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Excellence in Taxation

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TAXAdviser

Environmental taxation: the race towards net zero

Jason Collins and *Lauren Redhead* assess the UK's commitment to a 100% net reduction in greenhouse emissions by 2050, p14

PLUS Main residence relief – Tax liabilities – Money laundering – Child benefit – Mental health

Happy Holidays

To our clients & candidates

Giving back this Christmas

Our ethos at AVTR is to support communities and help those less fortunate than ourselves. This year, perhaps more than ever, this is especially important and we are proudly supporting these charitable organisations:

Crisis

Every Christmas, Andrew volunteers with Crisis to support the running of their Christmas centres. These centres introduce people to Crisis' year-round services, and for many are an important first step out of homelessness at what can be a particularly difficult time of year for someone cut off from family and a home.

www.crisis.org.uk

We Rise

We Rise is an award-winning community business with a mission to empower young people to create successful futures. We are excited to be supporting We Rise in 2021 on their mentoring and work experience programmes.

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President's page

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Peter Rayney

My first, my last, my everything

I am very humbled and honoured to be the 56th President of the Chartered Institute of Taxation. I hope many of you will have enjoyed the *virtual* Presidential handover ceremony – a CIOT first – that took place on 17 November. Normally, this would have taken place in May as part of our AGM at One Great George Street, Westminster. However, due to the ubiquitous Covid-19 restrictions, we quickly reshaped the 'handover' around an online training event. This has raised much needed funds for the Bridge The Gap campaign for the tax charities, which particularly need our help and support in these difficult times.

Tax aficionados love transitional rules. To deal with the Covid-19 disruption, Glyn and I agreed to serve Presidential terms of 18 months each – to bring us back to the normal May AGM 'retirement' date in May 2022 – a bit like that transitional year in 1996/97 when we moved from a preceding year basis of assessment for business profits to a current year one (I am showing my tax age now!)

My first instinct is to pay my respects and huge thanks to our outgoing President, Glyn Fullelove. Glyn has been formidable, indefatigable and a fantastic role model for me to follow. When I first learned about my prospective Presidential role several years ago, my friend and former CIOT president, the late Chris Jones told me: 'There will always be at least one curve ball you will have to deal with!' Well, I doubt that Glyn could have foreseen the large curve ball that fell on his lap – Covid-19!

Under Glyn's leadership, our Presidential Team, our Council, CEO Helen Whiteman with her determined executive team and staff, and our large army of wonderful volunteers have risen to the enormous challenges wrought by Covid-19. Faced with this seismic shock, we acted decisively and creatively to quickly reconfigure our mission plans. And I believe, to use the famous words of Gene Kranz, the renowned (Apollo 13) Flight Controller, 'This will be our finest hour!'

I know there will be further difficult challenges ahead but we will continue to build on the solid Presidential legacies left by Glyn and his immediate predecessor Ray McCann. I am very fortunate to have an excellent new Presidential Team working with me – Susan Ball (Deputy President), Gary Ashford (Vice President) and Glyn (as immediate Past-President). One of the beneficial effects of Covid-19 is being able to have frequent online meetings and this has generated a closer working relationship with Helen and the rest of the CIOT Executive team – John Cullinane, Karl Cerski and Roz Baxter. This has made us far more agile and decisive in taking strategic decisions. Special mention must also go to our friends at the ATT – our sister body – especially Jeremy Coker and Jane Ashton who have also worked unstintingly with us.

My biggest thanks goes to all you members for your support. We have a wonderful and revered professional body of which we can all be justly proud. Together we have built a membership organisation and charity that has excellent ethical and technical standards. We are highly regarded by many stakeholders, including HMRC and HM Treasury, because we always choose to do the right things. I will return to the wonderful work done by our Low Incomes Tax Reform Group (LITRG) in a future President's Welcome page – but we must acknowledge their immense contribution to the public during these difficult months.

Unlike US presidents, I am not required to undertake any solemn oath. However, I would like to assure you of one thing. I have always loved the CIOT and consider myself lucky to have worked for it in a number of roles, including being a branch chair, an examiner, chair of Education Committee and (currently) chair of the Conferences Working Party. During my period as CIOT President, I promise that the CIOT will be 'MY FIRST, MY LAST, MY EVERYTHING' (with apologies to Barry White – please remember to put that one on your playlist!).

Finally, whatever our Christmas pans out to be this year, I wish you and your families a happy and joyful Christmas with unimpaired seasonal goodwill.

Take care and be safe.

Peter Rayney
President, CIOT
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"I know there will be further difficult challenges ahead but we will continue to build on the solid Presidential legacies left by Glyn Fullelove and Ray McCann.

ATT welcome

page@att.org.uk
Jeremy Coker

2020: ’twere well it were done quickly

It is the season of goodwill to all and never has the desire to send good wishes to each other seemed more important or relevant.

I find myself in the privileged position of having to write the Welcome page for the December edition of *Tax Adviser* for the second time. The absurdity of this is manifest when you think that, when I wrote in February 2020, it was my half term report, or so we thought. Since then, the world as we knew it has changed and I look back on the year that was with a mixture of emotions and feelings I could never have imagined.

The anticipation of loads of travel and events promised by my diary at the time did not quite materialise. While I was not able to visit as many branches as I planned to, I am able to look back and celebrate the versatility and adaptability of members of the profession.

As the country went into lockdown in March, the speed with which HMRC put together the CJRS and SEISS schemes is commendable. There followed government support initiatives which meant that our members were kept busy trying to help clients adapt their businesses and obtain whatever available support there was to keep their heads above water. Never have I known our services to be in such demand. Members should be proud of how they performed during these times, while simultaneously dealing with the challenges brought by the pandemic themselves.

I am so proud of how our members of staff and volunteers have adapted. Very early on in this pandemic, the Association’s office was shut and most employees supported to work from home. Commendations need to go to our Chief Executive Jane Ashton, and Helen Whiteman, Chief Executive of the CIOT, for their quick thinking and firm decision making at the time.

Our Technical team has been kept very busy explaining the rules and regulations behind the various Covid-19 support schemes. Our website (www.att.org.uk/covid-19-latest-information-guidance-resources) is a great source of information and our Technical officers Emma Rawson, Helen Thornley and Will Silsby have been absolute heroes in helping to disseminate this information. They also helped to collate our responses to various consultations, one of which was on Raising standards in the tax advice market. It is our view that tax professionals should be members of a body that subscribes to PCRT, but we appreciate that this could take a while, and our response proposed a way forward.

We are pleased that the government listened to our calls for an extension to the AIA. We have once again called for an ability to opt out when a change straddles an accounting period. I remember writing about this in our December 2018 edition (www.taxadvisermagazine.com/article/att-welcome-december-2018) and it is a justification of the need to continue to make our voices heard.

We are first and foremost an educational charity and, while we have all found skills that we did not know we had at the beginning of the year, never have we had to be more innovative. None more so than our education team who had their plans to offer our examinations online ‘accelerated’. One paper was sat in June and, as I write, the November examinations have just been held successfully.

Those who have attended any of our previous admission ceremonies in the House of Lords will agree that it is a shame that we have been unable to hold any this year. I am aware that plans are afoot to hold one this month, ‘virtually’ of course. I look forward to meeting new members on that day – and face to face soon.

I am glad that the Equality Diversity and Inclusion Committee, a joint effort with CIOT, is now fully operational. You may have noticed a series of articles in this magazine over the year because inclusion remains a top priority. We are always looking for new members on our committees and Council. Please get in touch if you think this is something that you would like to do. We can only get better when we have more inclusive ideas feeding into our decision making.

Virtual meetings are now the norm and we had our first online AGM this year. I would like to thank members of Council for the extended mandate and trust reposed in me.

On a personal basis, one of the most significant things arising from the extension of my tenure as President is that I get to work with two CIOT Presidents. My sincere thanks go to Glyn Fullelove who stepped down as CIOT President in November, and who has been a great friend and support to the Association. I look forward to working with Peter Rayney, the new CIOT President, until our next AGM when I hand over to Richard Todd.

What does the future hold? After the year that we have had, I dare not make any predictions. Suffice to say that I expect that the three B’s of Build Back Better may translate to Brexit, Boris and Biden.

Have a wonderful Christmas everyone and I wish each and every one of you a super and better New Year.

Stay safe.

Jeremy

Jeremy Coker
ATT President
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“Never have I known our services to be in such demand. Members should be proud of how they performed during these times.

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Membership survey: Your views matter

CIOT and ATT are conducting a membership survey on *Tax Adviser* and our weekly technical news service. Please share your views with us!

MEMBERSHIP SURVEY
https://tinyurl.com/y6zkzh9x

Tax Adviser magazine and our weekly technical news service emails (CIOT News Service for CTAs and News service for ATTs), are two of the key benefits of membership.

Tax Adviser is produced on a monthly basis, and sent to members each month as a physical magazine. Most of the magazine's content is also reproduced on taxadvisermagazine.com, with content dating back over five years, along with job vacancies and ad hoc online only content.

The weekly technical news service is sent by email every Friday. It contains technical news from the CIOT and ATT, as well as feature articles and tax updates by specialism.

We are keen to ensure that our provision of technical material remains relevant and continues to represent an important membership benefit. With this in mind, we are undertaking two key steps:

1. Our survey

We have recently launched a survey in order to obtain your feedback on *Tax Adviser* and our weekly technical news service. The survey seeks feedback on the nature and quality of content of both products, as well as the medium and frequency of their delivery.

Please do let us have your views on this by completing the survey, which can be found at: **https://tinyurl.com/y6zkzh9x**

We recognise this is a busy time for our members, but it should only take around six minutes to complete. The results of the survey will inform the future provision of technical material, so don't miss the opportunity to have your say.

2. Putting the provision of technical material out to tender

At the moment, different suppliers produce *Tax Adviser* and the weekly technical news service. It remains important for us not only to ensure that we provide you with the right membership benefits, but also that we do this in a cost-effective manner.

In early 2021, we will be putting out to tender the future provision of technical material for members. The results of the survey will be shared with potential bidders, and so will directly influence what will be supplied and at what cost.

Any change in provider, and what is provided, will not take place until later in 2021. However, as you will appreciate we need to allow adequate time to carry out the survey and evaluate the results, undertake an open and transparent tender process, and allow time for testing and approval of the final products.

Again, please do complete the survey at: **https://tinyurl.com/y6zkzh9x** att

Chartered Institute of Taxation

2020 has certainly been a challenging year!

However, there's lots to be proud about.

We'd like to thank our

681 volunteers for contributing **over 20,000 hours** of their time.

students and **employers** for adjusting to **online exams.**

new & **current members** for their continued support.

From everyone at ATT & CIOT

	Jane Ashton		Helen Whiteman
ATT President	*ATT Chief Executive*	*CIOT President*	*CIOT Chief Executive*

Capital gains tax

Bill Dodwell considers the Office of Tax Simplification's first report on its capital gains tax review

The Office of Tax Simplification published its first report on its capital gains tax review, 'Simplifying by design' on 11 November (see bit.ly/38NceqP). The report arrived four months after the chancellor's request to 'identify opportunities relating to administrative and technical issues, as well as areas where the present rules can distort behaviour or do not meet their policy intent'. This report looks at policy design and principles and, in particular, at distortions in the system of taxing capital gains.

The review has attracted very strong engagement from advisers, businesses, academics and the general public, including over 1,100 responses to an online survey and 96 formal written responses to a call for evidence, supported by an extensive range of meetings with interested parties with a wide variety of perspectives.

Who pays capital gains tax – and on what sort of assets?

In the 2017/18 tax year, £8.3 billion of capital gains tax was paid, and £55.4 billion of net gains (after deduction of losses) were reported by a total of 265,000 individual UK taxpayers. Figures for 2017/18 are used throughout the report as that is the most recent year with full data. Unsurprisingly, 71% of taxpayers were aged between 45 and 74 and paid 78% of the total tax. Less than 3% of the total liability was paid by people who are under 35.

Over the 11 year period from 2007/08 to 2017/18, a total of 1.5 million different individual taxpayers reported taxable gains (after deductions for the annual exempt amount). 72% of those taxpayers (1.08 million) reported gains only once in the decade and 15% twice, with only 3,750 people (0.25%) doing so in ten or more years.

However, the bulk of gains relate to a relatively small number of taxpayers reporting very large gains. £20.1 billion in net gains (34% of the total) related to gains of over £5 million reported by just 2,000 taxpayers.

Work by Warwick University and the LSE using HMRC data showed there were 54,000 taxpayers with gains of £100,000 or more in 2015/16, accounting for 88% of total gains (see bit.ly/2UvZSuL). Their analysis shows what types of asset gave rise to gains (using the analysis data on self-assessment tax returns).

Overall, over 20% of gains arose on residential property – a mixture of second homes, buy-to-let property and main residences not wholly exempt. About 15% of gains related to listed shares, which left 65% on unlisted shares (typically owner-managed businesses, together with some unlisted investments) and other assets (commercial and agricultural property, and carried interest, as well as valuable chattels). At the top of the distribution, a much greater percentage arose from unlisted shares, including those qualifying for entrepreneurs' relief and carried interest. Residential property and listed shares were much more significant for the majority of taxpayers.

The review and its recommendations

It is worth starting with this initial comment from the report, as some have argued that the report strays too far into policy: 'It is for government to determine the principles and role of the tax when framing policy and determining tax rates. In doing this, the government should carefully consider the economic implications, the implications for people with different levels of income or gains, the tax yield and the compliance costs for taxpayers and HMRC.'

This is not a disclaimer, but it does set out the scope of the OTS's work, as well as the broader range of issues relevant to a government's policy choices.

The report looks at distortions in the tax system in relation to capital gains. Distortions – moving away from neutrality – risk incentivising inefficient economic activity, or as the Mirrlees report puts it, encouraging people into 'socially wasteful effort to reducing their tax payments by changing the form or substance of their activities'.

However, interventions – incentives in the tax system – can be justified if market failure could lead to economic damage or underperformance.

The OTS's consultation revealed a range of areas in which capital gains tax is counter-intuitive, creating odd incentives or opportunities for tax avoidance. It is an illustration of the broad range of responses that some respondents argued that capital gains tax is a barrier to economic growth, whilst others saw the current system as a barrier to a more equitable society. In particular, there was a range of opinion on whether there needs to be a tax incentive to encourage risk taking or entrepreneurship and whether such an incentive can be sufficiently targeted.

Rates of tax

The current rates of capital gains tax are lower than standard income tax rates. This disparity is one of the main sources of complexity.

Some argue that this is justified as rewarding risk taking and promoting enterprise, but when governments diverge from neutrality this should be done with a full understanding of the economic social and fiscal costs and benefits.

The rate disparity can distort business and family decision making and create an incentive for taxpayers to arrange their affairs in ways that effectively recharacterise income as capital gains. As already noted, most gains are concentrated among relatively few taxpayers, who also tend to have more flexibility about when they dispose of their assets. This can mean that they pay proportionately less tax on their overall income and gains than others.

A greater alignment of rates would reduce the need for complex rules to police the boundary between income and gains, as the way income is classified would not affect the tax position.

There are a number of important points to consider should a government move to align tax rates on income and capital gains. Firstly, as almost all respondents pointed out, capital gains typically accrue over time and thus include inflationary gains. Indexation was abolished by Gordon Brown in 1998, when tapering was introduced. A further point is that common income tax and capital gains tax rates could lead to some wealthier people moving investment assets into companies, to benefit from the lower 19% corporation tax rates. We have already seen this with the reduction of interest relief on loans to acquire buy-to-let residential property; many investors have transferred their properties and related loans into companies, which are unaffected by the restrictions. Finally, unifying rates should prompt examination of current loss utilisation restrictions.

It is also worth mentioning the lock-in effect. This essentially means that higher tax rates may discourage investors from selling lower-performing assets to acquire higher-performing assets (or even at all).

Boundary issues

The issues arising from the disparity in rates could alternatively be addressed at the boundary between income and gains. The two key areas considered are the use of share-based remuneration, and the accumulation of retained earnings in smaller owner-managed companies.

The issue on share-based remuneration is that some employees can enjoy the benefits of acquiring shares in their employer company on terms more favourable than those offered to investors. Some shares can be designed with minimal value when acquired but with the hope value that future profits will accrue to those shares. In other cases, the employee may contribute money to buy the shares, but still receive more favourable terms than investors. The challenge in considering this area is how to define value attributable to the employment, as opposed to the capital invested. Those defending lower capital gains tax rates on employee gains from shares point to the motivational benefit, perhaps leading to greater productivity.

PROFILE

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

However, a relatively small part of the UK workforce has access to lower tax rates on gains from employment. There are perhaps policy reasons for all-employee schemes, or for the enterprise management incentive, which supports employees in start-ups; the policy reasons for wider benefits is not as clear.

In relation to the accumulation of retained earnings within smaller owner-managed companies, the issue is that business owners are taxed at lower rates if they retain profits arising from their personal labour in their business and realise the benefit on sale or on liquidation, than if they withdraw them as dividends.

One approach discussed in the report would be to tax some or all of the retained earnings remaining in the business on liquidation or sale at dividend rates (in effect shifting the boundary between capital gains tax and income tax). This could make the treatment of cash taken out of the business during and at the end of its life more neutral. The report acknowledges the design issue of specifying which types of company should be subject to this recharacterisation, suggesting that 'small' close companies are the most likely category.

The annual exempt amount

The question posed by the annual exempt amount is whether it is set at the current £12,300 level as an administrative easement, or whether there is a wider policy reason. Using HMRC data, the OTS suggests that the administrative de minimis level is in the £2,000 to £4,000 range. Cutting the amount to this level would bring in more capital gains taxpayers – although there are about 50,000 individuals who manage every year to realise gains within £1,000 of the threshold, which rather suggests they are using the exempt amount to rebase listed share portfolios. Should the government be minded to reduce the amount, the OTS recommends that it also considers introducing a stand-alone capital gains tax return (preferably as part of the personal tax account); re-examines the chattels exemption; and gives consideration to requiring wealth managers and others to provide information directly to HMRC for incorporation into the personal tax account, for pre-populating tax returns.

Transfers on death and gift relief

The OTS recommended in its inheritance tax report that the government should consider removing the market value step-up for capital gains, where assets pass on death and benefit from one of the three major inheritance tax exemptions (business property relief, agricultural property relief or the spouse exemption). This would not have led to additional tax where the beneficiary retained the asset, but would give rise to capital gains tax on a subsequent disposal.

In this report, the OTS recommends going further and removing entirely the market value step-up, apart from in relation to the main residence. At the same time, consideration should be given to reintroducing a broader lifetime gift relief. The aim of these linked changes would be to introduce neutrality between lifetime gifts and those on death. In this way, the behavioural distortion would be removed and assets could be given at the best time for the business or family.

The report acknowledges that a range of issues need to be examined as part of this policy change. Rebasing asset base costs to a more recent date – the report suggests 2000 – would help with administration and give some relief for inflation since 1982. Anti-fragmentation rules might also limit the use of multiple allowances and lower rate bands within a family.

Changing reliefs

Finally, the report proposed the abolition of investors' relief. Consultation with a wide range of stakeholders could not identify any significant use of the relief and it appears poorly targeted. The much disputed business asset disposal relief (formerly entrepreneurs' relief) remains complicated and an ineffective incentive for business start-ups. The OTS recommends that the government considers refocusing it as a retirement relief, taking account of broader pension policy.

The chancellor noted that the review was part of the continuing work of the OTS in examining the UK's major taxes and he would take time to consider the report. The work of the OTS now moves to a second report, due in Spring 2021, covering detailed aspects of the tax, but equally interesting and full of a wide range of ideas!

Influence and inspire

Are you thinking of becoming a speaker?

Last month we welcomed 22 members and students to this CIOT/ATT event chaired by Giles Mooney. I was joined on the panel by Reshma Johar and Sofia Thomas who answered questions and shared interesting tips and anecdotes about the support available to help potential speakers into the role.

We had a couple of chuckles and there was a good flow of tips and anecdotes on how life as a speaker begins. I love meeting new people and I'm excited to be working with a raft of potential new speakers from across the UK who have a diverse range of specialisms, backgrounds and interests.

If you missed this event and would like to learn about how the CIOT/ATT can support you in your journey to become a speaker, please do not worry, we are intending to hold more sessions throughout 2021. If you cannot wait until our next event, do get in touch straight away by emailing me at **ebarklamb@tax.org.uk**

I look forward to hearing from you.

Emma Barklamb, Head of Member Services

Feedback was very positive...

'It was very encouraging to learn from the experiences of Giles, Reshma and Sofia on their personal journey in navigating tax lecturing. Also very positive to learn from Emma how CIOT/ATT is putting together a structure to allow budding lecturers to flourish using the CIOT/ATT platform, which I think is a fantastic opportunity for members.'

'I found it insightful and engaging, in particular the different paths taken by each speaker and the honesty in their answers, including touching on some of the negativity they have received. They also provided encouragement and shared stories of support from the tax community.'

'This session was a reminder to be the change you want to see in the (tax) world. This session has disrupted the status quo, and I applaud the CIOT/ATT in taking this step. I encourage anyone who wishes to find out more to reach out to the CIOT/ATT.'

