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Excellence in Taxation November 2021

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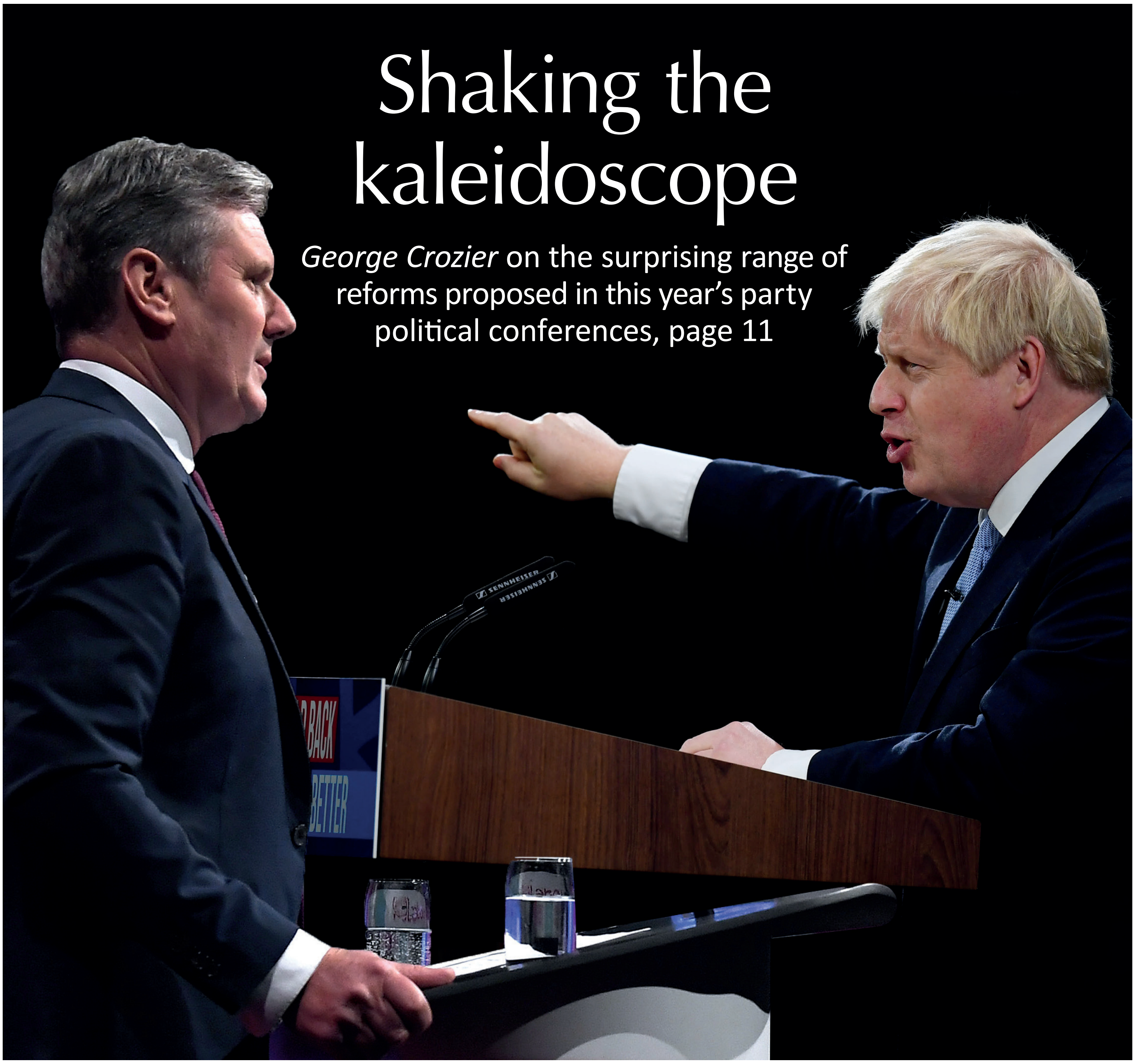
TAXAdviser



Shaking the kaleidoscope

George Crozier on the surprising range of reforms proposed in this year's party political conferences, page 11

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SCAN ME

CONTENTS

President's page

president@ciot.org.uk
Peter Rayney

The Wind Beneath My Wings

I hope that you have enjoyed the late summer sun and are managing to do at least some of the things that you enjoy. It looks like autumn is now definitely upon us and by the time you read this the nights will certainly be drawing in.

Well done to all our tax colleagues who successfully navigated the 10km London Legal Walk in October to raise funds for the Bridge The Gap tax charities – TaxAid and Tax Help for Older People. I am very proud of our Institute's charitable objectives and we continue to play a pivotal role in helping and supporting everyone with their tax. And that includes those who can't afford to pay for tax advice.

Bridge The Gap

As tax advisers, we know from our own families that not only businesses and better off people have to deal with tax problems. They can also affect people on very low incomes. When these people can't afford to pay for professional tax advice, the issues can become very distressing and serious for them.

The Institute formed the Low Incomes Tax Reform Group (LITRG) to research and campaign for people who otherwise don't have a voice. LITRG does a wonderful job in these areas and is listened to by government, as well as helping millions through the advice it gives on its website.

But many people with tax problems also need bespoke personal advice. And if they can't afford to pay for it, where do they turn? This is where TaxAid and Tax Help for Older People provide much needed support and advice. Each year, these two sister charities help around 17,000 vulnerable people.

TaxAid focuses on people of working age; Tax Help for Older People specialises in assisting the over 60s. Every day, these charities help people who are facing real difficulties with their taxes. Their helplines often hear from people who are dealing with loss of business, or bereavement, learning difficulties, mental health problems, pension scams, exploitation, and many other challenges. For many of those who need their help, tax is not their only problem.

During the pandemic, the two charities did a fantastic job launching two new services which helped over 6,000 people apply for essential government income support when their livelihoods were destroyed. The tax advice and assistance provided by these charities can often be life changing for their clients, relieving them of the huge stress and sleepless nights they will have experienced. The help they give resolves their tax and related issues and lets them get on with their lives.

Client's feedback

It's heart-warming to hear some of the great client feedback received by the charities. The following examples clearly show how huge burdens have been removed and the beneficial effect the support has on people's lives:

'I could never have managed this alone. Charles was so very kind and patient. It has taken away an enormous stress. I cannot thank you enough.'

'I have a disability and was very ill at the time. But the staff were very helpful. They listened to me with great patience and spoke in a way I understood. They made me feel a person, not just someone. I am so grateful for all their help and support.'

Some important numbers about the two charities are provided in the box below.

The charities have had a particularly challenging time during the pandemic. If you would like to help, for example with fundraising or as a volunteer, or would like to make a donation, please contact Rose Over at rose.over@taxvol.org.uk – the PA to Valerie Boggs, the joint CEO for the two charities.

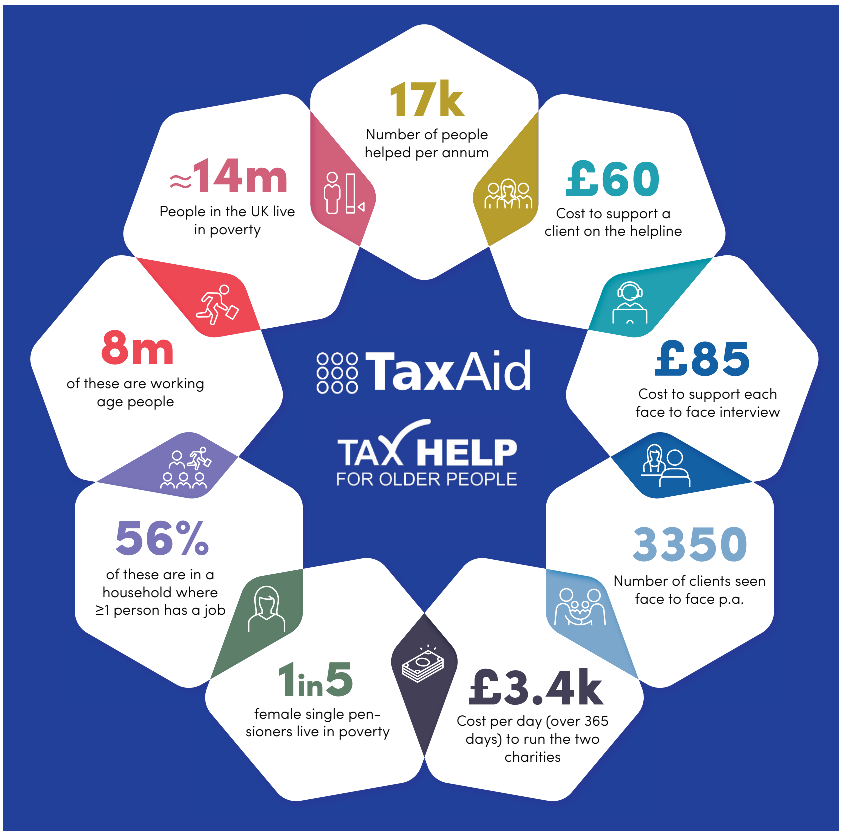
Online CIOT events

Finally, don't forget we have a fantastic line-up of online events, many of which are free, to take you through the autumn and winter. Check them out.

Till next time, keep safe...

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

> **"Not only businesses and better off people have to deal with tax problems. They can also affect people on very low incomes.**



ATT Welcome

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David Bradshaw

Technical matters

As I write my Welcome page for this month, people are actively predicting what may appear in the autumn UK Budget at the end of this month, which makes things a bit awkward for me. This means that any predictions that I am tempted to make will be surely discovered as inaccurate even before I have made them. That will be a little bit of a pointless exercise, don't you think? I am, therefore, not going to bother summarising my predictions. I will simply confirm to you that I was indeed correct on all counts!

As always, the ATT technical team have been furiously busy over the summer dealing with various consultations. A highlight for me was the new Financial Secretary to the Treasury Lucy Frazer MP responding to our letter regarding proposed reform of the basis period rules and their interaction with the introduction of Making Tax Digital for Income Tax Self-Assessment ('MTD for ITSA' for short!).

The ATT, along with other professional bodies including, of course, CIOT and LITRG, originally wrote to the Financial Secretary to the Treasury's predecessor, Jesse Norman MP, setting out concerns over the proposed timetable for these changes, highlighting that a rush to implement them too quickly, especially on the back of Brexit and the pandemic, risked undermining the integrity of the tax system.

In consequence, many of you will no doubt have seen the announcement that MTD for ITSA will be delayed for a further year. The new timeline is that MTD for ITSA will be introduced from April 2024 for sole traders and landlords, with general partnerships not required to join until April 2025. It was also confirmed that any reform of the basis period rules will not take place until April 2024, with a transitional year not coming into effect earlier than April 2023. You can find the Financial Secretary to the Treasury's response to this letter on the ATT and CIOT websites.

Reform of the basis period rules, I hear you exclaim!

Only about 40 years too late for your now Deputy President, as he valiantly tried to explain the opening year rules to mystified clients. If many of us have struggled with the current year basis when it arrived in the 1990s, just think what havoc was reaped using the prior year basis of assessment when I first encountered the world of tax in the 1980s. I tried with pained expression to explain to my clients that my best advice was to have a shockingly poor first year of trading and they could stave off the fateful day of their first tax payment for decades. That first terrible year was taxed over and over again until the system finally caught up with itself. Woe betide any client that suggested that he or she was considering changing their accounting date, or worse still, they were taking on a new partner too! They were marched straight off the premises without further ado.

OK, I exaggerate, but a more complex set of rules to deal with such a simple issue I have never come across. That is not, by the way, an invitation for you all to bombard me with better and more complex examples. At this point, I marched into the boss's office and suggested a career specialising in corporate tax would suit me better.

And now, subject to further delays of course, a hopefully simpler and more logical system is being considered based on actual results – which was indeed an option for those opening years back in the 80s! Who would have thought that it would take Making Tax Digital to finally see HMRC 'grasp that nettle'. I was fascinated to learn also from Office of Tax Simplification Tax Director Bill Dodwell's article in last month's *Tax Adviser* that the UK tax year end of 5 April dates back to 1758!

The only problem for me is that the new rules will arrive as I hang up my tax tables and head off into the sunset. Nevertheless, as our response to the consultation suggests, the transition is going to take some thinking through. Thank goodness my discipline of corporation tax administration has adopted a simpler approach and I do note that an option on the table is to adopt corporation tax style reporting. I highly recommend the ATT submission to the consultation if you want to immerse yourself in the complications that any of the suggested routes will create in the transition. Kudos as always to the technical team for handling that one.

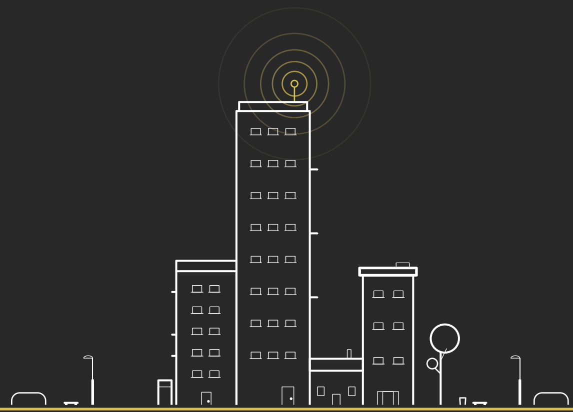
And finally, as I write this welcome page, news via the grapevine reaches me that a stalwart of the branches network and Chair of the East Midlands Branch, the redoubtable Stephen Foulkes, is returning to the back benches after decades of frontline service as Treasurer and latterly Chair in the East Midlands. A more dedicated servant of the branches network you are unlikely to come across. Stephen and I have served on many a committee together and have been served at many a bar together at national forums and events. Let's hope he is not too troublesome a back bencher for Dipti Thakrar, the incoming Chair. Don't stand for any nonsense from him Dipti!

David Bradshaw
ATT Deputy President
page@att.org.uk

"As always, the ATT technical team have been furiously busy over the summer dealing with various consultations.

monitoring

/ˈmɒnɪtə/



verb

1. observe and check the progress or quality of (something) over a period of time; keep under systematic review.

2. more game-changing innovation in the IR35 space.

IR35 SHIELD

THE IR35 COMPLIANCE STANDARD

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

Chartered Institute of Taxation.

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

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

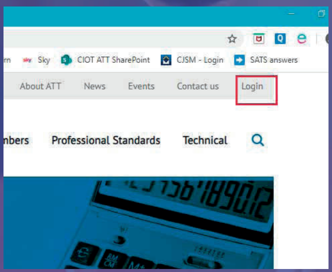
Please check that you have completed yours by logging on to the Members Portal (https://pilot-portal.tax.org.uk) then going to Secure area/Members Area/Compliance/Annual Return where you will be able to complete any outstanding form.

*Excludes those who are fully retired and students.

STEP BY STEP GUIDE TO COMPLETING YOUR 2020 ANNUAL RETURN

1. Login

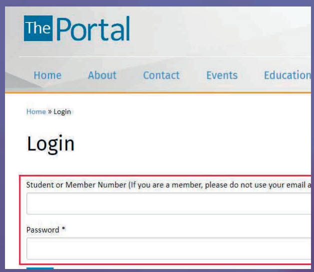
On the ATT website click login located in the top right.
On the CIOT home page please refer to the advert on the right hand side.



2. Portal

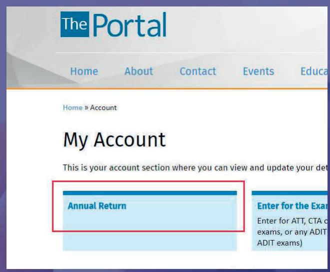
To access your account on the portal please use your:

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



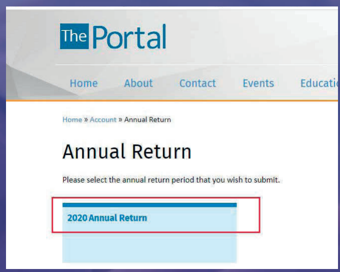
3. Account

Select Annual Return option



4. Period

Select 2020 Annual Return period



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

Your *Tax Adviser* magazine

Richard Wild shares the results of the CIOT and ATT survey and explains what we are doing to implement the findings

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. As you will know, *Tax Adviser* is produced monthly, and sent to members as a physical magazine. Most of the magazine's content is also reproduced on www.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 always keen to ensure that our provision of technical material remains relevant and continues to represent an important membership benefit.

Our survey

Many readers will recall that, between December 2020 and February 2021, we ran a survey to obtain members' feedback on both *Tax Adviser* and our weekly technical news service. The survey sought feedback on the nature and quality of content of both products, as well as the medium and frequency of their delivery.

We recognise that this was a busy period for many of our members, but as I shall explain later, it was important to undertake the survey at that time to inform our subsequent actions. We are grateful to the 1,611 members who completed the survey.

We have published the survey results on our websites (see www.tax.org.uk/TAsurveyresults and www.att.org.uk/TAsurveyresults), but some of the key findings are:

- Around 50% of respondents read the hard copy magazine every month, with about 25% reading it most months. Just over 20% rarely read the hard copy.
- Less than 10% of respondents read the online magazine every month, with about 12% reading it most months. Nearly 25% have never read the online copy.

- Over 90% of respondents read the hard copy magazine, but nearly 10% dispose of it unread.
- The tax technical articles are the most important features, followed by technical newsdesk and professional standards information.
- The magazine compares well against other similar magazines read by respondents.
- Over 50% of respondents read the weekly email every week, though time pressures represent the single greatest reason for not reading it.
- Over 85% of respondents rated the weekly email good, very good or excellent, and over 90% found it helpful or very helpful in keeping up to date with current developments.
- Around 75% considered the length of the weekly email about right, with nearly 25% saying it's too long.
- Over 50% of respondents wished to retain a monthly printed magazine, with other combinations being less favoured. Less than 20% would be happy not to receive a paper copy.
- Looking at the combination of magazine and email, nearly 40% of respondents wished to retain the status quo (i.e. weekly email and monthly hard copy magazine), with the next highest preference receiving just over 12% of support (weekly email but no hard copy magazine).
- Other feedback suggested changing the day of the weekly email.

The tender process

As we explained when we launched the survey, in early 2021 we planned to put out to tender the future provision of technical material for members. It was important, therefore, that we undertook the survey, and shared the results with potential bidders, as part of that tender process. To ensure an open and competitive process, we advertised the tender exercise on our respective websites, in *Tax Adviser* and on www.taxadvisermagazine.com, as well as approaching several potential providers, including the incumbents.

Three tenders were received and, after presentations from each, and due consideration internally (including approval by both Councils), LexisNexis were appointed for a three-year term. Obviously, we cannot publish information that might be considered commercially sensitive, but our decision was based on their tax technical prowess (particularly considering the importance of technical content to our members), the quality of their presentation, and the expectation that we can build on our relationship with them to provide further value for members.

PROFILE

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The same, but different

What was reassuring from the survey results was a general sense that 'if it ain't broke, don't fix it'. So, the medium of our technical provision will stay broadly the same; i.e. a regular hard copy *Tax Adviser* magazine, with online content, and a weekly technical newsletter.

However, reflecting the feedback from the survey, we have decided to make the following changes:

- We will produce ten hard copies of *Tax Adviser* magazine each year, rather than twelve. There will be no January (SA peak) or August (holiday period) editions. Rather, the December and July versions will be slightly larger than normal. This will produce cost savings (as a significant proportion of the overall cost represents printing, packaging and post), as well as helping to reduce our carbon footprint.
- We will seek to increase traffic to www.taxadvisermagazine.com, and articles will be published online before appearing in the hard copy magazine, thus increasing the prominence of our online material.
- We are doing away with the existing plastic wrapper to be more environmentally friendly and will keep this under review.
- The weekly email will be circulated each Tuesday, rather than Friday afternoons, responding to the specific feedback in the survey on this point.

These changes will come into effect from December this year.

Looking further ahead, we are seeking to improve the 'look and feel' of *Tax Adviser*, and some sections of the magazine will be redesigned in early 2022.

We will also look to have a more seamless joining up of the technical material on the CIOT and ATT websites with www.taxadvisermagazine.com.

Have your say – again

The survey really helped us to understand the extent of any structural changes we needed to make to the provision of technical material, and we will continue to undertake these surveys on a periodic basis. But can you input on a more regular basis?

Yes, you can – through joining our *Tax Adviser* committee.

The committee is currently chaired by former ATT President Yvette Nunn and is a joint CIOT and ATT committee. Its remit covers all aspects of the technical content of *Tax Adviser* magazine and the online www.taxadvisermagazine.com. In particular, the committee focuses on ensuring that the magazine and website meet the needs of today's tax adviser by:

- reflecting the broad interests of CIOT and ATT members;
- providing a variety of content across the different tax regimes;
- containing an appropriate level of non-tax technical content (e.g. professional skills type articles);
- addressing topical issues; and
- providing valuable CPD.

It does this by supporting the Editor (Angela Partington) and Editor-in-chief (Bill Dodwell) in relation to the magazine's content, providing and facilitating and reviewing feedback on previous content, and acting on the feedback received. The committee also looks ahead to future content, seeking to ensure that it will adequately cover upcoming developments and fiscal events. The committee meets three or four times a year, mainly virtually.

Awarding the new contract to LexisNexis, and the desire to better integrate our technical content, gives us an opportunity to reinvigorate the committee's activities, to further improve this element of our membership benefits. We are keen to recruit new volunteers onto the committee, so if you have an interest in our technical publications, and would like to help us ensure they meet members' needs, we would love to hear from you. We welcome members from all backgrounds – indeed the greater the diversity of thought and experience, the more likely the committee will fulfil its remit.

If you want to find out more, get in touch with us at technical@ciot.org.uk or jashton@att.org.uk.

Finally, I would like to say thank you to the staff and volunteers who worked on the survey and the tender exercise. We will do our best to build on this valuable work.

AAT ATT Sharpen Your Tax Skills 2021

Stay ahead of the latest tax changes with expert help!

It can be hard to keep up with the fast pace of change in the industry. As a finance professional it's essential that you continue to provide relevant informed advice on all areas of tax, as well as understanding the effect of new developments on you, your clients and your business.

Following the resounding success of 2020, Sharpen Your Tax Skills (SYTS) is back to deliver an in-depth analysis on recent and upcoming tax changes, helmed once again by expert Michael Steed. In this virtual training, Michael and the ATT technical team will cover the essential tax updates you need to confidently advise your clients, deliver a comprehensive overview of recent regulation changes and answer your burning questions on all things tax.

CHOOSE ONE OF THE FOLLOWING DATES to join the live sessions:

1. **Wednesday 24 November 2021 | 09:30 – 15:30**
2. **Friday 26 November 2021 | 09:30 – 15:30**
3. **Monday 6 December 2021 | 09:30 – 15:30**

For more information on the full live programme, pre-recorded sessions and topics, visit our website: www.att.org.uk/syts2021

OUR SPEAKERS

Michael Steed MA(CANTAB) MAAT CTA (Fellow) ATT (Fellow)
Head of Tax at BPP Professional Development

Supported by our Technical Officers:
Emma Rawson BSc, DPhil (Oxon) FCA, CTA, ATT
Will Silsby BA CTA ATT
Helen Thornley MA(Cantab) FCA CTA ATT TEP

CONFERENCE PRICING

ATT/CIOT Student or Member: £185.00 Non-Member: £255.00

Any questions? Email: events@att.org.uk
BOOK ONLINE: www.att.org.uk/syts2021

Shaking the kaleidoscope

George Crozier reports on the surprising range of reforms proposed across the political spectrum in this year's party political conferences

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Just under two years ago, the Labour and Conservative parties headed towards a general election as far apart on tax policy as at any time since the early 1980s. An election, a pandemic and a Labour regime change later, things look somewhat more complicated. Conservative government plans would take the tax burden to its highest level since 1950. Two of the biggest increases are opposed by Labour, who have rowed back not just on the tax rises in their 2019 manifesto but on the pledges that Keir Starmer made during the 2020 leadership election. So what can this autumn's party conferences tell us about the parties' direction of travel?

Labour

Reform of business taxation was at the heart of the economic agenda set out by Labour in Brighton at its first face to face conference in two years. Shadow chancellor Rachel Reeves promised the party would 'tax fairly, spend wisely, and get our economy firing on all cylinders'.

In his leader's speech, Keir Starmer said Labour's approach to taxation would be governed by three principles: the greater part of the burden should not fall on working people; the balance between smaller and larger businesses should be fair; and value for money.

What does this mean in practice? Well, the first is a clear reference to Labour's opposition to the national insurance increase and the health and social care levy. They have not said explicitly what they would put in their place, just that they would make 'those with the broadest shoulders' pay. In an interview at the start of the conference, Reeves identified 'people who get their incomes through stocks and shares and buy-to-let properties' as targets.

Taxing capital gains and dividends at income tax rates with a single allowance is one 2019 Labour policy whose future looks uncertain under the new management. Another is raising income tax for those earning over £80,000 a year. Starmer was asked about this by the BBC during the conference and determinedly kept his options open, saying nothing was off the table but nobody knew what the state of the national finances will be at the election.

Starmer's second principle – 'a fair balance between small and large businesses' – was symbolised by a proposal to scrap business rates and raise the digital services tax, as part of what Reeves called 'the biggest overhaul of business taxation in a generation'. The central theme of the overhaul seems to be rebalancing the tax burden away from high street businesses and onto large tech firms. While Reeves did not specify what business rates would be replaced with, it appears it would continue to be a levy based on property values, as she said it would reward businesses that move into empty premises.

