December 2024

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Chartered Institute of Taxation.

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A partridge in a pear tree!

We share some seasonal VAT tips. It's all about the counting...

Business rates reform

What will the government's plans mean for smaller businesses?

Succession planning

Major changes to inheritance tax and the taxation of pensions on death

HMRC enquiries

Some practical guidance on best practice and how to minimise the risks


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A busy end to 2024!

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At the end of October, the Chancellor of the Exchequer Rachel Reeves delivered her first Autumn Budget statement under the strapline of 'Fixing the foundations to deliver change'. It is fair to say that it has created a lot of debate and discussion.

As non-political educational charities, neither the CIOT nor the ATT comment on the political decision-making process, but our technical teams do make representations in advance of the Budget in an attempt to achieve a more efficient and less complex tax system. Now we have had the Budget, we will be working hard responding to the Budget briefings and commenting on the draft Finance Bill legislation prior to its enactment, looking at ways in which the wording can be improved and any anomalies ironed out.

As well as the measures announced at the Budget and included in the draft Finance Bill, the government also issued several consultations aimed at possible future changes to the tax system. The technical officers of ATT, CIOT and LITRG will be responding to these consultations and if you would like to be involved please look out for more information in the members' weekly news emails and on our websites.

We hugely value your input when completing our consultation responses as your views and comments ensure that our responses truly reflect how intended proposals will affect your clients and yourselves 'at the coalface'. A full summary of the consultations can be found in the Technical News Desk article on page 52.

Whilst significant, the Budget wasn't the only major news event recently. ATT members and students may have seen that we launched the ATT's mentoring programme on 31 October. The ATT Mentor Match is designed to support personal and professional growth through meaningful connections. Whether you're looking to develop new skills, gain insights or expand your network, this programme pairs experienced mentors with individuals seeking guidance and development.

Through regular one-on-one sessions, participants will receive tailored advice, constructive feedback and encouragement to help them achieve their goals. This initiative fosters a culture of learning, collaboration and mutual respect, empowering all involved to reach their full potential and make lasting impacts within our community. ATT members and students can register as a mentor or mentee at: https://att.onpld.com

This month, we are delighted to launch the CIOT's AI for Tax, a new introductory course designed to provide a foundational knowledge of AI and GenAI for tax professionals in practice and industry, and CIOT and ATT members wanting to explore and stay competitive in this rapidly evolving field. AI for Tax is an easy to access, bitesize CPD course, accessible online with eight hours of learning. Do read our article on page xx to find out more.

For members of both the CIOT and ATT, can we please encourage you to submit your Annual Return online along with your subscription payment before the deadline of 31 January 2025. In a year in which discussions on regulating the tax advice market has significantly moved forward, it is worth remembering that both CIOT and ATT members are required to meet high professional standards. The Annual Return is an essential part of the process of maintaining trust in the tax profession by the public, HMRC and others, as we ask you to confirm that a number of membership and legal requirements have been met.

The end of the 2024 exam season draws to a close when our Advanced Diploma in International Tax (ADIT) students take their exams between 10 and 12 December. We would like to wish all of those sitting the exams the very best.

Finally, we would like to thank you for your continued support of the CIOT and ATT, and we are looking forward to serving you in 2025. With our best wishes for the festive season and the New Year!

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tinyurl.com/2p9x8wtp

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tinyurl.com/bdzm3cxm

CHARLOTTE BARBOUR
PRESIDENT

The tax charities

> Despite calls for simplification, our tax system gets ever more complex. The charities always need more funding and volunteers.

As we near the end of the year with the days getting shorter and colder, I'm reminded that we should think of the wellbeing of our neighbours and community. Perhaps it's also the memory of my aunt, who always 'did her charities at Christmas'.

And, if charity starts at home, we should think of the tax charities. Despite calls for simplification, our tax system gets ever more complex. More people are being drawn into the tax net as thresholds remain frozen, and access to support from HMRC can be difficult, so there is a growing need for the tax charities. The charities always need more funding and volunteers – if you can help, please do.

I've outlined the main tax charities below.

TaxAid

TaxAid assists people on low incomes (generally under £20,000) who cannot afford tax advice and who end up in difficulties, particularly with tax debt or those who do not know how to access their rights of appeal. It's a really important source of advice and support to those who have run into problems with their tax.

Tax Help for Older People

Tax Help for Older People grew out of LITRG but from an early stage there was such demand for its services that it became a separate charity. It provides advice to anyone over the age of 60 and on a low income (again, under £20,000).

For many people, their tax affairs become more complicated when they reach pensionable age. This can be due to changes to the state pension age, a lack of understanding about how pensions are taxed and the likelihood of having a number of sources of income (such as part time work, pensions and savings income). As a result, there are many older people who need help and advice with their tax affairs but have no access to affordable, trusted advice or to a social or family network they can turn to for help. They may be facing retirement, be confused by a tax demand or completion of complex forms, or suffering a recent bereavement.

All of these scenarios can cause unnecessary anxiety and stress and contribute to poor wellbeing. Tax Help for Older People offers a valuable service to such individuals – and I know it also provides a great source of satisfaction to our members who volunteer with the charity.

The Worshipful Company of Tax Advisers

This is a City Livery Company for tax professionals that has a number of roles, one of which includes supporting charitable causes. This is conducted by supporting the Tax Advisers' Benevolent Fund, which provides assistance by way of information, support and grants to members and former members of the CIOT and the ATT and their dependants who are in need. Sadly, no one can predict their circumstances or always provide for the future, and some of our fellow members or their families can fall on hard times.

The Fund also provides grants to CIOT and ATT students who are unable to afford the fees payable and certain other costs necessary in order to sit the examinations. I believe it is important that we do all we can to help widen the tax profession by supporting those who cannot readily afford the exam fees. There is always a need for the Tax Advisers' Benevolent Fund and its work.

The Worshipful Company of Tax Advisers also supports the Tax Advisers' Charitable Trust, which is a general charitable fund that supports several tax-related and City causes, including education and the preservation of tax history, as well as supporting TaxAid and Tax Help for Older People.

CIOT

Being a member of a professional body means pulling together and the CIOT provides support and help to members. For instance the membership team have a programme 'Returning 2 Work', #R2W, with advice on what to think about or the options available about returning to employment or setting up in practice.

I've also seen some wonderful mentoring and help to fellow members as I've been out and about around our branches. It makes me very proud to be President of our Institute.

Last but not least, all the very best over the festive season, however you celebrate it – I'll have my dancing shoes on at Hogmanay.

Charlotte Barbour
President
president@ciot.org.uk

Chartered Institute of Taxation.

Building our community, supporting our members

We are your voice to effect change and influence.

The CIOT responds to important HMRC and government consultations which help shape policy. We have a range of technical committees and working groups which harness CTA expertise towards achieving our stated aim of a more efficient and less complex tax system for all.

Our comments and recommendations on tax are made solely in order to achieve this goal. Being a part of a community of almost 20,000 members in the UK and over 30,000 globally, lends weight to that voice.

www.tax.org.uk/improving-tax-policy

GRAHAM BATTY
DEPUTY PRESIDENT

Christmas special

> This year, although finances are tight, why not consider giving a small extra gift by donating to one of the many charities that help those less fortunate than we are.

Graham Batty
ATT Deputy President
page@att.org.uk

Welcome to the festive miscellany that is the Christmas 2024 edition of the ATT Welcome Page.

While we buy our Christmas pudding from Betty's (a Yorkshire institution) and so no longer follow the Victorian tradition of Stir-up Sunday, like most families the Batty household has its own Christmas rituals. It all kicks off with the Christmas tree weekend when we buy and decorate the tree. It is also the time when, usually in the cold and rain, I put up the outdoor lights along the gutters and in one of the trees in the garden. The following weekend is lunch with Jan's sister and her children – and now all but one of us is retired this normally takes place mid-week. On Christmas eve, we collect the turkey from the butcher in the next village and then have lunch at one of the village pubs. All the jobs have been finished now – in my dreams! Then the big day itself, being woken up in the early hours, followed by breakfast with a bottle of champagne that we finish while preparing the food, the King's speech at 3pm and a leisurely lunch.

Have you ever thought, though, where some of our Christmas traditions come from? Take the Christmas tree. We have been bringing greenery into our homes since at least Roman times but it was Queen Charlotte, wife of George III, who in 1800 is thought to have brought the first Christmas tree into the home (though this was a yew). We had to wait another 40 years before Prince Albert introduced the current practice of using a fir tree.

In fact, the Victorians are responsible for most of the customs that make up our idea of Christmas. Goose was traditionally the meat of choice as the centrepiece of the Christmas meal. It was not until Charles Dickens published *A Christmas Carol* that turkey gained favour. Christmas crackers were invented by Tom Smith, a London sweet seller, when in an effort to increase sales he began putting a small motto or riddle in his packaging. He later went on to invent the snap or crack which is now an essential feature, and where crackers get their name.

If someone speaks of Santa Claus or Father Christmas, it immediately conjures up an image of a large jolly man with a white beard dressed in a red suit, but did you know that he once wore a green suit? This is because the image we now have is, in fact, an amalgam of two or more characters. St Nicholas, the 3rd century bishop of Myra, was known for travelling round dressed in red robes giving gifts to the poor. The legend of St Nicholas arrived in Britain with the Normans and was quickly merged with the pagan winter festival legend of Father Christmas, who represented the coming of spring and wore a long green hooded cloak and a wreath made of holly, mistletoe or ivy.

Of course, children often leave a mince pie for Father Christmas. The mince pie has been around since at least the 13th century, but you would not recognise them as the same thing as our sweet treats. The original version included various minced meats, suet and chopped fruit. The Christmas pudding, originally meat based as well, can also be traced back to medieval times. Queen Victoria and her family had an interesting and dangerous twist on flaming the pudding in brandy. They would set fire to a bowl of raisins soaked in alcohol and then try to extract as many raisins as possible from the bowl. Please do not try this at home! Clearly, Victorian health and safety was not up to today's standards…

Giving and receiving presents is one of the highlights of Christmas for many people. However, in the UK we are unusual in exchanging gifts on Christmas day. In most European countries, gifts are given on Christmas eve.

This year, although finances are tight, why not consider giving a small extra gift by donating to one of the many charities that help those less fortunate than we are. There are now 10,000 ATT members. If each of us were to give just £10 (less than the price of a couple of drinks in my local pub) to the charity of your choice, and do so under gift aid, this would raise £125,000 to help with their vital work. And if you're looking for suggestions of who to support, two vital charities working in our own field are TaxAid (www.taxaid.org.uk) and Tax Help for Older People (www.taxvol.org.uk)!

I hope you all have a very Happy Christmas.

Improving our experience
Places to start…

© Getty images

As the issue of tax simplification arises once again, we consider some of the practical ways to make life easier for taxpayers.

There was a great deal in the Budget documents, but one paragraph in the Red Book stuck out. Alongside a commitment to seek views on the policy making process and to have a single fiscal event, simplification made an appearance:

> 'The government will announce a package of measures to simplify tax administration and improve the customer experience in spring 2025 with a focus on reducing burdens on small businesses. The government will meet stakeholders to understand the priorities for administration and simplification, ensuring that this work is driven by the views of taxpayers.'

The Office of Tax Simplification closed at Christmas 2022 but it left a treasure trove of reports, many of which remain relevant today.

Tax reforms

A good place to start would be thresholds in the tax system. Alongside the major policy decision to freeze the income tax and NI allowances and thresholds until 2028 sits a range of more administrative thresholds, which haven't been increased for many years, as highlighted in a discussion paper for the Tax Law Review Committee (see tinyurl.com/5n77t9xz).

Limits designed to ensure that small businesses are not affected by measures aimed at their much larger peers need to be reviewed to ensure that they continue achieve their purpose. For example, the corporate interest restriction introduced to limit tax relief for certain interest payments by multinationals is unlikely to apply to wholly domestic medium and small companies. Yet interest rates mean that more companies have interest payments over £2 million annually and so have to meet the compliance requirements, even if there is no actual tax effect.

The OTS noted in its 2017 VAT report that: 'There is research evidence that the Capital Goods Scheme is burdensome, complex and results in minimal adjustments.' The OTS suggested raising the value of items within the scheme in line with inflation, introducing a de minimis limit and a new increased threshold for owner-occupied properties, applying the Capital Goods Scheme over longer intervals and increasing the period allowed for the deduction of VAT on construction services prior to VAT registration from the current six months to four years to mirror the period allowed for deduction of VAT on goods. It would be good to look again at this area.

HMRC improvements

HMRC could make improvements to the PAYE IT systems to allow full two-way communication with employers/pension providers, and to enhance the types of data that employers can report; and the tax code calculation engine should be better able to adapt to modern working. The focus should be on areas that cause taxpayers the most problems in practice, such as those arising in connection with starting work, changing jobs or taking on additional jobs. These issues affect millions of people every year.

Building HMRC's Single Customer Account has the potential to fundamentally improve tax administration for over 50 million adults, enhancing productivity and creating cost savings for taxpayers and HMRC. The online account and related HMRC app already offer useful functionality, but extra functions would make a big difference. Combining all income sources would help people to get a full picture of their tax affairs and could help those million plus individuals with both employment and self-employment income to pay the right amount of tax as they earn.

OTS research showed that one of the areas that lower income people found problematic was paying tax in large unknown amounts twice a year. Keeping more up to date via the HMRC app could help – and for those with higher incomes the Making Tax Digital tax calculator could also provide more insight.

More could be done to engage taxpayers and a broad range of advisers and representative bodies, such as Citizens Advice, Money Helper and the Low Incomes Tax Reform Group. Their input – and the publication of a timeline for new functionality – would help to make this a true benefit to all individuals.

Achieving this potential requires continued commitment and funding over several years, and consideration of various design factors, most notably:

- Incorporating data from multiple sources should be integral, including from intermediaries and other third-parties who know about taxpayers' affairs.
- The Account should be the hub for taxpayers to interact with HMRC, including making claims and elections, uploading supporting information (such as the new system for evidencing employment expenses) and capital gains returns.

Appropriate agent access to all client filing data should be incorporated through agent software or a portal.

One completely different idea could be for HMRC to set up temporary support units in shopping centres to help people set up their digital log-in and perhaps download the HMRC app. Some years ago, the Irish Revenue found this worked well in bringing tax to taxpayer customers. Digital contact will be best for a clear majority – but many of us need help getting started. So-called high street banks now transact digitally with almost all their customers and there are potentially similar benefits for taxpayers.

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Business rates reform
Autumn Budget 2024

The Labour government plans to reform the business rates system in England, including lowering rates for smaller businesses, tackling avoidance and increasing the frequency of revaluations.

by Jessica Gallagher

There was much speculation ahead of the first Labour Budget in 14 years. Following manifesto promises on rates reform, the business rates community eagerly awaited announcements on the government's plans to replace the business rates system in England with a fairer and more accurate system that levels the playing field between high street retailers and online giants, whilst also supporting entrepreneurship and tackling the issues surrounding empty properties.

