

IN HOUSE CORP. TAX ANALYST

MANCHESTER £50k-60k

Great opportunity for a recently qualified corporate tax specialist to join this in-house tax team within a successful and growing business. The role will focus predominantly on UK corporate tax, however you will also support other UK taxes such as VAT and employment tax at busy times (experience in these areas is preferable but not required). The role would suit someone with 1-2 years PQE probably gained at a large accounting firm that is motivated and ready to take on a new and varied challenge in fast paced busy environment. **REF: R3560**

PRIVATE TAX CLIENT MANAGER

LEEDS £negotiable

Top 10 firm in Leeds with a friendly, supportive and high calibre tax team looking to recruit a private client tax manager in a role that will focus on supporting senior team members on private client advisory work including advising on IHT, CGT, residency and trusts. The role would suit someone from a smaller practice looking to take their career to the next level or perhaps someone from a Big 4 firm looking to step up into a managerial role. **REF: C3557**

longman tax recruitment

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