The third principle – value for money – is part of the effort to persuade onlookers that, under its new regime, Labour would be a careful custodian of public money rather than reaching for a tax rise at every opportunity. Little flesh has been put on the bones of this so far, beyond Reeves' announcement that the party would review 'every single tax break'. (Do they know there are 1,190?) There are two they would 'scrap straight away': the carried interest 'loophole' that enables private equity bosses to pay tax at capital gains rather than income tax rates; and the exemption from business rates and VAT that private schools enjoy because of their charitable status. On first analysis, arguably neither of these is an actual scrapping of a relief. Rather Labour appear to be proposing to reclassify 'carried interest' as income rather than a capital gain, and to remove the charitable status of private schools so they no longer get the tax breaks associated with that.

Conservatives

Chancellor Rishi Sunak put fiscal responsibility at the heart of his conference

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necessity by telling party members that he knows tax rises are unpopular, but would do 'whatever it takes' to fix the public finances.

Going into the Manchester conference, there were predictions that members' antipathy to tax increases would result in angry exchanges. But this did not happen. This is largely down to the high standing of the prime minister and chancellor within the party, and trust that their instincts genuinely are, as they maintain, to cut taxes as soon as they responsibly can.

To help this along, a convenient *Sunday Times* story published on the first day of the conference claimed that the prime minister and chancellor 'have struck a secret deal to cut taxes' before the next general election in exchange for spending restraint now. This helped to maintain party unity during the conference. Any criticism that was heard was mostly coded and framed in terms of the need to avoid further increases and to seek tax cuts sooner rather than later. Cabinet members Liz Truss, Kwasi Kwarteng and Jacob Rees-Mogg all joined this contest, seeking the prize of being seen as the government's low tax champion.

The omnipresent mantra at this year's conference was 'levelling up', which was applied to everything from the justice system to the hospitality sector. But what does it mean for tax?

Not increasing tax on the low paid, according to a group of Conservative MPs who met with Boris Johnson ahead of the conference. Jake Berry, chair of the Northern Research Group, wondered 'how you can level up deindustrialised and poorer communities in the north of England, while at the same time taking cash out of their pockets through a national insurance rise and cuts in universal credit'.

By prioritising poorer areas, and spending more/taxing less in them, according to some. At a fringe debate, Bim Afolami MP said that levelling up will only mean something when people do not need to leave the areas they grew up in to 'get on in life'. He mooted lower rates of national insurance for hiring people in certain parts of the country.

Rebalancing property taxes so the south east of England pays more and other areas less, is another answer. Reform of business rates was a popular call from Conservative MPs ahead of the report expected on Budget day. Additionally, eight Tory MPs have backed the Fairer Share campaign to replace council tax and stamp duty land tax with a proportional property tax.

Or perhaps it means devolving more fiscal powers? A number of Conservatives have argued for more taxes to be raised and spent locally. Indeed, Boris Johnson expressed support for this when he was Mayor of London. Reportedly, a white paper on devolution due this year has been elbowed aside by one on levelling up. But might it include some decentralising moves?

Liberal Democrats

In his leader's speech, Ed Davey promised that the Lib Dems would be the champions of small business, offering them 'a radical fair deal … where business rates are replaced with a land tax; where the tax-free allowance against employers' national insurance is raised substantially; and where the biggest businesses pay more tax'.

In support of the latter, the online-only conference saw party members back tougher rules on a global minimum rate of corporation tax. This included profitable subsidiaries of large groups paying the tax in their own right, so the groups don't escape the minimum rate because they fall short of the 10% profit-margin threshold. The party also called for the extension of coronavirus economic support measures, including extending the Self-Employed Income Support Scheme to cover currently excluded groups.

Green taxes and carbon pricing were notable in their absence from discussions at Labour and Conservative conferences, but the Lib Dems debated and adopted a chunky policy paper, proposing a strategy based around strengthening the UK Emissions Trading System (ETS), raising the price of allowances and linking it to the EU ETS. This marks a break from the party's former support for a single, economy-wide carbon tax. They believe that ETS targets the biggest producers of emissions more effectively and enables a phased approach, with ETS only extended to domestic gas once an emergency programme of home insulation has been carried out.

A year ago, the Lib Dems backed the principle of a universal basic income. This year, party members discussed a proposal to abolish the income tax personal allowance and national insurance primary threshold for working age adults, and set an introductory universal basic income rate equivalent to the full value currently gained by basic rate taxpayers from these allowances (around £71 per week), with the intention of raising it thereafter. Based on feedback, a full policy paper will be presented to a future conference.

SNP

SNP leaders used a virtual conference in September to make the case for more 'progressive' tax reforms. First minister Nicola Sturgeon said that 'with very limited tax powers', the party had 'introduced an income tax system with fairness at its heart', while the party's Westminster leader Ian Blackford said the national insurance change was 'one more reason why our future must be independent, giving us the power to deliver progressive taxation'.

The party was returned to Scottish government in May on a manifesto committing largely to maintain the status quo within the current devolved tax system. But a partnership agreement with the Scottish Greens could result in a further push to reform council tax, a reform that has largely eluded successive Scottish administrations.

The SNP also has ambitions for the Scottish Parliament to have complete control over the tax system. They will demand the devolution of full powers over VAT, income tax and national insurance in the upcoming fiscal framework review.

Conclusion

So where does this leave us? You could be forgiven for feeling a little disoriented. We have the strange spectacle of a Conservative government raising taxes (and not only for pandemic related reasons) to a level few of its members are comfortable with, while insisting that they remain the party of low taxes. Meanwhile, the Labour Party, by dropping much of its own tax-increasing agenda and opposing Conservative rises, has made itself harder to pin down.

What is left is an asymmetric contest which the Conservatives present as being between higher and lower tax aspirations, while Labour try to persuade us it is about fairness, the Lib Dems seek differentiation by appealing to small business and the self-employed, and the SNP frame it as a battle for power within the UK.

A combination of the pandemic, Brexit and electoral realignment has shaken up the kaleidoscope of UK tax and wider economic policy. The pieces are in flux. It is far from clear how they will settle.

Full reports on each of the party conferences' tax discussions can be read on the CIOT website: tax.org.uk/blog/1

Calling the housekeeper

Bill Dodwell asks whether tax codes complexities are due for a good spring clean

© Getty images/iStockphoto

PROFILE

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One of the cleverest – but most misunderstood (and often incorrect) – parts of the tax system is the tax code. Everyone who is paid through PAYE has a tax code for each source of employment or pension income. Their invention goes back to the dawn of PAYE, in 1944, when employers used paper tables to work out how much tax to deduct from 12 million employees' income.

The idea of the tax code was to define how much of the individual's pay was tax free. It also took on other attributes, such as setting a specific tax rate to be applied to the source of income. In some cases, it can be used to require additional tax deductions from a source – the infamous K tax code.

Tax codes complexities

There are two big issues with tax codes. Firstly, the way they are expressed is confusing; and secondly, the HMRC calculators often produce incorrect results.

It obviously seemed a very good idea to reduce the number of individual calculations by rounding everything to the nearest £10. This means that the personal allowance of £12,570 is turned into a tax code of 1257. In the days of the printed tables, this considerably reduced the number of pages. Readers may be amused to find that the 1940s personal allowances included additions for each child, dependant relatives and for a housekeeper (see bit.ly/3G5OJaM).

The challenge is that the meaning of a tax code of 1257L is not immediately obvious. Today, PAYE is calculated by payroll software, including HMRC's excellent (and free) PAYE Tools. We should no longer be worried about the number of rows in tax tables, since computers can easily process tax allowances. Why not change the tax code to the actual figure of the tax allowance – 12,570?

Tax codes have a range of letters and special codes attached to them. There are ten basic letters, with a further six codes for Scottish taxpayers and five codes for Welsh taxpayers (see bit.ly/3C2QFOE). Some codes – OT, BR, D0 and D1 – do not have a figure for allowances attached and simply indicate the rate of tax to be deducted (or in the case of OT, that no allowances are given). Obviously it is helpful that there is a whole page on the HMRC website explaining the codes – but why not make the code itself more obvious? Perhaps 40 instead of D0? Do we need L, M and N?

Some too common problems

The calculation of the tax code goes wrong all too frequently. No doubt in olden times a tax officer would calculate the tax code manually, but today tax calculations are done by computer. It is obvious that the programming is complicated and, too often, incorrect. Many people who look at their useful online personal tax account will find that the estimate of their annual income is wrong.

The calculator cannot manage annual increases or one-off payments, such as bonuses. For example, a tax year's income could be made up of three months at the old rate and nine months at the new rate. It would take a human no more than a minute to work out what is going on – and only a little longer to produce an accurate estimate of annual income. Unfortunately, it is hard to program the computer to get this right – with the result that the estimate of annual income is unpredictable and generally below the actual income.

Given that a great many employees receive annual pay increases and millions receive a bonus, much more effort needs to be devoted to better calculations. Even when the computer had details of 12 monthly payments, it cannot guess what the annual total is!

There is another problem for those (over a million) who have a mixture of self-assessment income and PAYE income. The online business tax account is not linked to the personal tax account, which means that it is impossible to work out an accurate tax code. Agents for taxpayers will be accustomed to calling HMRC to request a modified tax code. In part, issues arise because when the tax code for the forthcoming tax year is set, no account is taken of the current tax code – which could easily have been corrected following calls to HMRC. Programming the calculation engine to recognise that the individual has a business tax account – and therefore take a different approach – might result in fewer errors and fewer calls.

And finally…

K codes are an enduring mystery to those who receive them. Pensioners receive a disproportionate share of K codes, no doubt in part because the state pension is taxable but not subject to PAYE. Assigning a K code to a source of income big enough to manage the additional tax deduction is also not done accurately, although HMRC is attempting to set a primary source of income to which a potential K code could be attached.

Given the vast scale of PAYE, errors which affect only small percentages of the total population turn out to affect millions, or at least several hundred thousand people. Handling the calls from the confused and those with errors takes a considerable resource – which points to the value in working on improvements.

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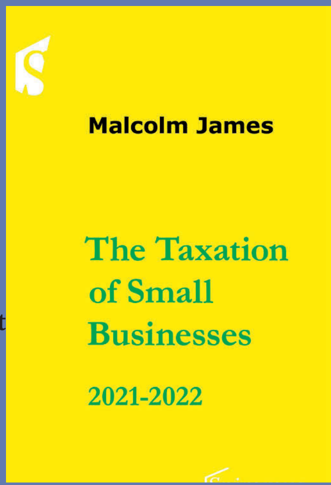
Taxation of Small Businesses

2021-22 *Out now*



The Taxation of Small Businesses 2021-22 is a practical guide to all aspects of direct taxation of small businesses in one volume. It is ideal for sole practitioners and small partnerships, but will be a handy reference guide for all tax advisers. The book aims to give a clear explanation of the relevant legislation and practical advice on ways of minimising clients' tax liabilities and warning against common pitfalls. The fourteenth edition has been updated to incorporate changes as a result of the Finance Act 2021. It includes emergency COVID-19 pandemic measures.

Price £99.95	486 pages	paperback	ISBN 9781913507152
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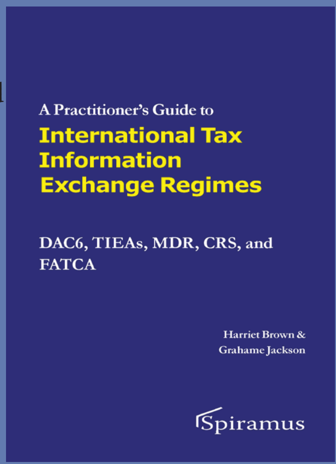
A Practitioner's Guide To International Tax Information Exchange Regimes

DAC6, TIEAs, MDR, CRS, and FATCA *Out now*



The recent introduction of the Directive on Administrative Cooperation in the field of taxation 6 (DAC6) and mandatory disclosure regimes by many jurisdictions have led to a large number of professionals potentially being required to disclose information in relation to their clients' arrangements. The authors analyse the operation of the various automatic exchange of information regimes which have been introduced in the last five years including the OECD common reporting standards DAC6 and MDR. They set them in their historical context as well as giving a technical analysis of the regimes. They focus on the guidance offered by the Irish and UK tax authorities with reference to other guidance in Europe and beyond, where appropriate.

Price: £99.95	136 pages	paperback	ISBN 9781913507237
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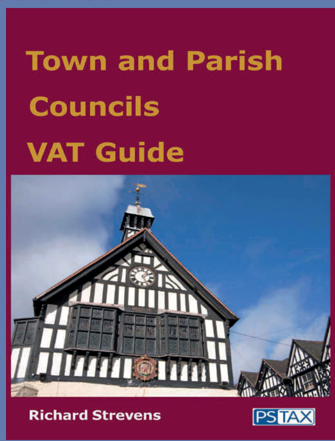

This is an easy reference guide for those engaged in administering the financial affairs of town and parish councils in England and community councils in Wales. It focuses on the typical range of activities that these local authorities will have. It will be of use to town and parish clerks or treasurers and those responsible for the book-keeping of these organisations, as well as those responsible for auditing such bodies. The authors give the reader the basic concepts of the tax and a degree of familiarity with the common technical terms used by H M Revenue and Customs (HMRC) in its own guidance. The most common terms are set out in the glossary.

Price: £35.00	80 pages	paperback	ISBN 9781910151136
		PDF	ISBN 9781910151143

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Company Number: 4827945 VAT Number: GB 8322712 5
Please contact info@spiramus.com for more information.

When the board are abroad

Lee Knight and *Chris Gore* consider the issues affecting the payment of PAYE and NIC for non-resident directors working in the UK

KEY POINTS

- **What is the issue?**
Non-resident directors of UK companies working in the UK will be subject to PAYE. UK companies can't rely on them being in the UK for less than 183 days and they can't be included under any PAYE relaxations available from HMRC for regular short term business travellers. The NIC position needs to be considered separately as the rules are very different. Care should be taken when bearing the cost of a non-resident director's travel, accommodation and subsistence expenses.
- **What does it mean for me?**
Many companies fail to recognise the PAYE reporting obligations in respect of non-resident directors working in the UK. UK companies with non-resident directors should review their payroll compliance in respect of these directors' UK duties.
- **What can I take away?**
Exercising reasonable care to apply the correct tax and NIC treatment to non-resident directors is key. The rules can be complex and there is scope for UK companies to miss the issue or reach the wrong conclusion.

Now the world is starting to return to some form of normality and people are returning to offices, we expect to see a return of short-term business travellers to the UK, including directors of UK companies who are resident overseas.

Often, a UK company appoints a director who is not tax resident in the UK (a 'non-resident director'). This might be because the company wants to utilise talent from overseas, or it might just be that a previously UK based director has relocated and become resident overseas. Whatever the reason, when the non-resident director starts to work in the UK, the UK company will quickly acquire obligations under PAYE, irrelevant of the duration of their stay.

This PAYE obligation is often missed by UK companies, and this makes it an area of interest for HMRC, which can readily spot non-resident directors by reviewing Companies House records.

Failure by a UK company to operate PAYE could expose it to underpaid liabilities, including income tax, employee's and employer's NIC, the apprenticeship levy, and HMRC interest charges and penalties. The increases to NIC from 6 April 2022, and introduction of the Health and Social Care Levy from 6 April 2023 could also increase costs. This, together with the reputational risks of non-compliance and the cost of dealing with a HMRC enquiry, makes getting this right from the beginning crucial.

The UK income tax position

Non-resident directors of UK companies are office holders, and the employment income parts of the Income Tax (Earnings and Pensions) Act (ITEPA) 2003 that apply to employments also apply to offices.

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Double tax treaties generally do not offer non-resident directors (of the UK company) working in the UK protection from UK tax. To illustrate this, Article 15 of the double tax treaty between the UK and the US states the following:

> 'Directors' fees and other similar payments derived by a resident of a contracting state for services rendered in the other contracting state in his capacity as a member of the board of directors of a company that is a resident of the other contracting state may be taxed in that other state.'

This lack of protection in double tax treaties means that a Short Term Business Visitors Arrangement (HMRC's EP Appendix 4) cannot be applied in respect of non-resident directors.

Non-resident directors are also specifically excluded from the PAYE Special Arrangement for Short Term Business Visitors introduced in October 2015 for individuals who cannot meet the strict terms of EP Appendix 4.

Therefore the key issue for income tax purposes is that the earnings of a non-resident director of a UK company working in the UK will be liable to income tax in the UK. The UK company will invariably be required to operate tax under PAYE on the director's earnings.

Establishing the non-resident director's earnings liable to UK tax under PAYE

Where the UK directorship is commercially remunerated, and those earnings have been documented, it is straightforward to establish the earnings liable to UK tax.

However, it is more complex where we are told that the UK directorship is unremunerated, the UK company is part of an overseas group, and the non-resident director has other duties for the overseas group that are remunerated. In these circumstances, and depending on the facts, it may be appropriate to allocate a proportion of their total remuneration to the UK directorship role.

It will then be a case of considering where those directorship duties are performed. If the duties of the directorship are performed only in the UK, then the UK company will need to subject all the non-resident director's earnings from the directorship to tax under PAYE in the normal way.

However, if the duties are performed in the UK ***and*** overseas, the UK company may want to obtain an ITEPA 2003 s 690 direction, allowing it to operate tax under PAYE only on the estimated percentage of the director's total earnings relating to UK workdays. The director will need to record their actual UK workdays and submit a personal UK tax return following the end of the tax year to reconcile their UK taxable earnings.

Is the director also performing the duties of a wider separate employment in the UK?

If the non-resident director is also performing substantive duties of a separate employment with the overseas group in the UK, it is important to consider how this affects PAYE compliance for the UK company.

For example, can a Short Term Business Visitors Arrangement under HMRC's EP Appendix 4 or a PAYE Special Arrangement for Short Term Business Visitors be applied in respect of the duties performed under this separate employment? If these relaxations cannot be applied, it may be appropriate to add a proportion of the salary from the overseas employment to the earnings for directorship duties being subjected to tax in the UK.

It may be contended that, despite the non-resident director performing substantive duties of a separate wider employment in the UK, they are not working for the benefit of the UK company in respect of this wider role, and that the UK company therefore has no PAYE obligations in this regard. If this is the case, care should be taken to ensure that this can be substantiated.

National Insurance

NIC must be considered separately to the UK tax position.

NIC applies where an individual is gainfully employed and is also either resident, present (but for any temporary absence) or ordinarily resident in the UK. Gainful employment includes an office or directorship. With some limited exceptions, payments to a director, for acting as a director, are therefore treated as earnings for Class 1 NIC purposes.

For a non-resident director of a UK company, it is therefore possible that Class 1 NIC could be due on their earnings from the directorship if they perform any of those duties in the UK.

The social security coordination provisions of the EU-UK Trade and Cooperation Agreement or a reciprocal agreement with the director's home country might apply. This could mean that the non-resident director is subject only to the social security regulations of their home country (and not the UK).

If the social security coordination provisions of the EU-UK Trade and Cooperation Agreement or a reciprocal agreement do not apply, use of an HMRC concession might be possible. Under the concession, no UK NIC liability applies to such a director's earnings where the director only visits the UK to attend board meetings and:

- the director attends a maximum of ten board meetings in a tax year, and each visit lasts no more than two nights at a time; or
- if the director only attends one board meeting in a tax year, the visit lasts no more than two weeks.

If the social security coordination provisions of the EU-UK Trade and Cooperation Agreement, a reciprocal agreement, or the above HMRC concession do not apply then a liability to NIC in the UK could arise.

Non-resident directors' expenses

The UK company must also apply the correct tax and (where relevant) NIC treatment to expenses payments. The UK company may, for example, meet the cost of a non-resident director's travel expenses between their home country and the UK, plus the cost of UK subsistence and overnight accommodation.

A key consideration is whether the non-resident director's workplaces in the UK are (for tax and NIC purposes) temporary or permanent workplaces. Generally if travel, subsistence and accommodation expenses are attributable to the non-resident director's necessary attendance at a UK ***temporary workplace***, tax relief will be available on these expenses.

A key consideration is whether the non-resident director's workplaces in the UK are temporary or permanent workplaces.

But if these expenses are attributable to their attendance at a ***permanent workplace***, those expenses could be taxable and (where relevant) liable to NIC. The UK company will then need to report the expenses to HMRC in the appropriate way. Depending on the facts, that might involve:

- adding expenses to their other earnings reported under PAYE; and/or
- reporting expenses on a form P11D for the director; or
- utilising a PAYE Settlement Agreement (PSA) if the UK company agrees to settle the liabilities due, and subject to the conditions for PSA inclusion being met.

The following are examples of questions that might need to be asked to establish whether a workplace is a temporary or permanent one:

- What does the director's service agreement say about their places of work and where their duties are performed?
- What is the purpose of the director's visits to the UK?
- What is the nature of the work undertaken by the director in the UK?
- Where are the duties of the UK directorship normally performed?
- How much of the director's overall working time is spent at each workplace?
- Are their UK duties defined by reference to a geographical area?

Where a non-resident director attends a workplace regularly for a period exceeding (or expected to exceed) 24 months and they spend 40% or more of their working time (in respect of that directorship) at that workplace, HMRC will deem the workplace to be a permanent workplace. Travel, subsistence and accommodation expenses attributable to their attendance there will therefore be taxable and (where relevant) liable to NIC.

However, there is a limited exception to the temporary and permanent workplace rules. Where the workplace in the UK is treated as a permanent workplace, tax relief may still be available for ***travel*** expenses between the director's home country and the UK for five years from their qualifying arrival date in the UK.

This relief is given under ITEPA 2003 s 373 but is only available if the non-resident director is also not domiciled in the UK for tax purposes and has not been resident in the UK for two years before the qualifying arrival date.

Summary

The complex nature of the rules surrounding non-resident directors, with different considerations for tax and NIC, and ambiguous rules around expenses, makes the issue of tax and NIC compliance challenging. It is easy for UK companies to reach the wrong conclusion, or not keep suitable records which substantiate the position taken. Exercising reasonable care to comply is therefore key.

Put a ring on it?

Kelly Sizer and *Tom Henderson* consider the tax status of coupledom, and how it can affect income, allowances and benefits

KEY POINTS

- **What is the issue?**
'Couple' status has different meanings and consequences across the tax and benefits systems.
- **What does it mean for me?**
If a client's relationship status changes, advisers need to be aware of the potential tax and benefits consequences.
- **What can I take away?**
Awareness of the consequences when couples form, so to be able to flag wider issues to clients, such as notifying HMRC of a change for tax credits.

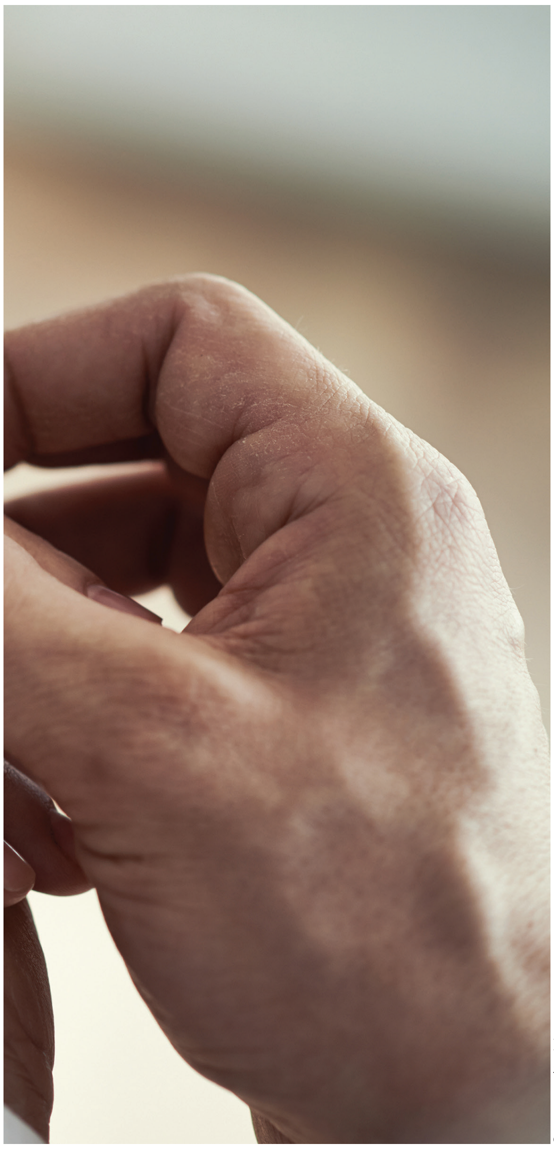
The coronavirus pandemic sadly forced many couples to cancel, delay or significantly scale back their wedding plans. But how many have spent the extra time considering in detail some of the tax consequences of their decision to get married (or to enter into civil partnership)? It would hardly be most people's first thought when planning nuptials!

In the Low Incomes Tax Reform Group's (LITRG) work, we see some of the problems that couples encounter with the tax and benefits systems. This is not helped by the fact that there are different rules to get to grips with.

By and large, the UK's means-tested benefits system looks through a couple's legal status to their underlying relationship. Cohabitation as a couple is usually a sufficient indicator of relationship status for a couple to be regarded as a single 'unit' for benefits purposes, although other factors may be taken into account.

On the flipside, the tax system generally ignores cohabitation. Two important exceptions are the high income child benefit charge and the 'family' tie under the statutory residence test. Both of these take into account partners where the individuals are 'living together as if they were a married couple or civil partners' (Income Tax (Earnings and Pensions) Act 2003 s 681G and Finance Act 2013 Sch 45 para 32 respectively). The definition of these types of relationship is drawn more from social security law, as discussed further below.