Trading in goods post-Brexit

© Getty images/iStockphoto

In his second article, *Neil Warren* considers practical VAT issues that will apply from 1 January 2021 when the UK's transitional deal ends with the EU, focusing on goods involving overseas sellers and online marketplaces

KEY POINTS

- **What is the issue?**
Major VAT changes will take place on 1 January 2021 when the UK's transitional deal ends with the EU. The article considers new VAT procedures that will apply to goods imported from abroad that involve overseas sellers and online marketplaces.
- **What does it mean for me?**
The procedures will differ according to whether the value of a shipment coming into GB exceeds £135. The treatment will also depend on whether the goods being sold by an overseas seller are in GB at the time of the order and also whether the GB buyer is VAT registered or not.
- **What can I take away?**
The article focuses on issues for GB trading in goods. Businesses based in Northern Ireland must consider the Northern Ireland Protocol and any GB businesses that trade in goods with Northern Ireland should be aware of the new Trader Support Service, a free resource to help businesses deal with the changes taking place from 1 January 2021.

What will be the significance of a shipment of goods that arrives in GB from 1 January 2021 that has a value of less than £135? The answer is that the goods will be subject to 'sales VAT' from this date, rather than 'import VAT', if they are being imported by an overseas seller. This is a major change in procedures, and there are some tricky twists and turns to consider. The VAT issues will also affect the buyers of the goods, as well as online marketplaces from which overseas sellers advertise their goods in many cases.

As explained in my previous article, the outcome of the post-Brexit trading in goods is that the same rules will apply for EU and non-EU imports and exports. Therefore, the examples I use in this article for an EU country such as France will extend to non-EU countries as well, e.g. China, and vice versa.

What does this mean in practice?

A private client I act for orders her print cartridges online and was surprised to be recently charged French VAT by a supplier. The answer to her query is easy: the goods came from France and she is not registered for UK VAT, so the sale could not be zero-rated as an intra-EU sale of goods between VAT registered businesses. Also, the French supplier has obviously not exceeded the UK's distance selling threshold of £70,000 of sales to non-VAT registered customers in the UK on a calendar year basis. If the supplier had exceeded this limit, it would need to register for UK VAT and charge 20% UK VAT on future sales.

So, to cut to the chase, what will be different for this specific deal from 1 January 2021? The answer is that the French supplier will need to register for UK VAT. It will then charge UK VAT on all shipments into GB which are less than £135 in value; i.e. the final selling price charged to the GB customer.

However, in the next section of the article, we look at what happens if the GB buyer is registered for VAT. The French supplier must include a sales invoice with the shipment, so that any customs checks will confirm that VAT has been charged. There will be no customs duty to pay because £135 is the threshold for relief from customs duty but a customs declaration for the goods must still be made.

A VAT registered customer

Let's move the goalposts and consider the impact of the same deal if my client was registered for UK VAT. The outcome is that the French supplier will no longer charge 20% VAT on the shipment from 1 January if it is less than £135. Assuming that my client has provided her UK VAT number at the time of the order, she will account for the VAT on her own return by doing a reverse charge calculation. See ***Accountant buying print cartridges after 31 December 2020.***

The impact of this change is that there will be more reverse charging carried out by GB businesses. Is there a problem if the buyer forgets to do this? There is no net VAT payable to HMRC with the reverse charge entries, as long as the buyer does not have any input tax restriction – for example, for exempt or non-business use.

Involvement of online marketplaces

If the French supplier in the previous example holds a stock of goods in GB, perhaps in a warehouse, then it will already be VAT registered here because it is making taxable supplies. This outcome has always applied – and don't forget that an overseas business is not entitled to the £85,000 registration threshold that applies in the UK. A zero threshold applies to non-UK entities.

Let's move the story onward: the French supplier promotes the sale of its goods on an online marketplace. The first outcome is that the online marketplace must be registered for UK VAT, irrespective of where it belongs. In most cases, it will be obvious if a business is trading as an online marketplace. But to clarify any doubt, HMRC's definition of an online marketplace is:

> 'Any electronic interface (website or mobile application) such as a marketplace, platform, portal or similar that facilitates the sale of goods to customers.'

The VAT changes that will take effect for online marketplaces on 1 January 2021 will only apply to those goods that are being sold by overseas sellers. It is a case of business as usual for the online marketplace's own goods sold in the UK or for those goods owned by UK based sellers.

For the French supplier, the VAT treatment now depends on a number of different scenarios. This is where things get a bit complicated.

Goods are stored in GB

Imagine the following situation. It is January 2021 and a GB customer orders goods via an online marketplace that are stored in GB and are owned by an overseas business. The VAT outcome will depend on whether or not the GB customer is VAT registered:

- **Customer is VAT registered:** The sale is being made by the overseas seller and not the online marketplace. The overseas seller will have a UK VAT number because it is making UK sales. So, the overseas seller invoices the VAT registered customer and charges the rate of VAT that applies for the goods in question; e.g. standard rated for adult clothing and zero-rated for children's clothes.
- **Customer is not VAT registered:** The sale is deemed to have been made by the online marketplace; i.e. the online marketplace will invoice the customer and charge the correct rate of VAT. The online marketplace must be registered for VAT. The overseas seller will raise a zero-rated invoice to the online marketplace for the goods and record this sale in Box 6 of its UK VAT return. Zero-rating applies to all goods sold by the overseas seller to the online marketplace.

PROFILE

Name Neil Warren
Position Independent VAT consultant
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Profile Neil Warren is an independent VAT author and consultant, and is a past winner of the Taxation Awards Tax Writer of the Year. Neil worked at HMRC for 13 years until 1997.

Goods are outside GB

If the shipment value is less than £135, like my print cartridge, the GB sale is deemed to have been made by the online marketplace; i.e. it will charge 20% VAT to the buyer.

However, if the buyer is VAT registered, it is back to a reverse charge declaration by the buyer again. The invoice from the online marketplace will confirm that the customer must apply the reverse charge. This means that 'sales tax' rather than 'import tax' is being declared on the supply.

If the shipment exceeds £135, import VAT is charged rather than sales tax, with payment being due when the goods enter GB, along with any duty, subject to postponed accounting. See ***Online sale of table by Italian business.***

Final tips

As in my article in the November issue of *Tax Adviser*, I have again focused on issues involving goods rather than services. This is because most of the VAT changes and challenges from January 2021 affect goods rather than services. Here are three tips about VAT and goods:

- If your clients have any involvement with the movement of goods between GB and Northern Ireland, be aware of the new Trader Support Service, which is free to use and is there to help. It guides businesses through the challenges of the Northern Ireland Protocol. See www.gov.uk/guidance/trader-support-service.
- Don't forget that all exports of goods from GB will be zero-rated from 1 January but subject to duty and import VAT when they arrive in another EU or non-EU country.
- Always be clear about the intended outcome of the VAT changes involving overseas sellers. The new procedures are intended to ensure a level playing field for all traders; i.e. ending the situation where overseas sellers often shipped in VAT free goods, to the detriment of domestic businesses.

ACCOUNTANT BUYING PRINT CARTRIDGES AFTER 31 DECEMBER 2020

ABC Accountants is VAT registered and has ordered two print cartridges online for £100, each from French Cartridges Ltd. The goods will be delivered in separate shipments from the French supplier; i.e. each shipment value is less than £135.

Assuming that ABC Accountants has supplied its VAT number at the time of the order, each delivery will be for £100 and not subject to VAT. ABC Accountants will account for the VAT on its own return by doing a reverse charge calculation; i.e. paying £20 VAT in Box 1 of its return and claiming the same amount as input tax in Box 4. The net value of the expense will be recorded in Box 7, the inputs box; i.e. £100 in each case.

ONLINE SALE OF TABLE BY ITALIAN BUSINESS

Andre is based in Italy and imports a table worth £500 into GB in January 2021, which will be sold through an online marketplace. Andre is VAT registered in the UK and Italy. The table is stored at a warehouse until a customer is found. No VAT is payable at import (postponed accounting) but the goods are declared for customs purposes. The customs declaration can be deferred until 1 July 2021 to help the flow of goods into the country. Andre will account for postponed accounting VAT of £100 in Box 1 of his UK VAT return that includes January 2021 and claim input tax of the same amount in Box 4.

The table is sold for a higher price than expected – a B2C sale for £800 plus VAT. The online marketplace charges £160 of VAT to the buyer and issues a VAT invoice, accounting for output tax on its next VAT return. Andre invoices the online marketplace for a zero-rated sale of £800 from his UK VAT registration and records this amount in Box 6 of his next return.

The online marketplace charges a platform fee of £80 to Andre based in Italy, based on 10% of the selling price. Andre will account for the reverse charge on his Italian VAT return on the payment of £80, based on the Italian rate of VAT.

Note: Andre must be VAT registered in the UK because of the nil registration threshold that applies for a non-UK business. He needs a VAT number as soon as he intends to start trading here.


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The race towards net zero

With the UK committed to a 100% net reduction in greenhouse emissions by 2050, *Jason Collins* and *Lauren Redhead* consider the future of environmental taxation

KEY POINTS

- **What is the issue?**
The UK is legally obligated to achieve a 100% net reduction in its carbon account by 2050. To do this, it needs to reduce greenhouse gas emissions, or increase the capture of greenhouse gases, by an average of 15.5 million tonnes a year over the next 30 years.
- **What does it mean for me?**
It means very little right now from a tax perspective. The UK is considering a carbon tax as a fallback on leaving the EU Emissions Trading Scheme. But can the tax system be better deployed to help meet the 2050 target?
- **What can I take away?**
This is a fast moving area, with tackling Climate Change being at the top of the agenda for government and many businesses. The CIOT has recently established a Climate Change Working Group dedicated to pushing the agenda on the role of taxation in reducing emissions.

Wherever you might sit in the spectrum of views on climate change, the UK has legally committed itself to reaching a 100% reduction in net greenhouse gas emissions by 2050, using 1990 as the baseline. This article looks at the role the tax system may have to play in meeting that target. The government has committed to a 'clean, green recovery' from the coronavirus pandemic in terms of government stimulus. For many, it is clear that taxes are also going to have to rise to pay for the sums expended on supporting people during the pandemic. Should the government ensure that such rises have a twin aim of meeting the 2050 target?

Net zero by 2050

The Climate Change Act 2008 was passed with overwhelming support from politicians, environmental groups and businesses. The Act required the UK to reduce its net 'carbon account' by 80% by 2050 from 1990 levels. It also established an independent advisory body, the Committee on Climate Change, which is responsible for implementing the appropriate framework to ensure that the target is met.

Against the backdrop of the Extinction Rebellion protests and other climate strikes, in 2019 the Act was amended to increase the reduction target to 100%, making the UK the first major economy to commit to a 'net zero' target by 2050, measured relative to a 1990 baseline. The UK is also seeking to take a leading position, leveraging its turn to host the next United Nations Climate Change Conference (COP26), postponed to November 2021, which is predicted to be the most important climate summit since the landmark Paris Agreement was agreed at COP21 in 2015.

To achieve a 100% reduction in its carbon account, the UK needs to reduce greenhouse gas emissions, or increase the capture of greenhouse gases, to the tune of on average 15.5 million tonnes per annum over the next 30 years. So although 2050 sounds like an unimaginably long way away, the size of the annual steps we need to take is very real.

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Tackling current emissions

According to the 'Commission on Climate Change – reducing UK emissions: progress report to Parliament' (June 2020), emissions by sector last year in the UK were split as follows:

Sector	%
Transport	24
Industry	21
Buildings	18
Energy supply	12
Agriculture (Land)	9 (2)*
Aviation	8
Shipping	3
Waste	4
Fluorinated gases (F-gases)	3

** The land sector within agriculture naturally captured 2% of the UK's 2019 GHG emissions, making the sector's net contribution 7%.*

Emissions will only reduce if we choose, as a society and economy, to do fewer things that involve emissions, or if technology and innovation ('cleantech') finds new ways of doing the same things but at a lower carbon cost. In both cases, the government – and tax policy – have a large part to play in promoting a reduction and alternatives strategy.

The largest emitting sector in the UK at present is transport, being responsible for around a quarter of total greenhouse gas emissions (road transport is responsible for 91% of domestic transport emissions). Transport contributes heavily to greenhouse gas emissions as many vehicles still run on petrol and diesel. The main challenges for this sector are to transition from fossil fuels to low-carbon energy sources, to support electric vehicle infrastructure and to reduce transport demand.

Another heavy emission sector is industry, which includes manufacturing and construction. Fossil fuels provided around 69% of industrial energy use in 2018. There is a drive to transition to low-carbon energy production, such as electricity from renewable energy sources, and hydrogen. The increased deployment of 'carbon capture and storage' – technology which captures carbon dioxide before it is released into the atmosphere, which is then transported and stored in a secure site – is prominent in this sector. However, the current scale of this innovation is nowhere near enough to hit net zero through carbon capture alone.

The remaining sectors have their challenges too and there is clearly a need for significant changes. Incentivising the development and procurement of greener alternatives, as well as reducing overall consumption, will be critical over the next 30 years.

Green priorities in Budget 2020

The chancellor announced some policies in the 2020 Budget to shift the UK towards a low-carbon economy. This included a £640 million contribution to the Nature for Climate Fund to plant more than 40 million trees and restore 35,000 hectares of peatland (both forms of natural 'carbon capture') and £500 million to support the rollout of the super-fast electric vehicle charging network. The government also announced Green Homes Grants, which provide homeowners in England with up to £5,000 for energy efficient home improvements, such as low-carbon heating systems and insulation.

However, it was also clear that the chancellor did not see Budget 2020 as being the time to raise taxes so there were no climate change focused initiatives at all (the closest being the plastic packaging tax to reduce single use plastic announced in Budget 2018). Let's look at some of the 'green' options at the chancellor's disposal when the time for raising taxes does come.

Carbon tax

The United Nations has for some time promoted carbon taxation, which has been introduced in various guises by a number of countries. Sweden, for example, implemented a carbon tax from 1991, which taxes polluters by reference to the level of carbon content in fossil fuels. Ireland has introduced a number of forms of carbon taxation, including the natural gas carbon tax (levied by reference to the amount of heat energy produced when fuel is completely burnt); and the solid fuel carbon tax (set at different rates based on energy source).

The UK has to date chosen not to implement a carbon tax, opting instead for a carbon price floor made up of a carbon price support tax (imposed only on the UK power sector) and participation in the EU's Emissions Trading Scheme (ETS). The UK will be leaving the EU ETS at the end of the year and the current proposal is that the UK will enact its own ETS. The 2020 Budget did, however, announce a consultation to start later this year on the design of a 'carbon tax' as an 'alternative' to introducing the UK's own ETS – and as a 'fallback' given the 'inherent uncertainty' in whether it would be possible, even if desirable, to agree to link the UK and EU schemes.

The clear benefit of a carbon tax is that it is levied at source (either on extraction or importation of fossil fuels). It is therefore easier to impose because it is levied before the carbon is burned and the emissions become fragmented into industrial and other supply chains, where taxation of carbon or emissions becomes more difficult to measure and administer. However, the principal downside of a carbon tax (and an ETS) is that the cost becomes lost very quickly within those supply chains. It can lack transparency for the end user in terms of how tax is being levied on their individual carbon footprint and how they can make greener choices moving forward.

Principles of environmental tax reform

Environmental taxation has for many years sat on the fringes of domestic tax policy and targets particular issues, such as the climate change levy and air passenger duty. As an indirect form of taxation, environmental taxes are payable on the basis of consumption. Increases in environmental taxes may be viewed as regressive, especially where alternatives to avoid or reduce the tax burden are unavailable or expensive. Tax policy has had a stronger focus on social and economic impact than on climate change. The VAT code, for example, treats food, energy and transport as 'essential items' which are not to be burdened by excessive taxation.

In many cases, these tax breaks fail to distinguish in any way between goods and services based on their environmental impact. Even where tax breaks are apparently green in nature, their application can be haphazard with arbitrary cut off points. This can be seen in the recent case of *Greenspace (UK) Ltd* [2020] UKFTT 349 (TC) concerning the VAT treatment of insulated roofing panels supplied to domestic customers, which the taxpayer argued fell within the reduced rating provisions for installation of energy-saving materials.

The taxpayer lost. Despite offering a solution for roof installation that would reduce household fuel consumption and thus benefit the environment, the narrow wording of the provisions meant that the panels fell outside the preferential VAT treatment. If a true climate change tax policy mindset was present across government, a response to the case could have been to change the law, perhaps even retrospectively. As Judge Rachel Short commented: 'The answer to any perversity in a case like this is to argue for a change in the legislation to include the type of insulated conservatory roof panels which have been supplied by Greenspace, rather than use perversity as the basis for interpreting legislation to override its clear wording.'

Perhaps the need to meet the 2050 target should be given a legislative basis such that tax provisions can be construed or enabled to allow for developments in carbon efficiency without the need to return to Parliament on each occasion of change At the very least, new tax legislation needs to have an overarching policy test to ensure that it has the net zero target in mind.

Post-Brexit VAT policy

There are many areas of VAT policy where the climate is simply not a consideration; for example, the use of the reduced VAT rate for domestic fuel or power, even where it comes from fossil fuel sources, and the zero rating of 'non-luxury' food, regardless of whether it has been sourced locally or flown around the world.

The end of the Brexit transition period on 31 December 2020 will mean the UK has autonomy over VAT and an opportunity to incorporate green initiatives in the future structure of our VAT system. For example, the UK could only allow reduced rated VAT to apply where domestic fuel is derived from renewable sources or to take away the zero-rating on transportation which does not involve a green method.

In addition, the tax system could seek to change consumer tastes to make them greener. The VAT rate could be flexed according to a regulatory traffic light system showing the environmental impact of a product (such as energy efficiency in white consumer goods). A similar approach could be taken in other consumer areas, such as in food. There is a risk that imposing higher taxes based on food 'air miles' might be viewed as anti-competitive under trade agreements. At the moment, however, it is not clear that climate is even considered to be a factor in trade negotiations.

Perhaps the biggest challenge against reform is that the most climate friendly option in VAT and consumption taxes may come at heavy social and economic impact on poorer households. Changes in consumption tax may need to be balanced by adequate compensatory spend in other government policy areas, such as through benefits, grants or other tax reliefs.

Cleantech and innovation

The other side of the coin to reducing emissions-heavy activities is the promotion of new lower-carbon ways of doing things, supporting innovation through R&D credits on creation of new cleaner technologies. However, this has limited effect if businesses are not then encouraged to purchase them. Enhanced capital allowances for energy efficient or environmentally beneficial technologies and products have been abolished since April 2020, meaning businesses have fewer incentives to choose eco-friendly plant and machinery options.

The government has said that the 'savings' from abolishing these reliefs will be used to fund the Industrial Energy Transformation Fund – to support the development of technologies that enable businesses with high energy use to transition to a low carbon future. This highlights a critical question: is a system of grants better at promoting innovation than a system of tax reliefs or payable tax credits? Or do we need a combination of both?

The way forward

The CIOT has recently established a Climate Change Working Group – a cross-cutting committee dedicated to pushing the agenda on the role of taxation in reducing emissions. Some key ideas coming out of its first meeting in September 2020 are:

- the need to ensure there is a proper climate change focused mindset at government level; for example, by introducing the requirement to consider the impact on the net zero target when designing all new tax legislation (just as it currently has to go through a social and economic assessment as part of the tax information and impact notes);
- a full review of the effectiveness of past environmental taxes to identify lessons to be learned (the National Audit Office is working with academics and stakeholders to review management of the lifecycle of a number of environmental taxes, aiming to identify good practices and changes for the future, but we also need to examine whether they have achieved their policy aims); and
- the need for a climate change tax policy road map – similar to the corporate tax road map published by the Coalition government in 2010 – setting out the key aims of future tax policy in tackling climate change and how to achieve those aims.

Clearly, action needs to be taken now if the country is going to achieve its legal obligations. We need to create a framework that ranks the importance of tackling climate change alongside that of other key priorities in our already complex tax system.

A feeling of relief?

Meg Saksida reviews the changes being made to main residence relief and the benefits that may be available to homeowners

KEY POINTS

- **What is the issue?**
Changes to capital gains tax are being made to ensure that the benefit of the main residence relief lies with the owner occupiers of homes rather than the owners.
- **What does it mean to me?**
Changes to the ancillary reliefs of job related accommodation, final period exemption and lettings relief have refined the exemptions available to homeowners, while the introduction of two ESCs and the introduction of the 30 day deadline will also impact capital gains tax calculations.
- **What can I take away?**
As main residence relief is a relief worth £26.7 billion (in 2018/19), it is possible that it may be subject to 'practical operation' reforms. While the scope of such reforms is still to be determined, there has been talk in the taxation community of the possibility of a lifetime cap, or a maximum main residence relief per transaction.

On 22 July this year, Chancellor of the Exchequer Rishi Sunak delivered his first budget, making several changes to the capital gains taxation (CGT) of main residences, predicted to generate £50 million in revenue in 2020/21 alone, and up to £150 million by 2023/24. The changes came into force on 6 April 2020.