Business rates have long been a sticking point in Parliament. This is a long-established tax, with origins dating back over 400 years to the Poor Act of 1601, and with the current system now arising from the Local Government Finance Act 1988. It is understandable that finding an alternative system, yet which continues to allow the same amount of revenue to be collected, has been deemed a seemingly impossible task by the government and their opposition over recent years.

A conclusion we can draw from the Autumn Budget announcements, and the parallel release of the business rates discussion paper 'Transforming Business Rates' (see tinyurl.com/3drjbd9k), is that the wholesale replacement of the current business rates system seems to be some way off.

Labour's immediate plans are more of a sticking plaster, providing more time to determine what wider reform might look like. The discussion paper signposts that changes will be years down the line, but offers the comfort that stakeholders will be consulted on how best to change the system.

Many will be left pondering whether the intended tiered multiplier system widens the gap for bricks and mortar operators, rather than levelling the playing field. Also, if high multipliers are issued to businesses with a rateable value of over £500,000, will this discourage investment in such commercial property rather than encouraging it? We set out the impact of the changes announced at the Autumn Budget, as well as in the Transforming Business Rates discussion paper.

Key Budget changes

Rates payable

The main measure announced at the Budget on 30 October was a longer-term commitment to permanently lower business rates for those businesses in the retail, hospitality and leisure sector that have properties with a rateable value under £500,000 with effect from 1 April 2026. The intention is for this to be funded by a higher multiplier for properties with a rateable value in excess of £500,000.

The government has yet to clarify whether this will apply to all properties with a rateable value over £500,000 or just to certain asset sectors. It is assumed that this higher multiplier is aimed at capturing the large distribution warehouses occupied by online retailers that don't necessarily have the burden of a high street presence.

However, if this includes retail, hospitality and leisure properties with a rateable value of over £500,000, it is likely to have a major adverse impact on those larger businesses that are anchor tenants in our town centres. Rather than easing the burden on the high streets, these

Key Points

What is the issue?
In the Autumn Budget, the Labour government announced plans to permanently lower business rates for retail, hospitality, and leisure businesses with properties under £500,000 rateable value from April 2026, funded by a higher multiplier for properties over £500,000. Retail, hospitality and leisure relief was extended for 2025/26 but reduced to 40% with a £110,000 cap.

What does it mean for me?
The government plans to replace the current business rates system with a fairer one while generating the same revenue. Key proposals include tackling abuse of empty property relief, reducing the antecedent valuation date, increasing revaluation frequency to yearly, implementing a duty to notify for ratepayers, and digitalising the system by 2028 for better data sharing.

What can I take away?
While the government seeks stakeholder input for reforming the business rates system, the process is expected to take longer than one term, with initial changes like the duty to notify not fully mandated until 2029. Continued consultation is vital to ensure measures support growth across sectors.

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sweeping changes could force many businesses to quite literally shut up shop, leaving a barren landscape where a thriving community hub should lie.

Retail, hospitality and leisure sector rate relief

To support the small high street retail, hospitality and leisure operators in the interim period, the Chancellor committed to extend the retail, hospitality and leisure sector rate relief for the 2025/26 rates year, although the discount amount will reduce from the current 75% to 40% and be subject to a £110,000 cap across all properties. The Chancellor also committed to freezing the small business rates multiplier at 49.9p while increasing the standard multiplier to 55.5p for the 2025/26 rates year.

While the extension of retail, hospitality and leisure sector relief is welcome news for many businesses in the sector, those occupying properties with rateable values in excess of £51,000 will still be unprotected from the burden that the uprated standard multiplier to 55.5p will bring from 1 April 2025. A fall in the percentage of the relief will also have a significant impact on businesses that may incur increased costs due to the rise in employer National Insurance contributions, and the increase to the national minimum wage, also announced at the Autumn Budget.

Further, for retailers with multiple properties, the £110,000 cap will bring little relief against a tax liability that is often one of the three biggest overheads for bricks and mortar businesses, alongside rent and staffing costs.

Bringing in additional multiplier thresholds and varying relief schemes will also create an extra web of complexity around revenue collection for already stretched billing authorities who, alongside ratepayers, will be expected to navigate a far more convoluted billing landscape.

Charitable rate relief for private schools

Finally, it was set out in the Budget that charitable rate relief for private schools operating as charitable trusts would be removed with effect from April 2025. Affected schools could see business rates liabilities climb five-fold as a result, putting further pressure on a sector that will also be dealing with the introduction of VAT on school fees from 2025. Private schools that are 'wholly or mainly' concerned with providing full-time education to pupils with an Education, Health and Care Plan will remain eligible for this relief.

Transforming business rates

Whilst the announcements in the main Budget speech aimed to provide immediate relief and changes to key sectors, the wider issue of business rates reform went unmentioned, leaving many businesses feeling disappointed following Labour's campaign promises of big change. However, as ever, the devil is in the detail. Further information was published via the Transforming Business Rates discussion paper on the afternoon of 30 October, confirming the government's intention to replace the current business rates system with a new, fairer system, whilst generating the same tax revenue. The government is seeking engagement from key stakeholders on future reforms by March 2025.

As with the previous government, questions around avoidance remain a priority, and therefore the discussion paper unsurprisingly documents the government's intention to introduce a general anti avoidance rule (GAAR) for business rates, following a consultation with key stakeholders.

Empty property rates relief system

The primary focus will be to tackle abuse of the empty property rates relief system, which has long been a point of contention between local authorities and ratepayers or their agents since its material introduction in 2008.

The initial purpose of the system was to discourage landlords from holding empty properties that they had no intention to let. In the current economic landscape, however – and particularly for retail properties – it is difficult to see how holding vacant property with the sole purpose of mitigating the empty rates liability would be beneficial to business owners or landlords alike. Indeed, rates mitigation is almost exclusively seen as a last resort for ratepayers, where all other avenues, such as letting/subletting premises, have been explored.

With the previous government having introduced a longer occupation period to qualify for the relief, the risk, particularly in the retail sector, is that further restrictions may lead to landlords divesting from sub-prime towns, and 'anchor' retailers withdrawing from these locations, which will further impact our already struggling high streets.

The rating list

Moving on to issues surrounding the accuracy of rateable values within the rating list, business rates are based on property values at a specific point in time, known as the antecedent valuation date.

The current position is that the antecedent valuation date is two years prior to the relevant revaluation date. Within this period, the Valuation Office Agency (VOA) collects and collates rental evidence to support its proposed amended values. This is predominantly done within a circa 18 month period, with a draft list being published around six months prior to publication of the compiled list. The paper sets out plans to potentially to reduce the antecedent valuation date to one year prior to the revaluation date.

Furthermore, the current rating system provides for revaluations every three years. This was implemented with effect from the 2023 revaluation, with the previous lists running for five years.

Within the revaluation period, the VOA aims to deal with all proposals submitted by ratepayers, with the duty of the valuation officer being to compile and maintain an accurate list. Unfortunately, as with many government departments, the VOA has recently faced funding difficulties, meaning resource is now scarce. This has led to many proposals remaining outstanding as we move into subsequent lists.

The discussion paper outlines plans to increase the frequency of revaluations from every three years to every year. Considering the 2010 rating list was extended to seven years due to the global recession, and the 2017 rating list was extended to six years due to the Covid pandemic, with appeals still carrying over into subsequent lists, additional capacity will certainly be required within the VOA to service these more regular revaluations, as well as to analyse evidence to compile an accurate list within shortened antecedent valuation date periods.

There is no mention of the government's plans to address this in the discussion paper.

Duty to notify

An eagerly anticipated topic for discussion will be the new information duty, commonly referred to as duty to notify, as laid out in the Non-Domestic Rating Act 2023. The suggestion is that it will begin its roll out from 1 April 2026, with a view to formal implementation of the new system from 1 April 2029. There has been much speculation as to when the changes would be rolled out, but implementing gradual changes from the start of the 2026 rating list seems reasonable, providing time for requirements to be published with a clear line in the sand regarding obligations for ratepayers and their agents.

The information duty requires ratepayers to update information regarding their properties in real time, with the aim being to remove some of the burden from the valuation officer in terms of issuing and dealing with requests for information in the lead up to the antecedent valuation date, and during the Check, Challenge, Appeal process.

That being said, it remains to be seen whether consideration has been given to larger occupiers with multiple properties, or dynamic portfolios, for whom the burden may be deemed unmanageable within the mandated timescales.

Digitalisation

The government concluded its paper with the acknowledgement that the business rates system is not fit for purpose in the current digital age. There is a commitment to deliver the Digitalising Business Rates programme by March 2028. This will allow for the records of 296 billing authorities to be centrally accessed by the VOA, providing information beyond the current rental/rateable value property information, such as on ratepayer payment history and activity in relation to claiming reliefs.

The intention is that this information will ultimately allow for better informed decisions regarding business rates policy to support growth and encourage investment through targeted relief schemes. It is also intended that the access to this data will allow local authorities and HMRC to identify and tackle instances of tax avoidance.

In conclusion

It is welcome news that the current government will seek to consult our specialist opinion on how to improve the current system, and that they intend to work in partnership with business rates professionals and ratepayers to deliver change. However, from the announcements made in the Budget, and the timescales set out in the Transforming Business Rates discussion paper, it is clear that this process is likely to take longer than one Labour term to impose. Indeed, initial implementation of the information duty is still 18 months away, and the system is not set to be fully mandated until 2029. Furthermore, large-scale modernisation of the system through the Digitalising Business Rates programme is not on the horizon until 2028.

The paper made no allowances for discussion on the business rates multiplier being linked to CPI inflation. This is a volatile method which does not allow for the certainty that the rate payers require when preparing year on year cost budgets. With the crippling 55.5p multiplier that comes into effect from 1 April 2025, the outlook for many businesses may feel bleak, and it seems clear that real change can only come from a review of the ever increasing multiplier.

Although the discussion paper is a step in the right direction, it is evident that creating a fairer and less complex system for business rates in England will take some time, and further consultation with key stakeholders will be vital to ensure that additional measures support growth and resilience across all sectors.

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Autumn Budget 2024
Rethinking succession planning

We consider the impact of the Autumn Budget 2024 on tax, pensions and wider succession issues for individuals and business owners.

by Mike Bonner-Davies, Conor Carson and Joe Neal

The key point to note is that in light of the changes to reliefs for inheritance tax, individuals should now review their succession planning strategy to ensure that their transfer of wealth to future generations can be as efficient as possible under the new rules.

The headlines covered in this article are as follows:

- Business and agricultural assets exceeding £1 million, previously attracting 100% relief from inheritance tax, will now be exposed to tax at 20% from 6 April 2026.
- Business owners should consider the impact of these potential inheritance tax charges on their cashflow, whilst continuing to meet short-term obligations and increasing employment costs (such as wages and national insurance).
- Lifetime gifts to the next generation and/or trusts could both be considered as viable options to manage any future inheritance tax on death, and life insurance could reduce the impact of inheritance tax charges even further.
- Most undrawn pension funds and death benefits are exposed to inheritance tax from 6 April 2027.

On 30 October 2024, the Chancellor of the Exchequer, Rachel Reeves, unveiled the Autumn Budget 2024, marking the new government's first major fiscal event. Anticipation was high for significant changes impacting individuals, as the government had made it clear that they were looking to raise taxes.

The changes that were announced included reform to the taxation of non-UK domiciled individuals, changes to pensions, capital gains tax and inheritance tax.

This article delves into the two key changes that may impact the succession planning of individuals within the scope of UK inheritance tax: reform to business property relief and agricultural property relief; and the changes to the taxation of pensions on death.

This article was written immediately following the Autumn Budget on 30 October and therefore all of the draft legislation has not yet been seen. Impacted individuals should take specific tax advice based on their circumstances, in the context of their wider financial affairs, retirement objectives and estate planning requirements.

Inheritance tax reform

Position prior to 30 October 2024

Inheritance tax is charged on an individual's estate on death and on certain lifetime transfers into trusts. The standard inheritance tax rate on death is 40%, which is charged on the value that exceeds the tax-free nil-rate band, currently set at £325,000. However, there are various reliefs and exemptions available.

Both business property relief and agricultural property relief have broadly been a feature of inheritance tax since it was first introduced, and were designed to prevent the need for businesses and farms to be sold or broken up when passed to the next generation, particularly if the estate had few liquid assets to meet an inheritance tax liability. The reliefs allow

Key Points

What is the issue?
The Autumn Budget 2024 introduced major changes to inheritance tax reliefs and the taxation of pensions on death. From April 2026, business property relief and agricultural property relief will be capped at £1 million, with excess value only receiving 50% relief. This may create cashflow challenges for asset-rich, cash-poor businesses needing to meet inheritance tax liabilities.

What does it mean for me?
Individuals should consider making lifetime gifts or transfers to trusts before April 2026 to utilise the current higher rate of relief. Life insurance can also safeguard against inheritance tax liabilities. Those with substantial pension savings may need to reconsider investment strategies, increase drawings and reassess which assets to deplete for retirement expenses.

What can I take away?
Business owners and families must carefully plan how and when to pass on business interests and wealth while protecting assets through mechanisms like prenuptial agreements, trusts and corporate structures. Professional advice is recommended to navigate the complexities and ensure optimal outcomes.

> The need to focus on liquidity may force a business to defer or scale back planned investments to conserve cash.

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these enterprises to continue to operate without the financial strain of considering significant inheritance tax liabilities arising by reference to the property on the death of an owner.

Business property relief and agricultural property relief allow qualifying assets (most commonly shares in unquoted trading companies, including shares in companies listed on the Alternative Investment Market (AIM-listed shares), and/or qualifying agricultural land and buildings) to benefit from up to 100% relief, provided the asset has been held for at least two years (subject to various conditions and restrictions). Currently, these reliefs are uncapped and can essentially reduce the inheritance tax exposure on qualifying assets to nil.

Position from 6 April 2026

It is intended that, from 6 April 2026, business property relief and agricultural property relief are to be reformed such that:

- The 100% relief for business property relief and agricultural property relief qualifying assets (excluding AIM-listed shares, which are covered below) will be capped at £1 million of combined value that is included in an individual's estate (including assets held at death, and those gifted in the previous seven years).
- Any excess combined value above this £1 million threshold will only benefit from 50% relief; in short, giving an effective rate of inheritance tax of 20% on any excess chargeable value on death.
- Business property relief on AIM-listed shares is to be reduced to 50% relief (with no £1 million threshold).

Impact on lifetime gifts made ahead of 6 April 2026

Whilst the business property relief and agricultural property relief changes on death are not expected to be implemented until 6 April 2026, it is important to note that the new rules will apply to lifetime transfers from 30 October 2024 where the donor dies after 6 April 2026. Where lifetime gifts are made after 30 October 2024 and the donor dies after 6 April 2026 but within seven years, the gift will be a failed 'potentially exempt transfer'. It will be subject to inheritance tax with the reduced rate of 50% relief applying. Taper relief will be available where the donor has survived the gift by three years.