This article considers some of the issues for couples to think about, in relation to income, allowances and benefits. It does not cover transactional



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tax aspects such as stamp duty land tax (and devolved equivalents) or capital taxes.

Marriage or civil partnership?

Broadly speaking, for UK tax purposes a civil partnership is treated the same as a marriage, with the law referring to both where such relationships are to be recognised for tax purposes. There is no general provision defining the two as equivalent. The law necessarily has some minor distinctions, recognising the different administrative processes surrounding the two types of relationship. For example, on breakdown of a relationship, references to divorce are made for married couples, or dissolution for civil partners.

Married couple's allowance

A minor esoteric difference between married couples and civil partners can be found in relation to married couple's allowance (MCA).

For those married before 5 December 2005, the default position in law (Income Tax Act (ITA) 2007 s 45) is that the husband claims MCA. In turn, any restriction of the allowance is calculated by reference to the husband's adjusted net income where it exceeds a certain threshold (£30,400 for 2021/22). When civil partnerships were introduced from 5 December 2005, the law (now found in ITA 2007 s 46) was amended such that civil partners could also claim MCA. If any restriction is required, it is calculated by reference to the partner with the higher adjusted net income.

Couples who married before 5 December 2005 can irrevocably elect for the 'new' section 46 rules to apply if they wish (ITA 2007 s 44).

In December 2020, the MCA legislation was amended to take account of the possible conversion of an opposite-sex marriage into a civil partnership. This means that if a couple who married before 5 December 2005 were to convert their marriage to a civil partnership, the 'old' section 45 rules continue to apply unless the couple elects otherwise.

In any event, to qualify for MCA, at least one of the couple must have been born before 6 April 1935. For anyone registering new marriages or civil partnerships who meet the age requirement, we must remember that the MCA is only available for complete 'tax months'. So if a couple married on 24 May 2021, only 10 months (6 June 2021 to 5 April 2022) of MCA is due in the first tax year of marriage, pro rata. If, following the Office of Tax Simplification's recent report (see tinyurl.com/457d8mfn), the government does decide to change the tax year end, this legislation (ITA 2007 s 54) may need amending. But probably it would be administratively simpler and not terribly costly to repeal it altogether and just allow the few couples who are entitled to claim the whole MCA for the year of marriage!

MCA is transferable between spouses and civil partners, though it is only possible to elect in advance for half or all of the minimum amount of the allowance (£3,530 for 2021/22) to be transferred. If there is any surplus unused after the end of the tax year (or on establishing the tax liability of a deceased spouse or civil partner), this can then be transferred.

Marriage allowance

For most couples, MCA will not be available. Instead, an election may be possible for the transferable tax allowance for married couples and civil partners (ITA 2007 Part 3 Chapter 3A), for which the government uses the shorthand 'marriage allowance'.

The marriage allowance is only available to those couples where there is no liability by either party to tax at a rate higher than the UK basic rate (or intermediate rate if Scottish taxpayers).

If the member of the couple giving up part of their allowance is non-resident and instead qualifies for UK personal allowances by virtue of ITA 2007 s 56(3), there is an additional requirement. This is that their 'hypothetical net income' (that is, what would be their 'Step 2' income per ITA 2007 s 23 if they were UK resident and domiciled) must be below the personal allowance for the year.

The partner with the lower taxable income gives up 10% of their personal allowance (£1,260 for 2021/22). The recipient partner receives a tax reducer (£252 for 2021/22) which can be set against their tax liability – so reducing the amount of tax they pay.

It is important to note that the recipient partner does not have their own personal allowance increased as a result of the claim. LITRG have seen taxpayers being caught out as a result of misunderstanding this point – not helped by the wording of guidance on GOV.UK.

Pension problem

Such misunderstandings can be a particular problem when people claim a pre-6 April 2016 deferred state pension lump sum, where the rate of tax chargeable depends on the individual's net income less allowances (that is personal allowance and blind person's allowance, if eligible); in other words, 'Step 3 income' in the ITA 2007 s 23 tax calculation. This is under F(2)A 2005 ss 7-10.

Broadly speaking, the effect is that the tax chargeable will be the same as the individual's marginal rate of tax. People might therefore think this should be 0% if they pay no tax as a result of a marriage allowance election. However, the marriage allowance tax reducer is only deducted much later in the ITA 2007 s 23 tax calculation (at Step 6), so the rate payable on the lump sum may still be 20% even as a non-taxpayer. As this kind of state pension lump sum can now be in the tens of thousands of pounds, this mistake can lead to a shock five-figure tax bill.

Transfer of the blind person's allowance

The blind person's allowance (BPA) is available to individuals registered as severely sight-impaired with a local authority in England and Wales. If living in Scotland or Northern Ireland, the requirement is that the individual's sight is so bad as to stop them performing any work for which eyesight is essential. The key point to recognise here is that, despite the name of the allowance, you do not have to be completely without sight to qualify.

For 2021/22, the blind person's allowance is £2,520, given in addition to the standard personal allowance. Unlike the personal allowance, it is not reduced where the individual's adjusted net income exceeds £100,000.

If a person is entitled to the blind person's allowance but their income is too low to make full use of it, marrying or entering into a civil partnership will enable them to elect (ITA 2007 s 39) to transfer the surplus allowance to their partner.

Joint income: let property

As discussed in PIM1030 (see tinyurl.com/4mum6psk), couples who are not married and not in a civil partnership who are joint owners of let property may agree any split of property income between them (assuming the property is not let as part of a partnership business), even if this is different from the underlying beneficial ownership. They would then be taxed accordingly on that split and no formal election is required, though it would be sensible to record the agreement in writing.

Where the joint owners of a let property are married or civil partners, the share of any profit or loss will be treated as arising to each owner in equal shares by law, even if the underlying beneficial entitlement is unequal. However, the parties may both elect, on form 17, to be taxed in accordance with their respective beneficial interests instead, if these are unequal. Therefore, this is a case in which couples who are not in a civil partnership or marriage actually have more flexibility when it comes to splitting rental income from jointly held property. This could translate to an overall tax saving if, by agreeing a certain split of income, better use can be made of tax allowances and lower rate bands.

Joint income: savings interest

Where the joint account holders are not in a civil partnership or marriage, each partner is taxed on the share of interest to which they are entitled. In most cases, this will be 50:50, even if contributions to the account are unequal.

Interest paid on joint bank accounts held by those in a marriage or civil partnership will, as in the case for jointly held let property, be taxed in equal shares unless an election is made to be taxed in accordance with beneficial interests instead. Note that the election must reflect a real difference in beneficial ownership – the election cannot be made arbitrarily. Again, this is done on form 17.

Readers can refer to SAIM2420 (see tinyurl.com/w8bayvwm) and TSEM9800 (see tinyurl.com/wj66um5y) for further information.

Tax credits and universal credit

A change in relationship status can affect benefits claimants, as it can alter whether claims should be made on a single or joint basis. Marriage or entering into a civil partnership will affect existing tax credits claimants who have previously been making single claims, if HMRC would not already have regarded them as a 'couple' and therefore needing instead to make a joint benefits claim.

The point at which two individuals making single claims become a couple is not straightforward – not least because sometimes each party can have a different view of the status of their relationship!

The Tax Credits Act 2002 s 3(5A) definition of a couple for tax credits purposes is:

- those who are married or civil partners (and are neither separated by court order or in circumstances that are likely to be permanent); or
- two people who are 'living together as if they were a married couple or civil partners'.

One might therefore think that an engaged couple who are not *physically* living in the same household could each continue to make a single tax credits claim until the point they marry or enter into a civil partnership. Unfortunately, the position is not as clear cut as this, as the term living together could be interpreted as not being confined to living as a household under the same roof, but could also take into account the degree to which the individuals concerned share their lives together in other senses, such as their financial and emotional relationship.

In addition, the analysis may not be straightforward; for example, a couple might divide their time between the homes of each member of the couple.

HMRC guidance at TCTM09340 (see tinyurl.com/379twbwj), based on social security case law, sets out a series of 'signposts' to consider, including:

- living together in the same household;
- stability of the relationship;
- financial support;
- sexual relationship;
- dependent children; and
- public acknowledgement (for example, whether friends and family members regard the two people as a couple).

For many relationships, it might be that 'couple' status and hence the need to make a joint claim is reached long before entering into marriage or civil partnership. However, if prospective partners have led very separate lives up to the point of entering into a legal union, such that they would not be regarded as a couple, the point at which they marry or form a civil partnership **will** trigger the need to end their single tax credit claim (even if they continue to live apart).

Universal credit is replacing tax credits as the main working-age benefit. HMRC will not now accept any brand new tax credit claims (with the exception of 'frontier workers'). This means that where a change in circumstances triggers the need to make a joint claim, that claim will have to be for universal credit, and existing single tax credits claims will end.

Finally, it is worth noting that the universal credit legislation has a slightly different definition of a couple than for tax credits. It is therefore technically possible to get a different outcome as to joint or single status and the rules for each need to be checked carefully.

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AGENDA

Expert view with Steve Cox - 1:30 - 2:00pm
‘Fast-forward futures; the change shape and needs of the accountancy profession’

Keynote with Sacha Romanovitch - 2:00 - 2:40pm
’The accountancy practice and the future of business'

Panel Debate, Q&A - 2:40 - 3:20pm
'Accounting in a Post-Pandemic World'

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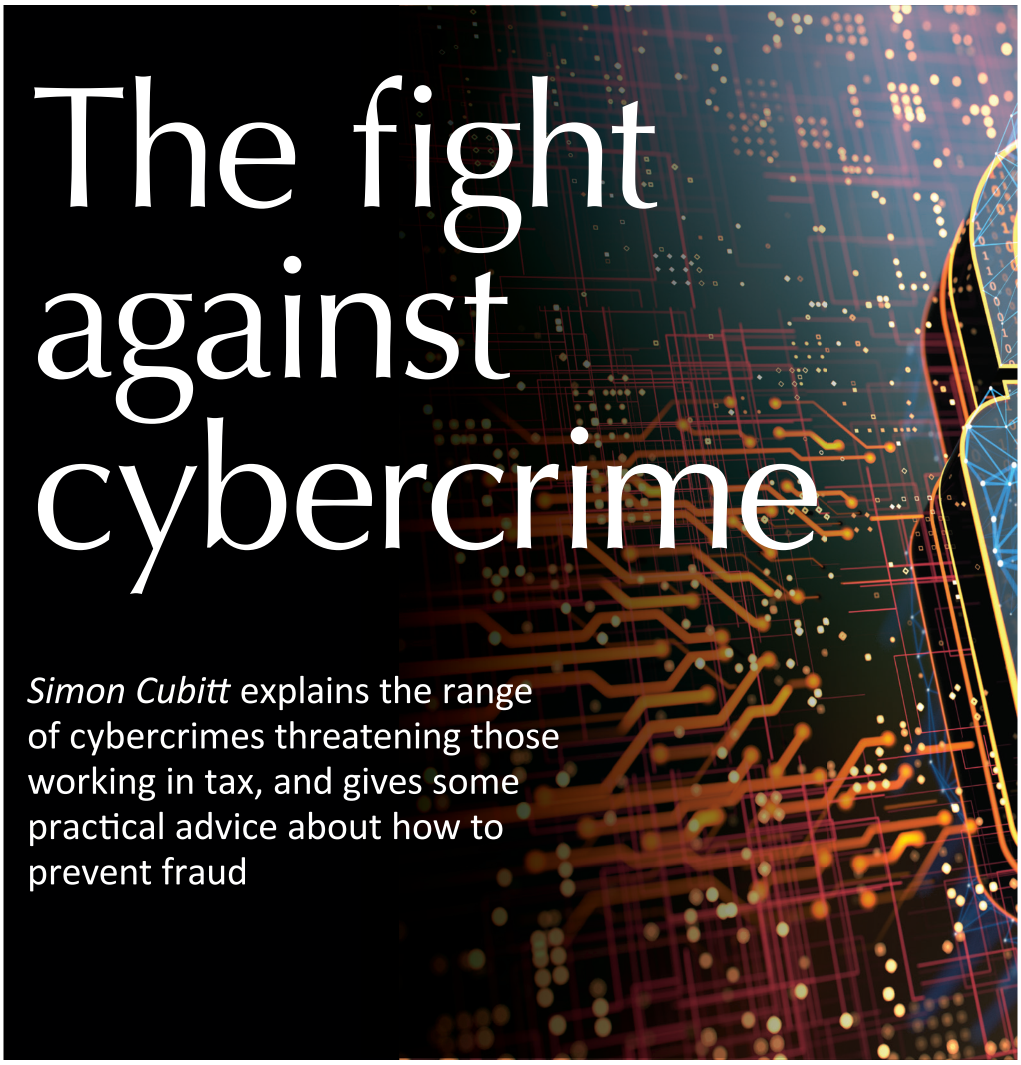


The fight against cybercrime

Simon Cubitt explains the range of cybercrimes threatening those working in tax, and gives some practical advice about how to prevent fraud

KEY POINTS

- **What is the issue?**
In a few simple steps, businesses can significantly increase their levels of protection against the most common types of cybercrime, reducing not only the chances of being affected, but the potential impact of any attack.
- **What does it mean for me?**
Taking steps to protect your business against ransomware attacks will help to increase resilience against a number of other attacks known to affect tax agents, their HMRC tax accounts and their clients.
- **What can I take away?**
Exercise in a Box (see bit.ly/3mwnNbk) is an online tool from the NCSC which helps organisations to test and practise their response to a cyberattack. It is free and you don't have to be an expert to use it.

Ensuring that you're operating securely in cyber space can be a daunting prospect, but there's plenty of advice and guidance available to help you make sure you're getting it right.

HMRC works closely with and recommends advice provided by the National Cyber Security Centre (NCSC), a government organisation delivering clear, quality guidance to individuals and businesses to help them protect their data, assets and reputation.

In a few simple steps, businesses can significantly increase their levels of protection against the most common types of cybercrime, reducing not only the chances of being affected, but the potential impact of any attack.

This article focuses on ransomware, a threat that can have a big impact on businesses and something we hear about regularly here at HMRC.

Access to IT and data is vital to many individuals and organisations in the modern era, particularly so in accountancy work. Ransomware is software which denies victims access to their data by locking it away and, as the name suggests, demanding a ransom to release the digital key. Increasingly, criminals will also publish stolen data if the victim refuses to pay, exposing sensitive information and risking reputations.

For tax advisors and HMRC, these attacks represent serious risks to the sensitive financial information of clients, in turn increasing the risk to them of reputational damage, impersonation and fraud.

Taking steps to protect your business against ransomware attacks will also help to increase resilience against a number of other attacks known to affect tax agents, their HMRC tax accounts and their clients. Ransomware operators rely on a range of vulnerabilities to be able to run their malicious software.

We will begin by looking at two common ways they invade victim systems: remote administration services; and email.

Remote administration

Many businesses worldwide take advantage of remote administration tools. These enable users to remotely connect to a PC or server over the internet, providing full access to the data and software on it. IT support might use these services remotely to fix system issues, or tax advisors to connect to their office PC, allowing them to access records while at a client site.

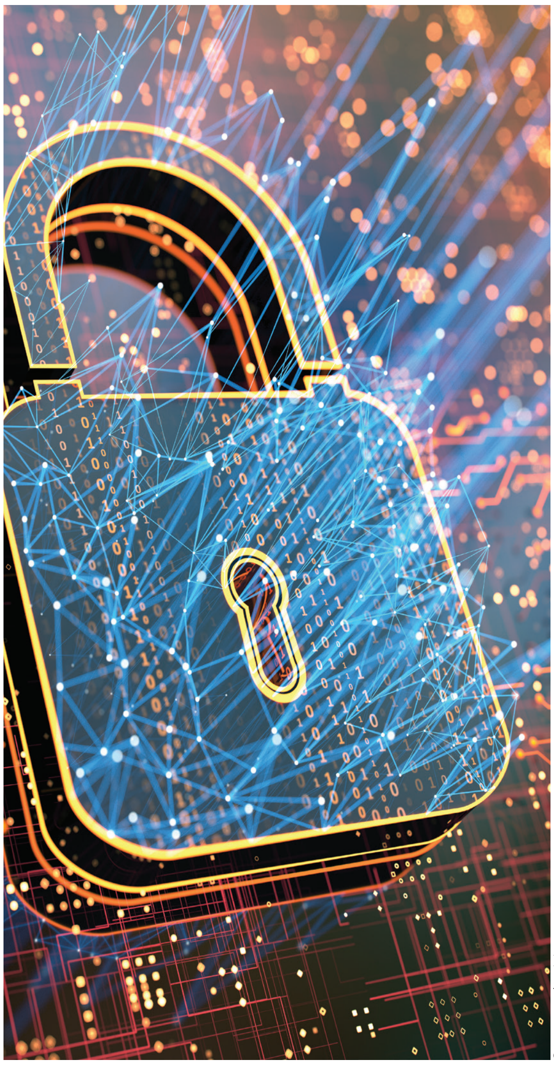
Unfortunately, attackers target users like these to obtain or simply guess their login details for these services. The most popular remote access tool is the Windows Remote Desktop Protocol (RDP), and the compromise of RDP accounts is the source of about 50% of ransomware attacks.

Some businesses might be unaware they are even running these remote desktop services. For example, they could have been set up for a specific IT project or to avoid coming into the office over a weekend, but long forgotten and not switched off.

The NCSC provides an Early Warning Service (EWS) (see bit.ly/3Bf1rRw), a free facility to warn about potential cyberattacks as early as possible against your internet domain or static IP address. The NCSC collates information from commercial data feeds and provide alerts if:

- a system on your network is likely to have been infected with a strain of malware;
- there are indications that your assets have been associated with malicious or undesirable internet activity; or
- your internet-exposed systems have vulnerabilities or open ports, including RDP services.

If you don't need RDP, it is best to disable it. If you do need it, you must ensure you have strong passwords on those accounts allowed to use it, and multi-factor authentication is recommended.



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PROFILE

Name: Simon Cubitt
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Profile: Simon leads the Cybercrime Team that investigates fraudulent attacks on HMRC customers and digital services, drawing insight to advise on security and process improvements, and works in collaboration with other law enforcement agencies to tackle those responsible.

The important consideration with passwords is that they should be unique (different on different websites and computers) and hard to guess. The NCSC recommends that you create a strong password by thinking of three random words. The centre also provides guidance for organisations on implementing multi-factor authentication, covering what it protects against, when to use it, and what types of extra authentication to consider (see bit.ly/3mrTq5K).

HMRC has supported accountants who have been compromised through their remote administration services. Victims have reported the mouse moving of its own accord, while other attackers have disabled the local screen to hide their activity or timed their next steps outside office hours.

Attacker objectives include altering invoices to clients to divert payments, theft of client records to impersonate them in fraud, and modifying client tax records for financial gain.

Many web browsers offer to remember usernames and passwords to online accounts, so an attacker with remote access could use these to gain access to other online services too. You can check in your browser setting for a list of the web accounts that might be at risk and you should prioritise changing those passwords. If you think your HMRC account has been compromised, you should change your password promptly, ideally using a different device, and contact HMRC.

Phishing email

Another common method for delivering many types of malicious software, including ransomware, is email. These typically contain a lure to tempt the user to click a link or open a malicious attachment. In addition to email, the starting point could also be via text message, social media or a phone call to direct the victim to a malicious site.

More sophisticated attackers employ techniques to convince targets to act including:

- **Urgency:** specifying a tight deadline to act so you don't take time to consider it;
- **Authority:** presenting the message as from a trusted sender, such as a colleague or associate;
- **Mimicry:** exploiting user's daily patterns by sending similar messages about the time they'd expect them; and
- **Curiosity:** attackers might try to entice users in.

The Centre for the Protection of National Infrastructure (CPNI) and NCSC have developed a Don't Take the Bait! campaign (see bit.ly/3DchUqf), providing free resources to support organisations in raising awareness of phishing among their teams.

Over the years, it has not been uncommon for phishing emails to mimic official HMRC contacts. HMRC takes a proactive approach to protect the UK public when attackers misuse our brand. Our tactics have pushed HMRC from the third most abused brand globally in 2015 to well outside of the top 100 now.

In the last year HMRC has:

- responded to 998,485 referrals of suspicious contact from the public. Some 440,729 of these offered bogus tax rebates;
- worked with the telecoms industry and Ofcom to remove 2,020 phone numbers being used to commit HMRC-related phone scams;
- responded to 413,527 reports of phone scams in total, 92% up on the previous year;
- reported more than 12,705 malicious web pages for takedown;
- detected 463 Covid-related financial scams since March 2020, most by text message; and
- asked Internet Service Providers to take down 443 Covid-related scam web pages.

There are many ways an organisation can defend against phishing and its consequences, including strong passwords and multi-factor authorisation.

HMRC also automatically identifies more than 50% of HMRC-branded cyber scams before members of the public have even reported them to it. It deploys innovative technologies to prevent misleading and malicious communications ever reaching our citizens; and warns the public by sharing details and examples of genuine and scam communications on GOV.UK (see bit.ly/3oArPIA).

A wide range of brands and lures are used to deceive and dupe victims. The important thing is to think before you click. If you're not sure a message is genuine, verify the communication (without replying). HMRC and other organisations provide online guidance on how to spot fake messages, often with examples (see bit.ly/3izejdT).

There are many ways an organisation can defend against phishing and its consequences, and you can learn more on the NCSC website (see bit.ly/3uFtWFI). These include using strong passwords and multi-factor authorisation. Such controls are especially important for online business software suites, such as Office 365 or Google Workspace, where a range of other services and files can be compromised in addition to email.

Cyberattacks have been known to give criminals access to tax advisors' files through such compromised accounts.

Loss of control of an email account can leave you vulnerable to attacks that exploit typical password recovery processes on online accounts, when a reset link can be requested to the registered email account. If you find you are unable to access your HMRC account with your credentials and suspect you might have had a security problem with your email account, make sure you contact HMRC immediately. When a victim takes the bait and mistakenly runs the malicious software, an attacker gains access to the computer. From here, they can begin their ransomware attack.

Ransomware

Once an attacker accesses a system, they can explore files, consider what the victim can afford to pay, locate and disable any backups, and copy and encrypt data. The first sign of an issue for users might be an on-screen message, giving instructions for how to pay the ransom to regain access to their data.

It's increasingly common for copies of the files to be taken so that they can be publicly released online, meaning there will be further consequences for victims if demands are not met. Not only do files become inaccessible but confidentiality is compromised, with the associated potential reputational and regulatory impacts.

> **Loss of control of an email account can leave you vulnerable to attacks that exploit typical password recovery processes on online accounts.**

The important actions you can take to help prepare for such attacks are to:

- make regular backups;
- take steps to prevent malware from being delivered and spreading to devices;
- take steps to prevent malware from running on devices; and
- prepare for an incident.

The NCSC provides detailed advice on each of these steps in its guidance on Mitigating Malware and Ransomware Attacks (see bit.ly/3DsmyAP).

This also includes recommended steps to take if you are already infected, to limit the impact. Backups are important to recover the data your business relies upon if you become a victim, but attackers know this too, and backups are often targeted if they're accessible. The NCSC advises on protecting your backups from attackers (see bit.ly/2ZSU0Sh).

Next steps and further resources

Many businesses might feel confident that they have the controls and processes in place, but a good way of making sure is to test them.

Exercise in a Box (see bit.ly/3mwnNbk) is an online tool from the NCSC which helps organisations to test and practise their response to a cyberattack. It is free and you don't have to be an expert to use it.

The service provides exercises, based around the main cyber threats, which your organisation can carry out in your own time, in a safe environment, as often as you want. It includes everything you need for setting up, planning, delivery and post-exercise activity, all in one place.

We've discussed the key steps organisations should consider to protect the devices and services they rely upon. The NCSC provides tailored advice for different-sized organisations, from the individual to large groups. Tax advisors might also find the guidance for small to medium-sized organisations particularly relevant (see bit.ly/2WIWhhR).

Death and the estate

Lisa Spearman looks at some key income tax and capital gains tax issues to be considered on death and in dealing with the estate

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KEY POINTS

- **What is the issue?**
There are some particular processes for income tax and capital gains tax, and some specific rules applying, when an individual dies and for the estate.
- **What does it mean for me?**
Executors may want to establish the annual tax position at an early stage to reflect in the inheritance tax return but estimates may be required. Income tax and capital gains tax payments falling due after the date of death are automatically deferred until 30 days after the grant of probate (or equivalents).
- **What can I take away?**
There is a great deal to think about and it is wise to take specialist advice if there is any aspect of which you are unsure.

There are some particular processes for income tax and capital gains tax, and some specific rules applying, when an individual dies and for the estate. There is a very great deal to talk about so this article selects highlights only.

Timings and bureaucracy

It would be extreme tax planning to think that anyone could or would choose to time their death, but the actual date can make a difference. While – for the moment at least – we have a 5 April year end, a death immediately before that date is quite convenient. During the early days of April, it can be possible to simply include the details in the previous tax year for the purposes of reporting, etc. with an appropriate white space note. As the time goes on, deaths occurring in late summer and autumn can mean there is a practical delay in the ability to file a tax return electronically. You may wish to approach HMRC to get a return issued early.

Executors may want to establish the annual tax position at an early stage to reflect in the inheritance tax return but estimates may be required. Income tax and capital gains tax payments falling due after the date of death are automatically deferred until 30 days after the grant of probate (or equivalents); however, HMRC systems may not recognise that and it is wise to keep on top of demands for payment to prevent escalation of debt collection procedures. When preparing the penultimate tax return, the payments on account position for the final year of life may need to be reduced.