Changes are being made to ensure that the benefit of the main residence relief lies with the *owner occupiers* of the homes rather than the *owners.* It was felt that in the past the benefits were more advantageous to taxpayers who were not occupying the homes these benefits derived from, particularly with reliefs such as lettings relief and the final period exemption of 18 months (36 months prior to 2014).

Changes in the ancillary reliefs

There are four ancillary reliefs for main residence relief.

1. Job related accommodation

There is ancillary relief if an individual is living in job related accommodation because: it is necessary for the proper performance of their role; it provides better performance and is customary; or it is necessary for the security of the employee. If the individual owns a home that they cannot occupy due to the job related accommodation, that home can continue to be their main residence for capital gains tax purposes for the entire period that they are in job related accommodation, as long as they intend to return to occupy the home once the employment is finished.

Under its Future Accommodation Model, the Ministry of Defence (MOD) has a pilot scheme whereby living accommodation is not provided by the MOD, but instead an armed forces 'accommodation allowance' is available for some employees to put towards the cost of housing provided in the open market. This allowance is now classified as job related and will also entitle the MOD employee to main residence relief (on their owned home) whilst he or she is in receipt of the allowance, as long as the payment is exempt from income tax through ITEPA 2003 s 297D.

2. Final period exemption

The current final period exemption of 18 months, which was reduced from 36 months in 2014, is being further reduced to nine months. The intention of this relief is to give taxpayers an opportunity to sell their home without having to worry about a period where they had two houses and no main residence relief for one of them; for example, if a taxpayer purchased a new home but the previous home had not yet been sold. Without a final period exemption, one of the homes may develop a charge to capital gains tax, which was deemed to be unfair.

However, the final exemption periods of 36 months and later 18 months were deemed to be too generous, resulting in the further reduction. Those living in care homes and disabled persons, however, may still rely on the 36 month final period.

3. The deemed occupation periods

The deemed occupation periods have not been changed.

4. Lettings relief

Lettings relief was introduced in 1980 as a way to allow homeowners to take in lodgers and 'let out' spare rooms, without losing the benefits of main residence relief. The government feels that this relief has ended up being far more generous than originally envisaged and has resulted in advantages for those who own but who do not occupy the home.

To this end, lettings relief has been restricted to those who live alongside the lodgers, rather than those who allow the tenants to have the whole home. The mechanics of the relief have not changed; it is still the lower of the following three:

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- the main residence relief calculated;
- the amount of the chargeable gain related to the letting; and
- £40,000.

The change is a 'cliff edge' change. Any landlords with tenants in a home that had at one point been their main residence who exchanged contracts on their former home prior to 6 April 2020 would have been able to benefit from the old rules; however, those that sold after 5 April 2020 would not. If the landlord selling post 5 April 2020 is no longer able to use lettings relief, there may still be other ancillary reliefs available to them.

Don't forget the 40 year old statement of practice 'SP14/80'. This states that if there is only one lodger and that lodger 'lives with the owner as a member of the family', eating meals together, etc., the main residence relief is not restricted anyway. So presumably this new legislation is for situations where the lodger either keeps to themselves or there is more than one lodger.

Extra Statutory Concessions

Two Extra Statutory Concessions have been legislated: the ESC D21 'Late claims in dual residence cases'; and ESC D49 'Short delay by owner occupier in taking up residence'.

1. ESC D21 'Late claims in dual residence cases'

Usually, a taxpayer needs to let HMRC know when they have more than one main residence within two years of acquiring the second residence. In dual residence cases where the interest in one of the properties was 'no more than a negligible capital value on the open market' – for example, a rented property – the two year time limit was able to be extended. It was only extended, however, in cases where the individual was *unaware* that such a nomination needed to or could be made. The individual had to let HMRC know within a 'reasonable time' of them first becoming aware of being able to make a nomination.

The new legislation is similar but has removed the requirement for the nomination. The new condition is that the late claim is only available if the individual has never previously given a notice under this legislation (s 5A(a)); but presumably if they had, they would *prima facie* have been aware.

2. ESC D49 'Short delay by owner occupier in taking up residence'

This ESC covers the situation where an individual either purchases land on which to build their main residence, or buys a completed house, but is unable to move in either due to the need to sell their previous home or the need to build, renovate, alter or redecorate the property. Previously, as long as this delay period was less than one year it could be counted as deemed occupation. In exceptional circumstances, i.e. those fully outside the taxpayer's control, 24 months would be covered.

This concession has been legislated but the new provisions appear more generous, in that they allow the period of permitted non-occupation to be 24 months from the date of acquisition in all cases.

The 30 day deadline on CGT payment

Previously, CGT was due by the 31 January in the year after the tax year of the sale. This changed in April to 30 days after the *completion* of the sale. If there is more than one disposal in the year, the CGT is calculated on a cumulative basis on every disposal and the previous tax paid is taken off the total due. Losses can be offset as normal; however, they may cause a cashflow disadvantage if assets pregnant with a gain are sold earlier in the tax year and then losses are realised later in the tax year. If, overall, no tax was due in the tax year, the taxpayer will need to wait until the real time system that records the gains and losses has closed in order to be able to submit their tax return and calculate any tax repayable.

This is because although returns can be amended, they can only be amended for events that occur *before* that gain, not after. If a capital loss occurred *after* a gain, the return recording the gain cannot therefore be amended.

Transfers between spouses and civil partners

Prior to April this year, if a *main residence* is transferred between spouses or civil partners, the history of the spouse who had previously owned the property went with the property to the new spouse or civil partner for any subsequent disposal made. Conversely, if it was property *other than a main residence* the history would not be transferred. The provisions have now been aligned such that the donee spouse or civil partner's period of ownership of *any dwelling*, main residence or not, will now be the same as that of the donor spouse.

The case of *Higgins*

The *Higgins* case (*Higgins v HMRC* [2019] EWCA Civ 1860) was very interesting as it held that the date of acquisition for main residence relief is not necessarily the same as the date of acquisition for the general capital gains tax legislation, which is the date of exchange. The facts of the case were that the taxpayer had exchanged on a property some four years before he was able to move in, due to the construction not having been finished. When he did move in, he had the quality, quantity and intention required for main residence relief, but HMRC sought to charge main residence relief for the period between the date of exchange and the date of his occupation, relying on TCGA 1992 s 28, where it is stated that 'an asset is … acquired under a contract the time … the contract is made'.

The Court of Appeal, however, appreciated that the taxpayer had no opportunity to possess, occupy or use the property in those first four years, and as there was not the requirement in the main residence legislation to determine the 'period of ownership' by reference to s 28, it was held that it would have been 'perverse' to do so. Lord Justice Newey ruled that 'Mr Higgins' "period of ownership" of the apartment for the purpose of s 223 of the TCGA did not begin until his purchase was completed'.

The future and the newly commissioned investigation by OTS

In mid-July, Rishi Sunak commissioned the independent Office of Tax Simplification (OTS) to look into capital gains tax, considering: the allowances, exemptions and reliefs available; the treatment of losses; and the interaction with other UK taxes such as inheritance tax and income tax.

Like the changes made to main residence relief, the review will consider whether the existing benefits allow tax advantages for the intended taxpayers and are not distorting behaviour or going against the intent of the original policies. Suggestions are that the rates may be adjusted to be closer to those of income tax or restructuring so that there is a flat rate for capital gain tax, rather than the four rates we currently have above the £12,300 annual exempt amount.

As main residence relief is a relief worth £26.7 billion (in 2018/19), it is possible that this too could be targeted; however, the OTS's official scoping document states that it will consider only the 'practical operation' of main residence relief. Quite how large the impact could be of such 'practical operation' reforms is yet to be established but there has been talk in the taxation community of the possibility of a lifetime cap, or a maximum main residence relief per transaction.

The definition of one's main residence, which has largely been established from past case law, could also become more precise through legislation. Finally, in combination with the OTS and the All-Party Parliamentary Group's report on inheritance tax, the capital gains tax uplift on death may also be abolished. No immediate changes are likely to take place, but the next Budget will be an interesting listen.

Time to blow the whistle

Jane Mellor explains the background on anti-money laundering whistleblowing and how members can report their concerns

KEY POINTS

- **What is the issue?**
The money laundering regulations require professional body anti-money laundering supervisors to encourage their own sectors to report breaches of the regulations.
- **What does it mean to me?**
Members need to be aware of the CIOT and ATT whistleblowing policies and are encouraged to contact us on a confidential basis where they have concerns that the regulations have been breached.
- **What can I take away?**
Whistleblowing is an important tool in the fight against economic crime. Members should ensure they report relevant matters to us (or another appropriate supervisor) promptly. They can be assured that any information supplied to us will be dealt with securely and on a confidential basis

A number of areas of work are subject to anti-money laundering (AML) supervision in the UK. Of particular interest to our sector are the requirements placed upon those who in the course of business in the UK act as:

- an auditor;
- an external accountant;
- an insolvency practitioner;
- a tax adviser; or
- a trust or company service provider.

Further guidance on the definitions for each area is included in the Regulations or AML Guidance for the Accountancy Sector.

Legislation

Members in practice undertaking work outlined must comply with the UK's AML legislation. This includes The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (MLR) ('the Regulations')

Under Regulation 46 (2) of these Regulations AML supervisory authorities must:

1. *take effective measures to encourage its own sector to report actual or potential breaches of the provisions of these Regulations to it;*
2. *provide one or more secure communication channels for persons to report actual or potential breaches of these Regulations to it; and*
3. *take reasonable measures to ensure that the identity of the reporting person is known only to the supervisory authority.*

What is whistleblowing?

Whistleblowing in this context specifically relates to the reporting of actual or potential breaches of the AML legislation, rather than a wider (perhaps more generally understood) definition which members may find set out in the policies of their own firms. It enables supervisors to investigate and provide education, guidance or ultimately to sanction those not meeting their requirements under MLR. Adherence to the regulations is a legal requirement and must not be ignored or taken lightly.

There are some important distinctions to be aware of:

- **Whistleblowing** is the disclosure of a concern, or intention to disclose a concern, that may involve risk of malpractice or wrongdoing (typically witnessed in the workplace).
- **A complaint** is a grievance towards someone else, or dissatisfaction about a service that has been received.
- **Suspicious activity reporting (SAR)** is the requirement to make internal reports to a money laundering reporting officer (MLRO) or for an MLRO to make an external report

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WHO SHOULD REPORT CONCERNS AND HOW?

Members who come across anyone who appears to be ignoring their obligations under the AML legislation are encouraged to report their concerns. For employees, consider your own firm's whistleblowing procedures and consult your MLRO where appropriate.

Where internal procedures are not appropriate to address the issue and if you think the individual concerned is a member of CIOT or ATT and you want to make a report confidentially, you can email us at: whistleblowing@ciot.org.uk or whistleblowing@att.org.uk. Please be assured that all reports received by the CIOT or ATT will be treated confidentially and held securely.

Other supervisors will have similar channels enabling reports to be made to them about their members and you should refer to their websites. If HMRC is the supervisor or if you cannot find the name of a known supervisor, then reports should be made to HMRC.

If an issue has arisen which is actually a complaint, those matters should continue to be referred to our independent disciplinary body, the Taxation Disciplinary Board (https://tax-board.org.uk/).

If you need to report money laundering or terrorist financing, you should make a report to your MLRO or directly to the NCA, as appropriate. The NCA website provides further guidance on making SARs at: bit.ly/3ijGLxD.

The full CIOT and ATT policies are included on their websites (bit.ly/30kuXVC and bit.ly/3kVKoLU). The CIOT and ATT would encourage all members to be familiar with this policy and to feel free to get in touch with us whatever the nature of the AML concern.

to the National Crime Agency where they have knowledge or suspicion of money laundering or terrorist financing.

The whistleblowing requirements set out in the Regulations ensure that supervisors provide a channel through which concerns about AML compliance can be raised. It is one of the tools which assists supervisors to monitor compliance. Concerns raised might simply feed into a supervisor's programme of newsletters and webinars if it appears that clarification is needed on specific areas of legislation. It may also help to identify the firms in greatest need of help and guidance to 'get things right'. Where serious breaches are identified it may be that more formal action is required but we would expect this to be rare.

What sort of things might members come across?

Members might come across a number of situations in the marketplace which cause them to have concerns about AML compliance. Possible scenarios include:

- **Failure to register for supervision:** Occasionally, a member may come across a firm where it looks as if it is not registered for AML supervision. For example, when AML requirements are discussed, the firm may state that AML does not apply to them and give a reason, such as because they only do tax compliance work or they are purely involved in preparing claims. (Both of these are services which should in fact be supervised.)

The requirements ensure a channel through which concerns about AML compliance can be raised.

- **Client due diligence failures:** New clients may express surprise about requests for information and indicate that a previous adviser did not ask for the same details.
- **Training:** New staff members joining from other firms might indicate that they have never received AML training and are unfamiliar with AML risks or areas of compliance (such as internal reporting).

If members within a firm have concerns about compliance by their own firm, they should raise them via the firm's internal whistleblowing policies where appropriate or with their MLRO. If their concerns extend to the effectiveness of their MLRO or there is an ethos of non-compliance from the top down, they may need to raise their concerns with their supervisor via the whistleblowing procedures.

Make your way through the maze

KEY POINTS

- **What is the issue?**
Taxpayers who have suffered financially due to the Covid-19 pandemic may be worrying about how they are going to pay tax liabilities that will become due in the early part of 2021. This article explains how HMRC can help.
- **What does it mean for me?**
You will know the options available to spread payment of liabilities and be able to advise accordingly.
- **What can I take away?**
Encourage taxpayers who will have a large tax bill due in January 2021 to file their 2019/20 tax returns as soon as possible, and then make use of the online tool to set up a suitable time to pay arrangement if needed.

Sharron West explains how HMRC can help taxpayers to manage their liabilities during Covid-19

During these unprecedented times, many individuals and small businesses are suffering financially due to the Covid-19 pandemic, with less or no income, ongoing expenses, and some facing responsibilities for employees. Consequently, many taxpayers may be worrying about how they are going to be able to pay tax liabilities that will become due in the early part of 2021.

It has always been advisable to contact HMRC as soon as possible if there is a difficulty meeting a tax bill. HMRC often allows taxpayers to clear their tax bill by making regular payments over an agreed period of time, tailored to their specific circumstances. This is known as a ‘time to pay’ (TTP) arrangement.

HMRC explained its approach to TTP arrangements in the article ‘Practical assistance for struggling taxpayers’ (*Tax Adviser*, July 2020) and also published guidance on how such arrangements are set up in the policy paper ‘How HMRC supports customers who have a tax debt’ on 13 August 2020 (tinyurl.com/y3dseo4q). At the same time, HMRC published another policy paper, ‘How HMRC treats customers who have a tax debt’ which explains the various enforcement options available to HMRC if a TTP arrangement is unsuccessful (tinyurl.com/y4dlxuok).

HMRC says there are over half a million TTP arrangements in place at any one time and that 90% of these complete successfully.

Deferred tax payments from earlier in 2020

When the UK went into lockdown in March 2020, the chancellor announced two tax deferment options as part of the package of support available to individuals and businesses:

1. Defer payment of the income tax payment on account for 2019/20, due on 31 July 2020, until 31 January 2021.
2. Defer payment of any VAT due between 20 March and 30 June 2020 until 31 March 2021.

HMRC confirmed that no interest would be charged during the deferral periods, so taking advantage of these deferrals came at no cost to the taxpayer.

The ongoing effect of Covid-19 restrictions has caused HMRC to acknowledge that individuals and businesses may now need additional help to deal with payment of liabilities in 2021, including these deferred liabilities. Therefore, on 24 September it was announced that HMRC could now offer further support by allowing a TTP window of up to 12 months for most taxpayers, as well as simplifying the process to set this up. Below, we look in more detail at these measures.

Income tax payment due by 31 January 2021

For most taxpayers in self assessment, their tax payment due in January 2021 will be made up of the balancing payment for the 2019/20 tax year and the first payment on account for the 2020/21 tax year, as well as the deferred payment from July 2020. This could amount to a significant sum at a time when income and/or cash flow is stretched, particularly if taxable profits in the 2019/20 tax year were not substantially affected by Covid-19 and so remained at pre-pandemic levels, while current income has fallen.

Payments on account for 2020/21

Before setting up any kind of TTP arrangement in respect of the self assessment payment due on 31 January 2021, it is vital to ensure the amount that is the subject of the arrangement is accurate. This includes giving due consideration to reducing the payment on account element relating to the 2020/21 tax year.

For businesses in certain sectors which have been hit hard by the measures taken to try to contain Covid-19, it seems likely that taxable income for the 2020/21 tax year will be significantly lower than for the 2019/20 tax year. Therefore, on the face of it, a claim to reduce the 2020/21 payments on account is likely to be relevant.

However, it must not be forgotten that taxable income in the 2020/21 tax year includes coronavirus support payments taxable under Finance Act 2020 Schedule 16, including those received under the Self Employment Income Support Scheme. This will affect the level to which payments on account should be reduced. In some cases where the effect of Covid-19 on businesses has been less significant, it may mean that it is not appropriate to reduce the 2020/21 payments on account at all.

Time to Pay arrangement

To support individuals who need time to pay after considering reducing instalment payments, HMRC is encouraging use of its online tool (tinyurl.com/y5ps9tm2) to set up an instalment plan for self assessment payments. The tool has been enhanced to deal with payments becoming due of up to £30,000 (increased from £10,000). The self-serve process means that provided the taxpayer meets all the relevant criteria, a short-term TTP arrangement can be put in place without having to discuss it with HMRC and without having to provide details of current income and expenditure.

However, unlike the original deferral rules, it is important to note that arranging an instalment plan with HMRC in this way does not avoid incurring interest charges. Interest (at 2.6% per annum at the time of writing) will still be charged from 1 February 2021 on amounts unpaid by 31 January 2021 until payment is received. However, late payment penalties should be avoided if an instalment plan is in place and is adhered to (or varied by agreement with HMRC).

The online tool can only be used once the 2019/20 tax return has been submitted and the tax payment due on 31 January 2021 quantified. Also, there must be no outstanding tax returns, debts or existing payment plans with HMRC. The payment plan must be set up within 60 days of the original payment date and payment must be made by direct debit.

Taxpayers need a government gateway account to use the tool. This can be set up at the beginning of the process if necessary. The tool asks whether or not the taxpayer wants to pay a lump sum upfront, the amount of the desired instalments and over what time period (up to the maximum of 12 months).

HMRC believes that around 95% of self assessment taxpayers due to make a payment by 31 January 2021 will be able to use this self-serve option. Those who do not have online access or who cannot interact digitally with HMRC will still be able to discuss this option over the phone and set up a similar arrangement.

HMRC will still discuss arranging an instalment plan over a period of more than 12 months if this is required. This can be done either via the self assessment payment helpline (0300 200 3822) or the coronavirus helpline (0800 024 1222). In this situation, HMRC is likely to need more information, such as current income and expenses details, before agreeing to a longer payment period.

We would welcome feedback on the online tool. You can email LITRG via: www.litrg.org.uk/contact-us.

VAT payment due by 31 March 2021

Payment of deferred VAT can be made at any time up to 31 March 2021 without incurring interest or penalties. However, if it now seems that payment by 31 March 2021 is going to be difficult due to the effects of Covid-19 on the business, HMRC will allow traders to use the VAT New Payment Scheme.

Under this scheme, payment can be made in monthly instalments in the period April 2021 to March 2022 and interest will not be charged (see tinyurl.com/yx247sum). At the time of writing, details of how to opt into this scheme are still to be published, but we expect more information to be available shortly.

HMRC will still consider an instalment plan over a period of more than 12 months if this is required. The Payment Support Service should be contacted to discuss this on 0300 200 3835.

Employers' PAYE payments

There are no new specific provisions relating to PAYE which cannot be paid, but HMRC should consider sympathetically a request for a time to pay arrangement where the lack of funds to pay has come about due to Covid-19 related problems. Contact HMRC's coronavirus helpline (0800 024 1222) to request this.

Individuals currently receiving tax credits or universal credit

Tax credits, universal credit or other means-tested benefits claimants who have tax bills to pay in January 2021 are unlikely to have much spare monthly income in respect of which a TTP arrangement could be made with HMRC. They should be advised to contact HMRC and explain their situation.

HMRC might then agree that they do not need to make any payments towards the tax bill in the short term. It is likely they will be asked to keep HMRC regularly updated as to their financial position (for example, calling them every three months) so the situation can be kept under review. When their income position changes and they are no longer in receipt of benefits, HMRC will expect a TTP arrangement to be put in place.