Trusts

For completeness, we note that the reform to business property relief and agricultural property relief will impact trustees who currently hold qualifying business or agricultural property in a similar (but not identical) way as set out above. A detailed technical consultation is expected into the application to trusts, and trustees should seek advice on this.

Cashflow considerations

One of the most immediate and pressing concerns for trading and agricultural businesses in light of the changes is cashflow. Cashflow is crucial for businesses to both meet short-term financial obligations and ensure investment in and continuity for the business in the longer term. This could be particularly problematic for asset-rich, cash-poor individuals and businesses, who may not have sufficient liquid assets to cover the tax bill without selling assets.

Inheritance tax is fundamentally a personal tax liability; however, successors and/or executors of business owners are likely to look to the business for help to fund such liabilities. For most businesses, funding could be provided either by way of dividend or share buyback, but the tax consequences of either option would need to be fully considered, as there could be a tax cost associated with accessing the funds.

Where businesses are not able to meet these liabilities out of accumulated earnings, the main options to raise funds include:

1. **Borrowing funds**: Borrowing may be the most viable option to finance the cost of inheritance tax but this approach comes with its own set of challenges. Businesses will need to assess their creditworthiness, negotiate loan terms and ensure that they can service the debt without compromising their operations. Additionally, the added cost of borrowing increases the overall cost, further straining cashflow.
2. **Selling part of the business**: Businesses may opt to sell part of their operations to raise the necessary funds. This strategy can be particularly challenging, as it may involve divesting profitable divisions or assets that are integral to the business's success. The sale process itself is likely to generate further tax considerations and can be time-consuming. Timing can be crucial to achieve the desired financial outcome, especially if market conditions are unfavourable.

It is important to note that the inheritance tax liability arising on qualifying business and agricultural property may be paid by interest-free instalments in certain circumstances. This allows for the burden to be spread over a period of up to 10 years. Otherwise, instalments would attract the HMRC official rate of interest (increasing to the Bank of England base rate plus 4% from 6 April 2025). This may leave businesses wishing to consider third party borrowing as an alternative.

LONG-TERM STRATEGY OPTIONS

- **Lifetime gifts:** Gifting assets directly to the next generation during your lifetime remains inheritance tax-free provided you survive seven years. Other taxes should also be considered, but business asset holdover relief remains in existence to manage the capital gains tax position on the transfer of qualifying business assets. For most individuals, they may find this option for generational transfers the simplest.
- **Transfers to trust:** Gifting assets into trust may be appealing for those who are considering generational transfers but wish to retain an element of control and/or asset protection. Subject to the draft legislation, transfers of qualifying assets made before 6 April 2026 should still attract business property relief and agricultural property relief under the current rates of up to 100% (provided the donor survives seven years from the date of gift).
  Once formed, assets held by the trustees will be within the relevant property regime incurring inheritance tax charges at up to 3% every 10 years on the value of the net assets – assuming that the assets in trust continue to qualify for business property relief and agricultural property relief.
- **Insurance:** Life insurance can safeguard against inheritance tax liabilities on both lifetime gifts (as noted above) and on death. Insurance plans can be designed to offer a fixed sum payment upon the death of the donor, in the event that they die within seven years, and under the current rules sit outside of the estate for inheritance tax purposes. Specific financial advice should be sought in this respect.

Practical issues

For those impacted, robust cashflow management will become more important. There could be three issues arising from the change in focus:

1. The need to focus on liquidity for inheritance tax purposes may force a business to defer or scale back planned investments to conserve cash.
2. An associated point is that holding increasing cash reserves may be treated as an 'excepted asset' for business property relief purposes (exposed to inheritance tax at 40%) and therefore may increase any inheritance tax liabilities further.
3. Businesses may need to adjust pricing strategies to ensure sufficient cashflow, potentially impacting competitiveness and market positioning.

How will these changes impact me?

The impact of the changes to business property relief and agricultural property relief will always depend on your personal circumstances and succession strategy.

However, there are several options available to manage this impact as part of a long-term strategy (see the box ***Long-term strategy options*** for further details).

Pensions

When it comes to succession planning, it's essential to consider all assets that contribute to personal wealth, and pension savings are no exception. Pension savings, often accumulated over a lifetime of work, are designed to provide financial security during retirement but, for many individuals, they also play a crucial role in the broader context of wealth management and succession planning.

There were no changes announced in the Autumn Budget in relation to the core pension legislation (in areas such as the tax-free cash lump sum, annual allowance and tax relief on pension contributions), but there was a significant announcement on pensions and inheritance tax.

From 6 April 2027, most undrawn pension funds and death benefits are to be included within the value of a person's estate for inheritance tax purposes. In practice, this means that remaining pension assets will be exposed to inheritance tax at 40%. The main impact of this will be on defined contribution or money purchase pensions (where the contributions are invested to build up a fund which can be used to provide a pension).

Tax relief on pensions has become one of the most expensive reliefs in the personal tax system. Looking at the tax year 2022/23, the gross income tax and national insurance contribution relief bill on pensions amounted to £70.6 billion. The change announced in the Autumn Budget allows for accelerated tax receipts.

Those individuals with material defined contribution pension savings, who had intended to draw limited, if any, retirement benefits in their lifetimes and leave their pension savings untouched for succession planning purposes free of inheritance tax, may now be left considering their options.

Impact for pension beneficiaries

For those who die over the age of 75 (as is statistically most likely), inheritance tax will be due on death, with income tax then due on beneficiaries when they draw down on the remaining inherited pension fund – resulting in combined taxes of up to 67%. For example, an individual with £1 million of pension savings would be impacted in the following way (assuming there is no inheritance tax nil-rate band available for the pension fund and beneficiaries are additional rate income taxpayers):

Value of pension savings on death	£1,000,000
Inheritance tax	(£400,000)
Pension savings net of inheritance tax	£600,000
Income tax on drawing inherited fund	(£270,000)
Net proceeds	**£330,000**

Further, it is important to note that pension savings will also count towards the taper threshold for the purposes of the residential nil-rate band, which may result in an increased level of inheritance tax on other assets within the individual's estate.

Government consultation

As part of the Autumn Budget, the government has opened a consultation focusing on the practical operation and the details of implementation, which runs until 22 January 2025. This covers all UK registered pension schemes and Qualifying Non-UK Pension Schemes (QNUPS), noting that a Qualifying Recognised Overseas Pension Scheme (QROPS) is a type of QNUPS. UK defined benefit pensions are generally expected to be outside of the scope of these provisions (since they cease on the death of the member and their dependents).

The features of the proposed regime include:

- overlaying inheritance tax to the current operation of UK registered pension schemes and QNUPS, such that they are subject to UK inheritance tax on the death of a member;
- where an estate includes different elements (property owned directly, property owned in trust, undrawn pension savings), the nil-rate band will be apportioned between those elements;
- inheritance tax on the undrawn pension funds is to be settled from the pension fund;

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- for those who die over the age of 75, inheritance tax is to be paid from the pension scheme on death, with income tax then due on beneficiaries when they draw down on the remaining inherited pension fund;
- the spousal exemption is to remain available; and
- payments to charity are to be outside of the new provisions.

Unapproved pension schemes: FURBS and EFRBS

Funded Unapproved Retirement Benefit Schemes (FURBS) and Employer-Financed Retirement Benefit Schemes (EFRBS) are unapproved top up pension schemes that were funded with employer contributions. Generally speaking, FURBS were funded prior to 6 April 2006 and EFRBS thereafter.

Whilst FURBS and EFRBS are not subject to the announcements made in the Autumn Budget, it would be strange for these schemes to have a better inheritance tax profile than registered pension schemes and QNUPS.

This builds on the decision in a 2020 Supreme Court case (*HMRC v Parry and others* [2020] UKSC 35) where such schemes were found to be vulnerable to inheritance tax. Those with FURBS and EFRBS should seek specific tax advice now. (This was covered in 'Deferral of retirement benefits', *Tax Adviser*, March 2021).

Considering your plans for your pension savings

This change is clearly something that individuals will need to consider carefully as part of their overall wealth strategy and succession planning. There will be options available. Evolving patterns are likely to include:

- reconsidering how these pension funds are invested (such that pension investment returns realign to the needs of the member in light of changes to their pensions strategy);
- increasing drawings from accumulated pension savings in retirement (and what then to do with the proceeds); and
- reassessing the order in which assets are depleted to fund retirement expenses or generational transfers.

Passing on and protecting wealth

Alongside the tax considerations, it remains of paramount importance for families to consider how and when they should pass on their business interests and wealth to their children, as well as the extent to which they can protect the wealth following the transfer, for future generations.

How and when to start the family wealth generational transfer is and will always remain a personal as much as a fiscal question with some key factors for consideration likely to be:

- who you want to benefit;
- what assets they will receive and how these will be split;
- whether you want to restrict access and retain control over the investments; and
- how much wealth you want and need to retain.

Passing on wealth needs to meet the specific needs of the family, as well as the business. Wider conversations will be essential to achieve the family's holistic as well as business goals.

Inheritance tax reform is likely to incentivise shared ownership structures as a means of facilitating generational transfers. As regards asset protection, there are several legal mechanisms that can be used to achieve this:

1. **Prenuptial and postnuptial arrangements**: Prenuptial and postnuptial agreements can offer a level of protection for family wealth in the event of a divorce. These agreements can specify how assets, including shares in the family business, will be divided on a divorce, ensuring that the family's wealth remains intact.
2. **Trusts**: As highlighted above, trusts can be an effective way to protect and manage family wealth. By placing assets in a trust, the family can ensure that the wealth is managed according to their wishes with an added layer of protection from potential risks such as divorce, bankruptcy or mismanagement. Whilst trusts can prove complex in certain scenarios, they remain an efficient vehicle to accrue and distribute family wealth.
3. **Holding wealth in companies and partnerships:** Alternative wealth structures such as companies or partnerships can be used to manage, protect and grow family wealth across generations. These structures can offer various benefits, including asset protection, tax efficiency and centralised management, and can focus on the specific needs and goals of the family, as well as the legal and tax considerations in their jurisdiction.

Professional tax, legal and valuations advice is essential and highly recommended to navigate the complexities involved and to ensure any structure reflects the family's intentions and objectives.

Conclusion

The changes announced in the Budget will have significant implications for many taxpayers. There are options available, but business owners and those with significant pension savings should act soon to review their exposure to inheritance tax and reconsider their wider succession plans.

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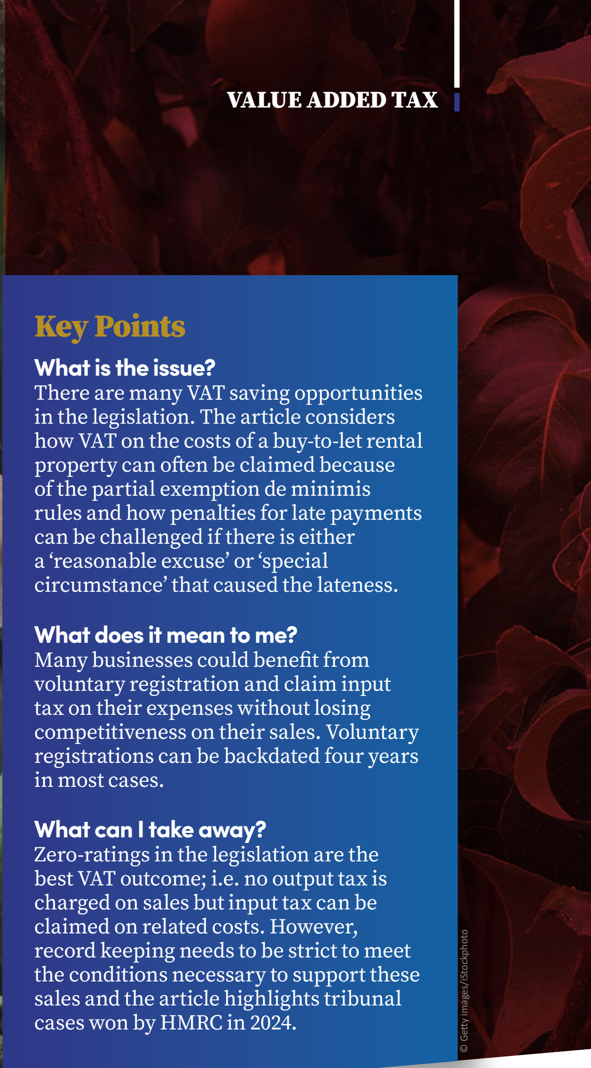

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Festive cheer
It's all about counting...

We share some seasonal VAT tips, helped by the lyrics from the Twelve Days of Christmas and some important decisions reached by judges in the tax tribunals.

by Neil Warren

Key Points

What is the issue?
There are many VAT saving opportunities in the legislation. The article considers how VAT on the costs of a buy-to-let rental property can often be claimed because of the partial exemption de minimis rules and how penalties for late payments can be challenged if there is either a 'reasonable excuse' or 'special circumstance' that caused the lateness.

What does it mean to me?
Many businesses could benefit from voluntary registration and claim input tax on their expenses without losing competitiveness on their sales. Voluntary registrations can be backdated four years in most cases.

What can I take away?
Zero-ratings in the legislation are the best VAT outcome; i.e. no output tax is charged on sales but input tax can be claimed on related costs. However, record keeping needs to be strict to meet the conditions necessary to support these sales and the article highlights tribunal cases won by HMRC in 2024.

What are your biggest VAT memories of 2024? You will probably recall two major announcements. Firstly, the increase in the registration and deregistration thresholds on 1 April 2024, the first changes since 2017. Secondly, you might think of the government's manifesto pledge to change the law on the liability of tuition and boarding fees supplied by private schools, which will be standard rated rather than exempt from 1 January 2025.

Were there any other major changes that whetted our taste buds? Probably not, so I will conclude the year with some festive tips.

Consider the benefits of voluntary registration

Why do so many clients have a fear of registering for VAT unless it is forced on them like a partridge in a pear tree having to leave its comfortable nest? The days of HMRC officers carrying out stressful compliance visits – with as much excitement as ten lords leaping up and down on a trampoline – are definitely in the past.

To share a tax-saving story about voluntary registration, a computer consultant trades as a limited company which only has overseas business customers. There is no compulsory reason to register for VAT because the place of supply for B2B services provided by consultants depends on the customer's location. They are outside the scope of UK VAT.

However, the company incurs VAT on many expenses, including subcontractor and computer costs, so voluntary registration makes sense. However, there is more: a business can backdate its registration date by up to four years as long as it has either made or intends to make taxable sales during that period of time.

Note: Even though the company's income is outside the scope of UK VAT, a business can still register and claim input tax because the services would be VATable if supplied to a UK customer. In VAT speak, this is often referred to as 'outside the scope with recovery.'