Before you can do any of these things, be aware that the 64-8 authority and engagement letter both end at the date of death. Executors will need to be asked to sign new documents as soon as possible to reinstate the ability to correspond with HMRC and see the taxpayer records.

Income tax on death

It is wise to look at each source on the last completed tax return to identify any particular points to watch. Dividends and bank interest are straightforward, as employment and pension income are likely to be. (There may also be adjustments to the final pension receipts to factor in.)

Where the deceased was self employed or in a partnership, things are a little more complicated. You will need to consider the cessation rules, post-cessation receipts and capital allowances rules, as well as any issues arising from VAT. Specific rules apply to stock valuations and there are a range of elections to

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consider. Income which has previously been relieved through a spreading rule or on an averaged basis may need recomputing. Finally, the inappropriately named terminal loss relief rules should not be overlooked. The deadlines for the elections need to be reviewed at an early stage and a review calendar maintained to ensure that nothing is missed.

Unforeseen income tax charges can arise on other items. For example, did the deceased hold any deep discounted securities? Deep discounted securities are treated as passing to the executors at market value and any 'profit' arising as a result is chargeable to income tax as if it had arisen immediately prior to the death. Perhaps oddly, death is not an occasion of charge for the accrued income scheme.

A common sight in the office is a chargeable event certificate from the insurers on the pay out of an investment bond policy. If the policy was in the sole name of the now deceased person, then there is an income tax charge. Where top slicing relief is in point on this, then the case of *Marina Silver v HMRC* [2019] UKFTT 263 and the resulting changes to HMRC policy needs to be reviewed.

Space does not permit a detailed consideration but suffice to note that specific rules apply for the year of death under the statutory residence test. If there is any question as to the residence of the deceased, this should be reviewed in depth.

Capital gains tax on death

As is well known, the assets held at death are rebased to their probate value and the accrued capital gain is therefore extinguished. A full annual exemption is applied to any gains arising in the hands of the deceased prior to the date of death but any unused amount is wasted. Losses of the year of death are not available to relieve any gains of the executors but can be carried back three tax years. Note that the loss carried back cannot be offset against gains attributed from an offshore trust.

Gains which have been deferred in lifetime using roll over reliefs reducing the base cost of the new asset are extinguished by the uplift at death. Note that the uplift applies only to those assets of which the deceased was competent to dispose. Certain gifts to take effect in the event of death but outside the will are not subject to the uplift.

It should be noted that executors are not able to make a negligible value claim on behalf of the deceased even if an asset became of negligible value in the tax year before death. Relief is given effectively by the absence of inheritance tax.

Income tax in estate

For the post-death income which arises during the administration period, the executors are the taxable persons; however, it should be noted that they are not 'individuals' and as such, for example, there is no personal allowance or savings rate available. The remittance basis is not available to personal representatives and the taxation of international estates and residence of personal representatives is a subject in itself.

Income of the estate does not include income to which the legatee is immediately and absolutely entitled from the date of death. Care needs to be taken to distinguish receipts from a trade which are post cessation receipts of the deceased from income arising from a trade carried on by the executors.

ISA tax free status has recently been extended so that it applies until the completion of the administration of the estate or the third anniversary of the death. A tax return should be completed for each year of the administration period.

Completion of administration period

This can be a difficult date to identify. It is defined as the date on which all steps have been taken to complete the administration. HMRC manuals say that they will usually accept the date provided by the executors; and practically this is often the date of the inheritance tax clearance certificate or – if close – the next 5 April. The date is also significant as being the commencement for any will trust.

Estate distributions

Where executors make distributions to heirs during the administration period, they must issue a certificate R185. This will include distributions of income, as well as distributions of capital if there is unallocated income received.

The final distributions and R185s are issued after the completion of the administration when all the relevant figures are available. Where Deeds of Variation (Family Arrangement) are entered into, a revision of entitlements may be needed.

Capital gains tax in estate

Due to the uplift to probate value, there may be limited capital gain in the estate. However, where the administration period is extended or there are high growth items, then gains should not be overlooked.

Executors may decide to appoint an asset to a beneficiary in satisfaction of a bequest as that is not a disposal for capital gains tax purposes. The legatee acquires the asset at probate value and may then use their own reliefs and allowances to mitigate any gain.

If there is a gain in the estate, the annual exempt amount for the tax year of death and the next two years applies while main residence relief is restricted.

Where assets are sold at a loss within 12 months of death, executors should consider whether a claim to adjust the probate value is more beneficial to the estate as a whole.

The requirement to report a sale of real property within 30 days applies equally to executors but the process is not easy. HMRC rather blithely suggests that the executor's own property account is used. Paper returns might be better.

Past errors correction

The review of the deceased's affairs caused by the death can often reveal past errors and omissions in their tax compliance. HMRC has three years from 31 January following the year of death to assess any unpaid taxes. This increases to six years if the failure is careless or deliberate.

Informal procedures

Tax may arise at the date of death or for the estate of a person who has previously simple affairs. In this case, the tax may be brought up to date in a single declaration under the informal procedures rules so long as:

- the probate value is under £2.5 million;
- the proceeds of assets sold from the estate are under £500,000; and
- a formal self assessment tax return has not been issued.

Conclusion

There is a great deal to think about and it is wise to take specialist advice if there is any aspect of which you are unsure.

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Chris Downing – Partner and Tax Technology and Transformation Lead, KPMG UK

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Any questions?
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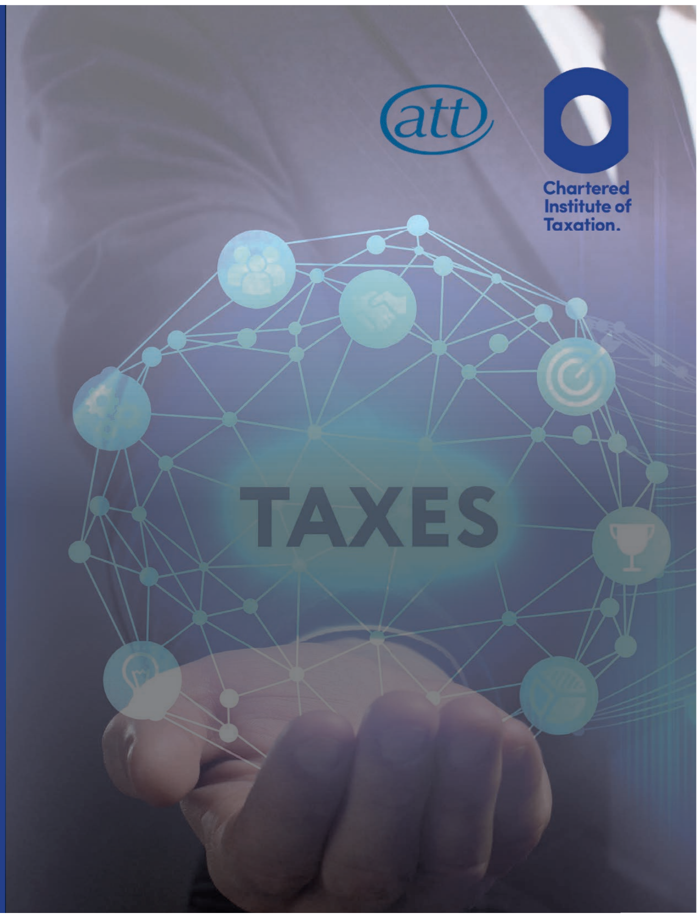

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  Jane Mellor – Professional Standards Manager, CIOT and John Cullinane, Director of Public Policy, CIOT
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An industry game changer?

Satvi Vepa considers video games tax relief and its intentions to encourage investment in the growing industry

KEY POINTS

- **What is the issue?**
According to the UK Games Industry Market Valuation 2020, the UK market for video games reached a record of £7 billion in 2020 – an increase of over 29.9% from 2019.
- **What does it mean for me?**
The video games tax relief is intended to incentivise investment into development of games in the UK. Since its introduction in April 2014, 1,630 claims have been made, with UK qualifying expenditure totalling over £4.4 billion.
- **What can I take away?**
The UK will presumably want to make sure that video games tax relief offers preferential incentives to the UK gaming industry when compared to EU and worldwide equivalents. It will be interesting to see whether its scope is widened as the gaming industry continues to grow.

The video game market has evolved into the UK's most lucrative entertainment sector. According to the UK Games Industry Market Valuation 2020, published on 19 March 2021, the UK market for video games reached a record of £7 billion in 2020 – an increase of over 29.9% from 2019. This is backed by steady increases in revenue over the last 10 years. The sector supports over 27,000 employees and there are over 44 million regular gamers in the UK.

In addition, it comes as no surprise that, whilst Covid restrictions have limited other forms of leisure and entertainment activities, the already highly successful video games industry has been booming.

It therefore seems an appropriate time to revisit one of the more successful of the government's targeted tax credit regimes in recent years, video games tax relief. Originally announced in 2012, the relief's stated aim was to incentivise investment into development of games in the UK. Since the introduction of video games tax relief in April 2014, 1,630 claims have been made in respect of video games, with UK qualifying expenditure totalling over £4.4 billion.

The relevant legislation can be found at Corporation Taxes Act 2009 Part 15B. Part 15B provides rules in respect of the calculation of profits and losses of video game trades and in respect of video games tax relief. This article provides a high-level overview of those rules.

Who is eligible?

Video games tax relief is available to be claimed by a video games development company in relation to a video game.

In order to qualify for the relief, a company must:

- be responsible for the designing, producing and testing of the video game;
- be actively engaged in the planning and decision making during the design, production and testing phase; and
- directly negotiate, contract and pay for rights, goods and services.

The development company must be paying UK corporation tax in order to benefit from the relief.

The relief cannot be claimed by an individual or a partnership and cannot be claimed by two companies that are involved in the development of a single video game. In such a situation, the company 'most directly engaged' in the qualifying activities is in principle entitled to claim relief. A company may also elect not to be treated as a video games development company.

How is a video games development company taxed?

A qualifying company is required to treat activities in relation to each video game that qualifies for video games tax relief as a separate trade. This is similar to the model used for the UK's film tax relief. Accordingly, a video games qualifying company may have multiple 'notional' trades, or separate companies may be incorporated for each video game. A video game trade commences when the design of the video game begins or, if earlier, when any income from the video game is received by the development company.

Video games development companies can account for their costs and income in a number of ways. Chapter 2 of Part 15B sets out a consistent approach to calculating taxable profits or losses, which applies regardless of whether the relief is actually claimed.

Defining income

In particular, income relating to a video game trade comprises any receipts by the company in connection with the production or exploitation of the video game. This can include receipts from the sale of the video game or rights in it, or royalties for use of the video game. Given that the majority of the income from the video game will not be received until later stages of the trade, it is a proportion of the 'estimated total income' for the trade that is brought into account each year.

This estimate is to be made on a just and reasonable basis taking into account all relevant circumstances. Broadly, according to Financial Reporting Standard 5, the proportion of the estimated total income for the year is calculated by reference to the proportion of the development expenditure incurred each year compared to the estimated total development expenditure on the video game.

Defining costs

Costs of a video game trade are broadly defined as expenditure incurred by the company on development activities and on activities undertaken with a view to exploiting the video game. As there are no pre-trading expenditure rules contained in Part 15B, any pre-trading expenditure incurred by the development company is disregarded.

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These rules are subject to any other provision in the Corporation Tax Acts prohibiting or restricting a deduction for costs. There is express provision confirming that any expenditure incurred on the creation of an asset is to be treated as revenue in nature (rather than capital). However, costs incurred on the purchase of other capital items remain capital expenditure so capital allowances remain available.

Claiming video games tax relief

Video games tax relief is a corporation tax relief that allows a development company to make additional deductions from their taxable profits; and/or to surrender qualifying losses for a payable tax credit.

For video games tax relief to be available, at least 25% of the 'core expenditure' must be 'European expenditure'; i.e. expenditure incurred on goods or services that are provided from the UK or the European Economic Area. Core expenditure is expenditure incurred on designing, producing and testing the video game.

The additional deduction for the first accounting period amounts to the lesser of:

i. the amount of core expenditure that is European expenditure; and
ii. 80% of the total amount of core expenditure.

For future periods, the additional deduction amounts to the lesser of the total amount of core expenditure that is European expenditure incurred to date; and 80% of the total amount of core expenditure incurred to date – in each case, less the total amount of additional deductions given in previous periods.

Qualifying companies in a loss making position will be able to claim a payable tax credit. Losses available for the accounting period of the trade or, if less, the available core expenditure for the accounting period, may be surrendered for a payable credit equal to 25% of the amount surrendered.

Interaction with R&D

The scope of the video games tax relief may overlap with that of UK research and development relief available to companies that work on innovative projects in science and technology. For example, software developed in the gaming industry has found application in a range of science based sectors, such as medicine and aeronautics.

Part 15B s 1217C(4) deals with this overlap by stating that video games tax relief is not available in respect of any expenditure if R&D relief (whether by additional deduction or by a payable credit) is available in respect of the same expenditure.

It is worth noting that due to EU State Aid restrictions in force prior to 1 January 2021, HMRC guidance at VGDC20230 sets out a more onerous restriction: where R&D SME relief is claimed on a project, that project cannot claim any other state aid reliefs (including video games tax relief). The same restriction did not apply for large companies, as R&D relief under the large scheme is not state aid.

M&A transactions

In addition to the specific rules for video games tax relief and the calculation of profits and losses of video game trades, it is worth briefly considering the impact on M&A transactions; for example, on the sale of a development company during the development stages of a video game.

The attribution of value for tax assets in M&A transactions remains a case-by-case question; however, given that considerable importance is given to the video games tax relief payable credit in the gaming industry, the sellers of a qualifying company may be expected to seek value for any video games tax relief payable credits due to the target.

To the extent that the payable credit has not yet been received by the company, this may be structured as additional consideration paid by the buyer (potentially payable as and when received after the sale); or incorporated within closing pricing (for example, as a tax asset in closing accounts). In either case, a buyer can be expected to require protection against the risk of video games tax relief not being available to any extent and the risk of the relief being clawed back; for example, if there is a risk that the final certificate stating that the video game is a 'British video game' may not be issued (see below).

Advice should be sought depending on the specific facts of the transaction.

Impact of Brexit

Video games tax relief is only available in an accounting period where the company's tax return is accompanied by either an interim or a final certificate from the Secretary of State certifying that on completion of the video game, the 'culture test' will be satisfied and the video game will be a 'British video game'.

The requirement for the video game to satisfy a culture test derives from the state aid rules and the general block exemption available for certain activities supporting culture. The UK's new Subsidy Control Regime, which replaced the EU State Aid rules from 1 January 2021, is less prescriptive; and the existing block exemptions under the EU State Aid rules have not been implemented or replicated in the UK's Subsidy Control Regime. The result is that the government has broader discretion now than it did prior to Brexit to amend certain tax reliefs which previously qualified as state aid, including video games tax relief.

Although no changes have been announced, the UK will presumably want to make sure the relief offers effective incentives to the UK gaming industry when compared to worldwide equivalents. It will be interesting to see whether the scope of video games tax relief is widened in the future as the gaming industry continues to grow.

The information contained in this article reflects the opinion(s) of the author and is not an official opinion of Goodwin Procter.

Our Mutual Friend

KEY POINTS

- **What is the issue?**
Professional Game Match Officials Ltd (PGMOL) supplies football referees for the higher levels of the English game. HMRC had ruled that the referees were employees of PGMOL; however, the First-tier Tribunal concluded that the relationship lacked a mutuality of obligation. Although the Upper Tribunal upheld the decision on mutuality of obligation, the Court of Appeal found this decision could not be upheld.
- **What does it mean for me?**
The case of *Ready Mixed Concrete* set out what has become the almost universally accepted three-limb test for employment, requiring three conditions to be satisfied if a relationship is to constitute one of employment.
- **What can I take away?**
The employment status of workers who are engaged from time to time must be considered by reference to the conditions in place when the services are actually performed. Unless either of the first two limbs show that a worker is not an employee, a worker's status cannot be determined without considering the overall picture.

Keith Gordon considers the Court of Appeal's decision in a case looking at the employment status of football referees

In the November 2018 issue of *Tax Adviser*, my article 'Men in Black' considered the First-tier Tribunal's decision in the case of *Professional Game Match Officials Ltd v HMRC* [2018] UKFTT 528 (TC).

The taxpayer, often abbreviated as 'PGMOL', supplies football referees for the higher levels of the English game. HMRC had ruled that the referees were employees of PGMOL. Its determination was reached by applying the High Court decision of Mr Justice MacKenna in *Ready Mixed Concrete (South East) Ltd v Minister of Pensions and National Insurance* [1968] 2 QB 497, which set out what has become the almost universally accepted three-limb test for employment (notwithstanding the language that has become somewhat antiquated in the meantime).

That test requires each of the following three conditions to be satisfied if a relationship is to constitute one of employment:

1. The servant agrees that, in consideration of a wage or other remuneration, he will provide his own work and skill in the performance of some service for his master.
2. He agrees, expressly or impliedly, that in the performance of that service he will be subject to the other's control in a sufficient degree to make that other master.
3. The other provisions of the contract are consistent with its being a contract of service.

The first limb has since been explained as a requirement for the worker to provide his (or her) personal service. However, many cases have also taken it as authority for the proposition that a contract of employment must also involve a mutuality of obligations – for the putative employee to be obliged to accept work if offered and for the putative employer to offer work or perhaps to pay a retainer when no work is offered.

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PROFILE

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On PGMOL's appeal against HMRC's determination, the First-tier Tribunal concluded *inter alia* that the relationship lacked the necessary mutuality of obligations; and, furthermore, that PGMOL had insufficient control over the referees so as to make it their 'master'. As the *Ready Mixed* test requires all three conditions to be satisfied if the arrangement is to constitute an employment, the First-tier Tribunal allowed PGMOL's appeal.

HMRC appealed against the decision to the Upper Tribunal. Although the First-tier Tribunal was found to have applied the 'control' test incorrectly, the Upper Tribunal upheld the First-tier Tribunal's decision on mutuality of obligation. HMRC appealed again to the Court of Appeal; the decision is reported as [2021] EWCA Civ 1370.

The facts of the case

There is a category of referees who are employed full time by PGMOL and who officiate at the top games (Premier League and international ties). The referees at the heart of this case, however, represent the next category down in the pecking order, working mainly at Championship matches and at games in Leagues 1 and 2 (effectively the second to fourth tiers of the English game), as well as at some cup matches. Their refereeing activities are carried out in their spare time, typically alongside other full-time employment. It is, in effect, a hobby activity, albeit a hobby that is seriously pursued.

Games for the following week are usually allocated to and accepted by the referees on a Monday morning. However, until a particular match has actually started, a referee could cancel the arrangement (in theory at the last minute); similarly, PGMOL could withdraw a referee from the match at any time before kick-off.

The Court of Appeal's decision

The case came before Lord Justice Henderson, Lady Justice Elisabeth Laing and Sir Nicholas Patten.

The court identified the two different types of contract that arise in many scenarios where work is carried out on an *ad hoc* basis. There is the contract for the particular engagement, but often, in addition, an 'umbrella' or overarching agreement governing all engagements subsequently entered into.

The court made clear (citing earlier case law) that one cannot determine a worker's status when carrying out a particular engagement solely by looking at the overarching contract. Furthermore, a standalone engagement can give rise to a single contract of employment (albeit one of limited duration).

The First-tier Tribunal had considered that the parties' ability to cancel a booking right up to the time of kick-off meant that there was no mutuality of obligations. However, the court held that the First-tier Tribunal had conflated two matters – the overarching agreement (entered into at the beginning of each football season) and the separate agreements governing each individual match.

The court also considered the question of control. One part of the First-tier

One cannot determine a worker's status when carrying out a particular engagement solely by looking at the overarching contract.

Tribunal's reasoning had been the fact that PGMOL cannot exercise control by intervening in the course of a match. The court considered that this meant that the First-tier Tribunal had failed to address the correct question, as to whether there was a sufficient framework of control. The court also considered that the First-tier Tribunal had wrongly disregarded certain factors (the coaching and internal assessment procedures) that can influence the referees' performance. In this regard, the court agreed with the Upper Tribunal's decision (which held that there was sufficient control over the referees). As the court held, control can manifest itself by positive as well as negative influence.

For completeness, the court made a couple of qualifications to the Upper Tribunal's approach to the control test. The first was a quibble concerning the method of enforcing control: the Upper Tribunal had wrongly assumed that control must be exercised in the form of sanctions. The second concerned the role of an appellate tribunal (such as the Upper Tribunal) to a decision of the First-tier Tribunal. The court emphasised that, when looking at a multi-factorial test, the amount of weight given by the First-tier Tribunal to a particular consideration is not something that should usually be revisited on an appeal. The Upper Tribunal had suggested that the First-tier Tribunal had given 'insufficient' weight to certain matters when considering control. The court said that such an 'error' would not have justified overturning the First-tier Tribunal's decision. However, as the court continued, a better description of the First-tier Tribunal's error of law was that it had taken into account matters that should not have been considered in the first place.

The most important point, however, is that the Court of Appeal agreed with HMRC in that the Upper Tribunal's overall decision could not be upheld (because the Upper Tribunal had wrongly agreed with the First-tier Tribunal on mutuality of obligation) and therefore HMRC's appeal was allowed. The case will now return to the First-tier Tribunal for consideration of the mutuality of obligation point.

Commentary

As I noted in my previous article, I was somewhat surprised by the First-tier Tribunal's decision on mutuality of obligation. As I had continued, the decision showed the importance of drilling down to the essence of the relevant contractual relationship. However, as the Court of Appeal has now determined, the First-tier Tribunal, when considering those facts, had applied the wrong legal approach to mutuality of obligation.

The court's decision then gave rise to an interesting procedural question that might have repercussions in other cases. Having decided that the two preceding tribunal decisions were both based on erroneous views of the law, how should the case now proceed? A similar issue has arisen in recent IR35 cases involving appeals by HMRC to the Upper Tribunal (*Kickabout*, *Atholl House*). In both of those cases, HMRC first had to persuade the Upper Tribunal that the respective First-tier Tribunal's decision had been tainted by an error of law; and, having done so, then asked the Upper Tribunal to make the relevant employment status determination by reference to the correct view of the law and applying that to the facts as previously found by the First-tier Tribunal. The alternative approach that the Upper Tribunal could have taken was to remit the case to the First-tier Tribunal so that it could remake the decision, albeit with a direction as to the correct legal approach it should follow.

There is indeed case law that explains which of those two approaches should be followed in different scenarios, although often more prosaic considerations prevail. For example, a person seeking to uphold the First-tier Tribunal's view will typically want the case to be remitted to the judge who had found in that party's favour once before, and *vice versa*. Conversely, a party concerned about the costs of the litigation process would often be keener to avoid yet a further hearing, even if the original tribunal is thought to be sympathetic to that party's case.

In both *Kickabout* and *Atholl House*, the Upper Tribunal indeed concluded that there had been errors of law in the First-tier Tribunal's decision and HMRC successfully persuaded the Upper Tribunal to proceed to redecide the matter itself, albeit with differing outcomes. In *Kickabout*, the matter was redecided in HMRC's favour, but in *Atholl House*, the Upper Tribunal concluded that the First-tier Tribunal had in fact reached the right decision (even if for incorrect reasons).

One has to look at all the circumstances in the round before deciding whether or not there is a contract of employment.

In *PGMOL*, however, the court's provisional view was that the remaking of the decision should in fact be undertaken by the First-tier Tribunal. Whether that happens – and, if it does, the extent to which there is a further hearing – will depend in many ways on the views of the parties themselves, as well as the tribunal. Indeed, it should be noted that the First-tier Tribunal in its original decision did observe that the wider facts of the case had 'elements that may be suggestive of an employment relationship'. Without wishing to prejudge the case, its defeat in the Court of Appeal might persuade PGMOL to blow the final whistle on this case without any further expense being incurred.

This might suggest that HMRC would be delighted by the court's decision. Nevertheless, there are aspects of the decision that will make very uncomfortable reading for them. One line of attack that HMRC is deploying (it was the main thrust of its oral arguments in the *Kickabout* case) concerns the application of the third limb of the *Ready Mixed* test. Over the past quarter century, it has become almost universal practice for parties to refer to the Court of Appeal's decision in the case of *Hall v Lorimer*, which requires a tribunal to consider the wider picture when determining a person's employment status. In short, if the first two limbs of the *Ready Mixed* test do not rule out an employment relationship, the tribunal must look at the whole picture to form a view. Indeed, that is precisely what the First-tier Tribunal did in the present case.

Nevertheless, HMRC has started to argue that the *Hall v Lorimer* approach is in fact entirely inconsistent with the *Ready Mixed* test and should no longer be followed. In *Kickabout*, the Upper Tribunal did not need to respond to that (what I consider to be a rather novel) approach by HMRC. Thus, the fact that the argument is even being considered by HMRC is still not widely known.

However, it is worth recognising that in its latest decision in the *PGMOL* case, the Court of Appeal made a number of comments that will deal a major body blow to HMRC's argument. In particular, the court referred to earlier authority that deprecates any attempt to determine employment status mechanistically; instead, the exercise involves 'weighing all the various indicia as interpreted according to the particular context'. Elsewhere, the court made it clear that one has to 'look at all the circumstances in the round before deciding whether or not there is a contract of employment'.

HMRC's argument to the contrary always struck me as ambitious (or, if I were being less circumspect, desperate). It would not surprise me it was quietly dropped by the time of the *Kickabout* appeal (due to be heard in February).

What to do next

Two important principles emerge from the *PGMOL* decision which must be carefully borne in mind in any discussions with HMRC.