PROFILE

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at the coalface

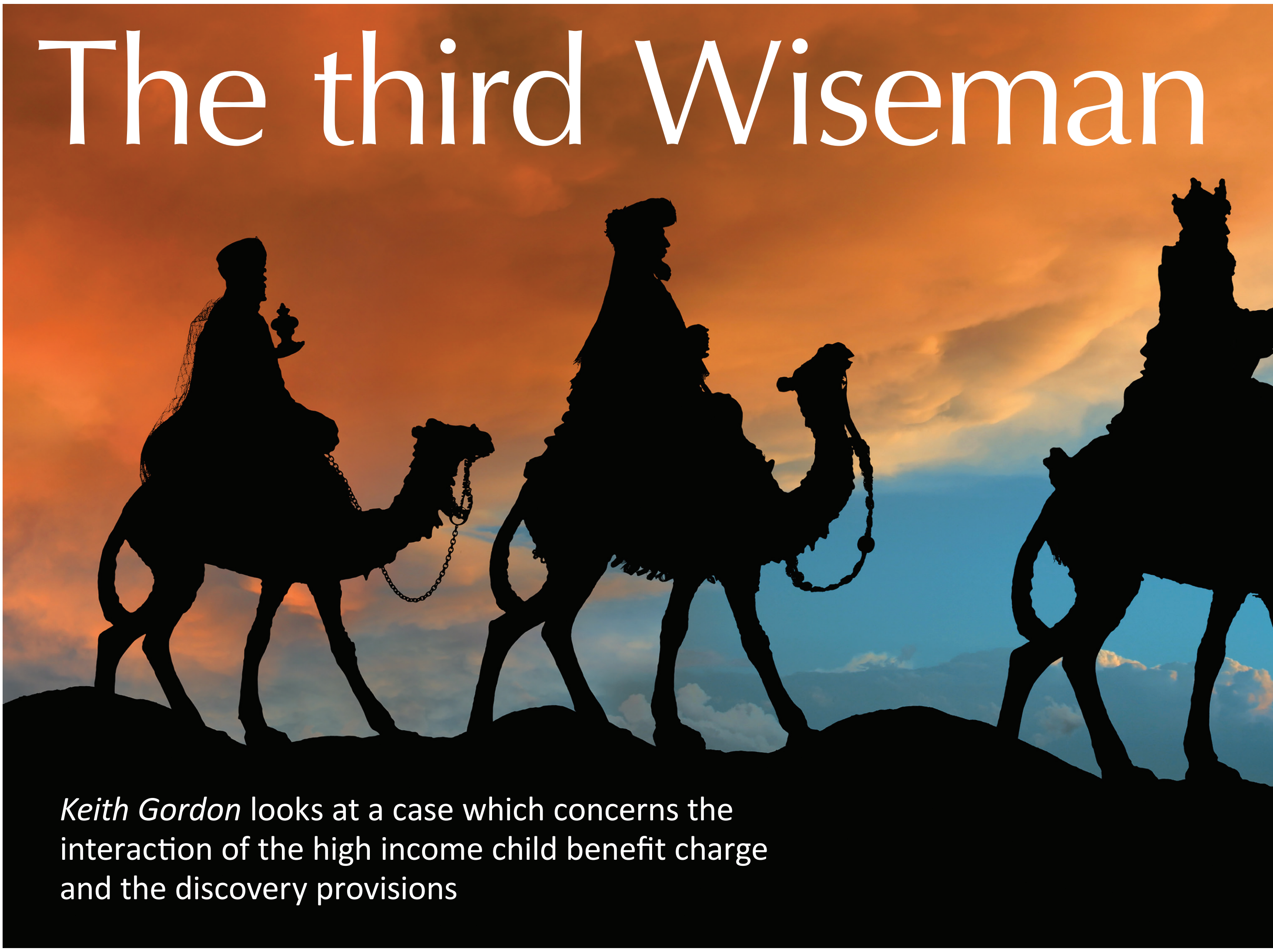
/at ðə ˈkəʊlfeɪs/

phrase

1. engaged in work at an active rather than theoretical level.

   e.g. IR35Shield.co.uk co-defends cases and attends tax tribunals

IR35 SHIELD
THE IR35 COMPLIANCE STANDARD



The third Wiseman

Keith Gordon looks at a case which concerns the interaction of the high income child benefit charge and the discovery provisions

KEY POINTS

- **What is the issue?**
The high income child benefit charge (HICBC) is a standalone tax charge imposed on the recipient of the child benefit unless the recipient's partner has a higher level of income in the year. The charge is calculated as a percentage of the total child benefit received, determined by reference to the taxpayer's adjusted net income.
- **What does it mean for me?**
HICBC liability is an exception to the rule that PAYE taxpayers do not generally have to notify HMRC about their potential exposure to income tax, resulting in a large number of tribunal cases in which taxpayers have contested penalty assessments for failure to disclose liability.
- **What can I take away?**
Ensure that clients either self-assess any exposure to the HICBC or provide a timely notification to HMRC of their potential exposure. Alternatively, advise clients to consider opting out of the child benefit (whilst retaining the NI credit).

One of my earliest tax memories was the announcement in the 1988 Budget concerning the proposed introduction of 'independent taxation' of married women, to come into effect from 6 April 1990. More than three decades later, it probably seems inconceivable to many advisers that married couples had to combine their income for tax purposes (and, perhaps, even more so, that the wife was far from an equal partner in the relationship so far as the former Inland Revenue was concerned).

As anachronistic as it might sound, it should be recalled that dependent taxation is not completely confined to history. Those who advise on social security benefits will be aware that household income remains an important feature.

I shall not consider the respective merits of the two approaches, leaving that for politicians to resolve. However, from a practical perspective, they tend not to clash because, even to the extent that benefits are taxable, it is clear whose income they represent and, so, the tax system can properly cope.

The high income child benefit charge

The one exception to this, however, is child benefit. Typically, this is paid to mothers (rather than fathers) and is (strictly speaking) a tax-exempt benefit. However, the 2010-15 coalition government wanted to make the benefit means-tested.

It was recognised that this would be politically difficult so the government then opted for a mechanism whereby the benefit would be clawed back from high income families. Leaving aside the potential political difficulties of imposing a tax charge on a predominantly female subset of the population, it was also acknowledged that such a move would not be particularly efficient. This was because, in the majority of qualifying couples, the benefit recipient was not the partner with the higher income, thereby reducing the effectiveness of such a measure, if based solely on the recipient's income.

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PROFILE

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To overcome these political hurdles, the high income child benefit charge (HICBC) was introduced. It is imposed on the recipient of the child benefit unless the recipient's partner has a higher level of income in the year, in which case it is the partner who is liable. The HICBC is, as its name implies, a standalone tax charge. In other words, it is not determined by applying tax rates to an amount of income. Instead, the charge is calculated as a percentage (which can range from 0% to 100%) of the total child benefit received by the taxpayer (or the taxpayer's partner), the applicable percentage being determined by reference to where the taxpayer's adjusted net income (as defined in the Income Tax Act 2007 s 58) falls in the £50,000 to £60,000 range (with the 100% charge applicable whenever the income exceeds £60,000).

It is far from a fair imposition. Even amongst couples where one partner receives child benefit, some couples with a combined income of £100,000 can escape the charge, whereas others with income totalling £60,000 can be required to repay the benefit in full. It can lead to infinite marginal tax rates (putting into shade the politically-sensitive 60% rate suffered when income exceeds £100,000) and also risks being non-compliant with human rights law.

Furthermore, there have been a large number of tribunal cases in which taxpayers have contested penalty assessments for failure to disclose their liability to the charge. This is because of the fact that, on top of the counterintuitive aspects of the charge, Parliament has provided that HICBC liability is an exception to the rule that PAYE taxpayers do not generally have to worry about notifying HMRC about their potential exposure to income tax.

In other words, HICBC joins the increasing list of areas where an obscure (and far from obvious) tax obligation generates a steady stream of penalty income for the exchequer. As was noted in one case, this failure to notify HMRC arises in a context where HMRC actually knows all the relevant information in any event but still expects taxpayers to join the dots for it.

However, this article focuses on a further practical issue that has arisen. How does HMRC assess taxpayers when it decides that the HICBC needs to be imposed? This has been the subject of several conflicting cases in recent months, the two main ones being *Wilkes* [2020] UKFTT 256 (TC) and *Haslam* [2020] UKFTT 304 (TC).

In *Wilkes*, the tribunal noted the various situations where HMRC has powers to issue discovery assessments. Section 29(1)(b) of the Taxes Management Act (TMA) 1970 is applicable in cases where an assessment has been made but is insufficient. That is inapplicable, however, in cases where there has been no self-assessment. Whilst that might lead to an assessment under s 29(1)(a), that paragraph is limited to cases where income has not been assessed but should have been. Because the HICBC is a standalone charge and not an imposition of tax on specific income, the tribunal concluded that the discovery assessment powers were inapposite.

In *Haslam*, the tribunal agreed with much of the analysis in *Wilkes* but then decided that Parliament must surely have intended discovery assessments to be available to HMRC in such cases. It proceeded to give the legislation a 'rectifying construction' so as to read into s 29(1)(a) words so as to gloss over the fact that the HICBC does not actually represent income.

This article considers a third case (*Wiseman* [2020] UKFTT 383 (TC)), where it was decided that both *Wilkes* and *Haslam* were wrongly decided.

The facts of the case

Mr Wiseman was previously self-employed and submitted tax returns. However, from about 2004, he has been subject to PAYE and has not been required to submit tax returns. This remained the case for the 2013/14 and subsequent tax years.

Mr Wiseman had received a notification from HMRC issued shortly before the implementation of the HICBC that alerted readers to their possible exposure to HICBC if their income exceeded £50,000. In 2013/14, Mr Wiseman's salary was just below £49,100 and, accordingly, he assumed that the HICBC was of no relevance to him. However, he did not realise that the HMRC notification had been written by someone with more than basic tax knowledge and that, when it referred to 'income', it meant taxable income which, in Mr Wiseman's case, included taxable benefits in kind. Because of a car and medical benefit, Mr Wiseman's taxable income exceeded £50,000 and he was thus liable to the HICBC. (Mr Wiseman's pension contributions were insufficient to take the figure back below £50,000.)

Mr Wiseman's partner had been in receipt of child benefit since 2004 and this continued into the tax years which were the subject of the appeal.

Following an awareness campaign by HMRC in 2018, Mr Wiseman found out that he was indeed liable for the HICBC and advised HMRC accordingly. A few weeks later, HMRC issued the discovery assessments now under appeal (for the 2013/14 to 2016/17 tax years). Mr Wiseman appealed against these assessments, predominantly in relation to concerns about the process. However, by the time that the case reached the tribunal, the attention of the tribunal was focused on the validity of the discovery assessments.

The tribunal's decision

The case came before Judge Rupert Jones and Ian Menzies-Conacher. They set out the principles deriving from the main cases concerning discovery assessments and the key parts of the main cases that discussed the interaction of the HICBC and discovery rules.

The hearing took place a few days after the *Haslam* case was decided, but it is unclear whether the parties at the hearing were aware of that decision at the time. However, the tribunal invited further written submissions to address the issue, which were received in early August 2020.

The tribunal noted the various remedies available to HMRC in cases where taxpayers had not paid enough tax. For taxpayers within the Self Assessment system, HMRC could issue determinations (in the absence of any tax return), enquire into the return, or issue a discovery assessment under s 29(1)(b). However, for taxpayers outside Self Assessment, HMRC would normally have a choice: to issue a discovery assessment under s 29(1)(a); or to bring the taxpayer within the Self Assessment regime by issuing a notice to file under TMA 1970 s 8.

If one follows the approach taken in *Wilkes* (and to some extent adopted in *Haslam*), however, the s 29(1)(a) option is not available in HICBC cases, leaving just the possibility of issuing a s 8 notice. However, TMA 1970 s 34A imposes a four-year time limit on self-assessments, meaning that this remedy will not be of any practicable assistance in many cases.

Recognising a potential anomaly here, the tribunal then looked at the wording of s 29(1)(a) and, in particular, the word 'income' therein. It considered that the word covered the totality of the taxpayer's income and not merely income from a specific source. In Mr Wiseman's case, this was his net employment income. The tribunal continued to consider that that (employment) income should have been subject to income tax, as calculated by the various steps in the Income Tax Act 2007 s 23, which incorporate the HICBC at step 7. As that (employment) income was not so subjected to tax, the tribunal considered that the condition in s 29(1)(a) was in fact met. (In *Wilkes*, the tribunal had considered that the phrase 'income that ought to have been assessed to income tax' covered the first six steps but not the seventh step because that related to standalone tax charges.)

As a result of its own reading of the legislation, the tribunal concluded that the discovery assessments were valid and that it did not have to consider whether a rectifying construction was appropriate.

Commentary

The tribunal's approach might provide the necessary breakthrough for these cases. It will be interesting to see how the Upper Tribunal responds when HMRC's appeal in the *Wilkes* case is heard next year, as it is likely to look carefully at this decision.

Although it gives rise to a neat solution, there are a number of arguments that militate against the tribunal's approach in this case.

One part of the tribunal's reasoning was that, even though step 7 brings in standalone charges, it is still a part of the assessment of the taxpayer's income, because the amount added to the liability at step 7 is dependent on the amount of that income.

Whilst that approach is superficially attractive, it does give rise to some difficulties. First of all, it is an oversimplification to say that the calculation of the HICBC depends on the amount of the taxpayer's income. More strictly, it depends on the amount of a statutory term, known as the taxpayer's 'adjusted net income'. Although broadly equivalent to what many taxpayers might consider to be their 'income', it is not income *per se*. In much the same way, Mr Wiseman was understandably misled by the HMRC guidance that told him he could ignore the HICBC because he read 'income' as amounting to his salary.

The second reason is related to the first. The condition in s 29(1)(a) is that income that ought to have been assessed has not been assessed. However, income itself is widely regarded to amount to separate components of income, which themselves are derived from specific heads of charge (for example, employment income and bank interest). Indeed, the wording of the steps in s 23 reflects this meaning of income. First, step 1 refers expressly to the different 'amounts of income' that the taxpayer might have. Secondly, these components are never actually amalgamated and are subject to tax at (potentially) different rates, according to their income type.

This more conventional meaning of income allows s 29(1)(a) to be used if one (or more) such sources of income has not been fully assessed to tax. This is reflected by the use of the word 'any' in the phrase 'any income' in s 29(1)(a). The tribunal's approach glosses over the word 'any' and treats income as if it reflected an amorphous whole.

Thirdly, there are some standalone charges (for example, unauthorised payment charges in relation to pension schemes) which are taken into account at step 7 but which are not income dependent. The tribunal's logic would not apply to those charges, leaving an uncomfortable mismatch. In this regard, it is noteworthy that the pensions rules in Finance Act 2004 expressly provide for a modification of s 29 to address such concerns. It is my view that Parliament should have made a similar provision in the Finance Act 2012 when the HICBC was introduced.

It should also be remembered that the problem that HMRC complained about – being the inability to take remedial action after four years because of the time limits in s 34A – is rather overstated. In cases involving HICBC, is it really reasonable for HMRC to want to go back further than four years? After all, it does have all the information at its own disposal and in some cases should know better than the taxpayers whether or not the HICBC is due. (In the present case, the four year time limit would have taken out only one of the four years being targeted by HMRC. And if HMRC had taken action earlier, that year would not have been a problem either.) Furthermore, the time limit in s 34A was introduced by Finance Act 2016 and should not be a relevant factor in determining how to implement provisions introduced four years earlier.

What to do next

In an ideal world, advisers will ensure that their clients either self-assess any exposure to the HICBC or provide a timely notification to HMRC of their potential exposure.

However, if you have a case where a discovery assessment has been made, an appeal would seem worthwhile as this issue is not yet at the end of the road. The First-tier Tribunal would be likely to stay any such appeal, pending the outcome of the *Wilkes* case.

The alternative is to advise clients to consider opting out of the child benefit (whilst retaining the NI credit).

Fighting the Covid Christmas blues

Jo Maughan asks what you can do to nurture your mental health to survive, even thrive, this December

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KEY POINTS

- **What is the issue?**

Covid-19 means that December 2020 will be a month like no other. Whether it's the frustration of working from home or anxiety about how to celebrate Christmas, we are all facing challenges to our mental health.

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

Know you're not alone if you're struggling to cope with the Covid restrictions, but don't ignore those feelings. Use them as a prompt to nourish your mental health.

- **What can I take away?**

Remember that your manager is there to help. There are simple ways we can all improve our mood. Here are some ways to capture festive cheer despite the impact of Covid-19.

I'm sitting at my red, shiny-topped desk feeling fed up. I look at the bright postcard of the blue and yellow tiled villa in Barcelona next to my screen. No change. I go downstairs and make myself a proper coffee – black, americano. I sit on my grey sofa to drink it. No change. I go upstairs to print out my seven page report to review, and start to read it from the sofa. No change. I still feel glum, fed up and frustrated with Covid-19. You? Many of my coaching clients are feeling variously lonely, depressed, frustrated, sad and despondent, even though Christmas is coming.

You feel as you feel…

You are allowed not to feel OK. You don't have to feel grateful that you have a roof over your head and still have a job. If you've recently lost your job, you don't have to be positive because you didn't lose your job in April like your friend. If you're still able to meet a friend, you're allowed to feel disappointed that you can't meet your eight university friends for margaritas at your favourite bar. And if you're bored with working from home, and crave those ad hoc chats by the coffee machine, and the buzz of the city, that's okay too. You're human. We all are. Feeling emotions is part of the human condition.

Sometimes though, the down feelings continue for longer than they normally would. If that's you, as it was me recently, have you told someone how you feel? Whether you're struggling with working from home, feeling lonely or something else, tell someone.

I told my next-door neighbour and felt ever so slightly better. It was the turning point, and it was enough to raise me out of my isolation and low mood. I started to do other things that helped lift my mood. (See **How I overcame the Covid blues** in the box on the next page.)

Taken together, all these things helped. My mood is still going up and down, but generally the baseline is more positive than it was. Now, I'm starting to look forward to Christmas even though it's likely to be a restricted holiday. More on that later, but first, if you've been feeling low for some time and it's affecting your work, what should you do?

Talk to your manager

Many people worry about this, thinking it's a sign of weakness. Actually it's a sign of courage to tell your manager how you're feeling and to ask for help. To make it seem less scary, here are seven steps you can follow to raise these issues with your manager:

1. Talking about your mental health is no different from talking about a physical health matter.
2. Check what support your organisation already has in place. It may have a wellbeing policy. It may offer free resources such as counselling.
3. Focus on the impact that your mood is having on your work and productivity. Your manager is your manager, not your friend, so keep it professional. Plan how much or little you'll disclose.
4. Be clear on what it is you want to request from your manager. Do you want them to just listen and be aware? Or do you want extra support? What might that support be? A wellbeing buddy? Being able to work in the office with colleagues three times per week? Someone to assist you on your main project? Think about this question to prompt ideas – what would you ask for if you knew they would definitely say 'yes'?
5. Choose your moment, whether you do this spontaneously or book in a call. Don't choose the last day of the billing cycle, or when you can hear your manager is stressed by the tone of their voice.
6. Make sure you agree a next step. Where possible make this a shared next step or ensure that you each have an action – this builds commitment. You might agree to consider your manager's suggestions, and that your manager should consider yours. Perhaps you might agree to book an appointment with your GP, or to have a follow-up chat in a week's time?
7. Implement your agreed next step.

Boost your Christmas spirit

The million-dollar question is: how can you enjoy the festive season even with Covid-19 restrictions? My ideas for work and home, in no particular order, are:

- Put up your Christmas decorations early. Turn on those twinkly lights even in the daytime.
- Swap your working hours around so you have your social, outdoors time in the morning when it's lighter and brighter; work when it's dark outside instead.
- Organise a virtual Christmas party with your colleagues. How about Taskmaster? This is the most fun I've had virtually since the restrictions began. If you don't know what I'm talking about, check out Taskmaster on Channel 4. You'll need to make up your own tasks that are colleague appropriate. How about making a pet using items from your kitchen? Drawing a self-portrait in two minutes? Doing something funny with a toilet roll?
- Have a go at Hygge. Hygge is the Danish practice of creating a mood of cosiness and conviviality to enhance wellbeing – lighting candles, sitting in front of a real fire in your pyjamas and woolly socks, savouring a mug of hot chocolate topped with cream, chocolate and marshmallows. There are lots more ideas online, or just ask yourself: what makes me feel warm and cosy?
- Work out what your Christmas would be in the worst case scenarios. A virtual Christmas dinner with your parents? Christmas Day alone at home? Imagine that actually happening. Whatever happens, if it's not that you'll feel relieved. If that does happen, you'll have already prepared for it, so it won't feel quite so bad.
- Brave the cold. Meet a friend in the park for a walk and chat. Dress for warmth. Take a hot water bottle with you, as well as a hot drink.
- Reintroduce the rituals you loved as a child. An advent calendar? Singing along to Christmas carols? Hanukah candles and treats?
- Get into Christmas baking. Mince pies, yule log, florentines anyone?
- Organise a virtual afternoon tea with colleagues. Everyone receives a mail-order box of afternoon tea goodies on the same day; you all sit down to eat, drink and chat on zoom or MS Teams.
- Hold a virtual film night. You all watch the same movie at home with Zoom or MS Teams on too. A drink in hand and snacks at a your elbow, pause the film every now and then to chat.
- Organise an office Secret Santa. Covid-19 restrictions add a whole new dimension to the 'secret' bit.