To share another story about voluntary registration, see ***Christmas book tale.***

Zero-ratings must be applied strictly

When I advise accountants about the nation's favourite tax, I always encourage them to ensure that clients are not complacent when it comes to holding supporting evidence about their zero-rated sales. Zero-ratings are an important tax privilege and many businesses fall short of the standard necessary to ensure that there is no potential challenge from HMRC. I have reviewed First-tier Tribunal cases for the last 12 months and the final score is... HMRC 5: Taxpayer 0.

Bottled Science Ltd [2024] UKFTT 592: A collagen-based drink called Skinade was a standard-rated beauty product rather than a zero-rated food. The judge placed an emphasis on marketing and packaging and noted that it would not be suitable for a supermarket aisle. The packaging was 'something that you might find in a chemist's shop rather than a grocer's'.

BJ Shere Khan Star City Ltd [2024] UKFTT 639: A restaurant overstated its zero-rated takings figures. The tills did not distinguish the liability of sales and the judge referred to the 'chaotic way that the tax affairs of the business was conducted'.

Mark Glenn Ltd [2024] UKFTT 715: A hair-loss procedure known as the Kensey System did not qualify for zero-rating as a supply of goods to a disabled person. The judge agreed with HMRC that the taxpayer had failed to produce any evidence that 'baldness in women is considered as a chronic sickness by the medical profession'.

DuelFuel Nutrition Ltd [2024] UKFTT 104: A sports nutrition bar did not qualify as a zero-rated cake. The judge noted that the ingredients were very different to those used in a cake; a cake was a treat but the bars had tastes and textures that were very different to a treat. As the product did not qualify as a cake, it had to be classed as confectionery. The decision is consistent with HMRC's VAT Food Manual at VFOOD4380.

Queenscourt Ltd [2024] UKFTT 460: Cold 'dip pots' were not a separate zero-rated supply in a hot take-away meal deal. Hot food is always standard rated.

What was the most important tribunal case in 2024?

The judges have been kept busy dealing with a range of VAT appeals and I keep a written summary of all important cases. I find that my notes are as essential as a strong pair of shoes for ladies dancing in the streets after a fun night out in a buzzing city centre. I have selected my favourite 2024 case and, as the drummers drumming in my office build up an exhilarating sense of anticipation, helped by pipers piping noisily in the background...

I can reveal that it is *HMRC v Hotel La Tour Ltd* [2024] EWCA Civ 564.

This case related to input tax on costs directly linked to the sale of shares and it has so far been considered by three courts. As I sit beside my Christmas tree writing this article – sipping a glass of mulled wine – I have just read that the taxpayer has appealed the latest Court of Appeal decision to the Supreme Court.

The Court of Appeal reversed the decision made in the earlier courts:

- The company sold shares in a trading subsidiary and used the sale proceeds to buy another hotel, claiming input tax on legal and professional fees linked to the share sale on the basis that the proceeds funded the purchase of a taxable business; i.e. a hotel.
- HMRC's view was that all costs were directly linked to the immediate exempt supply of shares and input tax could not be claimed. The First-tier Tribunal and Upper Tribunal agreed with the taxpayer.
- The Court of Appeal agreed with HMRC that the key question was to consider which supply the costs related to, and that could only be the share sale. It is not correct, the judges ruled, to make a decision based on whether the costs are incorporated into the price of a subsequent taxable supply.

Partial exemption de minimis limits: claiming input tax on buy-to-let costs

Rental income earned from a buy-to-let residential property is exempt from VAT, so input tax cannot be claimed on expenses such as property repairs and managing agent fees.

However, if the legal entity that owns the property is already registered for VAT because it has another business activity, there is an opportunity to claim input tax on property costs by utilising the partial exemption de minimis rules. There is a potential windfall of £7,500 input tax in each partial exemption tax year.

See ***Hairdresser Harry: Input tax windfall with partial exemption de minimis limits.***

CHRISTMAS BOOK TALE

Joseph was commissioned to write a book about the history of French hens on 1 December 2024, which will earn him a fee of £80,000 to be paid in four quarterly instalments by a publisher next year. His only expense is a 15% plus VAT commission payment to his literary agent.

Joseph will not need to register for VAT if this is his only income because his annual taxable sales are less than the registration threshold of £90,000 that has applied since 1 April 2024.

However, there will be an input tax windfall of £2,400 if he registers voluntarily; i.e. £80,000 x 15% x 20% VAT. The publisher will reclaim input tax.

HAIRDRESSER HARRY: INPUT TAX WINDFALL WITH PARTIAL EXEMPTION DE MINIMIS LIMITS

Harry is VAT registered and trades from the ground floor of a salon he owns. The first floor is a two-bedroom flat that he rents out on a buy-to-let basis; i.e. rental income is exempt from VAT.

Harry must pay £30,000 plus VAT on urgent flat improvements; other annual costs linked to the flat, including agency fees, are £5,000 plus VAT. He completes calendar quarter returns.

Harry is likely to be de minimis for partial exemption purposes in the tax year ended 31 March 2025 because the exempt input tax will be less than £7,500 and also – hopefully – less than 50% of the total input tax claimed on his returns. HMRC Notice 706 s 11

Is there a 'reasonable excuse' for late returns and payments?

Finally, my David and Goliath award for 2024 goes to solicitor *Sandra Krywald* [2024] UKFTT 895, who successfully convinced the First-tier Tribunal that she had a 'reasonable excuse' for failing to submit returns and pay tax on time.

This is the first case I have read about the new points and penalty regime introduced for periods beginning on or after 1 January 2023; it replaced the draconian default surcharge system that had existed for over 30 years. Late payments are penalised by virtue of Finance Act 2021 Sch 26. A 2% penalty is issued for tax unpaid on day 15 after the due payment date, with a further 2% penalty for tax still owed by day 30.

The taxpayer was badly let down by two external bookkeepers who failed to complete her returns. The first bookkeeper had to socially isolate due to Covid, so could not attend the business premises. The second bookkeeper had neither the 'enthusiasm or alacrity' to complete the outstanding returns.

The taxpayer contacted HMRC for advice and was incorrectly told that 'opening balances' were needed within the accounting system before the figures could be finalised. It was not until March 2024 that she approached a VAT expert who told her that she could produce and submit returns based on turnover and costs without worrying about opening or closing balances.

The judge noted that the legislation allows 'special circumstances' and a 'reasonable excuse' to be accepted by HMRC and concluded that the taxpayer had both. It was reasonable to rely on the bookkeepers to complete the returns and the department's 'failure to give correct advice' was a special circumstance. The appeal was allowed and all penalties and points were reversed.

The message from this case? If you have a reasonable excuse for late returns and payments, you should make it known to HMRC as soon as possible. Happy new year to all readers!

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Taxing emissions

VAT and voluntary carbon credits

We consider the consequences for businesses supplying or purchasing voluntary carbon credits and discuss examples where the VAT position becomes more complicated.

by Richard Norman

A fundamental tenet of regulated emission trading schemes is that some businesses can reduce emissions at a lower cost than others, and the atmosphere is indifferent to the source of emissions. Thus, the market should decide how and by whom emission levels are reduced. Voluntary carbon credits take this principle one step further, applying it to a global scale and trying to value prevented emissions in the same way as actual emissions.

HMRC's guidance on the VAT treatment of voluntary carbon credits has evolved from treating the credits as outside the scope of VAT (which was practically useful but perhaps technically difficult to justify) to treating them as being subject to UK VAT from the 1 September 2024.

The changes to voluntary carbon credits will impact:

- generators of voluntary carbon credits, such offset developers, landowners, farmers and land management agents;
- traders of voluntary carbon credits, such as trading houses, brokers and exchanges; and
- businesses offering consumers the ability, for a charge, to offset their carbon emissions via voluntary carbon credits.

Voluntary carbon credits

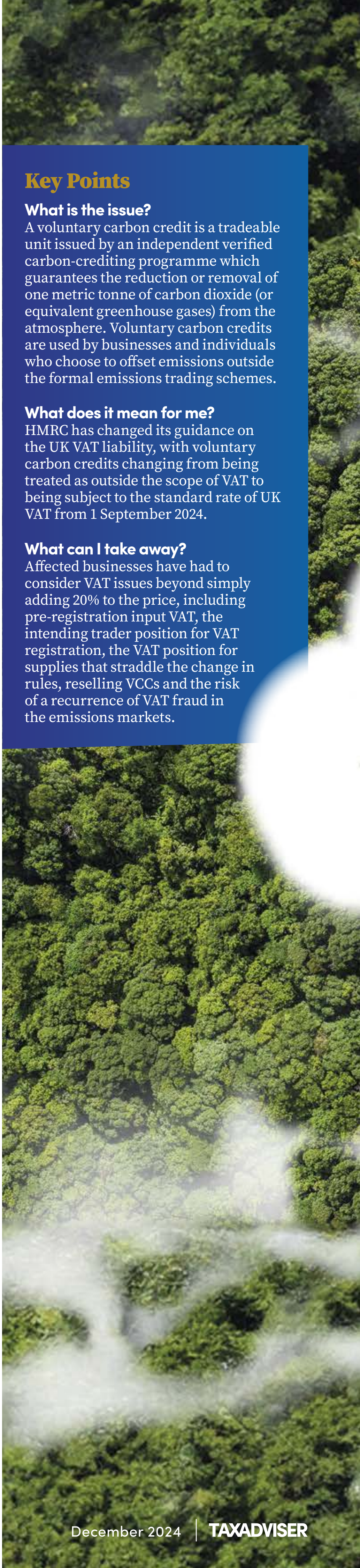
Voluntary carbon credits are one of several emission-reducing products available for purchase and trading on the voluntary carbon market. Usually, a voluntary carbon credit is linked to the removal of one tonne of carbon dioxide (or equivalent other greenhouse gas) from the atmosphere.

These gains can be achieved by means of ecological improvements over a long-term period; for example, planting more trees in a defined area of land so that more carbon is removed from the atmosphere than would have happened if it were not for the environmental project. They can also be generated by new technologies such as direct capture and storage of carbon dioxide from the atmosphere.

Voluntary carbon credits allow businesses and individuals to offset their carbon emissions beyond the regulated carbon credit compliance market (which in the UK is the UK Emissions Trading Scheme).

The Voluntary Carbon Market is seen as a key method of channelling finance to developing countries to accelerate their transition to net zero economies, and to put a value on avoided emissions minimising overall emissions and achieving the goals of the Paris Agreement. (The Paris Agreement itself contains a section dealing with the trading of carbon allowances – Article 6.)

Whilst currently small, the Voluntary Carbon Market is backed by a wide range of institutions such as the World Bank, the United Nations and the Sustainable Markets Initiative (set up by King Charles III). The market was estimated to be worth $1 billion to $2 billion a year in 2023, but according to Citigroup is predicted to grow to up to $50 billion a year by 2030 (see tinyurl.com/43wp48nd). Many companies, especially in hard-to-abate sectors, are likely to use voluntary carbon credits to offset emissions to achieve their sustainability goals in the short and medium term.



Key Points

What is the issue?
A voluntary carbon credit is a tradeable unit issued by an independent verified carbon-crediting programme which guarantees the reduction or removal of one metric tonne of carbon dioxide (or equivalent greenhouse gases) from the atmosphere. Voluntary carbon credits are used by businesses and individuals who choose to offset emissions outside the formal emissions trading schemes.

What does it mean for me?
HMRC has changed its guidance on the UK VAT liability, with voluntary carbon credits changing from being treated as outside the scope of VAT to being subject to the standard rate of UK VAT from 1 September 2024.

What can I take away?
Affected businesses have had to consider VAT issues beyond simply adding 20% to the price, including pre-registration input VAT, the intending trader position for VAT registration, the VAT position for supplies that straddle the change in rules, reselling VCCs and the risk of a recurrence of VAT fraud in the emissions markets.

With the predicted growth, and the pressing need to transmit funding from those making sustainability commitments to those with the ability to reduce and remove carbon, there is a significant pressure to develop this market and make it as liquid as possible. Key to this is a push to have robust and standardised verification processes to ensure that voluntary carbon credits are both credible and standardised, so easily tradeable on exchanges.

Change in VAT liability

HMRC published Revenue and Customs Brief 7 (2024) 'VAT treatment of voluntary carbon credits' (see tinyurl.com/53pydsuy) on 9 May, which indicated a change in its view on the VAT treatment of voluntary carbon credits. Previously, they had been treated as 'outside the scope' of UK VAT, but from 1 September 2024, they have been subject to VAT at the standard rate. Where the supply of voluntary carbon credits is in a commodities market within the scope of the Terminal Markets Order, the supply is zero-rated.

Prior to 1 September 2024, HMRC did not see voluntary carbon credits as the making of economic supplies and treated any income as a non-business activity. Guidance supporting this treatment dated back to shortly after a period when there was Missing Trader Intra-Community VAT fraud in the regulated carbon market (EU emissions trading allowance) resulting in very significant losses for the UK and European tax authorities (see HMRC Brief 28 (2010) VAT: liability of non-carbon credits).

An outside the scope treatment removed the possibility of VAT fraud from the voluntary market. However, as the sector evolved and expanded and the UK's VAT treatment of voluntary carbon credits differs from many other countries, HMRC accepted that supplies of voluntary carbon credits could be incorporated into a business's onward supplies, and acknowledged the increase in trading of credits in secondary markets.

It should be noted that not all income related to voluntary carbon credits is standard rated. HMRC's definition of a voluntary carbon credit requires third-party verification. As such, credits sold without external verification will continue to be outside the scope of UK VAT. HMRC updated its VAT Supply and Consideration Manual at VATSC06584 (see tinyurl.com/3223hjhy) and VATSC06586 (see tinyurl.com/mrzwnr3y) to provide examples of activities related to voluntary carbon credits where the income remains outside the scope of VAT post 1 September 2024.

VAT registration for intending traders

In many cases, when a business registers for VAT, it will have either already started making taxable supplies, or it has an intention to make such supplies in the near future. With voluntary carbon credit projects, the ecological sites can take many years to develop before the envisaged carbon sequestration levels are reached – for example, 20 to 30 years of tree growth – and some sites will only sell credits at this later stage. However, site developers will incur upfront taxable costs, such as the purchase of opted land, trees and plants, fencing and maintenance. As they have an intention to make future taxable supplies, they may want to register from the time they start incurring taxable costs to recover the input VAT.

Where a VAT registration application discloses an intention to make taxable supplies at a date many years into the future, a business should expect that HMRC will raise further questions and request evidence. In principle, though, there should be no reason why a business with an intention to supply verifiable voluntary carbon credits in the future should be refused registration.

Input VAT recovery

Where a business has received non-business voluntary carbon credit income prior to the changing rules, and taxable credit income after 1 September 2024, HMRC expects businesses to apply the existing apportionment rules for input VAT set out in the VAT Business/Non-Business Manual at VBNB30500 (see tinyurl.com/3d698uy7). A business/non-business apportionment calculation should be set up to work out the percentage of input VAT on costs that can be claimed where the cost is used for the making of both non-business and business supplies.