First, in the context of workers who are engaged from time to time, their employment status (particularly for tax purposes) must be considered by reference to the conditions in place when the services are actually performed.

Secondly, unless either of the first two limbs of *Ready Mixed Concrete* definitively shows that a worker is not an employee, a worker's status cannot be determined without taking a step back and viewing the overall picture.

HMRC's CEST program that is meant to determine workers' status famously omits any reference to mutuality of obligation. HMRC's stance in that regard is in part justified by the first of these two principles. However, the programming of HMRC's CEST suggests that they consider that any viewing of the overall picture (principle 2) should similarly disregard the fact that a worker is engaged only intermittently. Court of Appeal authority (particularly, the case of *Stringfellow Restaurants Ltd v Quashie* [2013] IRLR 99) shows that such an approach is wrong. That might explain why HMRC has been keen to downplay the relevance of *Hall v Lorimer*. It might therefore be necessary to await the next instalment from the Court of Appeal in the *Kickabout* case.

Until then, Dickens only knows.

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An intangible problem

Jitendra Patel considers the complexities of the intangible fixed assets regime and tries to untangle the tax consequences of transactions involving IFAs and partnerships

KEY POINTS

- **What is the issue?**
This article focuses on the anomalous outcomes arising from transactions involving intangible fixed assets (IFAs) and partnerships (including limited partnerships and limited liability partnerships).
- **What does it mean for me?**
The tax analysis is by no means certain and there will undoubtedly be different views as to how the relevant statute should be interpreted.
- **What can I take away?**
The anomalies created by the rules mean that numerous commercial situations involving the transfer of IFAs both by and to a partnership may trigger significant and unexpected tax consequences. Readers should exercise caution in considering the tax implications of such transactions.

It has been almost 20 years since the introduction of the intangible fixed assets (IFA) regime (Corporation Tax Act (CTA) 2009 Part 8), which fundamentally changed the corporation tax treatment of goodwill and intangible assets. A large number of updates have been made since then, but some of the rules continue to mystify through their unexpected tax consequences. This article focuses on the anomalous outcomes arising from transactions involving IFAs and partnerships (including limited partnerships and limited liability partnerships).

What is the issue?

The government's objective when it introduced the IFA regime in April 2002 was to provide a fair and consistent approach to the taxation of intangible assets, which was more closely aligned with the accounting treatment. The regime broadly allows accounting debits and credits which arise under generally accepted accounting practice in respect of a company's intangible fixed assets, including goodwill, to be followed for corporation tax purposes, although changes made in more recent years have restricted this to some extent.

As well as providing corporation tax relief for the costs of acquiring and enhancing IFAs, the regime incorporated a number of provisions, similar to those within the capital gains regime, to enable commercial reorganisations to be undertaken on a tax neutral basis. Unfortunately, the operation of these rules to partnerships involving companies seemed less well thought out.

The IFA rules are in point for partnerships with corporate members and/or for any transactions between partnerships and companies (including between a partnership and a corporate member).

For a number of years, in the absence of clear legislation and HMRC guidance, many had assumed that the IFA provisions operated on a 'look-through' basis – in a similar manner to the corresponding capital gains rules, which are supplemented by HMRC Statement of Practice D12. This transparent treatment

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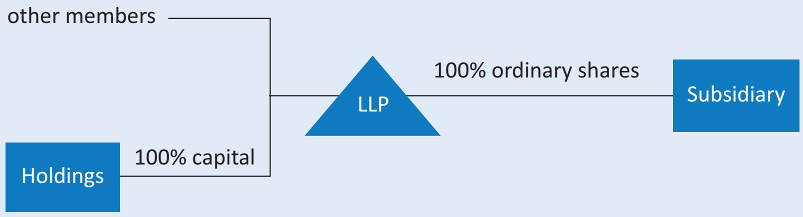
HOLDINGS: APPLYING THE IFA RULES TO BUSINESS STRUCTURES



seemed consistent with the way that corporation tax rules generally apply to partnerships (in line with CTA 2009 s 1259 and s 1273) and accordingly within the spirit of the rules, with no mischief intended.

However, HMRC perceived that some businesses had sought to exploit gaps in the legislation to obtain a tax advantage by using arrangements that utilised partnerships to circumvent the related party rules and bring 'pre-FA 2002 assets' into the IFA regime without a change in effective ownership. This led to a 'clarification' of the rules through Finance Act 2016. The new provisions focused on countering such arrangements but, frustratingly, had little concern for unduly adverse tax consequences that might arise in genuine commercial transactions as a result.

How do the rules apply in practice?

The difficulties arising from the application of the IFA rules to business structures involving partnerships can be demonstrated with the following example. Note that such hybrid corporate partnership structures are reasonably common.

Holdings is the sole corporate member of LLP and holds a 100% capital interest in its assets. It is decided that the business and assets of LLP will be transferred to a company wholly owned by the LLP, Subsidiary, as a capital raising exercise may be undertaken in the future and it is considered that a more conventional corporate group structure will be preferred by investors. LLP's most valuable asset is goodwill, which has been internally generated but has a current market value of £10 million. The business commenced after 1 April 2002, meaning that the goodwill is not a 'pre-FA 2002 asset' and, as such, is not excluded from the IFA regime.

Comparison with capital gains rules

For comparison purposes, if a non-IFA subject to taxation under capital gains rules was also to be transferred, the tax position would be relatively straightforward, insofar as the LLP would be looked through (per TCGA 1992 s 59A) and the transfer would be treated as though it were a direct disposal by Holdings to Subsidiary. Consequently, the disposal would give rise to no gain or loss under the intra-group transfer rule (TCGA 1992 s 171)).

Operation of IFA rules

In this example, however, the operation of the IFA rules to the transfer of goodwill has to be considered. Goodwill is deemed to include internally generated goodwill (per CTA 2009 s 715(3)) and specific provision is made at CTA 2009 s 738 to ensure that a taxable credit must be brought into account for corporation tax purposes if there is a disposal of an off-balance sheet IFA. The credit will be equivalent to the realisation proceeds, generally being the amount recognised for accounting purposes, subject to special rules which may impose that a different amount must be brought into account.

Related party transfers

The basic rule at CTA 2009 s 845 for related party transfers treats the transfer of an IFA between a company and a related party as being at market value. Related parties are defined at CTA 2009 s 835 but the cases do not adequately cover transfers to or from a partnership. Instead, specific provision is made by way of amendments to s 845, as introduced by Finance Act 2016. These amendments import the 'participation condition' from Taxation (International and Other Provisions) Act 2010 s 148 and provide that a partnership is a related party of another person if the 'participation condition' is met.

As LLP holds all of the shares in Subsidiary, the participation condition should be met, meaning that a taxable credit equivalent to the market value of the goodwill would be imputed by s 845 unless any exclusions apply.

Tax neutral transfers

We can then consider CTA 2009 s 848, which gives priority over s 845 to 'tax-neutral transfers', including transfers within a group falling within CTA 2009 s 775. Where the conditions of s 775 are met, an asset transferred between two group companies is deemed to be transferred on a tax neutral basis. It is unclear whether or how a transfer either by or to a partnership or LLP can ever fall within s 775 but there are two possibilities to consider.

The first is whether the transfer can be treated as made directly by Holdings, rather than by LLP. Unlike the capital gains rules, which confirm (at TCGA 1992 s 59 and s 59A) that capital gains are to be calculated at the partner level, no equivalent provisions are explicitly included within the IFA rules.

One could argue that look-through treatment is nevertheless applied to partnerships and LLPs in general by CTA 2009 s 1258 and s 1273. However, the decisions in the cases of *Armajaro Holdings Ltd v HMRC* [2013] UKFTT 571 and *Bloomberg Inc and another v HMRC* [2018] UKFTT 205 confirm that a general look-through is not deemed to be provided for all purposes, including accounting purposes. The IFA rules follow the accounting treatment, under which Holdings would be treated as holding an interest in a partnership as a fixed asset investment, whilst the LLP would be treated as the owner of the goodwill.

The second possibility is whether the LLP itself can be deemed to be a company and therefore a member of the IFA group. LLPs are expressly excluded from the definition of a 'company', 'group' and 'subsidiary' by CTA 2009 s 764. Nevertheless, the application of the IFA rules to partnerships and LLPs relies on references to a company to be read as references to a firm for the purposes of CTA 2009 s 1259.

Under s 1259, we are required to pretend that the partnership's trade or business is carried on instead by a company and we may wonder whether this means that a partnership may be treated as a deemed company for wider purposes. This, however, is unlikely to be the case, with s 1259 being merely a computational device and having no effect on the actual identity and characteristics of the partnership or LLP in question.

Tax arising

In the absence of any overriding provision, s 845 will deem a taxable credit of £10 million, being the market value of the goodwill, to be brought into account when the goodwill is transferred. The credit would form part of the LLP's taxable profits and be allocated to its members in accordance with the LLP's profit sharing arrangements. Those members that are subject to corporation tax (in this example, Holdings) would suffer a dry tax charge in proportion to their profit share as a result of the transaction, with a tax liability of up to £1.9 million (based on the current corporation tax rate) arising.

Relief for expenditure incurred?

The confusing nature of the rules can be further demonstrated by considering the position if, in the example, Holdings paid actual consideration of, say, £5 million to acquire its interest in LLP.

As Holdings' expenditure would relate to 'the interest of a partner in a firm', as per CTA 2009 s 807(1)(c), it would be an excluded asset for IFA purposes; whereas, under capital gains rules (TCGA 1992 s 59A), Holdings would be deemed to have acquired an interest in the underlying chargeable assets of the LLP.

If, for simplicity, we assume that the entire £5 million paid is attributable to the goodwill, Holdings would have a capital gains base cost of this amount in respect of the goodwill per TCGA 1992 s 38(1)(a). However, if a taxable credit arises under IFA rules on the transfer of the goodwill from the LLP to Subsidiary and forms part of the partnership profits allocated to Holdings, no relief for the actual expenditure incurred could be set against those profits.

Pitfalls

The tax analysis is by no means certain and there will undoubtedly be different views as to how the relevant statute should be interpreted. It is understandable that one may seek a particular reading in order to benefit from the tax neutral transfer provisions as that might appear most like the right outcome. Although it is difficult to believe that the seemingly unfair and inconsistent tax consequences arising are a matter of deliberate policy, in my view, such interpretations feel strained and run counter to the manner in which the IFA rules must generally be applied to partnerships in order to work.

The anomalies created by the rules are not limited to the scenario described in the example used and numerous commercial situations involving the transfer of IFAs both by and to a partnership may trigger significant and unexpected tax consequences as a result. Readers should exercise caution in considering the tax implications of such transactions.

Final thoughts

The government's review of the IFA regime in 2018 raised hope that these issues might be rectified. It was noted in its consultation response summary (published on 7 November 2018) that stakeholders had suggested technical changes to remove anomalies including 'introducing new rules governing the treatment of IFAs held by partnerships with corporate members'. Whilst acknowledging the suggestion, the response simply stated: 'While these are outside the scope of the current review, they will be used to inform future policy work.'

The suspicion is that this was a way of kicking the problem into the long grass. However, the issue remains. In my opinion, the government should reconsider the matter as businesses should not be constrained from undertaking commercial reorganisations by poorly designed tax policy.

The CIOT OMB and Corporate Tax Committees are interested in hearing from members who have practical experience of significant problems caused by the application of the IFA rules to commercial transactions involving partnerships. Please email technical@ciot.org.uk with the message of 'Partnerships and intangible assets, Tax Adviser (November 2021)' in the subject line.

Celebrating our trustees

Helen Whiteman and *Jane Ashton* reflect on the vital role that trustees play in CIOT, ATT and other charities

THE NOLAN PRINCIPLES

01 Selflessness
Holders of public office should act solely in terms of the public interest.

02 Integrity
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work.

03 Objectivity
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

04 Accountability
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

05 Openness
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

06 Honesty
Holders of public office should be truthful.

07 Leadership
Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Trustees' Week is an annual event which showcases the work of trustees across a wide range of charities and provides an opportunity for others to learn more about the role of being a trustee and the difference it can make to society.

Between the CIOT and ATT, our two Councils have 25 and 17 trustees respectively. Our trustees are selected and appointed through an independent nominations process, which is open to all members. This feature showcases just a few of our trustees, citing the ways in which they have contributed to the strategy of both charities and what they find most rewarding.

As Chief Executives, we are accountable to our Councils, with the Presidents being our line managers. The slightly unusual arrangement, compared with 'normal' organisations, is that this changes annually for us, when the Deputy President becomes President and so on. But both Councils have a clear purpose, vision and mission, supported by a strategy which we deliver through each of our business plans.

The joy of working with trustees is that we benefit from the knowledge and skills from a wide range of backgrounds and experiences. The decisions that trustees are asked to make are in the interests of our respective charitable objectives. And trustees are able to work as a collective, providing challenge and scrutiny to ensure those decisions are informed and appropriate.

Many members, students and volunteers may already be trustees for other charities. If you are interested in becoming a trustee – for us, or for another charity – then there are a lot of helpful sources of information, some of which we have listed in the box on the right. Becoming a trustee is an opportunity to benefit wider society. In return for sharing your time, skills and experience, you can also use the role to learn new and useful skills. There are various oversight charity regulators, such as the Charities Commission, who maintain charity lists, provide guidance and support to charities, hold them to account and ultimately ensure that the public can have confidence when choosing to support a charity.

When seeking new trustees, charities are often looking to build on the existing

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skills of current trustees, by finding new skills and experiences to fill any gaps. Some charities also seek to ensure that their trustees have regard to the seven principles of public life, more commonly referred to as the Nolan Principles (see the infographic for further details).

We extend our thanks to all of our trustees, as well as those members who have served as trustees in the past. Their invaluable contributions shape our futures and ensure we continue to act in the interests of the public, our members, students and other stakeholders. We will always publish trustee vacancies on our website and in *Tax Adviser*. In the meantime, there are always volunteering opportunities with us, through your local branch, committees and beyond.

THE VOLUNTEERING BUG!

Jonathan Stride
Co-chair of the ATT's Technical Steering Group and ATT representative on the Issues Overview Group.

Tax is very much in my blood. My father was an accountant, and in the early stages of my career I worked alongside him. One thing that he would often tell me is that when seeing clients, he would discuss their accounts with them. Whilst the trading results were important, they were really interested in how much tax they had to pay and when they had to pay it (and how they could minimise their tax liabilities).

I have worked in a variety of different areas – in industry, VAT, accounts preparation, the tax arm of an investment bank, and audit – but my father's words have remained with me long after he has gone, although it was some time before I chose to work specifically in tax. Whilst working in audit at Baker Tilly, I was asked if I would mind helping in the tax department whilst they recruited new staff. I jumped at the chance, and asked if it could be made permanent – which it was, and which resulted in my sitting the ATT exams.

My interest in tax was already established at that point, and when Bernard Critchley launched the Somerset and Dorset Branch of CIOT and ATT in 2001, I was keen to support it. Before long, I had volunteered to join the branch committee. I am not sure how that happened – but that is often the way when it comes to volunteering!

Since then I have volunteered for other roles. In 2009, I volunteered to fill a vacancy as ATT representative on the local HMRC Working Together group. That led to my joining the joint Working Together committee with ATT and CIOT. By that point I had the bug, and joined the Technical Steering group a couple of years later. When Jean Jesty stood down from the committee, I was asked to consider whether I would take on her position with the Issues Overview Group, which with encouragement from Jean I did.

For many that work in tax, it is more than just a job and is an interesting and fascinating area in which to work. The landscape is continually changing, and there are always new challenges. Volunteering has given me a much greater understanding of the tax world, allowed me to meet some great people, and opened doors that would not have been open to me. Attending meetings at 100 Parliament Street or the Treasury or taking part in HMRC webinars are things that would not otherwise have happened.

Being part of the Technical Steering Group has proved to be particularly rewarding. Not only are there discussions about topical matters, but it has allowed me to be part of ATT's response to consultations and to feed back issues that are happening at the coal face.

In 2016, I was invited to join ATT Council, which was something that I am particularly proud of. The role means being part of ATT strategy and all that is going on. A few months in, I was asked about my plans towards ATT Presidency. At that point, I realised how fortunate I was to be involved at that level.

Being able to give something back is part of volunteering. For me it has provided an extra breadth to my career. It is also something that has been recognised by my employers who can see the value that it adds, and that have willingly supported my volunteer roles.

The ATT depends on volunteers to help it function. Without them, it would not work as effectively as it does. It has around 200 volunteer members on its committees, and probably four times that including those not on its committees. These people perform an invaluable role by giving up their own time to help the organisation to function.

The ATT are fortunate to be able to host their admissions ceremonies at the House of Lords. When I see how proud the newly qualified members are when they are presented with their certificates, it gives me a similar sense of pride in knowing that I am part of the organisation that they have become a part of.

Winston Churchill said: 'You make a living by what you get. You make a life by what you give.' This sums up my thoughts on volunteering. If you enjoy it, get involved!

SOURCES OF FURTHER INFORMATION

Charity Commission for England and Wales
www.gov.uk/government/organisations/charity-commission
Scottish Charity Regulator
www.oscr.org.uk/
The Charity Commission for Northern Ireland
www.charitycommissionni.org.uk/
Trustees' Week 2021
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The buzz of participation

Nikhil Mehta, Barrister, Gray's Inn Tax Chambers

I find the word 'trustee' slightly strange. Any noun in the English language ending in 'ee' (well, maybe not squeegee) tends to suggest a passive role; i.e. someone who has something done to them rather than someone who does something. Consider, for example, donor and donee. A donor gives, but a donee is given. If we had the word 'trustor', that would mean someone who trusts, whereas a trustee is someone on whom trust is conferred.

But simply to be given trust and to do nothing with it is not exciting. Equally, one could be daunted by being the recipient of trust and just act in a defensive way to protect that trust and not contribute in a proactive manner. Play it safe, in other words.

The point is that simply being a trustee in the sense of being a guardian of the values of the CIOT is all very well, but it is participation in furthering the objects of the CIOT which gives the buzz. If I worried about the legal implications of being a trustee, I would lose sleep and be hamstrung in my duties and responsibilities. Equally, if all that being a trustee meant was to look at financial and other information related to the performance of the CIOT presented by others, I would get rather bored. That is of course important, but there is more to trusteeship than being an angel of compliance and due process.

So, what gets me excited? Well, the starting point is that I am a tax practitioner, and quite a seasoned one at that, if I may say so. I am a lawyer, not an accountant: the CIOT enables me to contribute to the tax community beyond just the legal profession. And I love my profession. I recognise the importance of 'giving something back' and doing that bit extra outside my normal practice. All trustees are also Council members and, when it comes to proactive contribution, it does not matter which hat you are wearing, at least not to me. The roles I have particularly enjoyed include working with some of the branches; being involved with ADIT and seeing the variety of international students which the CIOT attracts; having some interaction with my country of birth, India; and most recently, taking on an equality, diversity and inclusion (EDI) function.

The latter is a recent development and I am feeling my way, but it is something that particularly interests me. At the moment, it involves looking at the way in which the CIOT responds to consultations and other Government initiatives, and developing an EDI sensibility in relation to the work of the CIOT Committees of which I am a member. In due course, I hope it will involve greater interaction with HMRC, as well as helping members as required. There is much to be done and I certainly do not have all the answers. But I relish the challenge.

A role in an evolving world

Charlotte Barbour, Director of Tax, ICAS

I am a great believer in the value that our professional bodies add to our working lives. They offer opportunities to exchange views and learn from others in forums such as branches and specialist conferences. In addition, members' working experience is collated and fed back to the authorities to improve tax administration and explain how tax policy objectives can most effectively be achieved.

I sat ATII exams in 1988 and have been involved to a greater or lesser extent with CIOT activities in Scotland since then. I've also had strong working connections with the CIOT though my role as Director of Tax at ICAS. When I was invited to join the CIOT Council, I was delighted – and accepted.

The CIOT is an educational charity, promoting education and study of the administration and practice of taxation, together with promoting and maintaining the highest professional standards among the membership. As a Council member, I am a trustee of the charity. This means ensuring that not only are the objectives of the CIOT's Charter met, but also the tests of being a charity.

Over the years, I have become interested in the workings of member bodies and how they are governed. The CIOT has grown in size, pre-eminence and standing since I sat ATII exams. When I first joined the CIOT, it was very much member led with paid administrative support but since then it has been moving to a model of employing professional staff who undertake much of the work. This raises questions – what does this mean in practice, how does the Institute move from one model to another, and what should the trustees focus on?

Joining the CIOT Council has been fascinating for me. I volunteered to be part of a working group that looked at various aspects of how Council operated, which benefited from the Council lay observers with their experience of how trustees in other charities operated. Subsequently, a Nominations Committee was set up, which I chair – and I should take this opportunity to ask readers to come forward to join the CIOT's committees, branches, and the Council.

Although some may be cautious and think they do not have the full breadth of experience as an individual, this would be a mistake – taking on the role of being a trustee is a team effort, and no one should underestimate what they can distinctively bring if they care about the CIOT's charitable objectives.

My 'day job' is working as a tax professional but my role on the CIOT Council has focused on aspects of governance. I've gained a great deal – I can contribute to my professional body's evolution so that it is as good as it can be for the future, I have better sight of the CIOT's charitable objects, and I have widened and deepened my professional networks.

Shaping the future of tax

Simon Groom, Director of Tolley Learning

I've been involved with the ATT in some form or another for the last 30 years, and as a trustee for the last 18 years (with a short break in the middle) and I can honestly say it has had a huge influence on my career, helping me to acquire and build skills that have served me well over my working life.

But let's start at the beginning. I originally trained as an accountant but fell in love with tax at a fairly early stage of my career. Having sat and passed the CTA in 1991 (then ATII) exams, I found myself delivering courses to help students pass the ATT exams. That in turn led to a lecturing slot at the ATT/CIOT weekend conference, and so began my involvement with ATT.

The conferences became a regular fixture in my life and at the turn of the century I was invited to join the Examination Sub-Committee of the ATT. It was my first formal exposure to the inner workings of the ATT and was a great help in understanding how formal meetings work and best practice in that area.

As a result of that I was formally elected to Council in 2003 and became a trustee for the first time. It was a great honour for me but I soon understood that being a trustee brought with it a number of responsibilities. The ATT is an educational charity, and therefore it is important to ensure that the charity is carrying out its activities in pursuant of its objectives and for the public benefit. This necessitated a slightly different mindset for me as I'd always been focused on ensuring that the businesses that I worked for were profitable. Obviously, it was important that the charity's finances were in good shape but there were more important things to consider.

During my term on Council, I served on Business Development Steering Group, Audit Committee and Member Steering Group, and chaired the latter for three years. Again, chairing a formal committee was a new experience for me and provided me with valuable experience for my day-to-day role. I am currently serving as Vice President and as part of the Leadership Team I am fortunate to be even more closely involved with the running of the charity.

As well as making new friends and connections over the years, serving as a trustee on ATT Council has offered me the opportunity to be involved in shaping the future of the tax profession. The ATT is involved in contributing to consultations on the development of the UK tax system and seeking to ensure that, for the general public, it is workable and as fair as possible. Recently, we have been involved with contributing to the debate on the future of regulation in the tax profession.

Back in 1991, I could never have imagined that the ATT would become such a big part of my working life and I am very grateful for all of the opportunities it has afforded me.

I would encourage everyone to get involved in some way or another, maybe by serving on a Steering Group, or even just attending your local branch. Who knows where it could lead!

A new adventure

Jo Bello, Partner, PwC

I'm new to the Council for the CIOT and new to the role of trustee. The role is to work as part of a team with my fellow trustees to ensure that the CIOT fulfils its charitable objectives: to advance public education in, and promote the study of, the administration and practice of taxation, together with promoting and maintaining the highest professional standards among the membership. A trustee needs to be able to see things from a broad perspective, rather than solely one's own area of the profession, to be able to build a good working relationship with fellow trustees and also with the senior management team to be able to provide appropriate oversight and governance.

I've had a lifelong interest in tax (being born on 5th April), and heard my parents argue over the dinner table as sole traders struggling to understand the rules. I studied tax as part of my law degree, and at the College of Law. I joined PwC into Indirect Tax as we were joining the single market. I qualified through ATT and CTA exams, and after winning a prize was invited to be an examiner. Over the years, I have also been involved in systems, deals and global supply chains, I have worked in-house on secondment, in financial services and excisable product businesses in the top tier, and in small start-up companies.

In my first five years as a PwC partner, I focused on the education and development of our people in indirect taxes. As EMEA, then Global Indirect Tax network leader at PwC, I broadened my knowledge of taxes around the world and worked as part of the global leadership team. I have joined discussions about tax practices all around the world, met with taxing authorities in the UK, EU and in far flung places. Working at PwC has always involved working as part of teams with diverse parts to play, different specialisms.

I believe that a good education in taxation is important for every UK citizen; only then can we each individually contribute to our society in the way in which our parliament, legislature and people have agreed to. I became involved as the CIOT were inviting applications for the role; I submitted an application, was interviewed and offered the role. Although I have only just joined the council I have already joined the examination committee. I bring to the trustee role my experience of working as part of a huge range of different teams to ensure objectives were fulfilled. I see the role of trustee as an opportunity to bring my years of experience in practice to support the CIOT achieve its objectives. I think the most important experience and skill I observe in my fellow trustees is the skill to listen and ask challenging questions or make points, succinctly and in a supportive manner. I hope I too can do the same.