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HOW I OVERCAME THE COVID BLUES

- **I acknowledged how I felt.** When you acknowledge how you're feeling, you engage the pre-frontal cortex part of your brain which takes 'heat' away from the limbic part of your brain that's powering your emotions. By acknowledging how you feel, you can also let yourself know that however you feel is okay. Check in with yourself on how you feel every morning, at lunch time and before you go to bed.
- **I reached out to friends.** I'd started to feel quite isolated and a bit lonely, even though I live with Bill, my lovely husband. Looking in my diary, I realised I'd not made any new plans to walk and talk with a friend. I'd forgotten because when I feel low, I get more introspective. I'd forgotten that talking, hearing what my friends are up to, and how they're feeling, helps. It will help you put yourself into a larger context and gain perspective on how you're feeling. If your friends haven't been in touch with you, consider that perhaps they're feeling low too!
- **I went for brisk walks in the mornings when there's bright light.** As you walk, it's important to focus on the detail of what's around you not your thoughts. Pay attention to the robin cheeping; the shiny green leaves and red berries of the holly; the cold breeze on your cheeks and the white frost below your feet. Consciously breathe in and out and imagine your low mood floating out of you.
- **I made myself dance round the house even when I didn't want to.** 'Dancing it out' can really raise your mood. It helps you get out of your head (and thoughts), and into your body and senses. You feel the music and express how you feel. Your body gets rid of cortisol, the stress hormone, and starts to release endorphins, the feel-good hormones. You feel brighter, just like you might after jogging or running.
- **I was kind to myself.** I ate a dark chocolate truffle with my coffee as a small treat. I watched my favourite TV programme. I baked some rock cakes. What is it that nourishes you? What's stopping you giving yourself more of that? All these little things will help you generate 'positive' emotions in yourself.


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Tax commandments for business

Peter Mason explains how those beginning or already in a tax role in business can address the key elements of tax leadership and management

So, you've made it! It's the best job, the role you've always wanted – and now it's yours. Then it dawns upon you; it's your show now, and you need to work out what to do next!

There is conspicuously limited guidance out there to help you in a corporate tax role. For this reason, I will review the Tax Commandments for Business to steer you towards success. These underlying principles of good tax management apply to everyone within a company's tax team, including advisers, tax authorities engaging with a tax team, and even other finance professionals. In any tax role, you will need to understand the techniques of leadership.

The discipline of tax is uniquely positioned to give those at any stage of their working life broad exposure to business, as well as an exciting and rewarding career. It embraces all walks of business, from strategy to operations to transactions, combining accounting, fiscal and legal analysis. Tax teaches values, purpose, trade and contribution. Coping with a tax role in business effectively and efficiently is a huge responsibility.

My ten tax commandments highlight areas that any tax leader must master to manage a tax function successfully; they are also a set of skills for anyone working in tax. They comprise thinking strategically; empathising with people whilst retaining commercial and risk awareness; being a strong project manager with technical proficiency, high integrity and a solid accounting capability, along with effective negotiation skills; and the ability to deliver results. These are the core disciplines of leading any effective tax function.

1. Tax strategy: dare to dream

You may already have a strategy for your life and your career. However, you certainly need a clearly defined strategic vision in a position of tax management. This should have constituted part of your pitch in securing the role that you now have and now you must deliver your comprehensive and exciting strategic plan.

Strategy is the plan of action to achieve long-term tax goals for your organisation

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PROFILE

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over, perhaps, three to five years. I argue for as broad a scope as possible for tax management: in all areas, there will be interaction with business management and finance teams, but ultimately the tax buck stops in the tax department. Your strategy should embrace all types of taxes, or at the minimum provide clarity on the lines of demarcation.

Start developing your tax strategy during that 'honeymoon' period after you begin your role. This might be your first '100 days' when there is a general acceptance that you are learning the ropes, and no doubt putting out some fires! Even if no one is asking for it, set yourself the goal of developing a comprehensive tax strategy. You will need to know all your stakeholders, including the main board, shareholders, employees, the tax team, customers, other departments, advisers, tax authorities and the public.

Your strategy should be to challenge and contribute to business performance. This might be improving tax compliance, restructuring the group, being a valuable business partner, enhancing governance or driving specific tax financial goals. Understand your current tax profile, discuss it with key stakeholders, benchmark it, test it and decide how you will measure your success.

2. People: fit for purpose

In order to achieve your tax strategy, you will need to equip the organisation with the right tax people. This requires fully appreciating the purpose of tax to the organisation and how you can best partner with business to add value. Analyse what types of tax advice are needed, and whether you address these by means of recruitment, temporary staff, delegation within the organisation, outsourcing or automation. It is important to settle on a shared team purpose or tax mission to drive your agenda. A strong leader owes it to the tax team to develop them, challenge them and care for them to enhance overall team performance.

This tax team includes your external tax advisers (who are arguably insiders anyway). They may know the company well and have interesting insights. My core advisers have always been capable of providing great insights. They should be broad tax experts willing to act as your sounding board and to offer the best of their firm where you need it. They should be commercial, trustworthy, reliable and share your sense of tax risk and fair practice.

Don't forget that the 'taxbot' is now part of the team, too. Automation is critical to our effective operation in tax, including exciting office tools, robotic process automation and artificial intelligence. Start small and understand the opportunities before expanding. Deploy error-proofing techniques and install understandable dashboards for status and control. With tax submissions becoming increasingly digitalised, automation can ensure quality, manage costs, enhance delivery times and reduce risks.

3. Trade: know your business

You need to understand your business to confirm that the right questions are being asked and to ensure that the tax team is properly engaged. Don't simply wait for people to come to you: be a commercial professional who appreciates the core trading propositions and unique selling points of your organisation. Make sure that the legal framework and supply chain supports that business model. Ensure the right indirect tax advice and align your transfer pricing policy to the goals of the business relationships.

To understand your business, you need a view of how your total profits should be apportioned around the world. Test this with management, the business and external advisers. Transfer pricing laws are now changing rapidly all around the world in line with OECD guidance. You should be sure that a commercial assessment of your business profile accords with where taxes finally fall due.

Governments are trying to attract business via all manner of incentives, and you should claim your fair share. Such incentives can be direct grants or tax reliefs, holidays or targeted preferential tax rates, where permissible. Matching available tax benefits to the commercial opportunities can significantly help the business case and win new contracts on a global stage.

4. Risk: take extra care

Businesses embrace calculated risks for heightened rewards, and tax is no different. Tax law has not kept pace with the complexity of current day commercial transactions, and could never have anticipated every type of taxable event in a digital world. If you deduct a business expense, there is a risk it will be challenged. If you don't deduct it, then there is an opportunity cost of lost value.

You should understand your risk limitations and align these with your organisation's tax risk appetite at the board level. Some risks may be worth taking, others not. I recommend identifying them – either specifically or as potential areas of concern – and appreciating them fully. Assess their impact and likelihood, work out if they can be mitigated and be ready with a plan to deal with their consequences should they transpire. There should be a comprehensive defence file for every specific issue. Errors in this analysis will either impede your successes or require you to spend all your time fixing problems.

Establish a board-approved tax policy that defines your tax principles and beliefs, set a tax risk threshold and decide how to engage with tax authorities. A published tax statement, as anticipated by HMRC, allows risk to be better understood by all. A robust governance framework should ensure that the organisation lives and breathes its stated tax culture.

Despite your best intentions, failures in tax governance will inevitably occur; the elimination of all risks is impossible. However, you can limit such risks by identifying your core risk areas, and deploying systems to prevent or mitigate their impact and likelihood. Heat maps, risk assessments and defence files are essential. Red flag reports, self-assessment certifications, internal audit and external tax health-checks can assist further. Tax insurance or indemnification can minimise risks, while standardising global tax practices can help to mitigate them. Tax 'surprises' are expensive. Learn from them and improve the governance framework to avoid their chance of reoccurring.

Commandments 5 to 10

The first four commandments dealt with preparation for your business tax life. The next commandments concern execution and resolution, though I can only whet your appetite.

- **5. Execute (work your magic):** You need to execute tax advice optimally on commercial programmes. An M&A transaction is probably the largest, riskiest and hardest project for a tax person to digest. This comes down to expert project management.
- **6. Optimise (don't waste your time):** As you establish procedures and processes, efficiency is critical. The drive for greater efficiencies is causing business leaders to focus on various techniques to help them manage the inevitable reduction in costs. Our major process in the tax world is the production and filing of tax returns, and the application of 'lean' techniques can add tremendous value.
- **7. Morality (follow the spirit):** There should be a demarcation of what level of tax planning and value is appropriate, fair and acceptable to the organisation. You will not be judged by today's rules but by those of the future; follow the tax laws as they were intended. Have a set of responsible tests for the morality of any tax planning. Intercompany financing within a multinational group is an area of great interest.
- **8. Account (tell the tax truth):** Your tax approach should be accurately reported – tell the whole tax truth and nothing but the tax truth. How you report, both inside and externally to the organisation, is critical in conveying the tax profile and must be carefully explained.
- **9. Negotiate (stay the distance):** When you are audited by a tax authority, you should robustly defend your position. There are many complexities to a tax audit strategy which need to be very attentively considered and openly conveyed to tax authorities, thereby optimising tax conclusions.
- **10. Evaluate (honour your promises):** You must be able to look over your last three to five years and believe that you have achieved what you set out to do. At the beginning you should have put in place the key performance indicators, structures, skills, training, disciplines and other factors to achieve that.

'Tax Commandments for Business' can be found at www.taxcommandments.co.uk.

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Welcome to the December Technical Newsdesk

Halloween and bonfire night are traditionally expected to produce shocks and surprises. Each year I go and buy lots of sweets in case we have trick or treaters (secretly hoping that we don't), and a few days later get wrapped up to go to a bonfire and fireworks display. But this year's surprises were very different.

Having frantically rewritten my introduction and parts of Technical Newsdesk last month to accommodate the Chancellor's announcements on 22 October, we thought we were in pretty good shape for what was to come. Then, on Halloween, the day of the Job Retention Scheme's (JRS) closure and the eve of the launch of the Job Support Scheme (JSS), the Prime Minister announced that the JRS would in fact continue 'until December'. Shortly afterwards, on bonfire night (albeit during daylight hours) the Chancellor announced that the JRS would in fact continue until 31 March – the JSS essentially becoming defunct, and the Job Retention Bonus unnecessary. More support was also announced for the self-employed through the Self-Employment Income Support Scheme.

Perhaps not surprisingly, GOV.UK could not keep pace – certainly we struggled, too. And businesses and advisers must have been frantic. In many respects, the proposed JSS was becoming increasingly like the JRS, and so continuation of the JRS seems the most sensible option. But I am sure everyone, including HMRC, would have appreciated a little more notice. We explain more in our COVID articles below, but these are fluid times, so keep an eye on our COVID website pages as these should contain the most up to date information.

COVID-19: the extended Coronavirus Job Retention Scheme and Self-Employed Income Support Scheme

EMPLOYMENT TAXES GENERAL FEATURE

The Coronavirus Job Retention Scheme has been extended until March 2021, with both the Job Support Scheme and the Job Retention Bonus withdrawn. The Self-Employed Income Support Scheme has also been extended and increased.

Announcements in relation to COVID-19 support continue to come thick and fast, and the government threw a curveball with its announcements on 31 October and 5 November. It is very likely that even more announcements will have been made since this article was written and we would encourage you to monitor GOV.UK, and the CIOT, ATT and LITRG websites, for up to date information.

Coronavirus Job Retention Scheme (CJRS)

On 31 October, the Prime Minister announced that the CJRS will continue 'until December' (tinyurl.com/y3rw6s9v). This was quickly followed on 5 November by an announcement by the Chancellor that the CJRS will be 'extended until the end of March 2021' (tinyurl.com/y4skykno).

Under the extended CJRS, for the period from November 2020 to January 2021 the grant available to employers means that employees can receive 80% of their usual salary for hours not worked, up to a maximum of £2,500 per month. The £2,500 cap is proportional to the hours not worked. Employers will, however, need to pay employer NICs and pension contributions for their employees on the full amount that they pay the employee (there is no government support for these liabilities).

To be eligible for the extended CJRS, employees must have been on an employer's PAYE payroll by 23:59 on 30 October 2020. This means a Real Time Information (RTI) submission notifying payment for that employee to HMRC must have been made on or before 30 October 2020. Employees can be on any type of contract and employers will be able to agree any working arrangements with employees. If employees were on an employer's payroll on 23 September 2020 (i.e. notified to HMRC on an RTI submission on or before 23 September) and were made redundant or stopped working for them afterwards, they can also qualify for the scheme if the employer re-employs them.

The time limit for employers to claim a grant under the extended CJRS is very tight. Claims relating to November 2020 must be made by **14 December 2020**. Claims relating to each subsequent month should be submitted by day **14 of the following month**. Claims for the month of November opened on Wednesday 11 November 2020.

Under the extended CJRS, employees **do not** need to have been furloughed under the CJRS previously. For employees that meet the eligibility criteria, and were previously furloughed, employers must use the same calculations for calculating reference pay and usual hours (tinyurl.com/tapx56j) as before. For an employee who meets the criteria of the extended scheme but was not previously eligible for CJRS, the alternative calculations of reference pay (tinyurl.com/y4c8n63x) and usual hours (tinyurl.com/y3whnz7k) must be used. And for all other employees, employers must use the CJRS calculations for calculating reference pay and usual hours (tinyurl.com/y9jh9g7j).

While the CJRS will remain open until 31 March 2021, it will be reviewed in January 2021 and the government will decide then whether employers will need to contribute more for February and March (for example, as was required for September and October). Further details can be found in the government's 5 November policy paper (tinyurl.com/y4dx9mnh) and full guidance was published on 10 November (see tinyurl.com/y9karxak).

Job Support Scheme (JSS)

Having announced on 31 October that the JSS will be introduced following the end of the CJRS, on 5 November it was announced that the JSS had been postponed indefinitely because of the CJRS extension to 31 March 2021.

Job Retention Bonus (JRB)

Similarly, on 5 November it was announced that the JRB will no longer be paid in February 2021, due to the CJRB being extended until 31 March 2021.

Self-Employed Income Support Scheme (SEISS)

On 5 November, the Chancellor announced that the SEISS grant will be extended and increased (tinyurl.com/y4skykno). The grant extension (tinyurl.com/y49wq8wp) provides for both a third and fourth grant and is for self-employed individuals, including members of partnerships, who have previously been eligible for the first and second SEISS grants.

To be eligible for a third grant, self-employed individuals must intend to carry on trading, and either: (a) be actively trading but are impacted by reduced demand due to coronavirus; or (b) have previously been trading but are temporarily unable to do so due to coronavirus.

The third grant will cover a three-month period from 1 November 2020 until 31 January 2021. It will be worth 80% of average monthly trading profits paid out in a single instalment covering three months' worth of profits, and capped at £7,500 in total. The online service for the third grant will be available from 30 November 2020. HMRC will provide details about claiming and applications in guidance on GOV.UK in due course.

The fourth grant will cover a three-month period from the start of February until the end of April. HMRC will set out further details, including the level of the fourth grant, in due course.

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COVID-19: update for indirect tax

INDIRECT TAX

The monthly round up of COVID-19 measures affecting indirect tax.

1. Option to tax

In May, HMRC introduced two temporary changes when notifying an option to tax for land and/or property. These changes were:

- the extension of the 30 day notification period to 90 days; and
- the ability to use electronic rather than wet signatures, providing supporting evidence was supplied.

The initial time period where the temporary measures applied ran from 15 February to 30 June 2020, though this was subsequently extended to 31 October. However, as there continues to be social distancing restrictions in place in the UK, the timeframe for these two temporary changes has been further extended to now run until 31 March 2021 (tinyurl.com/ybj9jwgm).

2. Extended deadline on relief for imports of personal protective equipment (PPE) and relevant medical devices/equipment

HMRC introduced a relief on import VAT and duty for the import of certain medical goods by qualifying bodies meeting the criteria in its guidance (tinyurl.com/qws6qjl), where those imported goods were intended:

- for distribution free of charge to those affected by, at risk from, or involved in combating the COVID- 19 outbreak; or
- to be made available free of charge to those affected by, at risk from, or involved in combating the COVID-19 outbreak, while remaining the property of the organisations using them.

The initial timeframe for the relief to apply to imports meeting the criteria was due to end on 31 October but this has now been extended to cover the period from 30 January to 31 December 2020.

3. Deregistration and the interaction with deferred VAT due to COVID-19 measure

There is a single VAT deregistration process for all taxpayers, regardless of whether they chose to defer VAT due to the COVID-19 measure or not (tinyurl.com/y38eeyav). If a taxpayer wishes to or is obliged to cancel its VAT registration, it is able to do so even if it still has outstanding deferred VAT. However, please note that this VAT is still payable to HMRC, and the deadline to make the payment is March 2021. HMRC have said to the CIOT that if you have examples of a taxpayer being prevented from cancelling its registration solely because of any COVID-19 deferred VAT, they will look into it if it is brought to their attention.

The liability to pay the deferred COVID-19 VAT balance remains with the legal entity rather than the VAT registration number, so if this number is reallocated to a third party – for example, where there is a transfer of a going concern – the VAT liability would not normally transfer too.

When a business with deferred VAT joins a VAT group, the VAT liability remains with that business and does not transfer to the group under the usual joint and several liability rules.

HMRC confirmed that they will be revisiting and updating the guidance for helpdesk staff so that the advice being given in relation to VAT de-registration and outstanding deferred VAT is consistent.

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Brexit: indirect tax update

INDIRECT TAX

In our September edition, our article 'Brexit: indirect tax post transition period' (tinyurl.com/yyc363zd) highlighted newly published post-transition government policy and HMRC guidance for indirect tax. This article looks at what has been updated since September, and rounds up other new publications of interest for the post-transition indirect tax position.

The Northern Ireland Protocol: VAT

On 26 October, HMRC published guidance titled 'Accounting for VAT on goods moving between Great Britain and Northern Ireland from 1 January 2021' (tinyurl.com/y5f478kd). The guidance states that for most transactions between GB and NI, VAT will continue to be accounted for in the same manner as at present. There are a number of exceptions highlighted for special customs procedure goods, goods subject to the domestic reverse charge rules, and goods subject to an 'Onward Supply' procedure, so businesses that have supplies falling into these exceptions should take steps to update procedures ready for 1 January 2021.

A number of other changes were highlighted, some of which may have a significant impact to business models and should be considered promptly:

1. ***Margin scheme change in NI for GB purchases:*** In the guidance, there is a major change for margin scheme goods sold in NI (for example, the second hand margin scheme), where such goods were purchased and shipped from GB, as they will become subject to VAT on the full value when sold. Please note that at the time of writing there are still discussions taking place on this matter so it is possible there could be an update. Margin scheme sales in NI where the goods were purchased in NI or the EU will still be subject to the margin scheme rules.
2. ***Movement of own goods from GB to NI: self accounted VAT due:*** When there is a movement of own goods from GB to NI, a new self-assessed VAT will be due in the VAT return. Where these goods are being used to make onward taxable supplies, this VAT can be recovered (subject to the usual input tax rules) so it will operate like a reverse charge with no overall VAT cost. Costs may arise for partially exempt businesses (see also item 4 below).
3. ***UK VAT group sales of goods from GB to NI, and within Northern Ireland, by members of a UK VAT group:*** Where intra-VAT group supplies of goods move from GB to NI, a self-accounted VAT declaration will become due in the same way as above; these intra-group transactions are not disregarded as they are currently. For fully taxable groups, these VAT accounting entries (and equivalent input VAT recovery) should result in no overall VAT cost. Self-assessed VAT is also applicable to intra-group supplies of goods that are located in NI, where one or both members only have establishments in GB. Costs may arise for partially exempt businesses (see also item 4 below).
4. ***VAT adjustments for items 2 and 3:*** Where goods are moved from GB to NI in items 2 and 3 above, and where the input VAT is not able to be fully recovered, it is possible that irrecoverable input VAT could be incurred twice (on the initial purchase and then again on the self-assessed VAT entry). To prevent double taxation, HMRC will allow businesses to treat the initial purchase as fully taxable and the restriction on VAT recovery will be applied at the time of the self-assessed VAT return entry. Note that there will be new anti-avoidance rules released in due course.

The Northern Ireland Protocol: excise goods

The new guidance covers various scenarios for movements of excise goods from 1 January 2021 (tinyurl.com/y6pgwqye).

Financial Services

From 1 January 2021, taxpayers will be able to reclaim input VAT related to the exports of certain financial services products to the EU (on par with current rules for sales to non-EU countries). The government will legislate this by using a Commencement Order to bring into force the VAT (Input Tax) (Specified Supplies) (EU Exit) (No. 2) Regulations 2019 (tinyurl.com/yyzzefuo).

The Border Operating Model

A second version of this policy document, titled 'The Border with the European Union – Importing and Exporting Goods', was issued on 8 October. In pages 8-13, it has a comprehensive navigation guide highlighting new sections and where updates have been completed. Although the document has a broader scope than indirect tax issues, there is more information on postponed VAT accounting, customs declarations and excise duty.