VAT fraud and a domestic reverse charge

As part of an informal consultation with industry stakeholders, questions were raised as to why voluntary carbon credits are not subject to the domestic reverse charge in the same way as other emissions allowances (see tinyurl.com/45rm4kz4). The domestic reverse charge is a VAT anti-fraud measure that shifts the responsibility for declaring VAT on a supply from the supplier to the VAT registered customer. Without a settlement of VAT between counterparties it removes the possibility of Missing Trader Intra Community fraud in the markets to which it is applied.

HMRC's current view is that the voluntary carbon credit market was not historically a target of VAT fraud and operates in a different manner to compliance market credits. This assumption probably holds at the moment, with supplies primarily being bespoke trades between individual traders or consumers rather than exchange traded.

However, as discussed above, this market is expected to expand significantly and there is a strong emphasis on making this market more attractive to external capital through the standardisation of credits and promoting exchange trading.

Missing Trader Intra Community fraud has usually required moving physical goods around the world, or at least finding a willing purchaser for specific goods at the end of a chain of transactions. As such, the most attractive markets for this fraud are ones which have high value items of ideally identical goods – so that only price is the determining factor when picking a supplier.

> **Carbon offsetting balances the carbon footprint of activities by funding projects that remove or reduce carbon dioxide from the atmosphere.**

VAT fraud has been a significant issue in the carbon market in the past. From 2008 onwards, the EU emissions trading allowance market was subject to notable VAT fraud, with fraudulent activity at one point accounting for the majority of trading volumes (see tinyurl.com/2tk7eemm). EU emissions trading allowances were ideally suited for Missing Trader Intra Community fraud, with EU emissions trading allowances being completely fungible and traded on exchanges. The exchange trading allowed rapid chains of purchases and sales to be executed on an anonymous basis, and the exchanges would settle VAT on trades daily. The total amount of VAT lost to such fraud in the carbon market was estimated at €5 billion to €10 billion between 2008 and 2009 alone. The UK share of this ran to hundreds of millions with £83 million lost from a single participant (see tinyurl.com/2nsxpsun).

A large and liquid market with a standardised product is the stated aim of the Voluntary Carbon Market. That this market is now subject to VAT would appear likely to attract VAT fraudsters. Ironically, the more successful the market is, the more attractive it becomes for VAT fraud. In 2008, the total size of the EU emissions trading allowances market was around €20 billion, with around 50% of trades being conducted on exchange (see tinyurl.com/kuh9nyum). Whilst significantly bigger than the current size of the Voluntary Carbon Market, this is within the expected growth range over the next couple of years.

HMRC's notice does extend the zero-rating of the Terminal Markets Order onto exchange traded credits; however, this may not provide substantial defence against VAT fraud as the conditions for zero-rating do not apply to all trades. As observed in the EU emissions trading allowances market, a large exchange trading market (zero-rated) tends to also be accompanied by a large non-exchange (standard-rated) trading market.

Where traders are involved in chains of transactions which involve fraud, there is a risk of HMRC denying input tax recovery on the basis of the 'knew or should have known' test. All participants in this market will now need to be vigilant to ensure that their checks on their counterparties are sufficiently robust to demonstrate the business rationale for the trades, and that they knew who they were dealing with. Fraud is often obvious in hindsight, and documentation that these checks took place in advance of any trading is the key defence to any challenge on input VAT recovery by HMRC.

Businesses should make sure that any contractual arrangements are able to adapt to a changing VAT reporting obligation, should the domestic reverse charge position change in the future.

VAT treatment of offsetting

Carbon offsetting balances the carbon footprint of activities by funding projects that remove or reduce carbon dioxide from the atmosphere. This is a common way in which consumers interact with voluntary carbon credits. When booking flights or using certain services, customers may offset their carbon emissions through a small additional fee. This creates the usual VAT challenges of single vs. multiple supply, especially in the travel sector where underlying supplies are zero-rated.

HMRC has added offsetting arrangements to the VAT Supply and Consideration Manual at VATSC06585 (see tinyurl.com/7vsejt4d) – see below.

Scenario 1: Airline-sold carbon offset as a single supply for VAT purposes

In this scenario, a UK airline offers passengers the option to offset the carbon emissions from their flight directly through the airline's booking process. The airline has partnered with a voluntary carbon credit provider but acts as the contractor with the customer, bundling the cost of the credit with the flight ticket as a single supply. This means that the customer pays for both the flight and the carbon offset in one transaction, so this will usually be a single supply of zero-rated passenger transport.

The HMRC manual at VATSC06585 implies that if the offset is 'optional', then the supply of the voluntary carbon credit will be a separate supply of offsetting and now subject to UK VAT. However, this seems open to interpretation on single vs. multiple supply points as the offset is clearly a means to better enjoy the principal transaction, rather than a separate aim in its own right.

Scenario 2: Airline-directed carbon offset with two separate supplies for VAT purposes

In the second scenario, the airline facilitates the carbon offsetting process by directing customers to a third-party carbon offset provider. The airline does not include the cost of the carbon offset in the flight ticket price, resulting in two separate transactions and supplies for VAT purposes. The customer pays the airline for the flight and pays the carbon offset provider separately for the voluntary carbon credit.

The VAT treatment of the supply by the voluntary carbon credit provider will depend on the exact nature of the offset provided. If they are fulfilled by credits which are then 'retired' by the provider, this will be subject to UK VAT. However, if the offset provider does not fulfil these explicitly with voluntary carbon credits, but only makes a promise that the money provided would be used in carbon offset projects (which may or may not be generating credits), then this would still be seen as outside the scope of UK VAT.

This appears to be a very fine line for HMRC to tread, and we would expect this treatment to evolve further to align the VAT treatment of offsetting services independent of the exact mechanism of how the offsets are achieved.

The place of supply for services to non-business consumers is complicated, and where the offset provider is established outside the UK, the supply may be subject to VAT in the UK or the country of establishment of the offsetter, depending on whether it is seen as electronically supplied or not. This further complicates the aim of fiscal neutrality as many countries still treat voluntary carbon credits as outside the scope of VAT.

Conclusion

The sustainability sectors are rapidly developing and we anticipate that we could see VAT introduced on other types of ecologically-based credits in the future. Given the evolving nature of the voluntary carbon credit market, it is likely that HMRC guidance will further develop as the implications of charging VAT become clearer. The learning from the voluntary carbon capture experience should assist businesses when considering contractual arrangements to ensure that agreements are adaptable should the VAT liability position change.

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Remote and flexible working
A plan for your practice

As remote and flexible working are becoming increasingly common, it is essential to develop appropriate policies and processes to manage the impact on your practice.

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by Karen Eckstein

Remote and flexible working are now a common fact of working life. The rapid increase in their adoption is due in no small part to the extensive changes in working practices during Covid. Although some businesses have almost fully reverted to their pre-Covid working practices, most have adapted to a lesser or greater degree to the desire or need for staff to work from home for some or all of the time.

Businesses have made changes to enable remote and flexible working, and many have incurred costs, largely due to the need for improvement in IT systems and hardware.

However, many businesses have benefited from significant cost savings as a result. These largely have been due to their ability to downsize office space, as reduced numbers of staff attend the physical office at any one time. Other benefits include the opportunity for 'northshoring' – taking into account the number of staff working from home for significant periods of time to relocate the physical office to a cheaper and more efficient location.

However, remote and flexible working bring a number of challenges that need to be addressed in order to take advantage of the opportunities that exist.

Requests for remote and flexible working

It is worth bearing in mind that all employees have the right to request flexible working. The right to make a request now arises from the first day of employment. Employees can request a change to the number of hours they work; when they start or finish work; the days they work; and where they work, which can include a request to work from home.

Employers must deal with such requests in a 'reasonable manner'. This includes assessing the advantages and disadvantages of the application and discussing possible alternatives to the request. Applications can be refused if there is a good business reason for doing so.

Employers must also offer an appeal process. If businesses do not have appropriate processes in place to demonstrate that requests are dealt with fairly and that the needs of the business have been considered, then claims will follow. Further, employees who feel that they have not been treated fairly are more likely to move to another employer, causing significant disruption and cost to the business.

Issues to consider

A request to work flexibly might mean a request for staggered hours or a request to job share. Have you considered how this would work in terms of meeting your client needs?

Your business may be facing an increase in requests for flexible and remote working. We set out below a list of the issues to consider when balancing your practice needs against future flexible working requests – and there will, of course, be other issues relevant to your particular business.

It is worth considering these issues now, so that you can design a flexible working policy to help you consider any future requests. Any policy must suit the needs of the business, allowing for flexibility without damaging the business and client service levels.

Key Points

What is the issue?
Remote and flexible working have become increasingly common and many practices have adapted to allow employees to work from home either partially or fully. This can allow cost savings from reduced office space but also presents challenges that need to be addressed.

What does it mean for me?
Businesses should evaluate the potential impact on information management, providing full business hours coverage, team management and training. Clear policies and processes are necessary to ensure that client service levels are maintained.

What can I take away?
For both employees hot desking in the office and those working from home, employers must address confidentiality risks, such as ensuring private workspaces, laptop security and secure document handling.

Information management: With staff working remotely, the likelihood of relevant information 'falling through the gaps' is increased, and therefore greater attention to these issues is needed. Risks arise if the client files are not kept up to date and there is poor file management.

If information is received or sent via email, good systems, processes and policies are essential to ensure that the information is placed on the central client file promptly, so that anyone working on the file is aware of the information at all relevant times. Telephone and file notes of conversations and meetings are similarly important. Any relevant facts need to be recorded on the file to ensure that those working on the file are aware of the up-to-date information; otherwise, mistakes will happen and claims will follow.

If you still use paper or you hold files, you should also consider the processes you use for data storage. How do you ensure that information is held securely, and do you have a back up plan if papers or files go missing?

Providing full business hours coverage: Consider the risks to your business if everyone asks to work the same core hours (say, 10am to 3pm). What would happen if an urgent matter comes in at 4pm and there was no one around to deal with it? Will staff be around to receive and deal with time sensitive documents?

Similarly, if everyone asks to work from home on Fridays, you must consider whether you do actually need a physical presence in the office. If so, a rota system may be the answer; for example, asking advisers to work from the office every third Friday.

Team management: You may consider that it is appropriate for certain teams to meet in person on a regular basis – perhaps weekly. In this case, any flexible working policy must take into account the need for members of those teams to attend the office on specific days.

Training: Your practice is likely to have trainees or junior members of staff who require in-person supervision on a more frequent basis. In this case, any flexible working policy must not only take into account the requirement for those juniors to be present in the office but also for the need for managers responsible for supervision to do likewise.

Risks in the office

As more people work a 'hybrid' model, where they work from home some of the time, there has been a significant increase in hot desking in the physical office.

Employers should consider whether they are compliant with the Health and Safety (Display Screen Equipment) Regulations 1992. Conducting a a display screen equipment assessment each time an employee logs on at a new hot desk is likely to be considered far too time consuming but will you be in breach if you fail to do so?

A simple solution could be to have a card next to each hot desk with a link to a display screen equipment workstation checklist, requiring each employee to self-assess when they log on. Ignoring the issue may not be sufficient to meet the regulatory requirements.

Other issues to consider when adopting a hot desk model relate to matters of privacy and security. Who can hear your conversations and see your screen? Can clients overhear what is being said to others? It is important to have the space to hold private conversations within the organisation. Consider, for example, whether HR and management should continue to have private offices.

Another important factor to consider is that of laptops. If staff don't have permanent desks, how do they store their laptops from day to day? Do you provide lockers? Do they have to take them home each night and travel with them every day?

Risks in the home

When staff work from home, employers have a duty to undertake a display screen equipment assessment to ensure that the desk and monitor and chair are appropriate for the employee.

But, what about confidentiality issues? Have you considered where in the home your staff work from and whether they can be overheard? Are they working from a private home office or the kitchen table? Consider whether the use of privacy screens and headphones should made mandatory to preserve confidentiality if they are not working in a secure space.

Documentation is another risk area. If your staff can print from their laptops while they are away from the office, you should review your policies. Do you insist that they shred all paper immediately or keep it in a lockable cabinet?

You should also consider your policies relating to laptop security to raise awareness and provide guidance. How secure is the laptop when not used? You can provide a lockable cabinet or box to provide security, for example. Incidentally, this also provides a 'break' between work and home, which can be good for mental health.

PODCAST AVAILABLE
Listen to Karen Eckstein's tips on how to protect your practice at:
www.taxadvisermagazine.com/podcasts

Risks in the 'transient' environment

Risks arise where individuals are working away from the office, whether that be travelling, or working from a café or elsewhere. There are some key issues to bear in mind.

- Train booths and café tables are not private bubbles! Others can hear your conversations. Make sure you speak according to the environment you are in. Staff need guidance and you need a policy which includes how to hold a conversation in a public place, including what you can say and how to say it. You should also cover the use of headphones, if appropriate.
- Address how to use your laptop in a public place. This can include ensuring that the laptop is not overlooked whilst used in public, and perhaps the use of privacy screens. And, of course, a laptop should not be left unattended!
- Your firm needs a policy on whether staff can use public wi-fi or should hotspot from a firm mobile phone instead.
- Provide guidance on how to manage physical files (if any). This can include ensuring that any identifying information on the outside of the files is hidden whilst travelling. And, again, the files must not be left unattended!

In summary, there are a number of risks relating to remote and flexible working that need to be considered. Suitable policies and processes should be put in place to guide and support staff and reduce the risks in order to avoid the issues that may otherwise arise.

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Employment related securities

Absurd results: known and unknown

We consider the Supreme Court's ruling on employment related securities in the case of *Vermilion* and the potentially absurd results brought about by the deeming provision.

by Nichola Ross Martin

Key Points

What is the issue?
We consider the implications of the Supreme Court's ruling in the case of *Vermilion Holdings Ltd* on 'employment related securities' and the application of a deeming provision which aims to provide clarity by conclusively treating certain securities or options as employment related. The court noted that it could sometimes produce absurd results.

What does it mean for me?
We suggest a two-step plan for reviewing the tax aspects of shares and shareholdings: determine if the deeming provision applies; and then whether the exclusions in ITEPA 2003 s 471(3) apply, particularly the exemption for family or personal relationships.

What can I take away?
The exemption for family or personal relationships needs further investigation, as it can lead to strange results, including a situation where a share-for-share exchange could be deemed as acquiring ERS despite there being no tax avoidance motive.

HMRC has updated its Employment Related Securities manuals on the 'deeming provision', almost a year to the day after the Supreme Court passed its judgment in the case of *Vermilion Holdings Ltd v HMRC* [2023] UKSC37.

To recap, the *Vermilion* case centred on the meaning of 'employment related securities' (ERS), in relation to replacement share options and the application of a deeming provision, a so-called 'bright line' test within the legislation. Bright line tests aim to provide total clarity in circumstances where there is a high degree of legal uncertainty.