SHAPING THE FUTURE OF TAX

WE HAVE EXCITING OPPORTUNITIES AVAILABLE FOR ATT VOLUNTEERS TO JOIN OUR TECHNICAL STEERING GROUP

We are looking for volunteers with at least 5 years post qualification experience of working in a tax role to join our Technical Steering Group. We are particularly interested to hear from volunteers who have a corporate tax background.

As one of our Technical Steering Group members you will commit to attending four meetings per annum (either face to face or virtual) plus other ad-hoc help ranging from commenting on consultations and changes in legislation/guidance, to letting us know about practical problems that crop up in your day to day work. Such feedback helps to inform our responses to HMRC.

Volunteer today to help shape the future of tax.

For further information about what is involved with volunteering please visit our website: **https://www.att.org.uk/volunteering-our-technical-activities.** Alternatively, please email atttechnical@att.org.uk with your contact details and we will be happy to talk about the commitment involved and answer any questions.

To apply for a volunteer role please send a current CV, together with a summary of why you wish to join the Technical Steering Group, and what particular skills and experience you have that will help with your contribution to the group to Jane Ashton at jashton@att.org.uk

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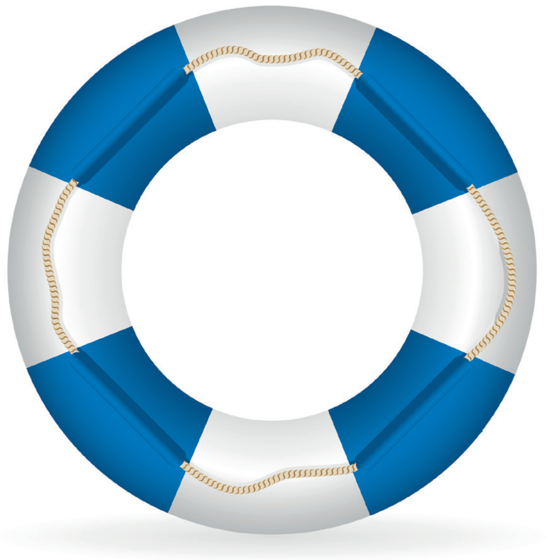
MEMBERS' SUPPORT SERVICE

- The Members' Support Service aims to help those with work-related personal problems
- An independent, sympathetic fellow practitioner will listen in the strictest confidence and give support
- The service is available to any member of the CIOT and ATT
- There is no charge for this service

To be put in touch with a member of the Support Service please telephone 0845 744 6611 and quote 'Members' Support Service'

Chartered Institute of Taxation.



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Welcome to the November Technical Newsdesk

Following the announcement on 23 September that Making Tax Digital for Income Tax (MTD for ITSA), and the reform of basis periods, were to be delayed, we received several thank you messages from our members and volunteers. The receipt of these messages (which, to be honest, is quite unusual) made me reflect on what had prompted them. You might think that change is the only constant when it comes to tax matters, and dealing with new (often imperfect) taxes and obligations is part of the 'norm' for many members. Why were these two measures so troubling that their deferral triggered what seemed to be a collective sigh of relief all around (even at HMRC)?

Of course, we all know the answers. We are concerned about the availability of software for MTD for ITSA, testing the interactions with HMRC, educating clients and managing the future relationship. We are concerned too about the pace of the basis period reforms, which bring challenges for those affected both during transition and on an ongoing basis. And this is to name just a few concerns…

So why do we find ourselves in this situation? Well, I strongly believe that it's a result of failing to follow the tax consultation framework. I've written about the framework before (see my August introduction) and so I won't repeat this again, but it's instructive to remind ourselves where the process started for these measures.

Many readers will remember the 'death of the tax return' announcement by George Osborne at the March 2015 Budget – and then the relative silence until MTD was 'launched' in December 2015 and numerous stage 2 consultations were issued in August 2016. So, the path had already been laid and key decisions taken. The consultation was mainly around implementation.

The consultation around basis period reform (influenced, I suspect, by an element of panic, with MTD for ITSA still scheduled for April 2023) took places at stages 2 and 3 – presenting more of a final outcome than an opportunity to discuss options.

In mid-October, I gave evidence to the House of Lords Finance Bill Sub-Committee in relation to its inquiry into the draft Finance Bill 2021/22 (see tinyurl.com/xvh3cfs5). The inquiry is focusing on basis period reform and the notification of uncertain tax treatment (which also started at stage 2). It made me smile when Jason Piper of ACCA referenced the joke about giving directions – that if you want to get there, I wouldn't start from here. If we remind ourselves where 'there' is: for MTD, it is the reduction in the tax gap relating to error and failure to take reasonable care; and for uncertain tax treatment, it is a reduction in the tax gap relating to legal interpretation. But instead of asking the question: 'How do we reduce the tax gap relating to…?' – making 'here' stage 1 of the consultation framework, the beginning of the journey – we seem to have started on a particular route before asking for directions. So, when the consultation commences, 'here' is stage 2 of the consultation framework, and often the wrong starting point.

By the time you read this, we will have had the Budget (and perhaps the Finance Bill) and so we will see what happens to the measures discussed above, and the starting point for any new proposals. In this month's edition, you will see that we have commented on various clauses in the draft Finance Bill, as well as making suggestions for the things the government might consider in this or future Budgets.

Budget representation: representations by ATT

MANAGEMENT OF TAXES | OMB | EMPLOYMENT TAX | PERSONAL TAX

The ATT submitted three representations ahead of the Autumn Budget 2021, covering the annual investment allowance, employer provided coronavirus testing and the High Income Child Benefit Charge.

HM Treasury invites representations from individuals, interest groups and representative bodies commenting on government policy and suggesting new policy ideas to be considered. The ATT submitted three representations in advance of the Autumn Budget to be held on 27 October 2021.

Annual investment allowance (AIA)

On 1 January 2022, in the absence of any further legislative change, the AIA limit is set to drop from a temporarily increased level of £1 million to its permanent level of £200,000. Transitional rules apply to determine the AIA available where an accounting period spans this date.

The ATT's representation on the AIA (see www.att.org.uk/ref385) highlights that, depending on the year end of a business and when it incurs expenditure, these transitional rules could result in an effective AIA limit of significantly less than £200,000. The businesses most likely to be hit by this are those smaller businesses that were least likely to have benefited from the temporary increase in the AIA limit.

In order to prevent these businesses from being disadvantaged, the ATT recommended that FA 2021 s 15 be amended to ensure that, for the year of change, the AIA is available on expenditure of up to £200,000 regardless of when it was incurred within the year.

Employer-provided or employer-funded coronavirus antigen tests

FA 2021 introduced temporary income tax and NIC exemptions for employer-provided COVID-19 antigen tests for 2020/ 21 and 2021/ 22. As outlined in the ATT's representation (see www.att.org.uk/ref386), we consider that there would be a public benefit in introducing a wider-ranging and enduring exception from benefit in kind charges for employers who pay to test their employees for highly transmissible diseases.

One way to achieve this would be to amend the existing power contained in FA 2021 s 26 (which allows the Treasury to extend the exemptions for COVID-19 testing to future years) so that the Treasury also has the power to apply the exemptions to other transmissible diseases.

High Income Child Benefit Charge (HICBC)

In the 2021 Spring Budget, it was confirmed that the higher rate threshold of £50,270 for 2021/22 will be frozen for the four-year period from 2022/23 to 2025/26. However, no compensatory increase was made to the point at which the HICBC applies, which still has an income threshold of £50,000.

As a consequence, the HICBC now affects basic rate taxpayers, something which is directly contrary to the original policy intent announced in the Spending Review of October 2010 (which stated that the charge should only affect families with a higher rate taxpayer).

The ATT representation (see www.att.org.uk/ref387) sets out our view that, as a minimum, the starting threshold for the HICBC should be in line with the higher rate threshold which applies for England, Wales and Northern Ireland (the Scottish higher rate threshold being different). The representation also lends support to representations by LITRG on this subject in previous years.

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Budget representation: Employee Ownership Trusts

OMB

In a 2021 Budget representation, the CIOT has suggested options for limited legislative reform to the Employee Ownership Trust provisions to eliminate unnecessary costs, remove a potential Exchequer risk and enhance employee engagement.

The Employee Ownership Trust (EOT) tax legislation, enacted in FA 2014 as a result of the Nuttall Review, introduced capital gains tax (CGT) relief to remove the tax barrier of a 'dry' tax charge on the sale of shares by vendor shareholders to an EOT on a deferred payment basis (vendor funding). Inheritance tax (IHT) provisions also ensure that no IHT arises as a result of any disposal into an EOT; for example, at undervalue. In addition, the legislation provides for the payment of income tax-free bonuses of up to £3,600 per person per year to the employees of a company controlled by an EOT.

In a 2021 Budget representation on EOTs, the CIOT noted that although there remains strong support for the principle and the broad outline of the EOT reliefs, based on the experience of our members there are issues with the EOT provisions that appear to create costs for all parties, and pose a risk to revenue. The legislation only gives limited prompts to the employee engagement from which many of the benefits of employee ownership are understood to derive. We therefore propose that consideration is given to limited legislative change to address these issues. Our representation considers a range of options, subject to formal consultation, and sets out our favoured proposals.

Issue 1: the need for clearance where the sale is funded via deferred consideration

The first issue is the need for non-statutory clearances where, as is common, there is deferred consideration for the sale by the owners to the EOT.

In order to put the EOT in funds to pay down the deferred consideration owed to the vendor, payments are required out of profits of the trading company. Such payments by the trading company to its EOT are generally described as contributions. HMRC have indicated (through replies to non-statutory clearances) that they would not seek to tax such voluntary contributions as dividends in the hands of the trustees on the basis that the contribution is not a dividend received by a shareholder in its capacity as a shareholder. Instead, HMRC consider it to be a non-taxable contribution received by the trustee in its capacity as a trustee to achieve the purpose of the EOT.

The result is an uncertain situation where a payment that can only be made, as a matter of law, out of a company's distributable reserves, is not treated as if it were a dividend (distribution).

Our preferred option is for confirmation in the legislation that contributions paid by the target company to fund the acquisition are non-taxable in the hands of the EOT trustee/s, which should remove the need for unnecessary clearance activity.

Issue 2: the residence of EOT trustees
Currently, there are no restrictions on who may be a trustee of an EOT for it to qualify as such. This has the merit of not unduly limiting or distorting the choice of trustees. There is, however, anecdotal evidence of suggestions being made that EOTs should be established as non-UK resident trusts to avoid a future capital gain on shares in the target company, including instances of suggested planning where that second sale is in fact the primary commercial objective.

Therefore, the CIOT's representation explores whether conditions might be imposed to better prompt employee engagement, without undue downsides.

Our preferred option, again subject to formal consultation, is to amend the 'all-employee benefit requirement', which is central to the EOT's identity, to require the EOT's trustee/s to be resident in the UK.

Issue 3: should former owners and connected persons form a majority of the trustee board?
The key existing mechanism to promote employee engagement, namely the trustee's ability to influence the trading company's conduct, could in principle be enhanced by options such as requiring a majority of trustees to be unconnected with the vendor or imposing positive requirements as to the groups from which trustees would be chosen (employees, independents, etc.).

On balance, we think that (subject to consultation) a prohibition on former owners forming the majority on the trustee board achieves the best balance between allowing commercial freedom, while deterring and restricting opportunities for abuse and promoting steps that may assist in securing better engagement.

Claiming CGT relief
A further practical issue of immediate concern is the lack of a dedicated designatory code for making the claim for CGT relief for the disposal of shares to an EOT on the self-assessment tax return. Having a more clearly defined process for claiming the EOT CGT relief would assist compliance and help HMRC to track claims and numbers of EOTs.

Overall, we think it is the right time for a review of these provisions. We hope that the Budget representation, which can be read in full at www.tax.org.uk/ref853, will help to inform thinking on such a review.

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Budget representation: Exchequer implications for the UK of remote working abroad

PERSONAL TAX GENERAL FEATURE

The CIOT's recent Budget representation suggests that it is timely to consider the tax and Exchequer consequences of the trend towards UK employees working remotely abroad.

The CIOT's Budget representation suggests that the government should consider the implications for the Exchequer of the trend towards UK employees working remotely abroad. It advocates gathering data to evaluate the extent to which remote working abroad is becoming an established trend and recommends an early high-level consultation to consider possible options for future reform. Although it is not yet clear whether the shift to remote working brought about by the pandemic will develop into a sustained model of remote working, nor whether such a shift would see an increase in remote working being done from abroad, we suggest that the current state of flux provides an opportune time to assess whether the UK's tax base (focusing initially at least on income tax and national insurance) may be undermined by a long-term behavioural change to working remotely from abroad. Whether current tax legislation and the UK's network of tax treaties offer the right balance in protecting UK tax revenues should also be considered.

Anecdotally, we point to early indications of pressure from high earning employees, particularly those employed by multinational companies, to work remotely from abroad. It seems likely that employers/business will find ways to accede to these requests, particularly where such mobile employees are highly valued and marketable.

A second trend is jobs that are currently carried out in the UK may now move abroad as digitisation allows for roles previously located in the UK to be transferred abroad to locations with lower costs. This has the potential for increased competition among jurisdictions keen to promote the benefits of lower tax rates.

The first of these trends (individuals moving abroad and working remotely) looks more likely to apply to higher earners. The second trend (jobs moving abroad and being done remotely) looks more likely to apply at the other end of the job spectrum.

Other factors weighing against remote working
The Budget representation recognises that while the pandemic and accelerated digitalisation may generate increased interest in remote working, other factors may weigh against such a development, meaning the effect is less significant because of factors such as:

- the complexities of managing employees in another jurisdiction;
- the potential effect on the employer's corporation tax liability; and
- regulatory constraints in working from another country.

To the extent there is increased interest in remote working, the effects may work to the UK's advantage as many people like being in the UK, attracted in part by the non-domiciled tax regime, notwithstanding that others favour warmer climates. High earners attracted to the UK generate revenues on UK expenditure from VAT and other taxes from economic activity in the UK.

Possible routes to addressing emerging risks to the tax base
We suggest that an ongoing exercise is undertaken to gather statistics or survey larger employers/partnerships to evaluate the extent to which remote working abroad is becoming an established trend for UK employers; and similarly engaging with international bodies, such as the OECD, to consider worldwide behavioural patterns.

In the short term, changes might be considered to the UK's domestic tax legislation and/or taking an early initiative to renegotiate tax treaties in relevant jurisdictions.

Tax competition between countries offering tax advantaged regimes to mobile high earners has parallels with the global tax discussion on corporate taxes and the G7/OECD 'two pillars' of corporation tax reform. We note that the context of that reform may be favourable to an initiative to forestall the type of 'tax competition' in the personal earned income tax market that has, it is perceived, recently been curtailed by international agreement in the corporate market.

Any outcome of the set of social and economic changes triggered by the pandemic will be a net effect of a wide range of complex and to some extent contradictory factors. We recognise that there is unlikely to be a simple solution, or even a single direction of solutions. The CIOT therefore recommends the government consider an early high-level consultation on this subject with a view to producing a roadmap of possible options for future reform.

The CIOT's Budget representation can be read in full at www.tax.org.uk/ref856.

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Budget representation: assignment and enforcement of loan charge loans

EMPLOYMENT TAXES

The CIOT has recommended to government that they take action to prevent third parties seeking repayment of loans received and taxed as remuneration under disguised remuneration schemes.

We have recommended to government that they take action to prevent the assignment and enforcement of loans received and taxed under disguised remuneration schemes.

The expectation of the parties involved in these schemes was that the loans would never be repaid. However, having settled with HMRC, many individuals are being contacted by organisations that claim to own or control loans that originated in a disguised remuneration scheme. These organisations are demanding that individuals repay the loans even though the individual has either been subject to the loan charge or has come to a settlement agreement with HMRC. As a result, those affected are in the unenviable position of having a third party seek to enforce repayment of sums which have been recognised and taxed by the government as remuneration.

Acknowledging that obtaining suitable legal advice is beyond the means of many of those affected, we have called on the government to take action to make the assignment and enforcement of these loans uneconomic. We believe that the government has an obligation to protect individuals from exploitation and, in the absence of any other regulatory body, we think that the government must intervene.

We have therefore recommended that the government consults with interested stakeholders to prevent assignment and enforcement of these loans. Other options suggested by us included a 100% tax charge on any profits arising from such activities, the imposition of penalties on assignors/assignees, and legislating to make such loans unenforceable as contrary to public policy.

The CIOT's full representation can be read at www.tax.org.uk/ref855.

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Budget representations: employment and pension taxes

EMPLOYMENT TAXES

The CIOT have submitted several suggestions to HMT to improve the employment taxes and pensions tax systems, including a working from home expenses deduction, allowing employer reimbursed benefits to fall within the trivial benefits exemption, and reviewing home to employer's premises travel rules where home is also a workplace.

The CIOT made a number of suggestions to HMT for the betterment and simplification of the employment taxes and pension tax systems.

Working from home and household expenses

We suggested the introduction of a specific deduction for the extra cost of working from home. The Income Tax (Earnings and Pensions) Act (ITEPA) 2003 s 316A provides an exemption under which employers can make a tax-free payment to an employee to meet the reasonable extra household expenses their employee incurs in carrying out duties of the employment at home under a homeworking arrangement. However, it does not provide the employee with a right to claim a tax deduction for those costs if the employer does not reimburse that expense. Although a claim can be made under s 336, this is notoriously difficult because of its strict requirements that the expense was incurred wholly, exclusively and necessarily in the performance of the duties of their employment (albeit HMRC has taken a more relaxed approach to working from home expenses claims during the pandemic). With homeworking arrangements seemingly becoming a commonplace choice for employees, and the limitations of s 336 claims, the introduction of a specific deduction for additional household expenses would be very welcome.

The trivial benefits exemption and employer reimbursements

We also suggested amending ITEPA 2003 s 323A so that the trivial benefits exemption applies when employers reimburse employees the cost of a benefit, as well as when the employer arranges for its provision (or a voucher to obtain it). At present, the trivial benefits exemption is not available where the employee directly incurs the cost of the benefit, and the employer then reimburses that cost (even where the employer provides the same benefit, or a voucher to obtain it, to other employees). The wider issue of who pays for a benefit or an expense manifested itself at the start of the pandemic with the rush to work from home and the need to obtain equipment, and the government introducing a time-limited exemption for employee purchased equipment. We recommended a wider review to remove the distinction between circumstances where the 'employer pays' and the 'employer reimburses'.

Ordinary commuting, business travel and hybrid working from home arrangements

With many employees now splitting their working time between home and the office, the travel rules on workplace to workplace travel when one of those workplaces is home has come under scrutiny. There are some good examples in HMRC's 490 Booklet of when travel from home to an employer's premises is: (a) allowable business travel; or (b) ordinary commuting. We have suggested reviewing the existing exemptions and deductions for employee's travel expenses for hybrid working from home arrangements and updating the relevant legislation and guidance accordingly.

Employer payments on death and equality of tax treatment
In addition, we suggested amending the legislation in respect of ex-gratia payments from employers on the death of an employee so that payments arising following a death by natural causes receive the same tax treatment as payments that arise following an accidental death. Noting the differences between payments falling under ITEPA 2003 s 406 and those under s 394, we identified a particular problem in determining which section applies, which arises from the meaning of 'accidental death'. We consider that the unequal treatment of ex-gratia payments following a death is therefore capricious and unfair, and recommended a review of the legislation.

Enhancing enterprise management incentives (EMI) and other tax-advantaged share schemes
We referenced the recommendation in our response earlier this year to the EMI call for evidence (see www.tax.org.uk/ref768) and made a number of suggestions to enhance the EMI scheme to include more companies and thus assist those companies in growing, especially post-pandemic. In particular, we suggested increasing the number of qualifying employees and gross asset value thresholds, fixing the qualifying point such that the number of employees or gross asset value is set for a 12 or 18 month period, and relaxing the working time requirement and the list of excluded activities.

The full Budget representation, which also included a recommendation to clarify the tax treatment of pension lump sums in certain circumstances, addressing anomalies in pensions schemes administration, and a suggestion to temporarily relax the money purchase annual allowance for those over 55s that have had to access their pension savings during the pandemic, can be read at www.tax.org.uk/ref854.

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Finance Bill 2021/22 draft legislation: notification of uncertain tax treatment

LARGE CORPORATE

The proposal for a requirement that large businesses notify HMRC about 'uncertain tax treatments' will be legislated for in Finance Bill 2021/22 and will apply in respect of returns that are required to be made after 1 April 2022. We remain of the view that while the compliance measure has been greatly improved by the consultations on it, similar effects could have been achieved without legislation, within the existing tax administration framework. We are not convinced that the measure will achieve the stated policy aims effectively or proportionately.

The proposal for a requirement that large businesses notify HMRC about 'uncertain tax treatments' was announced at the Budget 2020. Following two consultations, in July 2021 the government published draft legislation for the new compliance obligation. This draft legislation will be included in Finance Bill 2021/22, with the obligation to notify applying in respect of returns that are required to be made after 1 April 2022. In August 2021, HMRC also published draft guidance for this measure. The CIOT responded in detail to both consultations (First consultation response August 2020: www.tax.org.uk/ref663; second consultation response June 2021: www.tax.org.uk/ref782); and this summer we have also commented on the draft guidance and draft legislation (www.tax.org.uk/ref829).

The draft legislation published in the summer shows that the government has continued to listen to stakeholders following the second consultation and sought to address some of the key concerns raised. However, while the consultation process has fashioned this compliance obligation into something that is largely workable, our response reiterated our view that similar effects could have been achieved without legislation, within the existing tax administration framework. We said that it is a shame that this measure was announced in 2020 having already been decided upon in principle, and that consultation only started at 'Stage 2'. Had there been a 'Stage 1' consultation about how to tackle the problems identified – the non-compliant minority of large businesses and the legal interpretation tax gap – we do not think that we would have ended up here. We said that we remain unconvinced that it will achieve the stated policy aims effectively or proportionately; and that the measure now being introduced will not be easy to comply with and will result in a great deal of uncertainty for taxpayers.

What is an uncertain tax treatment?
The original proposal set out in the first consultation document contained a very unsatisfactory definition of uncertain tax treatment that was inherently uncertain and unclear. This was refined into seven 'triggers' in the second consultation document. Following the second consultation, the draft legislation reduces the number of triggers in the definition of what is an uncertain tax treatment from seven to three. While we welcome this development, the triggers in the draft legislation are not without their difficulties. The third trigger (or notification criterion) around what a tribunal or court might find to be incorrect is inherently uncertain and lacking in precision.

Our comments on the draft legislation said that the third 'trigger' is loosely drafted and poorly conceptualised. Its inevitably uncertain application undermines any potential efficacy of this measure. Our view is that this test will likely be applied by large businesses that wish to be compliant at a much lower bar than we understand HMRC envisage or are seeking notification of. Indeed, we understand that several large businesses, which are open and transparent in their dealings with HMRC, will deal with this new compliance measure by notifying to HMRC all tax risks identified by the business, regardless of the magnitude of the risk. This is because they wish to ensure that they avoid the potential reputational harm from any suggestion that they have failed to comply with this measure, however inadvertently. We noted that this high level of notifications may be a satisfactory result for HMRC, although it could be challenging from a resource perspective, but it does not mean that it is good law. In addition, although the largest businesses may have sufficient resources to comply with this measure in this way, it not an efficient use of them.

This measure is also intended to encourage businesses that do not currently act in a compliant and co-operative basis with HMRC to provide HMRC with additional information and easier identification of uncertainties, and sooner than would otherwise be the case. However, we are not convinced that this measure will achieve this, or change the fundamental behaviour of those that do not wish to act in this way. Our response said that it seems to us that the test within the draft legislation is sufficiently imprecise and uncertain to allow a large business that does not wish to be transparent to arrive at an arguable position that the test is not met in respect of its particular tax treatment. Thus, we commented that HMRC may receive more notifications from large businesses that are already open and transparent in their dealings with HMRC, than from those businesses that are less willing to have a cooperative relationship with HMRC.

Compliance burden

In our view, this measure will result in a substantially increased compliance burden for all large businesses, notwithstanding the general exemption, which is intended to ensure that open and transparent businesses that are already discussing what may now be considered uncertain tax treatments with their Customer Compliance Manager (CCM) will not have significant amounts of additional work.

Our responses also highlighted our concerns about the parity of treatment between businesses that have a CCM and those that do not. This discrepancy has been recognised throughout the consultation process, in particular in relation to the general exemption, which will apply in circumstances where a business has already told HMRC about the tax treatment. This exemption is based around the discussions that open and transparent businesses routinely have under the existing tax administration framework with their CCM, but HMRC has not yet provided any detail as to how this general exemption will be available to businesses without a CCM. The government's policy paper published in July 2021 alongside the draft legislation (July 2021 policy paper) said that for taxpayers without a CCM HMRC will utilise their existing Customer Engagement Team to provide an opportunity to discuss tax uncertainties.

The draft guidance published in August does not provide any detail around the 'structured opportunity' that might be provided by the Customer Engagement Team to replicate the experience of having a CCM for those large businesses that do not have one and avail themselves of the general exemption. We said that it is difficult to see how the current Customer Engagement Team system could replicate having a CCM. We said that the guidance should be expanded to explain how the existing Customer Engagement Team will be available to large businesses without a CCM, and we understand that HMRC are looking at this.

HMRC guidance

The July 2021 policy paper also recognises the increased importance of guidance because of this measure, particularly considering the notification criterion around HMRC's 'known position'. We welcomed the commitment in that paper that HMRC will look for opportunities to improve their technical guidance. We agree that it is incumbent on HMRC to ensure their guidance is as up to date as possible.