HMRC continues to write to GB taxpayers to encourage compliance

HMRC has written to GB taxpayers (excludes NI) for the third time to encourage them to take any necessary actions for customs/imports/exports from 1 January 2021. The letters for September to November are published on GOV.UK (tinyurl.com/yxpwto9h). If you have GB clients that are not registered for VAT but have some EU trade of goods, they will not have received these communications so it would be worth informing them. Also note that even for VAT registered businesses, the receipt of these letters may be impacted by COVID-19 working from home restrictions, so it is worth double checking with clients that they have been received.

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House of Lords Finance Bill Sub-Committee inquiry into the draft Finance Bill 2020-21

MANAGEMENT OF TAXES | LARGE CORPORATE | GENERAL FEATURE

The House of Lords commenced its inquiry into the draft Finance Bill 2020-21, concentrating on the measures relating to HMRC's powers and tax administration matters. The CIOT and LITRG provided written and oral evidence to the inquiry. The ATT provided oral evidence.

On 11 September, the House of Lords Finance Bill Sub-Committee opened its inquiry into the draft Finance Bill 2020-21. The Sub-Committee undertakes a similar inquiry each year, and this year is focusing its attention on those measures which provide HMRC

with additional powers, or place additional obligations on taxpayers. The Sub-Committee's inquiry focuses on three areas of the draft Bill:
- new proposals for tackling promoters and enablers of tax avoidance schemes;
- new tax checks on licence renewal applications; and
- amendments to HMRC's civil information powers.

The Sub-Committee also invited views on the government's proposals on new notification requirements for uncertain tax treatments, and on the use of retrospective provisions in other areas of the draft Bill. A high-level summary of our comments on the three main areas is outlined below.

New proposals for tackling promoters and enablers of tax avoidance schemes
The CIOT and ATT cautiously welcomed the proposals, agreeing that the government is right to be taking a robust approach to uncooperative and unscrupulous promoters who continue to devise, promote or sell tax avoidance schemes. However, we raised concerns around the lack of a right of appeal against the new information notice which forms part of the changes to DOTAS, and inclusion of 'DAC 6' within the definition of 'defeated arrangements' in the POTAS regime.

In the oral evidence session, LITRG added further comments on HMRC's wider efforts to tackle tax avoidance through the use of disguised remuneration schemes at the lower end of the labour market. It highlighted the need for HMRC to focus their activity more directly at PAYE-avoidant employment intermediaries rather than individual taxpayers or promoters and enablers.

New tax checks on licence renewal applications
The CIOT, ATT and LITRG all commented on these proposals. Whilst recognising that, if they operate effectively, they could help to reduce the hidden economy element of the tax gap, between us we expressed a number of concerns. First, the risk of pushing businesses further into the hidden economy if they decide to operate on an unlicensed basis. Second, the need for clear guidance and a simple process, recognising that in this first cohort of businesses are taxpayers who are on average older and more likely to be from ethnic minority groups than the general working age population. Third, the level of detail required and the possibility that even a slight delay in meeting a reporting requirement could result in a licence applicant failing the tax check and being denied a licence.

Amendments to HMRC's civil information powers
Again the CIOT, ATT and LITRG all commented on these proposals. Whilst welcoming the fact that HMRC have decided not to pursue their original 'option 1', which would have involved removing the requirement to obtain tribunal approval in all cases, we expressed four main concerns about the remaining proposal in relation to Financial Institution Notices (FINs). First, HMRC's ability to issue a third-party notice to a financial institution, without taxpayer agreement or independent tribunal approval, doing so under their own jurisdiction and determining themselves whether the notice is 'reasonably required'; thus becoming both judge and jury in a matter of their own interest. Second, the removal of the right of appeal against a FIN. Third, the risk of 'mission creep'; that is that FINs will be issued with requests for information about UK taxpayers as well as overseas taxpayers, bypassing a number of safeguards that would otherwise apply. Fourth, the expansion of the purpose for which information notices may be issued to include tax debt collection. It was highlighted that HMRC could, potentially, combine all four changes to issue a FIN for a UK taxpayer with a tax debt, with no independent check on whether this was appropriate and no right of appeal for the financial institution.

The Sub-Committee has not, at the time of writing, published our written evidence, and so we are currently unable to publish it ourselves, but keep an eye on the publications page of the inquiry website (tinyurl.com/y6jg8mej), and the CIOT and LITRG websites. The oral evidence sessions can be viewed from the events page of the inquiry website (tinyurl.com/y5dooycp).

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Business rates review: CIOT response

LARGE CORPORATE | OWNER MANAGED BUSINESS | GENERAL FEATURE

The CIOT responded to the business rates call for evidence.
A theme of our response to the call for evidence is that while historically business rates were regarded as a property cost, they are now increasingly perceived as a tax, albeit one charged by reference to rental value rather than profit. There is therefore a case for making the business rates system more integrated with and aligned to the wider UK tax regime.

We pointed to areas where the principles of good tax design should apply to the business rates system, for example:
- There is a need for systematic regular evaluation of business rates reliefs.
- In common with the wider tax system, a clear statement of the objective of business rates reliefs is required.
- It is notable that business rates are not included in the tax gap; there is very little published data on existing business rates mitigation schemes and tax leakage.

We recognised the potential significant burden for businesses, particularly small businesses, of valuing their own properties within self-assessment for business rates, but suggested that a more limited alternative for larger businesses to opt into self-assessment with a risk based compliance system backed by powers and penalties could be explored.

We called for greater consistency and transparency around the criteria for business rates reliefs and the processes for claiming them. Consistency of application of the criteria for reliefs is a prerequisite for the government's long term commitment to any centralised form of digitalisation.

Capital values tax
A capital values tax model, considered as an alternative to business rates, would be payable by the owner rather than the occupier. We thought this transfer of liability from occupier to owner may not be as significant as it might first appear, assuming that a great deal of the effective economic cost already falls on the landowner. The transfer of liability would certainly be a fundamental change in practice with significant uncertainty in transition. A fully comprehensive record of ownership of property, both direct and indirect, would be needed. We pointed out that economists generally favour a land value tax as an intrinsically sounder system but at the cost of adding complexity in defining the land within the charge and developing approved methodologies for isolating the value of the unimproved land component.

Online sales tax
The review asks whether an online sales tax may offer a solution to the debate around rates burdens for retail outlets on the high street versus online retailers with lower reliance on commercial property. In our view, an online sales tax should not be seen as an alternative to business rates, as it would be aimed at different things. Although it would be charged on some businesses that are perceived to be the online competitors of high street retailers, the resultant winners and

losers would be much more complicated. There is a risk in a shift of the tax burden from business rates to a general online sales tax that the economic burden is transferred from landowners to consumers generally, including disadvantaged groups.

We observed that the rateable value of properties used by online retailers such as warehouses are often located in areas where business rates are low under the current system. This is a conscious choice of the way business rates are calculated and could therefore be changed to more accurately reflect the value being generated in and through these properties.

The CIOT's response to tranche one of the call for evidence is at: www.tax.org.uk/ref698. The CIOT's response to tranche two is at: www.tax.org.uk/ref718.

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Modernisation of stamp taxes on shares framework: CIOT response

GENERAL FEATURE

The CIOT responded to the call for evidence published on 21 July 2020 on the *Modernisation of the Stamp Taxes on shares framework*, agreeing that modernisation would be welcome and saying that the aim should be for a new, modernised framework which is based on a single tax and introduce a self-assessment system of tax.

The stamp taxes on shares (STS) framework encompasses the legislation, guidance and administrative processes that allow HMRC to administer stamp duty and SDRT. In our response to the call for evidence exploring how the framework could be modernised, the CIOT said that we hoped that this call for evidence is the start of a medium to long term project. We envisage a new, modernised STS framework which is based on a single tax and would:

- be based largely on the principles/scope of SDRT legislation but including the reliefs found in stamp duty; and
- introduce a self-assessment system of tax, filed by way of a return (like stamp duty land tax and other taxes).

We hope this call for evidence is the first step in a process and that there will be several stages of further consultations as the shape of a new STS framework is developed. We agreed that it would be difficult to modernise the STS framework in a piecemeal fashion and said that there should be consultation on specific policy and legislative changes that become apparent as the modernised framework takes shape. The CIOT looks forward to being involved in this process.

With regard to legislation, our response noted that, ultimately, the best outcome would be if legislation is consolidated and re-written to reflect the design and application of the new STS framework. Although the legislation will inevitably draw heavily on some aspects of existing legislation, one of the current difficulties with the existing STS framework is the piecemeal nature of the legislation, which makes the rules very difficult to navigate. It would be preferable, therefore, if the end result was a new body of legislation – whether an act or a schedule to a Finance Act – which puts all of the rules in one place.

We strongly suggested that in the interim the government should make such changes to the existing stamp duty rules as are necessary to enshrine the 'virtual' stamping procedures which have been so successfully implemented in response to the COVID-19 pandemic, and to address some of the unresolved issues (for example, around submitting actual documents in the future) to provide taxpayers with appropriate comfort in respect of the virtual procedures.

We said that in the shorter term, the government should not make any material changes to SDRT or CREST (other than changing the cancellation clauses in FA 1986 s 92 to reflect the 'virtual' stamping procedures in legislation) since SDRT is currently well understood by the capital markets and CREST operates smoothly.

The call for evidence and our full response can be found here: www.tax.org.uk/ref704.

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The scope of qualifying expenditure for R&D tax credits: CIOT response

LARGE CORPORATE | OMB

The CIOT responded to the consultation published in July 2020 on potential changes to the scope of qualifying expenditure for R&D tax credits in two specific areas: data and software (cloud computing).

This consultation on potential changes to the scope of qualifying expenditure for R&D tax credits sits alongside the UK's R&D Roadmap, which was also published in July 2020 (tinyurl.com/y7jfazah). The roadmap confirms the government's commitment to increasing UK investment in R&D, which we welcomed.

We welcomed that the consultation was at an early stage of consideration of the changes discussed, but noted that there was no clarity about the costings of any changes which may result.

We were concerned that there was some implication throughout the consultation document that any changes made to the availability of R&D relief should be cost neutral, although this was not expressly said. We said that we hoped that this is not the case. Overall, we said that the changes to qualifying expenditure in relation to data and software mooted by the consultation document would be welcome and in accordance with the policy aims of the R&D credit system. However, a scaling back of the generosity of the regime with respect to indirect costs of R&D would not be welcome, as these can form a critical part of R&D which factor into the overall investment decisions taken.

In our view the UK R&D credits regime is valuable and generally very well structured. It compares favourably with many other regimes and is generally easy to apply for and well administered. We suggested that the government should promote the regime more to encourage more small and medium enterprises and international businesses to consider the regime as beneficial as it actually is (and, therefore, give it greater weight in making investment decisions).

The consultation document and our full response can be found here: www.tax.org.uk/ref702.

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NICs: supporting veterans' transition to civilian life through employment: CIOT response

EMPLOYMENT TAXES

The CIOT has supported a government initiative to encourage employment of armed forces veterans through a national

insurance contributions relief for employers who hire veterans and recommended that HMRC builds a notification system to verify eligibility for the scheme.

The CIOT has responded to a government consultation on how to encourage employment of armed forces veterans through a national insurance contributions (NICs) relief for employers who hire veterans.

The government proposal is that employer's Class 1 NICs will be scrapped for a full year for every new employee who has left the armed forces that an employer engages. This is intended to incentivise employers to take veterans on and boost their pay and opportunities. This employer's NIC relief will be available from April 2021, although employers will not be able to claim the relief until after the end of the 2021/22 tax year. Thereafter, it is proposed that employers will be able to claim the relief in real time.

Given that the government's policy is to use the NIC system to provide an employer's NIC relief for employing veterans, we believe that the government should ensure that as many regular armed forces veterans as possible are eligible for the new relief. However, we suggested that the relief should be subject to some form of minimum service requirement, such as completing basic training, or six to 12 month's service; the intention is to help transition veterans back into civilian life and work, and those that have recently been 'civilians' are likely to be better placed to make that transition without the support of this relief.

We agreed with the government that all civilian employments should be eligible to qualify for the relief and that it should be capped at the NIC upper secondary threshold. In addition, we suggested that the relief should also be available from April 2021 to any employments that started prior to this where the veteran would have been eligible for the relief had the employment started on or after 6 April 2021.

As noted above, the government has proposed a two-stage approach to implementing this relief, such that for the 2021/22 tax year relief will have to be claimed back after the end of the year, rather than being claimed during the tax year (which will apply from 2022/23 onwards). We suggested that to encourage take-up of the relief, the government provides the option for those employers that are able to implement the required processes in time to be allowed to make an in-year claim of the relief in 2021/22.

We also suggested that, in order to make the process for claiming the relief as simple as possible, HMRC and the Ministry of Defence work together to establish a notification system from the Ministry of Defence to HMRC of all eligible personnel leaving the armed forces, and that HMRC build a system that allows employers to confirm eligibility of veterans and the period of eligibility. We believe that this would minimise the administrative burdens on employers and should encourage employers to claim the relief, as there would be little fear of mistakes or reclaims of relief from HMRC with such a checking system.

The full CIOT response can be read at www.tax.org.uk/ref701.

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Pensions tax relief administration: CIOT response

EMPLOYMENT TAXES

The CIOT and LITRG support the proposal to level-up net-pay and relief at source pension schemes through HMRC paying a bonus equal to the basic rate of tax on their contributions to lower earning individuals in net-pay schemes.

The CIOT and LITRG have both responded to the call for evidence on pensions tax relief administration published by HM Treasury in July 2020. The call for evidence concerns the potential for a low-earning individual's take-home pay to be affected by the method of pensions tax relief operated by their pension scheme provider. This issue is explained in more detail by LITRG's Kelly Sizer in September's *Tax Adviser* (tinyurl.com/y3x2mxsy).

While for the vast majority of pension savers net-pay and relief at source (RAS) schemes deliver the same outcomes (albeit via different methods), the differences between the two arrangements mean that there is an inconsistency in outcomes for some low-income individuals. This results in those in net-pay arrangements either receiving less take home pay for the same level of pension contribution or having to cut their pension savings to receive the same take home pay as an individual in a RAS scheme.

Hence, the issue is essentially whether the government should: (a) level-up low-income individuals in net-pay schemes with their equivalent in RAS schemes; (b) eliminate that difference by levelling-down RAS scheme members to their net-pay scheme equivalents; or (c) do nothing.

LITRG's response to the call for evidence can be summarised as:

- Action **must** be taken to ensure that all low-income workers get a government contribution to their pension, as was promised under auto-enrolment. The gap between those in net-pay arrangements and RAS schemes will only grow as auto-enrolment is extended to 18-year-olds and the lower earnings limit is removed.
- Failure to take action could damage confidence in pensions and auto-enrolment.
- The social injustice in the current situation – with nearly three-quarters of those affected being women – must be rectified.

The CIOT agreed and supports LITRG's (and the Net Pay Action Group's) proposal that HMRC pay a bonus equal to the basic rate of tax on their contributions to lower earning individuals in net-pay schemes using real time information data and an end of year PAYE reconciliation and claim process, as being the best of the four proposed solutions. We believe that this option can be delivered by HMRC without undue complexity and excessive time lags, albeit it comes at a cost.

We also suggested that the temporary measures introduced to allow claims by pension administrators to be submitted electronically during the pandemic should become the new standard; and that a 'digital first' approach is adopted for communications between pension administrators and HMRC.

The full CIOT response can be read at www.tax.org.uk/ref703.

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HMRC Employment Tax Fora meetings

EMPLOYMENT TAXES

A round up of HMRC employment tax related consultative forum meetings.

In this article, we summarise meetings of HMRC's employment taxes related fora, which are attended by CIOT volunteers, from recent past months. HMRC publishes the minutes of the meetings on GOV.UK.

IR35 Forum

The forum met on 28 August and discussions included HMRC's compliance approach to the off-payroll working reform and their plans for education and support for businesses and contractors in preparation for the April 2021 changes. The CIOT also discussed with HMRC our concerns regarding the wording of ITEPA 2003 Ch 10 s 61O that will apply from 6 April 2021. Subsequently, in October, HMRC published a stakeholder update advising that the 'off-payroll working rules are intended to apply to situations where there is no employment or agency worker relationship between the worker and the client or an agency or other third party in the labour supply chain, and the worker's services are provided through their own intermediary. Where a worker is already subject to PAYE on all of the income from an engagement as an employee, other than with their own intermediary, HMRC does not intend Chapter 10 to apply.'

National Minimum Wage Forum (NMWF)
The forum met for the first time on 3 September and includes representatives from both HMRC's and the Department for Business, Energy and Industrial Strategy (BEIS)'s compliance and policy teams. They provided a strategic update and outlined their programme of education to employers. The forum also had some initial technical discussions on, for example, the meaning of enduring benefit to employer, and discussed HMRC/BEIS guidance on, for example, uniforms and terminations.

Collection of Student Loans Consultation Group (CSL)
The group met on 8 September and is attended by representatives of CIOT, LITRG and ATT. Issues discussed included revising the New Starter Checklist to take account of the new Scottish student loans repayment threshold from April 2021, HMRC's 'real time' (monthly) data sharing with the Student Loans Company, student loan start notices (employer compliance with 2020/ 21 notices and timing of 2021/22 notices), and improvements to the Student Loans Company's online accounts (repayment accounts can now be accessed via GOV.UK).

Employment and Payroll Group (EPG)
The group is the main HMRC forum for employment tax related matters and met on 9 September. The forum is attended by representatives of CIOT and ATT and meets quarterly. Items of discussion included the Coronavirus Job Retention Scheme, the Job Retention Bonus Scheme, HMRC's tax administration strategy, the off-payroll working rules in the private sector which are being implemented from April 2021, digitalisation of HMRC's communications and payroll software update communications, the disguised remuneration call for evidence and the government's freeports proposals.

Expatriate Tax Forum (ETF)
The forum met on 23 September and discussions included the UK's exit from the EU and COVID-19. Under EU exit plans, the expectation is that those currently working cross border and subject to transitional arrangements under those withdrawal agreements would be covered by transitional rules. As regards COVID-19 and individuals assigned to/from non-agreement countries, HMRC advised that this had been covered by their updated guidance.

Pensions Industry Stakeholder Forum (PISF)
This forum usually meets twice a year and is attended by representatives of the CIOT, LITRG and ATT. The last meeting was on 7 October and the agenda included a discussion on the call for evidence on standards of tax advice. There was concern among some stakeholders about the definition of tax advice, with HMRC being encouraged to produce a clear distinction between tax advice and tax service, as much of the routine work of pensions stakeholders involves tax in some way. The latest minutes can be found at tinyurl.com/gnpfvsr.

Construction Forum
Finally, a new construction forum is being set up to replace the Construction Industry Scheme Operation Forum (CISOF). The forum is due to meet for the first time in November/December 2020 to discuss its terms of reference.

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Universal credit: trading via a company

OWNER MANAGED BUSINESS PERSONAL TAX

LITRG outlines the 'look through' rules for universal credit claimants trading via a limited company.

Universal credit award entitlement is assessed on the claimant's net earnings – broadly, after deduction of income tax, national insurance, pension contributions and certain expenses. Universal credit is affected if the claimant has more than £6,000 in capital. It is not available at all if capital exceeds £16,000 (though certain capital is 'disregarded').

The above is in contrast to tax credits (new claims to which are no longer possible for most people), which are calculated on gross income, broadly following taxable income. Tax credits also do not have capital limits but simply take income from capital into account.

Many people trading via a limited company may not previously have claimed universal credit. However, due to the coronavirus pandemic, you might now be seeing clients looking to claim this support.

But how does universal credit apply in this situation?

'Look through'
Where the claimant's circumstances are analogous to a self-employed sole trader (or partnership), the Department for Work and Pensions (DWP) ignores the company structure and 'looks through' to what is happening within it. Under the Universal Credit Regulations, SI 2013/0376, reg 77(1), a sole shareholder/director of a limited company will therefore find the DWP treats them as if they are self-employed.

To determine whether a company falls into these rules, DWP decision makers are instructed to look at the facts, including the size of the company, its shareholders and what influence the claimant has over the running of the business.

If the company is **not** analogous to a sole trade or partnership, any shareholding in it will be valued as the claimant's capital. If the claimant works for the company, their earnings will be counted for universal credit in the normal way. This might apply, for example, to an employee of a larger company who has acquired an interest in it via a share ownership scheme.

Attribution of capital and profits
If the look through provisions apply, the claimant is effectively viewed as self-employed. Any income of the company is treated as the claimant's income as if it were self-employed earnings and the company's underlying capital value is attributed to them (unless disregarded). If more than one person is involved in the company, they will be treated as if they are in partnership – that is, the DWP will seek to identify what part of the company's capital and profits for the relevant claim period is attributable to the claimant 'partner'.

The claimant might have been paid money from the company in various forms, such as:

- salary;
- dividends; and
- interest on a director's loan.

For universal credit, any salary received from the company is treated as employed earnings (and HMRC will send the PAYE real time information figure to DWP for inclusion in the claim). To avoid double counting, these employed earnings will be an allowable expense when working out the claimant's 'self-employed' earnings. One point of note is that under universal credit rules, losses from self-employment cannot be offset against other types of income such as employed earnings. Perhaps surprisingly, benefits in kind are not treated as universal credit employed earnings at present (SI 2013/0376, reg 55(2)(a)), though we understand that DWP might in future look to include them in the earnings assessment.