The idea of a deeming provision in the context of ERS rules is quite sensible on the face of it: it removes any need to find a causal link as to whether a share award is employment related or not.

The provision in Income Tax (Earnings and Pensions) Act (ITEPA) 2003 s 471 (which is mirrored in s 421B) decrees that if you are a director or an employee and your employer (or a person connected to your employer) provides you with the right or opportunity to acquire securities, that right or opportunity is conclusively treated as having been made available by reason of your employment (with a few caveats set out below).

Note that the same deeming provisions apply whether you are looking at securities (s 421B) or securities options (s 471).

The facts of the *Vermilion* case remain of interest not only to the many consultants who have exchanged their services for share options when advising on start-ups over the years but also to many shareholders and their advisers.

The *Vermilion* case

A company (Vermilion) originally granted share options to an accountancy consultancy company (Quest) in lieu of fees. The director of Quest eventually became a director of Vermilion and, during restructuring, Quest's share options were replaced with a different share option plan. The question before the court was whether the replacement options were employment related.

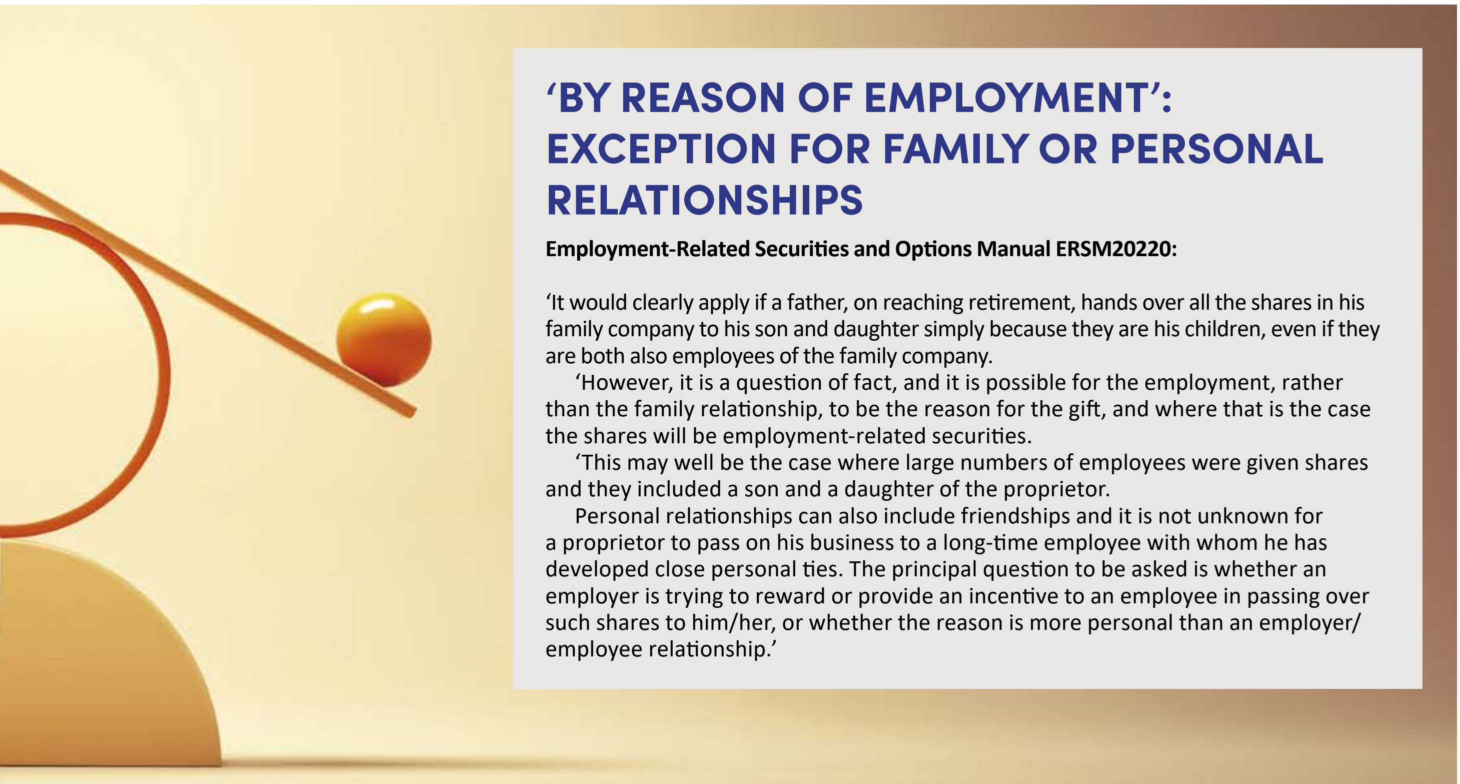
The Supreme Court confirmed that they were due to the operation of the deeming provision in s 471: they linked the director and his company to the employer's actions.

The courts note that there will be situations where a deeming provision produces an absurd result. (See Keith Gordon's article 'Vermilion Holdings: how a deeming provision works in the context of ERS' (December 2023) for their thoughts.)

A two-step plan

Post *Vermilion*, we have a clear two step plan:

1. When reviewing the tax aspects of shares and shareholdings, the first step for ERS is to see if the deeming provision applies.
2. The next step is to consider whether the exclusions set out in ITEPA 2003 s 471(3) apply.



'BY REASON OF EMPLOYMENT': EXCEPTION FOR FAMILY OR PERSONAL RELATIONSHIPS

Employment-Related Securities and Options Manual ERSM20220:

'It would clearly apply if a father, on reaching retirement, hands over all the shares in his family company to his son and daughter simply because they are his children, even if they are both also employees of the family company.

'However, it is a question of fact, and it is possible for the employment, rather than the family relationship, to be the reason for the gift, and where that is the case the shares will be employment-related securities.

'This may well be the case where large numbers of employees were given shares and they included a son and a daughter of the proprietor.

Personal relationships can also include friendships and it is not unknown for a proprietor to pass on his business to a long-time employee with whom he has developed close personal ties. The principal question to be asked is whether an employer is trying to reward or provide an incentive to an employee in passing over such shares to him/her, or whether the reason is more personal than an employer/employee relationship.'

3) 'A right or opportunity to acquire securities or an interest in securities made available by a person's employer, or by a person connected with a person's employer, is to be regarded … as available by reason of an employment of that person unless:
   a) the person by whom the right or opportunity is made available is an individual; and
   b) the right or opportunity is made available in the normal course of the domestic, family or personal relationships of that person.

We have yet to see this exemption tested in relation to ERS and its wording is not as clear as it might be. These phrases could be open to different forms of interpretation.

However, in its manuals HMRC takes the more nuanced view that the carve out will typically apply to allow succession planning, setting out the example of a family company. (See the box above: ***'By reason of employment': exception for family or personal relationships***.)

HMRC is quite guarded in suggesting that the exemption would only apply to a share transfer – the legislation does not say that.

As noted, there is no deeming provision when it comes to the exemption. This means that when deciding whether we can apply the exemption, we need to be highly invested in understanding the full facts and circumstances which led to the share award.

Some strange results…

HMRC's example about exemptions for family or personal relationships has been toned down over the years.

My personal theory is that the exemption in ITEPA 2003 s 471(3) (a)-(b) requires more serious investigation because this is the 'get out of jail card' in so many cases involving small companies, at least.

My long-held view is that if you are a director or shareholder and you direct the allotment shares to yourself, the exemption applies. I can't think of anything more personal than my relationship with myself! Reading around, over the years this seems to be a controversial point amongst some advisers. Even if one does not go so far, ignoring the exemption can still create some absurd results.

Example 1: Employment related and non-employment related shares

Janice, the sole shareholder and sole director of a company, acquired a single £1 ordinary share on incorporation. HMRC (in Employment Related Securities Manual ERSM140040) tells us that these are ERS but there is no ERS reporting requirement if amongst other things:

- the shares are not acquired by reason of or in connection with another employment (whether that is the only employment or one of a number of employments); and
- the shares are acquired by a person who is a director or prospective director of the company, or who has a personal family relationship with the director and the right or opportunity is made available in the normal course of the domestic, family or personal relationship of that person.

As Janice will be a director, her shares are now deemed to be ERS and she cannot now meet the first bullet point above (possibly HMRC's manual needs updating here). Applying the friends and family exemption takes her out of ERS reporting. That makes far more sense.

As trade commences, Janice soon realises that having a single share was a mistake. She resolves to increase the share capital by subdividing her share into 100 shares of 1p. Now she can gift half of her shares to her wife, Joyti, who will also become a director of the company. As she is both a best friend and family, the exemption applies and Joyti's shares are not ERS.

As we can see, if we apply the deeming provision without the exemption we have a company with 100 shares saddled with a rather pointless ongoing ERS reporting obligation. The company now is a deemed employer too. It should also register an unapproved share scheme via PAYE online and it will potentially face penalties if it ignores that. This is a lot to take on board and there is

not even a remote possibility of an income tax charge in relation to the securities themselves. Did parliament really intend that?

Example 2: A share for share exchange between friends

Matt, a director, and his longstanding friend Molly run a couple of small companies, and they decide to pool their resources to form a group. They execute a cashless share for share exchange to add a new Holdco following the reorganisation rules in the Taxation of Chargeable Gains Act (TGCA) 1992 ss 135-137. They are both directors of their new Holdco. Tax clearance was applied for at the time under TCGA 1992 s 138 and Income Tax Act 2007 s 701 for the individuals. There is clearly no tax avoidance motive and HMRC grants advanced clearance.

But hold on! As a result of the exchange, if we apply the deeming provision without any exemption, the two shareholders, as directors of their new Holdco, are deemed to have acquired ERS.

Again, the knock-on effect of this is surely the 'absurd' result that we must avoid. Just as with Example 1, there is no tax avoidance motive and indeed no other employees. Advisers wanting a 'belt and braces' approach will also suggest that they make a s 431 market value election, as the shares are surely restricted securities.

As a result of ignoring the potential to claim the exemption, we have a situation in which a vast amount of otherwise productive time by working people is wasted on form filling. And once that obligation commences, it is with that employer until the offending ERS are disposed of. Surely, we have better fish to fry!

One could argue that it would take more time to prove the exemption applies. Well, if so, this is an absurd result too.

My examples are of fairly typical scenarios that we see regularly in owner-managed businesses. No one really wants to be the test case for the 'friends and family' exemption and HMRC is nervous about illustrating it. There were 14 years between the decision in *Gray's Timber Products v HMRC* [2010] UKSC 4, which was the first ever case to examine 'the complication of the provisions' in ITEPA 2003 Part 7, and the unanimous verdict given in *Vermilion*. Is it time to revise your firm's policy on ERS now?

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Coping with HMRC enquiries

Some practical guidance

Some useful guidance on how to handle a tax enquiry and best practice to ensure that you minimise the risks.

by John Hood

Key Points

What is the issue?
There are two main types of investigations: enquiries, where HMRC has a 12-month window to open an enquiry, and investigations, which cover tax years preceding the enquiry window and where HMRC suspects a loss of tax. The article focuses on proceedings under the Taxes Management Act 1970 and Finance Act 1998.

What does it mean for me?
Advisers should ensure that information requests from HMRC are reasonable, relevant and for the period under review. Providing unnecessary information can lead to additional costs and disputes. If unsure about HMRC's authority, advisers should ask for clarification.

What can I take away?
There are a number of key points to consider when responding to an enquiry, including the relevant period, formal enquiry status, information schedule, deadlines, requests for extensions, statutory records and non-statutory records.

If an error or omission leading to a loss of tax is uncovered, a voluntary disclosure should be made to HMRC as soon as possible. The reasons for the error and the affected periods should be considered, as they impact the potential lost tax, time limits and penalties.

Dealing with an HMRC enquiry can be a daunting task for a client, normally due to the uncertainty as to what the outcome will be and how long it will take. Irrespective of whether HMRC finds anything wrong, it is disruptive for the client. They may lose their focus on their business or work, and become frustrated with the speed at which progress is made or the approach taken by HMRC. The other main consideration is the financial cost of dealing with the enquiry, which can be significant.

Advisers also have the dilemma as to what they should do about their time costs in dealing with the enquiry. It is important to remember that the adviser can add real value to the process. The client will look to the adviser to provide support and guide them through the enquiry process so the costs, while possibly unwelcome, can add value by minimising the client's exposure.

Types of investigation

There are some basic steps that an adviser can take to prepare the client and to minimise the risks, with the aim of resolving the enquiry efficiently and effectively.

It is essential that on receipt of the opening letter the adviser checks which power HMRC is relying on. There are two basic types of investigation:

- **Enquiries:** The Taxes Management Act 1970 and Finance Act 1998 provide HMRC with a 12 month window in which to open an enquiry. It is vitally important that HMRC does this within this time limit, otherwise the enquiry is normally invalid.
- **Investigations:** Investigations normally cover tax years that precede the enquiry window and HMRC has reason to suspect that there may have been a loss of tax. There are time limits, but these depend on the type of behaviour that led to the loss of tax.

This article focuses on the main considerations where your client faces either a tax enquiry under the Taxes Management Act 1970 s 9A (individuals), s 12AC (partnerships) and Finance Act 1998 Sch 18 para 24 (companies).

Sharing information with HMRC

Whatever the type of enquiry, the approach is broadly the same. There are some key issues to consider and be mindful of when reviewing an enquiry letter from HMRC.

One simple check that advisers should make when responding to an opening letter or subsequent information request is to consider whether the request is reasonable and relevant and for the period under review. While it is important to cooperate fully with HMRC, the adviser should be wary of supplying information that HMRC does not have the right to ask for. A good example of this would be to provide bank statements that cover a period prior to or after that covered by the return. Once you provide the information to HMRC, the officer will critically analyse the information to determine whether there may be a risk that there has been a loss of tax.

Advisers may correctly assert that if there has been a loss of tax, there is no issue in providing the information. However, the situation can be more complex than this where the provision of the information leads to a disputed tax liability and significant additional professional costs are incurred to resolve the situation. By ensuring that only information reasonably required is provided, these costs could be avoided. It is always sensible to look at this issue objectively and where it is unclear as to whether the information is reasonably required that advice or guidance is sought.

If the adviser is unsure as to what power HMRC is relying on, ask the officer to confirm the position. Taking these simple steps can avoid problems in the future for both the client and the adviser. Unfortunately, disputed tax liabilities are often discovered by HMRC asking for information it was not entitled to. HMRC will ask for whatever information it considers is needed to check if there has been a loss of tax. It is the role of the adviser to check whether HMRC is entitled to ask for the information.