To this end, we also welcome the working group that HMRC have established to consider areas of HMRC guidance that would benefit from improvement, specifically in light of the introduction of this measure in April 2022, and we are pleased to be part of this working group. This working group has been set up to carry out a programme of material improvements before the implementation of the uncertain tax treatment measure in April 2022.

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Finance Bill 2021/22 draft legislation: clamping down on promoters of tax avoidance

MANAGEMENT OF TAXES

The CIOT commented on the draft legislation introducing a measure enabling publication by HMRC of information relating to tax avoidance schemes. This measure introduces a new power allowing HMRC to publish information about tax avoidance schemes, persons suspected to be promoters of those schemes, those connected to them, and other persons involved in making the scheme available. The purpose is to better inform taxpayers of the risks of relevant schemes, so that they can identify and steer clear of the schemes or exit them.

The CIOT agrees that it will be helpful for taxpayers to have as much information as possible about HMRC's view of the claims made by promoters and the potential risks of entering a scheme, but we have some concerns about the potential breadth of the measure. Whilst HMRC say it is targeted at the most egregious 'hard core' promoters, in fact it sets a low bar because of the definitions it is using for 'promoter', 'relevant proposal', 'relevant arrangements' and 'connected person'. Furthermore, the authorised officer merely has to 'suspect' that a proposal or arrangements fall within the measure to arrange for publication. As a result, we are concerned that this measure could be used by HMRC in the future more widely than is being proposed now.

We would therefore like to see a statement from the Financial Secretary to the Treasury that the measure is not aimed at advisers who adhere to high professional standards and provide sound advice and support to taxpayers, but is aimed at promoters who seek to exploit opportunities to profit by sidestepping the rules. Indeed, many of these promoters – perhaps a majority – are not tax advisers at all but rather operate in a small number of boutique firms focused mostly or entirely around such avoidance schemes. There should be no place for these promoters and their schemes in the tax services market.

The draft legislation provides that HMRC must amend or withdraw information which is incorrect or misleading. However, in our view that may not go far enough to rectify any reputational damage which has been inflicted on innocent parties. The procedure should be akin to that which applies to press complaints. If HMRC have incorrectly published information then not only should they amend or withdraw it but they should also potentially be required to publish a formal retraction (and in some cases an apology).

We think that this is important. If publication is widely disseminated (as we recommend), then HMRC simply amending or withdrawing an article may not be enough (because multiple versions of the story will inevitably remain in circulation on the internet). Because of the impossibility of withdrawing a story from circulation, it will be vital that there is a formal retraction (and possibly an apology) published so that the wronged person can at least point to that. Requiring HMRC to do that, when they get things wrong, would provide more balance to this measure.

HMRC need to put very strong internal governance procedures in place when deciding whether to publish information about a promoter. We would similarly like to ensure that connected persons are only named if they are involved in the matter. The measure should not be used to publish the names, for instance, of junior employees or small minority shareholders who had no (or only incidental) connection with the tax arrangements. This should ideally be done by amending the definition of 'connected person' in the draft legislation, but – failing that – there should be very strong procedures to stop this happening.

We are concerned about how the information can be published so that it successfully reaches its target audience. We doubt that publication on GOV.UK will be sufficient – we already know that existing publications on GOV.UK such as HMRC's 'Spotlights' and the General Anti-Abuse Rule Advisory Panel decisions do not have a wide reach – so HMRC will need to publish and share the information more widely, including using social media and the mainstream press. The information must be written in non-tax technical language so that it can be understood by the ordinary person. Targeted sharing with businesses, agencies and employers known to HMRC to be involved in disguised remuneration tax avoidance (which forms the majority of today's tax avoidance) supply chains should also be considered, as should publicising the information through industry specific magazines, newsletters, webinars, professional websites, etc. The CIOT looks forward to engaging with HMRC about the best way to get the information about promoters and schemes out to our members and the public at large.

LITRG did not comment on the legislation, in terms of what was there. However, in our submission, we stressed that we do not believe that the government response to the consultation or the draft legislation addresses the concerns we have previously raised as to HMRC's direction of travel. Once again, LITRG explained that whilst there are undoubtedly still people who have an appetite to use tax avoidance schemes and who make an active decision to use one, this does not appear to be the 'norm' any longer. We said we are concerned that HMRC do not appreciate this fully and consequently their strategy of narrowly focusing on promoters and changing taxpayer behaviour will fail to be effective. We reiterated our view that there is a now a very strong case for decoupling the disguised remuneration schemes from HMRC's other efforts and presumptions in tackling tax avoidance, and for HMRC to explore alternative strategies.

The CIOT's response can be found here: www.tax.org.uk/ref825.

LITRG's response can be found here: www.litrg.org.uk/ref2546.

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Finance Bill 2021/22 draft legislation: powers to tackle electronic sales suppression

MANAGEMENT OF TAXES

We strongly support HMRC's efforts to deal with tax evasion like electronic sales suppression. However, it is not clear when HMRC will use the new power instead of existing criminal offences, such as the corporate criminal offence of failing to prevent the facilitation of tax evasion and the offence of making, adapting or supplying any article knowing it is designed to be used in fraud. HMRC should explain in their guidance in what circumstances they intend using this new power instead of these other offences.

We are concerned that the UK's tax code is becoming overloaded with the introduction of more legislation, particularly where it is not altogether clear why existing provisions are inadequate to deal with the problem identified. Our comments on the draft legislation for this new power around electronic sales suppression (ESS) recommended that a formal review of this new legislation should take place in about two to three years' time to measure its effectiveness.

The original call for evidence on this measure took place in late 2018 at Stage 1 of the consultation process and did not consider the proposed approach set out in the draft legislation, including the penalties that would apply. The policy paper published by HMRC on 20 July 2021 stated that, 'the government decided that there would not be merit in publishing a policy consultation document on ESS. ESS is not a controversial topic and the proposed measures are neither introducing a new tax nor increasing the level of an existing tax.' However, this approach has meant that there has been no formal consultation on the introduction of these new penalties. In our view, all new measures would benefit from full consultation in line with the Tax Consultation Framework.

We also query whether some of the penalties are set at an appropriate level to encourage compliance.

The CIOT's response can be found here: www.tax.org.uk/ref826.

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Finance Bill 2021/22 draft legislation: pensions

EMPLOYMENT TAXES

The CIOT has submitted comments on the draft Finance Bill 2021/22 legislation on increasing the normal minimum pension age for pensions tax and the pension 'Scheme Pays' reporting deadlines.

In July, the government published for consultation draft legislation to be included in the Finance Bill 2021/22. This included draft clauses to increase the normal minimum pension age (NMPA) from 55 to 57 from April 2028. The NMPA is the minimum age at which most pension savers can access their pensions without incurring an unauthorised payments tax charge unless they are retiring due to ill-health. The government also published draft legislation to amend the reporting and payment deadlines where an individual asks their pension scheme to settle their annual allowance charge of £2,000 or more from a previous tax year by reducing their future pension benefits, in a process known as 'Scheme Pays'.

Increasing the normal minimum pension age (NMPA) for pensions tax

The legislation will increase the NMPA from age 55 to 57 in 2028, except for members of uniformed services pension schemes, where the NMPA will remain 55. Although it would add complexity to an already overly complex pensions' tax regime, we said that alongside an increase in the NMPA there should be a framework of protections for members of pension schemes who already have a right to take their pension at a pre-existing pension age. We also suggested that the upper age at which an individual can make tax relievable contributions be similarly increased from 75 to 77 (so that the age threshold remains 10 years above the state pension age).

We also identified a potential gap in the draft legislation in respect of pension scheme transfers by members prior to 6 April 2023: a transfer, pre-6 April 2023, from a scheme with a pre-existing unqualified protected pension age, to a scheme that does not have the necessary unqualified right in its rules as of 11 February 2021, will lose the member any protection that they had in the ceding scheme. There remain issues around individuals without a protected pension age reaching 55 (but not 57) before 6 April 2028. These have been recognised but details of how to resolve them are awaited.

Pension 'Scheme Pays' reporting: information and notice deadlines
The legislation will amend:
(i) the period within which an individual can give notice to their pension scheme to pay their annual allowance charge for previous tax years ('Scheme Pays'); and
(ii) the period within which a pension scheme administrator must provide information about a change to an individual's pension input amount.

While welcoming the policy intent to extend Scheme Pays to all individuals within scope of a retrospective annual allowance tax charge of £2,000 or more (who meet the conditions to qualify to use Scheme Pays), we did raise some concerns regarding the proposed deadlines in the draft legislation. In particular, the legislation appears to bring forward the timing of the payment to HMRC by the scheme administrator under Scheme Pays, even where there has been no change to the member's pension input amount. Additionally, the changes to the deadlines also potentially bring forward current Scheme Pays deadlines in cases where the member's pension input amount changes shortly after the end of the tax year. Furthermore, the proposed hard-stop deadline of '*the end of the period of six years beginning with the end of the tax year in question*' for both the scheme administrator and the member appears to mean that a scheme administrator could issue a statement with a change to the pension input amount in line with the legislation after, say, five years, 11 months and 30 days, leaving the scheme member just one day to make a Scheme Pays election and give notice to the scheme administrator that they want to do so.

The CIOT's full submission can be found at www.tax.org.uk/ref824.

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Scottish Taxes Update

GENERAL FEATURE

LITRG responded to a Scottish government dialogue on a Minimum Income Guarantee. CIOT attended a meeting between the professional bodies, Scottish government and Revenue Scotland on land and buildings transaction tax.

Scottish government dialogue: Minimum Income Guarantee
The Scottish government has committed to work on providing a Minimum Income Guarantee (MIG) (see tinyurl.com/xttaeuzn) for all during the current Parliament (2021-2026). It has established a steering group consisting of experts and MSPs from different parties. The purpose of the dialogue was to generate ideas and comments to be shared with the steering group. As the work progresses, the Scottish government expects there to be further stakeholder engagement.

The Scottish government describes a MIG as an assurance that no one will fall below a set income level that would allow them to live a dignified life. Its aim would be to deliver a MIG through a variety of means, including employment, support and services provided by the state and targeted welfare payments.

The LITRG response (see www.litrg.org.uk/ref2548) focused on some of the key considerations in relation to the tax and benefits systems and their interactions. We emphasised the need for the Scottish and UK governments to work together if Scotland is to introduce a MIG. We also discussed the need to think about administrative and operational matters at an early stage of policy development; for example, eligibility criteria, including the definition of income, whether to take wealth into account, or certain types of debt and expenditure.

We also noted a risk in relation to perception. If some MIG recipients appear to be better off (taking into account financial and non-financial aspects of a MIG) than ineligible individuals or households, this could lead to a removal of incentives to take on more work or stay in work.

We examined some of the funding options available to the Scottish government under the current devolution settlement, noting that existing powers do not offer much scope for raising additional revenues. But the reform of council tax might support a MIG in more than one way: so that it better reflects the ability to pay, provides targeted support for those unable to pay and by raising revenues for local councils such that they can fund local services.

Meeting with Scottish government and Revenue Scotland: land and buildings transaction tax
Representatives of CIOT, ICAS and the Law Society of Scotland met with the Scottish government and Revenue Scotland to discuss land and buildings transaction tax (LBTT). These meetings take place three or four times a year and enable open discussion of operational and policy matters.

Revenue Scotland provided an update on operational matters, such as repayments and penalty notices. In addition, they are putting together improved guidance in a few areas, including on the Scottish Electronic Tax System (SETS), the additional dwelling supplement (ADS), garden and grounds, and the distinction between residential and non-residential more generally, as well as multiple dwellings relief.

The Scottish government highlighted the publication of its Programme for Government in September, as well as work in relation to a policy framework for tax. There was confirmation that there will be a review of the ADS, and we expect a written consultation in due course.

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Reviewing annual continuing professional development requirements

GENERAL FEATURE

CIOT and ATT members are reminded of the need to meet the requirements of the continuing professional development regulations for the year to 31 December annually, so it is timely to review the position during November.
As we approach 31 December 2021, members are reminded that it is important that they have met their continuing professional development (CPD) requirements for the year. Now is a good time to review CPD undertaken to date and consider whether any further actions are required this year. Consider also what CPD may be relevant for the forthcoming year to 31 December 2022.

The obligation to undertake CPD applies to two broad groups:

- CIOT or ATT members or ADIT affiliates who provide tax compliance services, advice, consultancy or guidance in tax wherever they work (Regulation 1.2.1).

- All other members who do not provide tax compliance services, advice, consultancy or guidance in tax but who use the designation CTA, CTA (Fellow), ATII, FTII, Chartered Tax Adviser, ATT, Taxation Technician, ATT (Fellow), Taxation Technician (Fellow), ADIT affiliate or International Tax Affiliate of the Chartered Institute of Taxation (Regulation 1.2.2).

Members coming within the scope of the regulations are required to perform such CPD as is appropriate to their duties. Where members have a non-tax role but use their designations, they still need to perform CPD. The CPD regulations and guidance are available on the CIOT website (www.tax.org.uk/cpd_regs_guidance) and the ATT website (www.att.org.uk/cpd).

Members often think of meeting their CPD requirements through structured learning such as training courses and webinars. However, reading technical journals, technical research, mentoring and coaching, and training on professional standards and anti-money laundering material can all constitute CPD. We appreciate that COVID-19 restrictions may have prevented members from attending face to face training but given the wide range of resources available online we consider that for most members it is still possible to meet the CPD requirements. In order to assist members, the CIOT and ATT are developing webpages which include CPD material that may be useful in meeting CPD requirements (see www.tax.org.uk/cpd_materials and www.att.org.uk/cpd_materials). Please note that the CIOT and ATT does not recommend particular providers or provide any certification that the CPD meets the requirements of the CPD regulations.

Please ensure that you keep your CPD records up to date. This means that if you are selected as part of the annual CPD audit and are asked to submit your CPD records, you have them to hand. The CPD record form provided by the CIOT (www.tax.org.uk/cpd_forms) and ATT (www.att.org.uk/cpd) can be a useful tool. If members have any queries in relation to the CPD regulations, please do not hesitate to contact the Professional Standards team by email: standards@ciot.org.uk or standards@att.org.uk.

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CIOT	Date sent
FB 21/22 Draft legislation: Powers to tackle electronic sales suppression www.tax.org.uk/ref826	13/09/2021
Employee Ownership Trust: Enhancement and anti-abuse measures, funding and other tax issues www.tax.org.uk/ref833	13/09/2021
FB 21/22 Draft legislation: Clamping down on promoters of tax avoidance www.tax.org.uk/ref825	14/09/2021
FB 21/22 Draft legislation: Notification of uncertain tax treatment www.tax.org.uk/ref829	14/09/2021
Draft HMRC guidance: Notification of uncertain tax treatment by large businesses www.tax.org.uk/ref829	14/09/2021
FB 21/22: Pensions draft legislation www.tax.org.uk/ref824	14/09/2021
Budget representation: Employee Ownership Trust – enhancement and anti-abuse measures, funding and other tax issues www.tax.org.uk/ref853	22/09/2021
Budget representation: Employment taxes and pensions tax regime www.tax.org.uk/ref854	30/09/2021
Budget representation: Assignment and enforcement of loans which have been the subject of the loan charge www.tax.org.uk/ref855	30/09/2021
Budget representation: Exchequer implications for the UK of a sustained behavioural shift to remote working abroad www.tax.org.uk/ref856	30/09/2021
ATT	
Budget representation: High Income Child Benefit Charge www.att.org.uk/ref387	04/10/2021
Budget representation: Coronavirus testing www.att.org.uk/ref386	04/10/2021
Budget representation: Annual Investment Allowance www.att.org.uk/ref385	04/10/2021
LITRG	
New proposals to clamp down on the promoters of tax avoidance: Draft legislation www.litrg.org.uk/ref2546	10/09/2021
Minimum Income Guarantee: Scottish government dialogue www.litrg.org.uk/ref2548	16/09/2021
2021 Autumn Budget Representation: High Income Child Benefit Charge www.litrg.org.uk/ref2555	29/09/2021

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

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

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

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

For any queries regarding late deliveries/non-receipt please direct to Derek Waters,
Magazine Distribution Administrator
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Reprints: Any article or issue may be purchased. Details available from customerservice@lexisnexis.co.uk

Printed by William Gibbons & Sons Ltd. West Midlands

ISSN NO: 1472-4502

CIOT & ATT

New Chair 'Zooms' into position at East Midlands Branch!

BRANCH NETWORK


Dipti Thakrar


Giles Lang

The East Midlands Branch opened its 2021/22 season of events on 30 September with an online Zoom event. All its members were invited to come together 'virtually' to see how the Branch can support and empower them in their careers, as we all step forward together with confidence and optimism as we look towards a post-Covid world.

The event also featured its Branch AGM, which included a change of Branch Chair. The Branch was delighted to install and welcome its new Chair, Dipti Thakrar. Dipti is supported by new Vice-Chair, Giles Lang, a Director at Hobsons Accountants. A tax manager at Hitachi Powergrids UK, Ireland & Norway and M&A tax lead for the Group, Dipti has served on the East Midlands Branch Committee for three years and is also the current Vice-Chair of the 'Women in Tax' group.

Following her installation as the new East Midlands Branch Chair, Dipti said: 'I am delighted and thrilled to be stepping up as Chair of the East Midlands Branch – a Branch which has truly become a leading and vibrant part of the wider CIOT/ATT Branch Network!

'I am really looking forward to my time in office and I am very keen to put on events and discussions about both technical and soft skills, which meet the needs of you, our East Midlands members and students.

'The pandemic has significantly changed the way in which we work and the way we live with a whole new sphere of commercial and career challenges.

'As we look forward to a post-Covid environment, we would like to ensure that the East Midlands Branch is here for you and that it continues to be current, relevant and receptive to your needs as a tax adviser and your professional career.

'To achieve this, it would be great to hear from you. Tell me what you want from your local branch and we can work on that for you. Please email me at eastmidlands@ciot.org.uk and come to our online sessions whenever you can – it would be great to see you. Do look out for more information on forthcoming events in the East Midlands and I hope to see you in person when it is safe to do so.'

Responding to Dipti's comments, outgoing East Midlands Chair, Stephen Foulkes, said: 'I have truly had the time of my life over the past five years as your Branch Chair! During those five years, we have pioneered various activities and initiatives, led the conversation among the East Midlands professional community on Making Tax Digital, significantly raised the profile of the Branch across the region and achieved a number of attendance records along the way!

'Having said that, not everything has gone to plan – and if anything could go wrong during my tenure, it has gone wrong! Brexit, of course, didn't happen when originally expected resulting in cancelled events, presentation awards not arriving on time, venues rearranging due to construction works, IT having minds all of their own, and of course blindly guiding the Branch through an unprecedented global pandemic! At least I now know how to 'Zoom', have found myself behind the wheel of a number of Ferraris and other ultra-fast cars, pretended to be a First-tier Tribunal judge at HMRC's offices, and not forgetting the highlight – being an astronaut for the day at our 2019 Tax Conference at the National Space Centre in Leicester. What more could anyone wish for?!

'My sincerest of thanks go to all who have supported me during my time in office – my fabulous committee, my firm Mabe Allen, Andrea, Kate and Emma at Head Office, and of course my wife Jane. You have all helped to make every one of our successes possible!

'Although I am sad to have stepped down as Chair, I will nevertheless always look back on the past five years with great joy and much fondness. It has truly been an enormous privilege and an immense honour to have led the Branch on your behalf during some very interesting and different times and I am absolutely confident that the Branch will continue to stride ahead with great strength and with great enthusiasm under the leadership of Dipti and Giles.

'I am delighted to pass on the Branch Chair's "baton" to Dipti, who will bring her own style, energy and passion to the position and I wish her and the Branch every success with all my many best wishes. Onwards and upwards!'

CIOT & ATT

Time to have your say

PERSONAL DEVELOPMENT

Joanne Herman on how you can get personal in 2022.

Welcome back to my blog about personal branding.

In this penultimate edition, let's take a moment to have a retrospective look at what we've covered so far in this series. However, before we press the rewind button, a quick reminder not to miss my exclusive guest interview with Tasneem Kadiri next month.

Tasneem is the UK and Ireland Tax Director at L'Oréal, and winner of Tolley's Taxation Awards 2020 for best In-house Tax Leader. I will be asking her how personal branding has helped her career, as she shares her top tips for creating a bigger and stronger tax brand.

A retrospective look at 2021

This year has provided a welcome opportunity to shake off the blues and begin to overcome the challenges of 2020. Over the last ten months, I have focused on the practical side of personal branding with two profile building campaigns. Don't worry if you missed them – they're still available in our archive. We will be continuing with the 'Share your ATT/CTA Story' feature next year when we will be digging a little deeper and getting personal.

January	Time for a new start. Your personal brand in 2021.
February	The time for brand you is now.
March	How are you changing the face of tax? Interview with Kate Pace.
April	Personal branding benefits everyone.
May	Bland to Brand. Shifting the employee mindset.
June	Learn to be pitch perfect with Katrina Sargent and Angus Grady.
July	Share your ATT/CTA Story.
August	Reinvent yourself. Your brand rehabilitation strategy.
September	Build your personal tax brand with Tasneem Kadiri.
October	The power of podcasting.
November	Time to have your say. Getting personal in 2022.
December	Interview exclusive with Tasneem Kadiri. Building your personal tax brand.

Your feedback matters

- What have you learnt? What key takeaways have you started to use in 2021?
- What have I missed? What topic or feature would you like me to cover in 2022?
- Who would you like me to interview and who would you like me to profile as a champion CTA or ATT story?

I'd love to know. Please drop me a line on social media or my email jherman@ciot.org.uk

A sneak peek into 2022: have your say!

From January we will be featuring and responding to any questions you have about personal branding, and answering your queries about your own personal brands. That way we will all learn from each other, and you will have an opportunity to promote your name in the public eye, which is a great way to start profiling yourself. So don't be shy, send me your questions or queries!

Over the course of 2022, I will be covering:

- Personal branding for promotion
- Let's get personal, but how personal?
- How to propel your brand through volunteering
- The three Cs of personal branding. Which one are you?
- How personal branding can improve your mental health

KEY TAKEAWAY

Coming soon!
Find all my personal brand articles, hints and tips on the Tax Adviser website. From 2022, all past blog articles from this series will be accessible in a new archive on the Tax Adviser website, so keep your eyes peeled.

Next month...

CIOT

Could a wealth tax help cure our Covid fiscal ills?

PARTY CONFERENCES

Party conference season felt a bit more like normal this year, with the CIOT and the Institute for Fiscal Studies resuming face-to-face fringe events at the Labour and Conservative conferences in Brighton and Manchester.

Titled *A Wealth Tax to help pay for Covid?*, CIOT and IFS were joined by MPs Dame Angela Eagle MP (Labour) and Felicity Buchan MP (Conservative) to debate the role of taxes on wealth and capital in overcoming Britain's post-pandemic debt mountain.

Other speakers included two of the commissioners of last year's Wealth Tax Commission and economists from the IFS. The Labour event was chaired by CIOT Director of Tax Policy John Cullinane, and the Conservative gathering by CIOT's Technical Policy and Oversight Committee chair, John Barnett.

The economic perspective

Helen Miller spoke for IFS at the Labour and **Stuart Adam** at the Conservative events. Both agreed that the pandemic had led to unprecedented levels of public debt and a need to look at ways of paying for this. They were unconvinced of the merits of an annual wealth tax, but saw some in the creation of a one-off levy, which Adam told guests in Manchester would be 'a very different beast' to a yearly charge.

Speaking in Brighton via video link, Miller urged politicians to look at the ways they could reform existing taxes on wealth. Adam added in his remarks in Manchester that capital gains tax, inheritance tax and property taxes, such as stamp duty land tax and council tax, were 'flawed' but that there were 'a lot of good things that you can do there'.

If government was to press ahead with plans for a wealth tax, then Miller said that it would need to be clear about its objectives in order for it to be appropriately designed and implemented.

Wealth tax options

Arun Advani and **Emma Chamberlain** were members of the Wealth Tax Commission set up at the outset of the pandemic to look at options for the taxation of wealth in the UK.

The commission had ruled out an annual wealth tax, identified the merits of a one-off levy – which Chamberlain said could raise 'quite a bit of money' – and had recommended actions aimed at reducing wealth inequality (see www.ukwealth.tax for more details).

Like the IFS speakers, Advani agreed with the need to reform the UK's existing capital taxes regime. Chamberlain called on the government to set out a capital taxes roadmap and stressed the need for a political consensus in favour of reform, noting the risk to the tax regime of political parties chopping and changing policy.

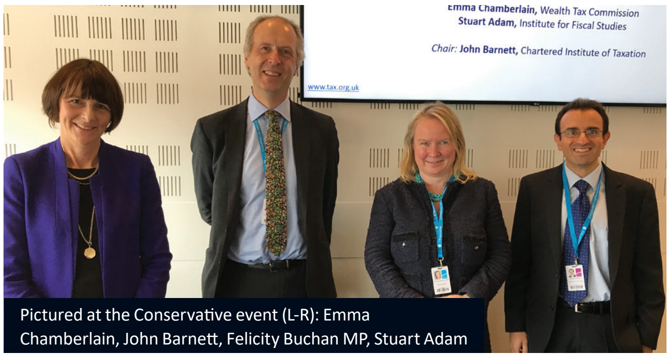
Advani and Chamberlain also set out how a wealth tax might work in practice.