Dividends and loan interest would be ignored for universal credit, because they are a return on capital. It is the capital value itself that is important for the universal credit assessment, rather than any actual return on it.

The company's capital value attributable to the claimant might mean that they exceed the capital threshold described above. However, where the company is a trading business, assets used for the purposes of the trade are disregarded in the universal credit capital assessment (SI 2013/0376, reg 77(3)(a)).

Note that where the company is carrying on a 'property business' (deriving its income from property, such as in the form of buy-to-let), no such capital disregard applies. So, whilst income generated from the property is not included in the universal credit income assessment as it is a return on capital, the attributed value of capital may be above the threshold, meaning the claimant will not qualify for universal credit. However, if it is an active property business, such as running a hotel, it may be possible to argue that there is a trade and the capital disregard should apply.

Minimum income floor

Gainfully self-employed universal credit claimants are usually subject to the 'minimum income floor', meaning they are deemed to earn a certain amount even if their actual profit falls below that level. Where the look through provisions apply in relation to a company carrying on a trade, and that trade is the claimant's main employment, they are treated as 'gainfully self-employed', which means the minimum income floor potentially applies to them (SI 2013/0376, reg 77(3)(c).

However, at the time of writing, use of the minimum income floor is temporarily suspended due to the effect of the coronavirus pandemic on self-employed claimants' income. It is not clear how long this will last.

Feedback

As the DWP deal with increasing numbers of claimants trading through companies, we suspect some practical issues will arise. While we cannot help with individual cases, feedback on any experiences would be welcome to help inform our engagement with HMRC and DWP. Please contact us at www.litrg.org.uk/contact-us.

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Scottish Taxes Update

GENERAL FEATURE

CIOT and LITRG made submissions in response to the Scottish government consultation *Budget 2021/22: Supporting the COVID-19 Recovery*, and LITRG responded to an inquiry on the role of Scottish social security in Scotland's recovery from COVID-19 published by the Social Security Committee of the Scottish Parliament.

Budget 2021/22: supporting the COVID-19 Recovery

The CIOT and LITRG each submitted a response to this Scottish government consultation. It sought views on the role of Scotland's devolved taxes and Fiscal Framework in supporting the COVID-19 economic recovery. This was with a view to informing the Scottish government's Budget 2021/22.

The COVID-19 pandemic has had a major impact on Scotland's economy and public finances. Both CIOT and LITRG acknowledged that there are no easy answers in terms of tax policies to support the COVID-19 recovery, with LITRG stressing that those on the lowest incomes should be treated fairly despite the overall climate: they must not bear a disproportionate financial burden.

Neither CIOT nor LITRG put forward suggestions of particular powers for devolution or specific policy proposals. Instead our responses noted key principles and issues that should be borne in mind when considering policies. We noted some of the consequences and interactions that might arise if changes are made to Scottish income tax, and noted that council tax is ripe for reform. We also highlighted the importance of progressing the work commenced in 2019 to develop a policy framework for the devolved taxes. The CIOT also stressed that the work of the Devolved Taxes Legislation Working Group, which was exploring options for alternative legislative processes for the devolved taxes, needs to be completed.

Both CIOT and LITRG took the opportunity to discuss the importance of raising awareness of tax and improving tax education. In this regard, it was opportune that the Ministerial foreword contained the statement that the hope is for 'Scotland to be a country where we speak openly and frankly about tax'.

The CIOT submission is available on the CIOT website: www.tax.org.uk/ref726.

The LITRG submission is available on the LITRG website: www.litrg.org.uk/ref2339.

The role of Scottish social security in Scotland's recovery from COVID-19

LITRG responded to an inquiry published by the Social Security Committee of the Scottish Parliament. The Committee was seeking to understand how Scottish social security, and its part within the broader context of all UK social security, should contribute to the social and economic recovery from COVID-19. The focus was on deliverable change from 2021 onwards.

The LITRG response noted that whatever changes are made, early efforts must be made to identify and address any unintended consequences; for example, how social security and welfare benefits interact with the tax system. We also pointed out that close attention needs to be paid to the interactions between devolved and reserved parts of the welfare benefits and tax systems. Failure to do this could result in well-intentioned policy not achieving its desired result.

We also stressed the importance of accurate and detailed guidance. This is essential in helping people to understand their rights, entitlements and obligations. We noted that there is significant room for improving current guidance; for example, in relation to passported benefits.

The LITRG submission is available on the LITRG website: www.litrg.org.uk/ref2347.

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Welsh Taxes Update

GENERAL FEATURE

CIOT and LITRG made a joint submission in response to an inquiry into the implementation of the Wales Act 2014 and operation of the Fiscal Framework published by the Finance Committee of the Senedd Cymru. CIOT and LITRG also submitted a joint response to the Welsh government's consultation on enabling changes to the Welsh Tax Acts.

The Senedd Finance Committee Inquiry into the implementation of the Wales Act 2014 and operation of the Fiscal Framework

In terms of taxation, the inquiry was concerned with whether or not the Welsh government's tax principles have been met, how successful the administration of Welsh taxes has been, what future tax changes could look like and how the mechanism for devolving new Welsh taxes has been performing. The inquiry also sought various views on aspects of the Fiscal Framework. The CIOT and LITRG response focused on the taxation issues.

Our response noted that the two fully devolved taxes, land transaction tax and landfill disposals tax, were developed through highly collaborative processes, and this is reflected in their final design, successful implementation and administration.

We think it is too early to evaluate whether the proposed new taxes will, if taken forward, adhere to the Welsh government's tax principles.

While commending the approach of promoting a positive case for taxation by illustrating the link between taxes and spend on public services, we noted our concerns that anecdotally, awareness and understanding of Welsh rates of income tax by the general public in Wales remains fairly low, despite efforts to engage them.

The submission is available on the CIOT website: www.tax.org.uk/ref716.

Welsh government: tax devolution in Wales; enabling changes to the Welsh Tax Acts

CIOT and LITRG submitted a joint response to this Welsh government consultation, which looked at how legislative changes should be made to Welsh devolved taxes in certain circumstances. Essentially, the consultation concerned legislative amendments in relation to avoidance, evasion, international obligations, situations of exceptional need, and in response to tax policy changes to UK 'predecessor' taxes. The Welsh government has a preferred option, which is to introduce three regulation-making powers – each power would be available in specified circumstances.

Our response started by noting that our preference is for tax law to be set out in primary legislation in so far as it relates to the exercise of powers setting out what is subject to tax and imposing burdens on taxpayers. Ideally, secondary legislation should only be used for administrative matters and the setting of rates. This is to ensure proper scrutiny of legislation that imposes a burden on taxpayers.

Having said this, we noted that the proposal provides a balance between the competing needs of speed, scrutiny and responsiveness. We suggested that there should be a few additional safeguards, and that the proposed use of these regulatory powers should be subject to regular review and evaluation.

Although the time is perhaps not right for the introduction of an annual Welsh finance bill, we noted that this should be kept under review, particularly if Wales gains further tax powers.

The submission is available on the CIOT and LITRG websites: www.tax.org.uk/ref694 and www.litrg.org.uk/ref2350.

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CIOT	Date sent
Supporting veterans' transition to civilian life through employment www.tax.org.uk/ref701	08/10/2020
Tackling disguised remuneration tax avoidance www.tax.org.uk/ref700	13/10/2020
The scope of qualifying expenditures for R&D tax credits www.tax.org.uk/ref702	13/10/2020
Pensions tax relief administration: call for evidence www.tax.org.uk/ref703	13/01/2020
Enabling changes to Welsh tax legislation www.tax.org.uk/ref694	15/10/2020
Modernisation of the stamp taxes on shares framework www.tax.org.uk/ref704	19/10/2020
Business Rates Review: improving the business rates system: tranche two www.tax.org.uk/ref718	30/10/2020
LITRG	
Inquiry into the implementation of the Wales Act 2014 and operation of the Fiscal Framework www.litrg.org.uk/ref2338	08/10/2020
Scotland: Budget 2021/22: supporting the COVID-19 recovery www.litrg.org.uk/ref2339	08/10/2020
Pensions tax relief administration: call for evidence www.litrg.org.uk/ref2340	13/10/2020
The role of Scottish Social Security in Covid-19 recovery www.litrg.org.uk/ref2347	15/10/2020
Welsh government: tax devolution in Wales: enabling changes to the Welsh Tax Acts www.litrg.org.uk/ref2350	19/10/2020
Office of Tax Simplification: capital gains tax review: call for evidence www.litrg.org.uk/ref2353	23/10/2020

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CIOT & ATT

Virtual Christmas carol service

EVENTS

Celebrate the festive season with the CIOT and ATT at their Virtual Christmas Carol Service on Thursday 10 December at 6pm.

Hosted from the candle-lit St Peter's Church, Eaton Square, you will be warmly welcomed by the Reverend Ralph Williamson and the Presidents of the CIOT and ATT.

From the comfort of your own home, you will be able to join us in song with your favourite carols and listen to readings.

Please register for the free event at: www.tax.org.uk/ChristmasCarolService2020 to ensure you receive the log-in details.

Everyone is welcome!

CIOT & ATT

Helpful tips and information for your 2020 Annual Return

MEMBERSHIP

Following our campaign in *Tax Adviser* and elsewhere to remind members of the requirement to complete an Annual Return, here are our top 10 tips for the 2020 form:

1. If you are fully retired, you do not need to complete the form. Please just make sure that you have told us that you are retired via the following email addresses membership@att.org.uk or membership@ciot.org.uk. If you are a student, you also do not need to complete an Annual Return unless you are a member of ATT **and** a student of CIOT.
2. You can access the form either through the link on your subscription renewal notice or at https://pilot-portal.tax.org.uk/.
3. The form works best if accessed through browsers:
   - Microsoft Edge v86 or higher; and
   - Google Chrome v86 or higher.

   Members have experienced problems using Firefox and Internet Explorer so these browsers are best avoided.
4. **Anti-Money Laundering (AML) supervision:** You are not automatically supervised by CIOT or ATT for AML simply by virtue of being a member, and must register separately for supervision. Details are required of the AML Supervisor for each tax business included on the return in which you are a prinicpal.
5. **Private indemnity insurance (PII):** You need to have PII cover in place for each tax business in which you are a prinicpal. If you have been unable to obtain cover, please let us know by emailing standards@ciot.org.uk or standards@att.org.uk.
6. **Continuing professional development (CPD):** If you work in tax, or if you do not work in tax but use the designations (e.g. CTA, ATT, ADIT affiliate), you need to carry out sufficient CPD to carry out your duties. There is no longer a minimum hours requirement. If you do **not** work in tax and do **not** use the designations, you do not need to do CPD. You should answer **'Yes'** to the question as you will have complied with the CPD regulations.
7. If you have received an email advising you that you do not need to report details of a past conviction, diciplinary offence, disqualification, etc. please omit those from your 2020 return. If you have **not** received such an email, you must include the details requested.
8. Please take care when completing the form, especially on phones. Experience has shown that it is easy to hit the wrong button and give an erroneous non-compliant answer.
9. There is a new function for you to be able to

make sure you check and, if necessary, amend any errors on your form before it is submitted.

10. Finally please note:
- You cannot wait until the Annual Return to report certain offences (see 2.14 -2.15 of Professional Rules and Practice Guidelines). These must be reported within two months of the event.
- If your personal/contact details have changed, you will also need to make the changes at https://pilot-portal.tax.org.uk/Account/My-profile so that your records are up to date.

Given that many of our members are currently working remotely, please also use this as an opportunity to review your preferred address to ensure you continue to receive correspondence from us such as Tax Adviser.

CIOT

Heather Self and David Gauke honoured for contributions to tax

AWARDS

Leading tax adviser and commentator Heather Self and former cabinet minister David Gauke have been honoured for their outstanding contributions to the field of taxation by the Chartered Institute of Taxation (CIOT).

Heather Self has received the Council Award, the highest ranking award that the Institute can give. This recognises her outstanding contributions to the life of the Institute and the profession as a whole. This includes chairing the Institute's Technical Committee, co-founding the Women in Tax network and regularly featuring in the media as an expert commentator on tax matters. She is just the sixth recipient of the Council Award to date.

David Gauke has been awarded an Honorary Fellowship of the Institute. The award of an Honorary Fellowship is a mark of excellence bestowed on the grounds of particular distinction in the field of taxation. The award is based on Mr Gauke's contribution as a member of the Treasury Select Committee, as Shadow Treasury Minister, then as Exchequer Secretary, Financial Secretary to the Treasury, Chief Secretary to the Treasury and Secretary of State for Work and Pensions.


Heather Self


David Gauke

CIOT President Glyn Fullelove said: 'I am delighted to be able to recognise Heather Self and David Gauke for their exceptional contributions to the fields of taxation and the tax profession.

'Heather has a lifetime of experience as a senior tax professional – in business, in practice and at HMRC – but it is for her wider work as a writer, broadcaster and raising the profile of women in the tax profession that we are primarily honouring her. Whether on television, radio, print or online she is one of the most effective communicators in the profession. For more than a quarter of a century, she has been a clear and cogent contributor to the tax policy debate. More recently, the growth of Women in Tax since she co-founded it just five years ago has been stellar.

'David served as a Member of Parliament for 14 years and for 10 of those was either minister, or shadow minister, for tax. He led for the government on nine Finance Bills and throughout his time in office demonstrated a commitment to consultation and engagement with the tax profession and other stakeholders leading to generally more considered tax policy. As well as putting in place the new Tax Consultation Framework and Tax Professionals Forum he was instrumental in setting up the Office of Tax Simplification and oversaw the government's much-praised first Corporate Taxes Roadmap.

'Sadly, due to the coronavirus I am not able to present Heather or David with their awards in person at an Institute event, as we would usually do. I look forward to the day when I or my successor will be able to do so.'

CIOT, ATT & ADIT

Subscription rates 2021

UPDATE

Chartered Institute of Taxation	CIOT
CIOT Associate	£372
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CIOT Joint Overseas Associate	£343
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ATT Retired Member with literature	£125
ATT Retired Member without literature	£15
ATT Fellow	£230
ATT Joint Fellow	£135

CIOT

Mystery tax thought leader revealed

TRAINING

Joanne Herman's blog series continues with an exclusive interview...

Welcome back to your personal brand experience and the final blog instalment in this mini-series.

In the last blog, we looked at what makes a good thought leader. Today, we reveal our mystery thought leader. Sofia Thomas, a family tax and specialist divorce expert, explains why she thinks personal branding is important and how it has helped to propel her career.

Why do you think personal branding is important and how has it helped your career?
'I think we all have a personal brand so there is no escaping it. If you can work on improving it, even in little ways, then you will begin to stand out from your peers and hopefully find opportunities to keep strengthening and improving your brand.

'Personal branding has helped my career in a number of ways. It has helped me take a close look at my vision, purpose, strengths and values – and chart a course to where I am now by equipping me with greater self-knowledge. To gain trust and credibility in my field of expertise, I had to build my knowledge if I wanted to be the go-to expert.'

How have you built your expertise in tax issues around divorce or separation?
'I began by reading everything I could find about tax and family breakdown. I looked for changes in the tax law and considered how they would impact divorcing couples. I began writing technical articles on this subject and went to family law conferences to understand what their pain points were, who the experts were in this field and how could I learn from them.

'I began to subscribe to their magazines and blogs to further understand how (and if!) I could actually add value. After about 12 to 15 months of researching and learning, I began to reach out to law firms to offer free "Lunch and Learns" on tax on divorce. These were invaluable, enabling me to learn a huge amount about what their issues were, what immediate tax issues their clients were facing and how I could refine my business.'


Sofia Thomas

How have you built your reputation as an expert in tax issues around divorce?
'I built my reputation in tax on family matters by constantly refining my knowledge in this area and by sharing the information with key audiences through publishing and lectures.

'I have written articles for tax magazines and published blogs with family solicitor firms specifically focused on the impact tax can have on family matters and have given lectures at industry leader events including tax conferences with CIOT and STEP and family solicitor events with Resolution and MBL.

'This summer, my book *Tax implications of family breakdown* is being published with Bloomsbury and was written specifically for family solicitors in partnership with James Pirrie.'

What content marketing tools do you tend to use?
'I primarily use LinkedIn but when attending events (pre-COVID) I found Twitter was a great way to support other speakers by tweeting about their talks. I send regular emails to my network if I have read something that is of use to them and my subscribers receive weekly updates on relevant tax issues.'

Do you write or speak frequently – and are your materials easy for people to find and access?
'Yes, I usually publish about once a month on tax on divorce, whether that's through an article with a magazine, a lecture for the tax or family solicitor industry or a self-published blog or video on social media. My materials are always posted on LinkedIn or shared on Twitter and I have a specific section on my website featuring my published pieces and free resources to make my content easy to find.'

Are you available in the places where your prospects are looking?
'Yes. To help raise my visibility within the family law industry, I have spoken for industry specific events such as the Resolution Conference and have partnered with MBL to run a series of tax-related sessions

What advice would you give to someone looking to become a thought leader or visible expert?

- Use what you already have! If you have an interest in a certain area, start looking further into it. Is there anything you could contribute to that? If you're just beginning in your area, I would strongly recommend self-publishing through platforms such as LinkedIn and YouTube as a good place to start.
- Once you write an article make sure you fully publicise it. Post it on social channels, email it to people who would find it interesting and if you work in a firm, ask for it to be included in the weekly/monthly emails.
- When I first started at PwC, all I wanted to be known for was completing work on time. I worked really hard in the first few months to gain a reputation as someone who could be relied on and was subsequently given more opportunities which allowed me to build on the next parts of my personal brand.

for family solicitors. I have also partnered with family law firm Stowe to write blogs as a guest on their website to illustrate the benefits of working with a tax advisor.

'In my last blog, I discussed the importance of mastering your four key core abilities. Every visible expert or thought leader must master a basic set of skills, including public speaking, writing and the ability to use online tools, such as social media and blogging.'

How would you rank your proficiency with each of these?
'I understood the importance of these skills when building my brand. However, I knew I had to improve my public speaking and writing skills if I wanted to work with industry leaders. One area that I felt I needed to improve in was public speaking. I hired a speaking coach to help me to deliver talks in a way that keeps people interested in what I'm sharing. Before I deliver my talks, I record myself doing a run through and watch it back.

'For writing, I have used courses on Udemy for help (specifically Writing with Confidence for those who are interested). Many of the editors at the technical magazines have also offered extremely valuable advice on my past articles which I try to keep in mind whenever I'm writing.'

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

CIOT

CIOT Fellowships

AWARDS

CIOT is pleased to confirm that the following individuals made successful submissions to become CTA (Fellow) in 2020.

Submission of a dissertation:
Rebecca Bright: Managing the inheritance tax consequences of conversion to limited liability status for a Lloyd's name
Thomas Ickeringill: Post-BEPS Risk Analysis Framework: a non-arm's length standard?
Kyran Thomas: Evaluation of the UK's diverted profits tax from a tax policy perspective

Submission of a body of work:
Osita Mba: Transparency and accountability of tax administration in the United Kingdom: the nature and scope of taxpayer confidentiality, British Tax Review
Leigh Sayliss: Sections of Monroe & Nock on the laws of stamp duties

ATT

ATT Fellowships

AWARDS

Council was delighted to admit the following ATT Fellows at its September 2020 meeting. ATT Fellowship now stands at 1009.

Please connect with our new LinkedIn ATT Fellows Group. We will be posting regular updates here with items that may be of interest to you as an ATT Fellow. We are also planning a 'Feature a Fellow' item in *Tax Adviser* during 2021. Please contact us at page@att.org.uk if you are interested in featuring in this.

If you have 10 years' continuous ATT membership you can apply to become a Fellow. For more information please visit: www.att.org.uk/members/apply-become-att-fellow.

We will be publishing the names of those admitted to Fellowship at every Council meeting going forwards, so if you do not see your name here you may well see it in the next listing.