Key points to consider

1. **Correct address and person:** For an enquiry letter to be valid, the issuing officer needs to ensure that the enquiry letter is addressed to the right individual or entity at the correct or last known address.
2. **Relevant period:** It is important to verify the period that the enquiry covers and if HMRC is still in time to enquire into the period. Generally, this is 12 months from the date of submission for individual Self-Assessment tax returns, but it can extend to up to 15 months depending on the submission date and quarter end dates. For company corporation tax returns, it is 12 months from the end of the due filing date.
3. **Formal enquiry:** Determine if it is a formal enquiry under the Taxes and Management Act 1970 ss 9A or 12AC for individuals/partners or Finance Act 1998 Sch 18 para 24 for companies.
4. **Information schedule**: HMRC normally includes an information schedule with the opening letter, which lists the information that the officer considers is required to check whether the return was complete and correct. Always ask yourself whether the information is reasonably required to check the accuracy of the return and relevant to the period under enquiry.
5. **Information deadlines**: Note the deadlines for providing the requested information. Normally, HMRC provides 30 days to respond to an information request or enquiry letter.
6. **Requests for further time to respond**: While it may be necessary to ask for an extension to provide the relevant information, it is important to remember that HMRC will often grant a further 30 days but issue a formal information notice under Finance Act 2008 Sch 36. This can lead to a penalty for not complying with the notice and impact any reduction in the penalty where HMRC establishes that tax is owed. It is good practice for the adviser to project manage the supply of information to minimise the risk of penalties.
7. **Statutory records**: HMRC is entitled to ask for the statutory records of a business and there is no right of appeal against this request.
8. **Non-statutory records**: It is not uncommon for HMRC to ask for information which may not be relevant to the tax return, such as a director's personal bank statements in a company enquiry or for the overseas bank statements of an individual who is non domiciled and subject to tax on the remittance basis. While there may be a valid reason for the request, it is incumbent on the adviser to consider the risks associated with providing information that may lead to a new line of enquiry or unduly prolong the enquiry.

Once you have considered whether the enquiry notice is valid, the adviser should take the following action:

- Gather all the relevant documents and details requested by HMRC. Check to make sure that the information is reasonably required to check the return and that it is for the relevant period.
- Review the information to understand the context and implications of the information requested. If there is anything that may need to be disclosed to HMRC, it is important that the adviser discusses this with their client straightaway and that a disclosure, where applicable, is made as early as possible. The main reason for this is that HMRC will review the timing of any disclosure when considering the penalty position.

- Respond to HMRC with the necessary information and any explanations or clarifications within the time limit provided by HMRC. If further time is required, it is important to request this before the deadline expires.

Voluntary disclosures

In dealing with the enquiry notice, the adviser may uncover an error or omission from the return, which has led to a loss of tax. It is important that a disclosure is made to HMRC as soon as possible and that the implications are fully considered. HMRC will critically analyse any disclosure to consider whether it may have an impact on earlier or later returns and the reasons for the error or omission. The reasons for this are twofold; to determine the potential lost tax and whether HMRC is in time to recover the tax.

It is best practice to consider what happened, which years or periods are affected and how this happened. (Was it a genuine error, a failure to take reasonable care or, in some cases, deliberate?) The reason for the loss of tax will not only affect whether HMRC is able to recover tax for earlier periods but also whether there is a tax-geared penalty. The normal time limit to recover tax is no more than four years after the period to which it relates; where there was a failure to take reasonable care the time limit is extended to six years; and for more serious matters the time limit is 20 years.

When considering whether a penalty is applicable, HMRC will wish to establish the behaviour that led to the loss of tax and to what extent the penalty should be reduced, which is based on telling, helping and giving – in other words, the level of cooperation provided, the timing of any acceptance or disclosure of a liability and the provision of the relevant information.

By considering these points, the client and adviser can potentially reduce the penalty by half, so it is essential that proactive steps are taken as this can have a significant impact on any liability.

How to resolve a dispute

There are inevitably situations where HMRC and the taxpayer may not agree on a liability. While HMRC offers alternative dispute resolution to resolve a disputed tax liability, the adviser can take proactive steps throughout the enquiry to minimise the risks. Being responsive, cooperative and constructive will almost always have a positive effect on the enquiry.

It is sensible to consider whether a meeting would be useful, as it sometimes difficult to convey all the facts in a letter. Written communications, while very important, do take time and money to deal with. While HMRC may not be able to travel to the adviser's office to meet in person, a virtual meeting can also be very beneficial. It is essential that the discussions are constructive and that every effort is made to listen and better understand the position. What are the obstacles to resolving the dispute and how can these be resolved?

It is very rare for HMRC to conduct an enquiry on a random basis into a tax return, so it is safe to assume that the compliance team has already identified a risk that there has been a loss of tax. Understanding the risks and working with HMRC to resolve any concerns is essential to achieving a successful outcome for the client, as this will minimise the disruption, the professional costs and uncertainty.

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Tribunal penalties
Suspension of disbelief

We consider the penalty consequences when a claim for entrepreneurs' relief was wrongly made, examining the tribunal's decision to impose penalties for carelessness and its narrow interpretation of suspension rules for one-off errors.

by Keith Gordon

In the June issue of *Tax Adviser,* I reported on the *Cooke* case ('Two DP or not two DP, that's the problem'), where an individual was able to secure a claim for entrepreneurs' relief, despite having a shareholding that was below the minimum 5% threshold. The facts of that case were, of course, exceptional.

In this article, I consider the more recent case of *Cox v HMRC* [2024] UKFTT 510 (TC), where again an entrepreneurs' relief claim was made despite the taxpayers' shareholdings falling below that threshold. The question for the tribunal on this occasion was whether, in addition to the additional capital gains tax payable, the taxpayers were required to pay HMRC a penalty under the rules in the Finance Act 2007 Sch 24 for wrongly claiming the relief.

The facts of the case

The appellants were a married couple who owned some of the shares in a trading company. Together with some of the other shareholders, in 2018 they decided to sell their shares to four other co-shareholders. The transaction was to be in cash.

At that time, the appellants each owned 6.4% of the shares in the company (and had at least 5% both of the voting rights and of the rights to the proceeds on any distribution on winding up).

In April 2019, a meeting was held with all the shareholders at which it was confirmed that each of the shareholders owned sufficient shares to be entitled to entrepreneurs' relief (which was later renamed business asset disposal relief) and that all the other conditions for relief

Key Points

What is the issue?
The case of *Cox v HMRC* involved a married couple who sold their shares in a company after reducing their shareholdings below the 5% threshold required for entrepreneurs' relief. They claimed the relief erroneously, and HMRC imposed penalties for careless conduct, refusing to suspend the penalties.

What does it mean for me?
The First-tier Tribunal found the taxpayers careless for not seeking professional advice after being told they qualified for the relief and then changing their shareholdings. It also rejected the proposed suspension conditions, believing one-off errors were unsuitable for suspension and that a face-to-face meeting with their tax adviser would not help prevent future errors.

What can I take away?
The error was an honest mistake, and the ability to rely on professionals should be considered when determining reasonable care. The tribunal's narrow interpretation of the suspension rules highlights the complexity of tax rules and the dangers of making assumptions about reliefs.

were met. In relation to two of the outgoing shareholders (not the appellants), it was noted that the entitlement to entrepreneurs' relief was less clear cut and they were advised to seek specialist advice.

The directors of the company (who were some of the shareholders) were concerned to ensure that the proceeds that they received from the sale appropriately recognised the contributions to the company made by each of the shareholders. To effect this, the parties agreed to redistribute some of the shares between themselves prior to the sale.

Accordingly, prior to the sale, the appellants gave some shares to other shareholders, taking each of their own shareholdings to approximately 4.1% of the company's overall ordinary share capital. The appellants were assured that these gifts would not give rise to any capital gains tax on the basis that the gifts would qualify for holdover relief and that there would be no inheritance consequences.

However, as readers will immediately appreciate, that step did preclude the appellants from being able to claim entrepreneurs' relief on the subsequent sale of the rest of their shareholdings. However, not realising this, the appellants claimed entrepreneurs' relief on their disposal of their remaining shares, which took place in May 2019.

This point was, however, not identified by any of the advisers who were acting in relation to the sale. (It could be argued that they were not contracted to advise the appellants on this aspect of the sale. The solicitor said: 'At first glance I do not see anything wrong with the proposal ... but I am not an out and out tax expert.') Nor was it identified by the appellants' accountant, who had been advising the appellants and preparing their tax returns for many years 'reliably and accurately' when he prepared their 2019/20 tax returns the following year.

HMRC opened enquiries into the appellants' tax returns and promptly identified the error. They decided that the claim to entrepreneurs' relief amounted to a careless error and then refused to suspend the penalties imposed on each of the appellants. The reason for refusing to suspend was that the enquiry itself had taught the appellants the conditions for what is now business asset disposal relief, and therefore it would not be possible to identify conditions of suspension that would help the appellants from making a similar error in the future.

The appellants appealed against the decision to impose the penalties for careless conduct and, in the alternative, against HMRC's refusal to suspend the penalties.

The First-tier Tribunal's decision

The case came before Judge Ruthven Gemmell and Ann Christian.

The tribunal considered that the appellants had been careless. It was not a sufficient defence that the appellants had sought professional advice when their tax returns were prepared. According to the tribunal, the carelessness was due to the appellants 'not taking professional advice after having been told that they qualify for entrepreneurs' relief and then changing their shareholdings... [T]hey completed their tax returns based on previous advice based on different facts.'

In relation to the suspension, the tribunal was taken to a range of conflicting decisions of the First-tier Tribunal. In particular, in an early case on suspension, *Fane v HMRC* [2011] UKFTT 201 (TC), the First-tier Tribunal stated that 'HMRC's guidance indicating that a one-off error would not normally be suitable for a suspended penalty is understandable and, in our view, justified'. On the other hand, *Eastman v HMRC* [2016] UKFTT 572 (TC) was one of several cases in which the tribunal took the contrary view.

None of these cases was binding on the First-tier Tribunal, which in this instance decided that there were no possible suspension conditions that could satisfy the statutory requirement of helping the taxpayer to avoid becoming liable to further penalties for careless inaccuracy in a tax return.

A part of the tribunal's difficulty was its belief that one-off errors would not normally be suitable for suspension. Furthermore, the First-tier Tribunal rejected the suggested suspension conditions being that the appellants have a face-to-face meeting with their tax adviser each year, as this 'did little more than transfer what had been carried out electronically to a face-to-face meeting'.

In rejecting the appellants' proposal, the First-tier Tribunal noted that their adviser had accurately and competently completed their tax returns without requiring any face-to-face meeting and therefore that such a meeting was unlikely to have any effect on the accuracy of future tax returns.

As a result, the First-tier Tribunal upheld HMRC's refusal to suspend the penalty.

Commentary

The appellants' error was clearly an honest and in many ways an understandable mistake. From the perspective of a non-tax specialist, it is not surprising that an individual told that his shares qualified for entrepreneurs' relief would not appreciate that that was contingent on maintaining a 5% shareholding up until the final sale of the shares. The appellants' assumption that all was in order is even less surprising when the company's solicitor said that he could not see anything wrong with the proposals, even if he said that he was not giving formal tax advice.

As tax practitioners, we are of course trained to spot these problems and our instinct is to tell lay taxpayers not to assume anything. However, is it reasonable to expect taxpayers to seek advice at every step – and to pay for it? (If you experience an ache or skin rash, for example, do you automatically seek medical attention or do you wait a while and, if the problem goes away, assume that it is nothing to be concerned about?)

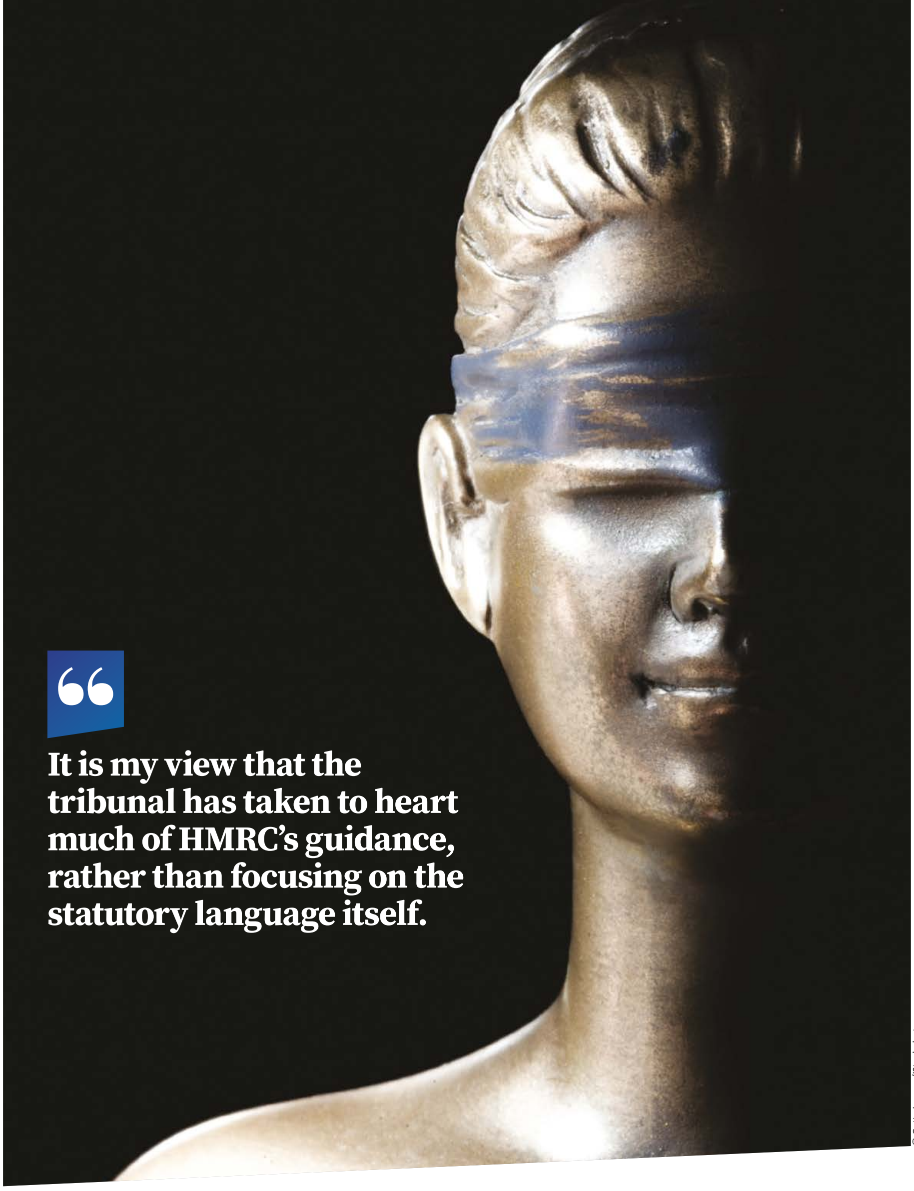
Whether rightly or wrongly, there is a general assumption within the tribunals that making assumptions about tax that turn out to be incorrect amounts to a failure to take reasonable care and therefore exposes a taxpayer to potential penalties.

Nevertheless, let's proceed on the assumption that the appellants' decision to proceed with their share disposals, without double-checking that they would be entitled to claim entrepreneurs' relief, amounted to careless conduct.