While the Wealth Tax Commission did not recommend specific rates and thresholds, they had outlined a range of options and their potential impact, with higher thresholds (unsurprisingly) generating lower revenues for government. Even then, a 1% one-off levy on wealth above the highest threshold outlined by Advani and Chamberlain (£10 million) had the potential to raise between £8 billion and £9 billion.

Two concerns that were raised by audience members about a wealth tax focused on the ability of wealthy individuals to avoid the tax and fears that a levy would lead to capital flight.

Chamberlain said that a levy should be designed so that those liable for the tax had to be resident in the UK for four of the seven years preceding its introduction.

And as Advani pointed out in Brighton, previous one-off levies, such as the Conservatives' bank levy in the 1980s and Labour's 1997 windfall tax on utilities, had not led to wealth leaving the country.



Pictured at the Conservative event (L-R): Emma Chamberlain, John Barnett, Felicity Buchan MP, Stuart Adam

Pictured at the Labour event (L-R): Arun Advani, Dame Angela Eagle MP, John Cullinane, Helen Miller

The political view

Dame Angela Eagle told the Labour event that the unprecedented nature of the pandemic and its economic impact on Britain had given the idea of a wealth tax greater political appeal, with the decision by the Treasury Select Committee (on which she sits) not to explicitly rule out some form of wealth tax in its March 2021 report *Tax after Coronavirus* highlighting the shifting sands of political opinion.

It was because of the scale of borrowing required to head off the economic impact of the pandemic that MPs didn't want to rule out a one-off wealth tax. She said that the era of low taxes was over and told the audience that it was time to 'start thinking about the unthinkable' in order to balance the books and rebuild society to make it more equal.

But Eagle also acknowledged that there were parts of the existing tax system that could be reformed to better capture receipts from wealth, with inheritance tax and capital gains tax 'an obvious place to look'.

Ultimately, Eagle said that she would like to see a reformed tax system fit for the 21st century, as opposed to the current system that threatens to limp along and become more complicated and convoluted.

Felicity Buchan told the Conservative event that she believed the UK had reached the limit of what it could sensibly tax. She warned that many assets liable for a wealth tax may have already been subjected to tax (for example, through inheritance tax, capital gains tax and council tax), that very few European countries who had experimented with wealth taxes in the past had chosen to retain them, and that a wealth tax could send a negative signal to entrepreneurs and businesses looking to invest in Britain. Despite being a member of the Treasury Committee that failed to rule out a wealth tax, Buchan said that she did not believe such a tax would work for the UK, arguing that wealth was already taxed in a number of different ways. To do so would send out a bad signal as the UK emerged from the pandemic, leading her to conclude that 'wealth taxes are not the way to go'.

You can read more about our events or watch a playback here:

Labour report: bit.ly/3oW9tLM
Labour video: bit.ly/3iZvwxA
Conservative report: bit.ly/2XmAMUb
Conservative video: bit.ly/3iY20Iu

ATT

Feature a Fellow: Ahmed Jeewajee


Ahmed Jeewajee

PROFILE

Ahmed Jeewajee BCom(Hons) ATT(Fellow) FMAAT tells us about his career in tax and how he has found ATT Fellowship useful.

Why did you pursue a career in tax?
At the end of my accountancy training back in the late 1970s in Bristol, my boss suggested that I join the firm's tax department, as he had observed that I was not enjoying audit and accountancy very much. So I took his advice and here I am 45 years on…

I never looked back on the choice I made and am immensely grateful to my boss for his sound advice.

What are the highlights of your career?
The highlight of my career was in 1994: I passed my ATT examinations in May and was admitted as a member of the Association in the August of the same year.

I have also been active in my local branch (Harrow and North London) since becoming a member and have served as branch treasurer for almost 20 years.

Why is the ATT qualification important?
The ATT qualification was perfect for me. It provides a solid grounding in the fundamentals of the UK tax system and has given me recognition as a qualified tax practitioner.

Why did you apply for Fellowship?
Fellowship was introduced in 2011. I was one of the first members to apply. I had been a member of the Association for 15 years and it seemed a natural progression to take up Fellowship and demonstrate my commitment to the profession.

What advice would you give to new members starting in their career?
When I am approached by youngsters who have worked in accountancy for advice on a career move, I encourage them to pursue a qualification in tax and start with the ATT qualification. If you work hard, opportunities will come your way.

If any other ATT Fellows would like to feature in future editions of Tax Adviser, please contact us at page@att.org.uk

ATT

ATT Fellows

FELLOWS

Council was delighted to admit the following ATT Fellows at its September 2021 meeting.

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

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

- Sameer Ahmed, Luton
- Ibiala Ben-Ejeteh, Purley
- Stuart Breeze, St. Helens
- Clare Brown, Stourbridge
- Jean Chin, Greenford
- Richard Clorley, Northwich
- Sarah Cole, Peyton
- Nicola Crush, Milton Keynes
- Richard Day, Ashby-de-la-Zouch
- Amanda Dean, London
- Anoop Dosanj, Maidenhead
- Christopher Evans, Epsom
- Lee Frederick, London
- Fiona Gray, Brighton
- Sarah Hawkings, Beckenham
- Yvette Jacobs-Lee, London
- Bruce Lee, London
- Karen McCann, Motherwell
- Stephen Moore, Northampton
- Ruth Mower, Bristol
- Richard Phipps, Gillingham
- Nicholas Pinero, Gibraltar
- Neil Rosser, Swansea
- Philip Royles, Northwich
- Liam Sheena, London
- Wendy Shrieves, Hove
- Fraser Smith, Edinburgh
- Michele Stilgoe, Northampton
- Howard Stoves, London
- Michael Wandera, Hemel Hempstead
- Nicholas Wheeler, Southampton

ATT

ATT President's Virtual Luncheon

EVENT

23 September 2021

ATT President, Richard Todd, welcomed many distinguished guests, including key figures from government and HMRC, senior representatives from other professional bodies and leading individuals from the tax profession to a Virtual Lunch on Thursday 23 September 2021.


Richard Todd

Gerry Duffy, an endurance athlete and motivational speaker, gave a very thought-provoking speech during lunch. Gerry's sporting CV is filled with accomplishments such as running 32 marathons in 32 days, as well as winning the 2011 UK DECA Enduroman Iron distance challenge, an event dubbed 'The toughest 10 day endurance challenge in the World'.

ATT

ATT appoints two new members of Council

APPOINTMENTS

At the Council meeting held on 23 September 2021, Barry Jefferd and Banin Oozeerally were appointed to Council.

Barry Jefferd

Barry trained in London where he qualified as a Chartered Accountant and passed the exams of the then Institute of Taxation.

In 1988, he moved to live in Potton, Bedfordshire and joined the local firm of George Hay, Chartered Accountants based in Biggleswade. He was made Tax Partner in 1990, a position he still holds today, along with the role of Senior Partner. The firm now has three offices, seven partners and 65 staff.

In 2014, Barry sat the first exams arranged by the ICAEW to obtain his qualifications as a Probate Practitioner. Barry advises on all taxes but particularly enjoys capital taxes and acting as an expert witness.

Barry became a member of the CIOT in 1987 and joined ATT in 2009.

He is a current member and past chairman of Mid-Anglia Branch. He served as a member of CIOT Education Committee for many years and is a past examiner for CIOT. He is well known by many ATT members, having lectured for many years at the ATT National Members Conferences.

Outside work, Barry's main interest is Scouting where he has been an 'Akela' for over 30 years with the Gamlingay/Gransden Scout Group. He enjoys the role as an antidote to the trials of the office. In 2017, he was awarded the prestigious Silver Acorn for service to the Scout Movement.

Banin Oozeerally

Banin moved to London from Mauritius to pursue her professional accountancy exams in 2004. She qualified as a Chartered Certified Accountant in 2010 and became a member of the ATT in 2015.

She has an interest in technology. She began her career by working in administration and on IT projects in financial and medical environments in Mauritius and London. She has predominantly worked in paperless accounting firms.


Barry Jefferd


Banin Oozeerally

Banin started her first role in general practice in 2007. Then she co-managed John Walsh Associates from late 2009 for almost 10 years – a practice newly set up in the West End by a Chartered Tax Adviser and former Tax Inspector. This was where she developed a passion in advising clients on all aspects of their tax affairs. The clients ranged from media and entertainment, financial services, professional service industries to high-net-worth individuals.

Banin is currently the Manager of the SME department in Hentons' London office which specialises in media and entertainment. The department is responsible for the year-end accounting and tax compliance for all the clients of the London branch and provides outsourced business services to a portfolio of clients. The firm was a finalist in the category Accountancy Firm of the Year at the Music Week Awards 2021.

Banin has served on ATT's Member Steering Group since 2017. She now also serves on the CIOT/ATT Joint Professional Standards Committee and is an occasional contributor to ATT's Technical Team.

In her spare time, Banin enjoys attending dance classes, reading classic French novels, discovering world foods, holidaying with her family and volunteering with a local charity.

ADIT

ADIT and the future of energy taxation

QUALIFICATIONS

Since its launch in the autumn of 2014, the Upstream Oil and Gas module has emerged as a popular choice for international tax professionals around the world pursuing ADIT certification, enabling students to master their understanding of the particular ways in which energy production in the oil and gas sector is taxed.

As the world grapples with the climate emergency and with many countries now embarking on the road to net zero carbon emissions, major implications for the taxation of energy production can be expected over the coming years, as states seek to encourage the development of renewable and low-carbon forms of energy in place of traditional fossil fuels, while also preserving their tax revenues.

From carbon pricing, emissions trading and environmental taxes to the potential deployment of subsidies, tax credits and other green fiscal incentives, tax professionals working in the energy sector will play an important role in advising their firms and clients on the practical tax implications of these changes as they emerge.

From 2022, the Upstream Oil and Gas module will be retitled 'Energy Resources', with its scope to be expanded over the course of future years to include emerging international tax topics beyond the exploration and production of oil and gas. The new module title is being announced to students and tuition providers this autumn, with the publication of the 2022 edition of the ADIT prospectus and syllabus. This edition of the syllabus will include a new section focusing on carbon pricing, reflecting the World Bank's most recent report on carbon pricing instruments around the world.

The module will retain its coverage of upstream oil and gas production for as long as such matters continue to be of relevance to international tax professionals in the energy sector, so rest assured that if you have already begun studying or preparing to sit the exam, there won't be any major changes in the immediate term. Rather, the content of the module will expand over time to include energy tax subjects beyond oil and gas production as they emerge in the international tax discourse.

We hope students will enjoy learning about new methods of energy taxation, as we seek to ensure that ADIT continues to equip international tax professionals around the world with the technical knowledge and skills to achieve in their jobs and careers.

CIOT & ATT

Disabilities and tax

CHARITIES

Alison Lovejoy brings to our attention the tax challenges facing those with disabilities and how we can all help to combat them.

The helplines at TaxAid and Tax Help for Older people take hundreds of calls each week from people in desperate need of tax support. Their brilliant volunteers and tax advisers who operate the phone lines have noticed how many of their callers are also living with a disability. Kerry Thomas of TaxAid has been looking into this and has given me the benefit of her research. She has told me about ‘Emma’ and the extra challenges faced by those living with disabilities, and in particular learning disabilities, with regards to tax. Can the tax community do more to help?

In the UK, there are 1.5 million people with a learning disability. That is approximately 2.16% of adults in the UK. Some of the most common learning disabilities are dyslexia, ADHD and ADD, dyspraxia, dysgraphia, processing difficulties and dyscalculia. Nearly half of all people in poverty are either disabled or live with a disabled person. Four million people with disabilities in the UK are living in poverty, and 7 million are either living with a disability or with someone who is disabled.

Recently, a caller came through to the helpline at TaxAid who we will call ‘Emma’. Emma’s tax problems had escalated and due to her dyslexia and computer illiteracy, she had felt too embarrassed to turn to others for help. Emma had become a single mother due to the death of her child’s father in 2013. The family home had to be sold and Emma moved into a one-bedroom flat with her son. She became self-employed in 2015, carrying out work such as gardening, cleaning and childcare.

Although Emma had registered with HMRC as she was supposed to, when the letters arrived telling her she needed to complete a tax return she did not understand what this meant. She contacted HMRC and was pointed towards online resources, but due to her learning difficulties, this left her more confused. She kept receiving letters but now with penalties for not submitting her returns. Emma paid the penalties as they came through to her, hoping this would make the problem go away, but the letters kept coming. Emma ended up paying £4,700 in penalties to HMRC despite her annual income being only £6,000 (well below her personal allowance, so no tax was due). The pandemic led to Emma’s work drying up and her having to scrape by on the bare minimum. Finally, she turned to her sister for help as she was unable to claim benefits due to incomplete tax records.

TaxAid were able to complete her tax returns and appeal against the penalties. Emma received a refund of £4,711.17 from HMRC, lifting an enormous weight off her shoulders.

Disability can have a marked effect on the quality of life in the UK. People living with disabilities (aged 16 to 64) are less likely to be employed (51.2%) than non-disabled people (81.3%). This can be even more pronounced with learning disabilities, as studies have estimated that only 28% of working-age people with a mild or moderate learning disability had a job. As well as this, living with a disability, particularly learning disabilities, can affect emotional wellbeing. The proportion of disabled people in England who reported feeling lonely ‘often or always’ (13.9%) was almost four times that of non-disabled people (3.8%). Children and young people with a disability, including learning disabilities, are more likely to be bullied than those without. And, up to 40% of people living with a learning disability have mental health issues.

Life can be challenging for people in the UK living with learning disabilities and learning difficulties, and from this, it is clear why living with a disability can cause tax problems to mount. When people call the helpline service it is often found that tax is not their only problem, and other aspects of life can lead to tax problems and debts piling up, causing stress and sleepless nights.

The helpline services are a vital way to provide support to working people in poverty who are dealing with tax problems, including those who are living with a learning disability. Every donation they receive enables them to improve their service, operate the phone lines, work cases, and ensure that more people know the charities are there. They don’t want anyone to struggle through tax problems alone, just like Emma did; they are there and ready to help.

If you would like to become involved in the work of the charities, please get in touch with Alice Devitt at Alice@taxaid.org.uk. *If you would like me to include information about your work for the charities in a future article, please get in touch with me via Alice.*

CIOT is recruiting

LITRG Technical Officer – 31.5 hours per week (4.5 days)

Salary circa £58k (pro-rata)

Location: Home-based (occasional travel to meetings in London and other parts of the UK will be required)

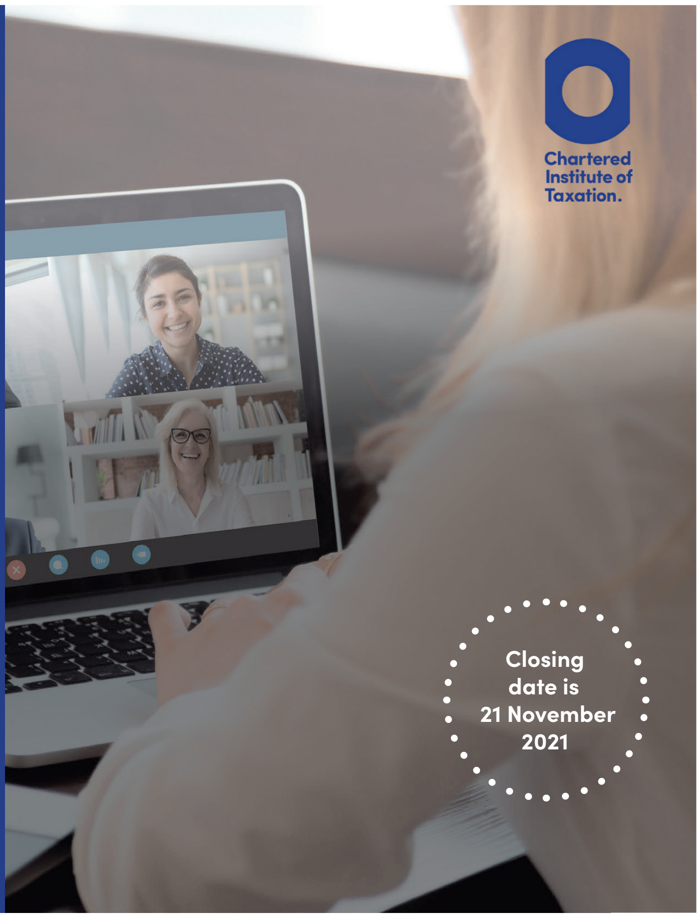
One of the CIOT's primary charitable purposes is tax education. For the unrepresented taxpayer, our Low Incomes Tax Reform Group (LITRG) helps to achieve this objective. LITRG's two main strands of work are information provision and working to improve the tax system for those who cannot afford to pay for advice. In 2020, LITRG's websites had over 5.5 million visitors. For more information about LITRG, see: www.litrg.org.uk

This role would suit technically adept, experienced tax professionals (CTA qualified or equivalent) with a real interest in the financial problems of the low-paid, an enthusiasm for communicating, and an ambition to bring about change. The ability to demonstrate an appreciation of how tax might interact with tax credits and other systems (such as social security) is desirable.

The role involves:

- Tax technical work for LITRG – for example contributing to and drafting responses to government consultations
- Researching, writing, reviewing and updating tax technical materials
- Communicating complex tax topics in a way that is accessible to the low-income, unrepresented taxpayer
- Tackling varied and changing work, both independently and as part of a team

To find out more about the job and see the full job description visit https://www.tax.org.uk/vacancies. The application deadline is 21 November 2021.



Georgiana Head Recruitment

MEET YOUR ADVISERS

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Director

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Mob: 07957 842 402

georgiana@ghrtax.com

ALISON TAIT

Director

Tel: 0113 426 6671
Mob: 07971627 304

alison@ghrtax.com

Tax Investigations Assistant Manager
Birmingham – £excellent + benefits

A fantastic opportunity for a CTA/ACA tax specialist in the tax investigations team at a national firm. Working alongside the Director you will manage a portfolio of clients including individuals, companies, partnerships and trusts under HMRC enquiry. Tax investigations experience is not essential, but you must have a genuine interest in this area of tax. You will work on a case from start to finish, attending meetings, writing reports, negotiating settlements and dealing with the interaction of taxes. **Call Alison Ref: 3134**

In-house Tax Manager
Leeds – £excellent + car allowance

Household name business in central Leeds seeks a Tax Manager. The role will include getting involved in a broad range of tax matters such as transaction tax support, the R&D process, employment and IR35 matters, HMRC enquiries, transfer pricing and financing support, plus providing support on tax compliance matters including tax accounting under IFRS. Would suit a qualified manager (ACA, CTA or equivalent) with a strong grounding in corporate tax. Could be full time or a 4 day week. There is scope for promotion, but could also consider someone more senior looking for a work-life balance. **Call Georgiana Ref: 3164**

Private Client Director
Greater Manchester – to £100,000

This highly regarded independent firm is looking for an ACA/CTA/ICAS qualified Private Client Tax Specialist to take responsibility for all areas of private client tax advisory work. Clients are based both in the North West and across the UK. Technical areas you need experience of include shareholder issues on transactions/MBOs, reorganisations, remuneration planning, share schemes, wealth tax planning and EIS/SEIS. You need a minimum of 7 years' experience, ideally from a large or medium sized firm and must be an excellent communicator. **Call Alison Ref: 3158**

Mixed Tax Senior
Wakefield – £excellent + flexible working

This role has a corporate tax bias, but you will get involved in both personal and corporate tax work for OMBs and their owners. You will deal with the tax compliance affairs for both the individuals and the company, and will work on advisory projects such as succession planning for businesses, R&D, capital allowances and shareholder issues. This independent firm is a short walk from the train station and will consider part time and full time candidates. You should be ACA/CTA/ATT/ACCA qualified, with experience of working with OMBs. **Call Alison Ref: 3159**

In-house Corporate Tax
Altrincham or Warrington or remote

International group seeks a qualified tax professional to join their friendly and growing in-house tax team. In this role, you will get involved in a mix of UK and international tax work including US tax. Includes corporate tax compliance, US tax including state taxes, assisting more senior staff with research for tax projects, ad hoc research and due diligence on transactions and transfer pricing. This business offers flexible working and a choice of office locations, but you can also work the majority of the time remotely to suit you. Full time or 4 day week considered. **Call Georgiana Ref: 3160**

Corporate Tax Asst Manager or Manager
Edinburgh, Glasgow or Aberdeen – £excellent

Our client is a large accountancy firm that is expanding their Scottish tax department. They seek several hires at a qualified level – ideally assistant managers or managers. This firm has an excellent agile working policy and can offer, full, part time and part remote working. Day to day, your role will include a great deal of variety from managing the compliance process to assisting directors and partners with due diligence on transactions, international tax planning or advising owner managers on how to successfully transfer their business to the next generation or their work force. **Call Georgiana Ref 3161**

www.georgianaheadrecruitment.com

Tax Superstar!
Hull, Leeds, Birmingham or Glasgow

Our client is a commercial legal practice which offers a wide range of advisory services including support to insurance providers and their accountancy firm clients. They seek an exceptional individual to lead their tax offering. This appointment is likely to be at experienced manager or senior manager level – can be based in Hull, Leeds, Glasgow or Birmingham. Can be part home worked. Work includes a mix of direct and indirect advice in particular relating to interactions with HMRC and tax investigations. Would suit a former Inspector of Taxes or someone CTA qualified. **Call Georgiana Ref: 3156**

M&A Tax Manager or Senior Manager
Leeds – £excellent + benefits

M&A tax team seeks an ACA/CTA manager or senior manager to assist the M&A Director with projects, managing juniors and winning new work. A lot of the work is advising private equity backed clients from the OMB sector. You will work on deal structuring (MBO and carve out) and due diligence (sell-side, buy-side and IPOs), and will manage these projects and act as the first point of contact. Candidates with an interest in M&A currently doing OMB and/or corporate tax advisory work are encouraged to apply. **Call Alison Ref: 3138**

VAT Senior Manager
Leeds – £excellent + benefits

This large independent firm is looking for a VAT specialist to lead their indirect taxes offering. Working alongside the Business Tax Advisory team and partner group, you will lead a number of advisory projects. You must have detailed technical knowledge of a number of key areas including dealing with HMRC disputes. The client base is predominantly owner managed businesses, particularly in property and construction, digital and technology and manufacturing. A fantastic opportunity to join a successful team that comes with progression to partnership. **Call Alison Ref: 3135**

Personal Tax Assistant
Leeds – to £22,000

This is a fantastic opportunity for someone with a minimum of 12 months' personal tax experience to work in a friendly and busy personal tax team. You will get study support for the ATT exams, flexi-time and on the job training. Your responsibilities will include the preparation of tax returns for personal tax and trust clients, assisting with tax planning issues, liaising with HMRC and other ad-hoc duties. You should be a team player with excellent inter-personal skills. **Call Alison Ref: 3162**

Tax Manager/Tax Director Designate
Yorkshire – Multiple Locations

Our client is a large independent accountancy firm with multiple offices throughout Yorkshire. As the next stage of development, this general practice is looking for a skilled tax practitioner to develop their tax offering. The client base ranges from SMEs to group companies, trusts, agricultural estates and HNW individuals. The ideal candidate will have a mixed tax background and will enjoy advising a wide range of individuals and businesses. This growing, profitable practice has scope for a tax professional to join as a manager and come through to full equity as their role develops. **Call Georgiana Ref: 3155**

Employment Taxes Specialist
Scotland – £excellent

Our client is a market leading specialist provider of tax services to the public sector including NHS trust, councils, further education colleges and housing associations. Due to increased demand for their services and expansion, they seek a dynamic individual who will help them develop their offering in Scotland. It is likely that you will be an experienced manager or senior manager/associate director. You may be ex-HMRC. Multiple locations in Scotland considered, and the role can be remote worked but will need travel to Scotland and at times to team meetings in England. **Call Georgiana Ref: 3157**

YOUR TAXATION RECRUITMENT SPECIALISTS

OPPORTUNITY TO BE AN EXAMINER FOR THE CIOT

We are looking to strengthen our examining teams for the 2023 exam session and future years. If appointed, work on the 2023 papers will start in March 2022. You will be required to attend a training session on the morning of Tuesday 8 March 2022 with all examiners and also an Examiner's day with the other members of your team on your paper which will take place on a day to be agreed with your team. We are seeking specialists in the following areas who would like to join us:

- **Indirect Taxation**
- **Taxation of Owner-Managed Businesses**
- **Taxation of Individuals**
- **Human Capital Taxes**
- **Inheritance Tax, Trust and Estates**
- **Corporation Tax**

Applications are invited from those with at least three years' post qualification experience who can offer the skills required to help to maintain and enhance the standard of our examinations. The key requirements for the role are:

- **The ability to keep to the tight timetable for the preparation and review of the exam questions and for the marking of scripts**
- **Strong technical skills**
- **Good written communications skills**
- **The ability to work as a member of a team**

You would be part of a team responsible for drafting, reviewing and marking one of the Advanced Technical examination papers and for ensuring that the examinations are of the highest possible quality. The time commitment varies from paper to paper, but most examiners continue to work full-time and carry out CIOT work at weekends and in the evenings. Typically, an examiner in an Advanced Technical team will be part of a team of four and will write and review half of a paper once a year and will mark questions they have set.

The 2022 syllabus and recent exam papers can be found here:

Past exam papers: https://www.tax.org.uk/pastpapers

2022 syllabus: https://www.tax.org.uk/prospectus-and-syllabus

Remuneration is commensurate with the strong skill set demanded for examiners.

If you are interested then please email **Jude Maidment** a copy of your CV in the first instance (**jmaidment@ciot.org.uk**). This will be passed to the Chief Examiner. If you would like to discuss the examiner role then please contact Jude on 020 7340 0577.