Azhar Ahmed, Wallington
Diane Aldridge, Chippenham
Angela Aldridge, Northallerton
Neil Allen, Birmingham
Mark Amatya, Allsworth Park
William Anang, Mitcham
Abdelhamid Attalla, Dubai
Rekha Bhonsle, Hyderabad, India
Ian Birt, Paignton
Nigel Bond, Bristol
Catherine Bond, Reading
Linda Bradley, Plymouth
Hazel Bremner, Inverurie
Christopher Brown, Thornton-Cleveleys
Wilma Bruce, Peterhead
Jennie Buckworth, Warwick
Patricia Bunn, Droitwich
Judith Burr, Stockport
Hugh Cottrill, Windsor
Alexander Covey, Taunton
Sarah Cox, Brighton
Francesca Crichton, Edinburgh
Michael Davey, Reading
Caroline De Silva, Nantwich
Emma Dersley, Canewdon
Sayeeda Dharsi, Ruislip
Stephanie Dodds, Edinburgh
Melanie Donegan, Manchester
Sean Donohue, London
Rowena Drewitt, High Wycombe
Nigel Duffey, Donaghadee
Fiona Eagleton, Wakefield
Catherine Firrell, Southampton
Gary Forbes, Chertsey
Louisa Freebody, London
Stuart Gillies, Twickenham
Carolyn Glover, Blackburn
Malcolm Gofton, Gravesend
Sarah Green, Durham
Linda Griffiths, Letterston
Stan Griffiths, Llanelli
Melanie Halstead, Keighley
Christopher Harman, Halstead
Alison Hartnell, Taunton
Cathryn Higham, Slaidburn
John Hill, Wantage
George Houston, Glasgow
Jacqueline Humphries, New Milton
Mohammud Jaufarally, Hatfield
Varnakulasingam Jegatheeswaran, Harrow
Rufus Jegede, Lagos
Anuoluwapo Jegede, Stanford-Le-Hope
Alison Jennings, Dunfermline
Kai Karim, London
Paul Kemp, Liverpool
Sarah Kingdon, Warrington
Alison Lamin, Nottingham
Nisus Larsen, Bristol
Hien Le, Horsham
Doreen Liew, London
Robyn Limmer, London
Amelia Mauger, Brentwood
Gemma May, Bexley
Fiona McCallum, Tenbury Wells
Hilary McClenaghan, Newtownabbey
Fiona McCrickard, Castlewellan
Angela McDowell, Clarbeston Road
Tracey McFetridge, Belfast
Mark Meredith, Cannock
Iain Mills, Lechlade
Unies Mirza, Essex
Craig Mitchell, Strathaven
Emma-Louise Montgomery, Caistor
Nigel Morris, Kidderminster
Sonali Nathwani, Dubai
Carol Nicoll, Falmouth
Carole Nuttall, Oldham
Tobi Olusola, Sittingbourne
David O'Malley, London
Nicholas Parsons, Bedford
Carolyn Paskins, Saffron Walden
Narendrakumar Patel, Milton Keynes
Nisha Patel, Leicester
Deborah Pearce, Swanley
Helena Phillips, Redditch
Chris Pitsillides, London
Jane Powell, Bideford
Angela Probert, Woking
Shane Proctor, Chesterfield
Karen Renwick, London
Joanne Richardson, Lincoln
Maria Rodican, Newbury
Maria Rogers, Yeovil
Andrew Rosam, Brentwood
Alan Ross, Bromsgrove
Gemma Rowe, Swaffham
Faye Ruffles, Fareham
Amanda Schofield, Wigan
Hayley Sengebusch, Worthing
Ian Sherriff, Goole
Michael Southon, St. Leonards-On-Sea
Martyn Southwick, Lancing
Stephen Stapleton, Portsmouth
Gillian Steel, Winchester
Simon Stockley, Hua Hin, Thailand
Andrew Stringer, Harrogate
Carol Stubbings, Tadley
Michael Taylor, Littlehampton
Mark Thomas, Southampton
David Topley, Dromara
Brian Walsh, Co Dublin
Neal Watkins, Bicester
Carol Watters, Preston
Simon Wedgwood, Preston
Nicholas Wills, Wokingham

CIOT & ATT

Being a trustee of Tax Help for Older People

TAX CHARITIES

Alison Lovejoy explains the role of a trustee of Tax Help for Older People.

Those of you who read my column regularly will know that I am closely involved with Tax Help for Older People or, to use its company name, Tax Volunteers. I am a trustee and thought you might like to learn more about what a charity trustee does and perhaps be inspired to join us.

What is a charity trustee?

Charity trustees are the people who share the ultimate responsibility for governing a charity and directing how it is managed and run (sometimes also called the Board, the Management Committee, governors or directors). Trustees play a very important role in the decision-making processes of the organisation. Their actions have a big impact on how the charity conducts itself. Trustees do not get paid for their role but can claim back reasonable expenses. To learn more, go to www.gov.uk/guidance/charity-trustee-whats-involved.

Being a Tax Help trustee

We have a formal Board meeting four times a year. Before Covid, and we hope again soon, three were held in London and one in the Tax Help offices near Bridport in Dorset, allowing us to meet the staff and see at first-hand what they actually do! The trustees usually travelled down the day before and stayed overnight in a local hotel, so we could meet informally and get to know each other.

Currently, these meetings are held on Zoom but as soon as we can, we should take the opportunity to meet the staff again. Like all committees, various members who have specific responsibilities communicate with each other in between meetings!

The aim of Tax Help for Older people is to 'Provide tax help to all who need it'. Ideally, we need people who understand those who need help and what they need help with – if possible, some working knowledge of the tax issues and challenges faced by older people and low income taxpayers. Of course, none of our existing trustees have all these qualifications but that is the strength of the team.

Who are our current trustees?

Our Chair is Penny Hamilton, a Past President of the CIOT who has had a long and varied career in tax. She was Senior Legal Adviser in the office of the Solicitor for HM Customs and Excise, a partner in PwC and a a member of Pump Court Tax Chambers. Clive Tulloch, our Deputy Chair, was previously Chair of Tax Help. He was a tax partner in PwC, the CEO of the Free Representation Unit and a Past Master of the WCTA. Our most recent trustee is Marian Drew, who was Head of Tax at BAA plc/Heathrow Airport. I was Editor of *Tax Journal*. Sam Mitha spent most of his career in HMRC, most recently as Deputy Director of the Tax Planning Group. Craig Muir is a Tax Partner at Deloitte and leads the Global Employer Service business across the UK and NW Europe. John Whitehead, also our Treasurer, was Head of Real Estate Tax at Deloitte and is also a volunteer for Tax Help. You will find more information on taxvol.org.uk/index.php/about-us/trustees.

'Missing' trustees

Most of the descriptions above involve the word 'was'. We need people working at the coal face with current knowledge of the tax system and especially in the areas covered by Tax Help. Most specifically, we need someone to replace one of our very special former trustees, Jean Jesty, who many of you will remember as a Past President of the ATT.

Another important area where we are short of expertise is pensions management and I am sure many of you may have other ideas.

Last words

Penny Hamilton has put all this into a nutshell: 'As Chair of Tax Help for Older People, I am fortunate in having the support of a very effective and enthusiastic board of trustees.

"At the moment we have seven trustees. Clive Tulloch will be retiring in November after long and dedicated service, and we are looking for new recruits, including someone from the tax profession. The ideal candidate would be someone in general practice who deals with the sort issues faced by our beneficiaries – income tax, NICS, pensions, IHT, VAT – and especially PAYE, which is an important part of our service for those in multiple and insecure employment: incorrect tax codes are a particular issue. However, the principal qualification is having the time, energy and commitment to contribute to the governance of the charity.'

If anyone feels inspired to join our ranks, please contact alice@taxaid.org.uk.

CIOT

Tarlochan Lall

OBITUARY

CIOT pays tribute to Tarlochan Lall, a valued technical volunteer with the Indirect Taxes Committee.

Tarlochan Lall

We, along with many CIOT volunteers, were saddened to hear of the sudden passing of Tarlochan Lall on 9 November at the age of 57.

Tarl started his tax career in 1988 as a trainee solicitor with T G Baynes. He worked at Nicholson Graham & Jones, DLA (Alsop Wilkinson) and Charles Russell LLP (partner), where he founded the business taxes department. Tarl was called to the Bar in 2010 and joined Monckton Chambers in 2011, specialising in indirect and direct taxes.

Tarl was a member of the CIOT for 23 years, achieving Fellowship in January 1997 with his thesis, 'Taxation and the European Economic Interest Grouping'. He was an invaluable member of the Indirect Taxes Committee, representing us on the EC VAT Experts Group from 2012 until 2016, and recently on HMRC's JCCC EU Transition Sub-group. He contributed much time to the CIOT's work on Brexit – writing articles, presenting lectures and providing analysis for submissions.

Here are some of the messages received from our volunteers:

'This is terribly sad news. Tarl was such a positive and fair-minded person who saw more than most of us and could sum up the complex so succinctly. Like many other committee members I will miss his wisdom, readiness to give his time and his gentle manner – he will be sorely missed. His passing leaves an enormous void among us. Deepest sympathies to his family.'

'He gave his time freely and continually and was always available when asked for comment or analysis. His outstanding technical knowledge and warm personality will be greatly missed by us all.'

'I was so saddened to see the news of Tarl's sudden passing – a gentleman and a gentle man.'

Our thoughts are with Tarl's wife and family at this very sad time.

WCOTA

October 2020 events

EVENTS

Caroline Turnbull-Hall brings you news from the Worshipful Company of Tax Advisers.

The Company is continuing its programme of virtual events and has found that the pandemic has brought the advantage of making the events accessible to more attendees than would have been possible otherwise. October was no exception, with both a History of Tax event and a virtual walk. And of course, in this, the Company's 25 th anniversary year, it has been possible to make a much wider audience aware of the major charitable fundraising drive.

Walk 25,000 for 25

The Company aims to raise £25,000 to commemorate its 25th year, which will be allocated to its charities. In such uncertain times, it is not possible to hold major fundraising events, and so all Freemen and Liverymen, and anyone else associated with the Company, are invited to get moving (walking, running, etc.) to help meet this target by logging their mileage covered over the next 12 months. If 100 participants commit to covering 250 miles each, and are sponsored £1 per mile, the target will be met. If anyone is interested in joining the WCTA Super Team to help the Company in its endeavour (and participation is not only free but good for you!), please register at https://taxadvisers.org.uk/25000.

'A history of US taxes – 10 key dates'

On 27 October, Don Korb gave a presentation on the 10 key dates in US tax history in the second virtual History of Tax event. A virtual event meant that Don was able to join us from his office in the US, and give his talk to a record 456 attendees.

Don's first key date was 5 August 1861, when Congress imposed the first personal income tax to pay for the Civil War, at 3% on incomes over $800. However, the legislation contained no provision for the collection of the tax, and so the Revenue Act of 1862 was enacted, which contained assessment and collection provisions. This levied income tax at 3% on incomes over $600 and 5% over $10,000, thus introducing a progressive rate structure. This tax was in force until 1871, and then there was a period without income tax until its reintroduction in the Wilson-Gorman Tariff Act 1894. A further hiatus occurred when this tax was overruled in 1895 by the case of *Pollock v Farmers' Loan and Trust Company,* and income tax was not imposed again until 1913, following the ratification of the 16th Amendment. Don then took us through the tax changes necessary to fund World War I, and the changes introduced by Roosevelt in 1935 in the New Deal Social Security Act, which saw payroll taxes funding social benefits. It was interesting to learn that the system of withholding taxes on wages, which was introduced in 1943, was suggested by an executive from Macys, rather than an IRS official.

Don's insight into more recent tax changes was informed by his time in the public sector, as Assistant to the Commissioner of Internal Revenue in the mid-1980s and between 2004 and 2008 as IRS Chief Counsel. For the UK tax practitioner, used to annual changes to tax legislation, it was particularly striking to learn of the period of stability in the US tax system when there were no substantive changes to the US tax code between 1996 and 2017.

To bring us up to date, and in the light of the US election on 3 November, Don finished by giving an insight into the tax changes that might be expected should Joe Biden win the election.

Don gave us a fascinating insight into the history of the US tax system, and it is hoped that he might be persuaded to give another presentation in the not too distant future.

'Sick London'

Blue Badge walks are a regular feature of the Company's social calendar, and the pandemic was not going to prevent us having a walking tour of London this autumn. A virtual walking tour meant that the weather was no impediment to a tour of 'sick London' on 22 October, when our excellent Blue Badge Guide covered a number of sites associated with the medical profession. This included Barts Hospital, with a 'visit' to the tomb of Rahere, the founder of the Priory of the Hospital of St Bartholomew, in our own Livery church of St Bartholomew the Great. A virtual tour meant that a greater distance could be covered – from Smithfield to Soho, via Harley Street, Kennington and Moorfields.

We hope to organise further virtual walks until actual walks (which would help participating members with their 25,000 for 25 step count!) can resume, hopefully in the not too distant future.

Branch Webinars
December 2020

Our Branch Webinars are open to members, students and non-members alike.

Book your Branch Webinars online at:
www.tax.org.uk/branch-webinars
www.att.org.uk/branch-webinars

Pricing Key
M Member | S Student | NM Non-member

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

Employment Taxes update – COVID update
Rachel Chalmers
2 December
1 - 2 PM
Glasgow Branch
Free

Tax Cases Update
Michael Thomas
3 December
5 - 6:30 PM
Harrow and North London Branch
M £40 | S £36 | NM £44

Employment-related securities
Oliver John
7 December
11 AM - 12:30 PM
South Wales Branch
M £40 | S £36 | NM £44

Capital Allowances
Steven Bone
8 December
2 - 5 PM
Harrow and North London Branch
M £75 | S £67.50
NM £82.50

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

Property Tax
Tim Jarvis & Mark Simpson
10 December
1 - 2 PM
Leeds Branch
M £25 | S £22.50 | NM £27.50

VAT Update including Brexit
Simon Buchan
14 December
5 - 6:30 PM
Sheffield Branch
M £40 | S £36 | NM £44

IHT Calculations
Megan Saksida
15 December
5 - 8 PM
Harrow and North London Branch
M £60 | S £54 | NM £66

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branches@tax.org.uk

Catch up in your own time

Branch webinar recordings now available

www.tax.org.uk/branch-webinar-recordings
www.att.org.uk/branch-webinar-recordings

Below is a selection of the webinar recordings available online

Employment Taxes
Alexandra Durrant
Sussex Branch
M £50 | S £45 | NM 55
2 hours

Finance Act 2020
Reshma Johar
London Branch
M £40 | S £36 | NM £44
90 minutes

VAT Update
Les Howard
South London and Surrey Branch
M £40 | S £36 | NM £44
90 minutes

The Enterprise Investment Scheme: Advising in Practice
Andrew Rainford
Merseyside Branch
M £25 | S £22.50 | NM £27.50
1 hour

Capital Taxes - The Hot Topics
Robert Jamieson
Northern Ireland Branch
M £75 | S £67.50 | NM £82.50
3 hours

IR35 - Mutuality of Obligation: The Taxpayer's Trump Card
Derek Francis
Aberdeen Branch
Free
1 hour

Tax Valuations of Private Companies
Ritchie Tout
South Wales Branch
M £25 | S £22.50
NM £27.50
1 hour

Inheritance Tax and Trusts - An Advanced Guide
Robert Jamieson
East Midlands Branch
M £75 | S £67.50 | NM £82.50
3 hours

Statutory Residence Test
James Heathcote
Leeds Branch
M £25 | S £22.50 | NM £27.50
1 hour

Tax Implications on Divorce
Sofia Thomas
Severn Valley Branch
M £40 | S £36 | NM £44
90 minutes

Armstrong Watson LLP is an expanding business with 16 offices operating across Cumbria, Yorkshire, Northumberland & Scotland. As a leading independent accountancy firm, we are proudly ranked in the UK top 30 of Accountants, Business & Financial advisers.

The Role

This role will involve working alongside our existing teams who aspire to provide the very best service to our clients. Our aim is to look to build a long-term relationship with our clients no matter where they are in their personal or business lifecycle. We build an intimate understanding of their needs and support them in their decision-making building trust fast while demonstrating our knowledge, defining our actions, and consistently delivering added value. You will be required to meet, engage, understand, devise, and deliver bespoke Tax Consultancy advice & solutions to clients. You will help deliver against agreed KPIs, individual and team fee targets playing a leading role in delivering against the Tax Consultancy Service Line and office business development objectives to drive higher fees for your team.

The Candidate

You will be CTA qualified or have equivalent qualification, be a thought-leader in your area of expertise and currently hold a senior TAX position with your current firm.

If you feel that you have the right attitude, eager to do the right things by your clients and looking for a role that can excite you, then we need to talk further.

In the first instance please contact our internal recruitment partner David Ramsay for an informal chat on 01228 690100 or email your details to david.ramsay@armstrongwatson.co.uk all applicants will be treated confidentiality.

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Georgiana Head Recruitment

MEET YOUR ADVISERS

HETTY

The Tax Hound

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Director

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Group Tax Manager or Head of Tax York – £excellent

An excellent opportunity for a senior tax professional to join the in-house team of a thriving UK business based in York. Our client is looking to further develop its Group Tax function through the appointment of a Group Tax Manager or Head of Tax. The main responsibilities of the position are for the day-to-day management of the Tax Department, with a strong emphasis on ensuring full compliance and the development of appropriate tax risk management strategies.. Full time role which can currently be worked remotely, but post Covid-19 would be based in York. **Call Georgiana Ref: 2995**

Interim Tax Manager North Allerton area, North Yorkshire

6 to 12 month maternity cover contract in-house finance team for a qualified (ACA, ICAS CIMA or CTA or equivalent). Day to day, this role will involve corporate tax compliance, reporting and advisory work as well as the chance to get involved in VAT, transfer pricing and employment taxes. You will be involved in transaction support, and will work closely with the business. This is a great opportunity based in a lovely part of the world. This business is expanding and there is potential for this to be a temporary to permanent role. **Call Georgiana Ref: 2999**

Group Tax Manager Leeds – £60,000 to £75,000

Classic In-house Group Tax Manager role in Leeds. They need an experienced manager or senior manager to lead an in-house team and manage the tax for a large group. Your focus will be the UK and Ireland, and you will be involved in managing and developing more junior staff. You will manage the organisation's tax charge, help minimise tax liabilities across the group and oversee the management and reporting of tax risks. Would consider a senior manager from practice with some decent reporting experience or someone who is already in-house. **Call Georgiana Ref: 2971**

Tax Accountant or Tax Manager North Yorkshire – £45,000 to £55,000

Private Equity backed group which is UK focused and expanding in to Europe seeks a qualified tax professional. As part of a growing in-house tax team, you will help manage the corporate tax compliance/reporting and will get involved in some VAT work. Previous VAT experience is not a pre-requisite but UK corporate tax experience is. There is scope to work on advisory projects too. Our client can offer a mix of home and office working post lockdown. Based in a historic market town close to the North York Moors and in easy reach of the East coast. Agile working available. **Call Georgiana Ref: 3000**

Employment Taxes Assistant Manager or Manager – Manchester or Yorkshire

Top 20 firm seeks an employment taxes specialist. You might be an Assistant Manager or Manager, and can be based in Manchester or Yorkshire. This role would suit someone with a minimum of 4 years' UK PAYE and employment tax experience. In this role you, will work with a director and will be involved in a wide range of work from minimum wage advice, to PAYE audits to advice on employment contracts. Flexible working and mix of remote and office working available. Lovely team and great work make this a really good opportunity. **Call Georgiana Ref: 3001**

Personal Tax Leeds – £excellent

Our client is a large independent practice with a strong reputation for private client work. They seek a qualified personal tax person to run a complex portfolio of compliance cases. Its likely that you will be ATT qualified, CTA would be an advantage. This firm would consider any level from tax senior to experienced manager. Great quality work (they can give you a made-to-measure portfolio to fit your specialisms such as trusts and partnerships). Really friendly team and great systems. Can offer a good mix of remote and office working and flexible working. **Call Georgiana Ref: 3002**

www.georgianaheadrecruitment.com

Tax Advisory Senior Manager
Manchester – £excellent + benefits

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

Mixed Tax Compliance Associate
Liverpool – £excellent + benefits

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

Business Tax Manager or Senior Manager
York – £excellent

This large independent accountancy firm are looking for an ACA/CTA qualified manager or senior manager in their business tax team to undertake tax compliance and advisory projects. It is a client facing role, and you must have owner managed business experience. You should be able to deal with giving advice on technical areas like share option plans (EMI etc), (S)EIS, company reorganisations and demergers, and other advisory projects. Experience on property transactions including capital allowances would also be advantageous. **Call Alison Ref: 2977**

Corporate Tax Senior Manager or Director
Leeds – £excellent

Large independent firm looking to fill a key role. They need a tax all rounder – someone to help lead and develop the Yorkshire tax practice. This would suit a senior manager or director with a corporate or mixed tax background. Someone who can help the partners with advisory work and get involved with man management and business development responsibilities. The client base is primarily owner managers and their businesses. This is a great opportunity with no limit on progression. **Call Alison Ref: 2983**

Tax Advisory Role
Chester – £excellent + bonus

This practice seeks a CTA/ACA qualified tax professional to manage a portfolio of tax planning work. You will deal with a range of clients and will have exposure to technical work including transactional tax issues, succession planning, sale/exit planning, property tax planning and advising HNW individuals on tax efficient ways of managing their income. Candidates at all levels from recently qualified to senior manager will be considered. Above all you must have a passion for tax, great communication skills and a strong attention to detail. **Call Alison Ref: 2996**

VAT Manager – Preston, Manchester or Liverpool
£Excellent + Benefits

A fantastic role for a VAT specialist who enjoys working in a small team and is confident providing practical, commercial advice on complex VAT and other indirect tax issues. You will manage VAT advisory projects (e.g. company acquisitions and disposals), HMRC enquiries, assist with ADRs, prepare cases for First-tier Tribunal, advise on issues arising from our departure with the EU and deliver presentations. You will primarily be based from home with some time spent in an office. **Call Alison Ref: 2988**

We all need a bit of light relief during Lockdown, so why not follow the adventures of Hetty the Newfoundland (*The Tax Hound*)

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