That carelessness does not give rise to any penalty (besides a larger tax liability than might have been expected) because the statutory test for a penalty requires (in this case) the taxpayers to *claim* entrepreneurs' relief erroneously and carelessly. The erroneous claim was made when the taxpayers' returns were submitted (in 2020); and therefore the question is not whether the actions taken in 2019 amounted to carelessness but whether the subsequent submission of the tax returns with the entrepreneurs' relief claims was careless.

Here, it should be remembered, the appellants did take further advice and from an accountant who had served them well for two decades. In some ways, this fact disproves one aspect of the tribunal's reasoning: 'the carelessness was [the appellants] not taking professional advice'. It is somewhat unfortunate that their accountant did not spot that the April 2019 gift of shares took the resulting shareholding below the 5% threshold: unlike the position for the company's solicitors, this is surely something that the accountant should have spotted and should have been expected to check when the tax returns were prepared.

I fully accept that the appellants could have done more at various stages. But I do think that they did not act unreasonably (when looked at overall) and, in particular, they took reasonable



It is my view that the tribunal has taken to heart much of HMRC's guidance, rather than focusing on the statutory language itself.

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care to ensure that their tax returns were correct by engaging a seemingly competent professional to assist them. This is not to suggest that every taxpayer who uses an adviser to prepare a return should escape a penalty if the tax return proves to be incorrect (and understates the taxpayer's liability). However, in my view, in such cases, HMRC should need to show why such a step was not sufficient to amount to taking reasonable care. Otherwise, the concept of an error arising despite taking reasonable care becomes increasingly illusory.

Indeed, the ability to be able to rely on professional advice would seem to reflect the statutory wording in Sch 24. Furthermore, it would also seem to satisfy the policy intention behind the rules, which is to encourage taxpayers to get their tax affairs right: such a policy would be best achieved if taxpayers were encouraged to seek appropriate advice (and, more importantly, not discouraged from taking such steps).

So far as suspension is concerned, it is my view that the tribunal has taken to heart much of HMRC's guidance, rather than focusing on the statutory language itself. All that the legislation requires is that conditions of suspension 'would help [the taxpayer] to avoid becoming liable to further penalties [under Sch 24 para 1] for careless inaccuracy'.

There is nothing that precludes a penalty being suspended simply because the error arose in relation to a one-off transaction. Indeed, the legislation fairly means that the steps should help the taxpayer to not make a careless error on a tax return; there is nothing that requires the conditions to be focused on preventing a similar type of error.

Even if taxpayers might occasionally err (unintentionally but due to a failure to take reasonable care), it should be assumed that once advised of their error, most are unlikely to repeat the error and won't require a whole set of 'suspension conditions' to achieve that aim.

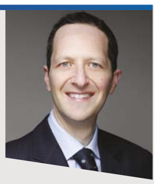
The First-tier Tribunal thought that the suspension rules should not operate as a 'get out of jail free card'. However, I would ask, why not? In the case of a one-off error, the error arose simply because there was something that the taxpayer had overlooked when dealing with a one-off transaction. Why should the taxpayer in such a case not be permitted to take steps that will help the taxpayer avoid making careless errors of any kind in the future? Why should suspension be limited to more routine errors, particularly as such errors are likely to be less forgivable than ones arising from one-off transactions?

In the same vein, I also fail to understand why the use of a tax adviser, say, should not be an acceptable condition for suspension, even if that tax adviser has been used for several years already. After all, the legislation does not expressly require additional steps to be taken. The purpose of the suspension rules is to show that penalties are not to be used as a cash-generating measure but merely an incentive to future and ongoing compliance. That policy objective is not going to be achieved by restricting unduly the cases where a penalty may be suspended.

Indeed, it is worth remembering what the First-tier Tribunal said in *Fane*, the case heavily relied upon by HMRC in the present case to justify its refusal to accept suspension terms. Uncontroversially, the tribunal noted that the suspension conditions should be those that are likely to have the desired effect of avoiding carelessness penalties in future. In *Fane*, the tribunal then gave an illustration of a case where such an effect was unlikely – that 'the taxpayer in question has previously breached other conditions or has a record of repeated non-compliance'. The present case involved taxpayers at the opposite end of the spectrum where, with the help of their professional adviser, they had an unblemished compliance record. Ironically, that fact appears to have counted against them when they sought the suspension of their penalties.

What to do next

The most important lesson from this case is that tax is complicated and how dangerous it can be to make assumptions about whether a particular relief will be available. That said, it remains my view that the appellants were somewhat unlucky to be saddled with the penalties in this case as, at the very least, a suspension ought to have been available.



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Life's a cruise? New ways of working

As global mobility and remote working become more common, we consider the tax implications for an individual living and working full-time on the Villa Vie Residences cruise ship.

by Sofia Thomas and Rebekah Spain

Imagine a world where all your meals are cooked for you, your home is cleaned each week, you visit dozens of countries a year and you may also have no liability to income tax.

In this article, we explore the unique world of Villa Vie Residences, a cruise ship where individuals can own a villa at sea. Owning a villa at sea means that residents can enjoy life aboard the ship for the duration of its life (or a minimum of 15 years). Villa Vie allows individuals to 'explore the world without ever leaving home'.

Many of the individuals who have moved into cabins have sold their homes and intend to live full time on the ship. As well as offering a new home, the ship also has a business centre for residents complete with coffee facilities and private meeting rooms. If a consultant from the UK purchased a home on board, what does this mean for their tax status? And would circumstances be different for an employee working on the boat, rather than for the residents?

Case study: Valentina

Valentina is a UK tax adviser, and is the director of her own company which is registered in the UK. She has no employees. Valentina was born and raised in the UK. She recently sold her UK home and purchased a home on Villa Vie Residences. Valentina intends to continue working as a tax adviser while she travels the world. She moved onto the boat at the end of September 2024. We will now examine the tax position for Valentina with regards to her company, salary and dividends, and consider how – and if – she will break residency.

Residency and tax

In the UK, residents are generally subject to income tax on their worldwide income and gains. Therefore, the first step is to determine how and when Valentina would break residency from the UK.

Residency is determined by the statutory residence test as set out in

Key Points

What is the issue?
Villa Vie Residences is a cruise ship where individuals can own a villa and live full-time while traveling the world. Many residents have sold their homes and intend to live aboard the ship permanently. We consider how residency status and tax obligations would change after moving onto the ship.

What does it mean for me?
The statutory residence test in the UK determines whether an individual is considered a resident or non-resident for tax purposes based on the number of days spent in the UK and other factors. A non-resident would only be taxed on UK-sourced income; however, if UK residency is resumed within five years, certain income and gains realised during the non-resident period may become taxable in the UK.

What can I take away?
We consider the tax implications of remote work, including potential double taxation, permanent establishment rules, and the complexities of navigating different legal and tax systems based on the employee's location.

Finance Act 2013 Sch 45. The statutory residence test is split into three tests and must be read in order:

- The first section determines if an individual will be considered automatically non-resident.
- The second test determines if an individual will be considered automatically resident.
- The third test determines if an individual will be considered resident or non-resident under the sufficient ties test.

Excluding death, there are three automatic overseas tests:

1. The individual has spent fewer than 16 days in the year in the UK: Valentina does not meet this test as she spent the first six months of the tax year in the UK.
2. The individual has not been resident in the UK for the three tax years preceding the year and has spent fewer than 46 days in the year in the UK: Valentina does not meet this test as she has been resident for the previous three years.
3. The individual has been working overseas full time for the year and has spent fewer than 91 days in the year in the UK, of which there no more than 30 days where the individual does more than three hours of work.

Definitions

This test has several words to work through.

Working

According to Finance Act 2013 Sch 45 para 26, Valentina will be considered to be working at any time when she is 'doing something':

- in the performance of duties of an employment held by her; or
- in the course of a trade carried on by Valentina, alone or in partnership.

'Employment' in this context has the meaning given in Income Tax (Earnings and Pensions) Act s 4. 'Trade' for this purpose, includes: a profession or vocation; or anything that is treated as a trade for income tax purposes, within the meaning of Income Tax (Trading and Other Income) Act 2005 s 11(2).

Valentina meets the definition of working and would therefore meet this condition.

Full time

Full time is defined as working 'sufficient hours', which constitutes working for 35 or more hours per week, on average, across a relevant reference period. There is a five step computation to work out if the sufficient hours test is met at Finance Act 2013 s 14(3). In addition, there are to be no significant breaks of more than 31 days.

Valentina meets the sufficient hours condition.

Overseas

The United Kingdom means England and Wales, Scotland and Northern Ireland. It also includes the territorial sea of the United Kingdom. This is relevant if the cruise ship is in the waters of the UK, as indeed it was when it recently unexpectedly docked in Belfast for four months.

However, overseas means anywhere outside of the UK. Therefore, the fact that Valentina is not working in another country or territory while on board ship outside UK waters does not preclude her from breaking residency under this tie. She would therefore break residency under the condition of working full time overseas.

Tax position as a non-resident

This is a complex area and this section offers the briefest of comments on Valentina's tax status as a non-resident.

As a non-resident, Valentina is subject to tax on UK sourced income only. All of Valentina's income is employment income, and would there remain taxable in the UK on income that was earned for employment duties performed wholly or partly in the UK.

However, employment income earned by Valentia for duties performed wholly outside of the UK would not be taxable in the UK, according to the Residence, Domicile and Remittance Basis Manual RDRM10425. Therefore, providing the work was not performed in UK waters, Valentina's salary would not be taxable in the UK. Dividends would also not attract UK income tax.

Temporary non-residence rules

Alongside breaking residency, Valentina would have to ensure she remained non-UK resident for five complete years to ensure that other income and gains remained outside the scope of UK tax.

Special rules apply to individuals who realise gains a period of temporary non-UK residence under the Taxation of Chargeable Gains Act 1992 s 1M. The rules operate to ensure that an individual who leaves the UK (and achieves non-resident status) but subsequently returns (and resumes UK resident status) is chargeable to capital gains or income tax on gains or income realised the period of absence on the disposal of assets owned prior to departure if these two conditions are met:

1. Valentina was resident for at least four out of the seven tax years immediately prior to departure; and
2. the period of non UK residence is less than five years.

Under the Residence, Domicile and Remittance Basis Manual RDRM12660, the income and gains caught by these provisions are:

- certain pension payments, lump sums and certain other charges;
- income taxable under the disguised remuneration rules;
- remitted foreign income (for remittance basis users);
- distributions from closely controlled companies;
- loans to participators written off or released;
- chargeable event gains; and
- offshore income gains.

If Valentina resumes UK residency within five years and has earned income or gains as specified above, these will become chargeable to tax on the date of her return. This would include dividends paid from her company but not her employment income.

Remote workers in general

When people hear the term 'remote working', they often envision working from a sunny beach anywhere in the world. While this sounds appealing, the reality is that most employers restrict remote work to the home location of the employee or business.

Remote working has surged in recent years, primarily due to the recent global pandemic, which accelerated technological advancements and shifted workplace cultures. The growing use of video conferencing platforms and collaborative software, along with the introduction of nomad visas, has further supported this trend. Beyond nomad visas, remote working presents significant advantages for both employers and employees, including flexibility, reduced commuting times and potential increases in productivity. However, it also brings challenges, particularly concerning tax considerations; for example, employees may face tax obligations based on their work location.

Many countries have tax rules tied to residency or the physical location where work is performed. Working in a different country from the employer's headquarters can lead to double taxation or require employees to file taxes in multiple jurisdictions. In countries with tax treaties, like the UK and several European nations, individuals may be protected from double taxation but still need to comply with local tax filing requirements.

From an employer's perspective, remote work introduces complexities related to corporate taxes, payroll taxes and employee benefits. Employers must navigate different legal and tax systems based on where their employees are located. They also need to consider permanent establishment rules, which dictate where an employee can create a taxable presence of the employer. Failing to manage these risks could result in a business being taxed in a foreign location, especially if a remote worker is deemed to create a taxable presence there.

The case of Villa Vie Residences illustrates a unique aspect of remote working, as these individuals are constantly moving between jurisdictions. Unlike traditional remote workers, Villa Vie residents are in a state of perpetual motion, rarely spending significant time in any one country, which complicates tax residency determinations. While nomad visas can benefit remote workers abroad, they may not apply to Villa Vie residents due to their transient nature.

When considering tax residency for remote workers on the ship, individuals should consider the following points:

- Employees of Villa Vie Residences will not break residency under the statutory residence test. Cruise ship workers are subject to tax as international transportation workers under Finance Act 2013 Sch 45 para 30. As employees, their duties will be relevant if they are performed on board a ship while it is travelling.
- Some jurisdictions suggest that tax residency for globally mobile individuals can be determined by the location where income is generated. This means that income earned while working in international waters may not be subject to the same income tax as earnings in a specific country.

As remote work continues to evolve, navigating these legal and tax considerations will be crucial for ensuring compliance and maximising the benefits of this new work paradigm. By staying informed and seeking professional advice, remote workers can better manage their tax responsibilities, allowing them to focus on their work and enjoy the freedom that remote working provides.

Unexpected stops and physical boundaries

In the summer, the Villa Vie ship faced an unexpected challenge when it broke down in Belfast, resulting in an unexpected stay of four months. As the stop was in Belfast waters, it means that the residents on board will be deemed to be residing in Belfast this period. Therefore, any employment income earned by Valentina these four months would be taxable in the UK.

This situation raises important questions about tax residency and how it applies to individuals temporarily working in Belfast. As mentioned above, in the UK the statutory residence test determines tax residency. Generally, individuals who spend 183 days or more in the UK within a tax year are considered tax residents. However, a four month stay could also result in residency if the individual has additional ties to the UK.

If classified as tax residents due to their four month stay in Belfast, individuals may be subject to UK income tax on any income sourced in the UK or globally.

HMRC has historically shown leniency in unexpected situations that cause individuals to overstay in the UK. the pandemic in 2020, HMRC indicated that individuals who were unable to leave the UK due to travel restrictions would not automatically be considered tax residents for that period. Although the Villa Vie case is not a global pandemic, the underlying principle remains: individuals unable to leave the UK may not be classified as tax residents (although see Keith Gordon's discussion of a 2022 case in 'The statutory residence test', October 2023).

In conclusion

In an era where global mobility is more accessible than ever, Villa Vie Residences redefines the concept of home by offering a unique living experience aboard a cruise ship. This lifestyle allows residents to travel the world in what will likely be a tax advantageous way. However, unexpected situations can complicate tax obligations. Ultimately, Villa Vie exemplifies the need for proactive tax planning and informed decision making in a world where work and transient living seamlessly intertwine.

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Profile: Rebekah is a Senior Tax Manager in an international Fintech firm. She is ex-Big 4 with a focus on global mobility and tax advisory for PE backed businesses. She is a Chartered Tax Adviser (CIOT) and Chartered Accountant (ICAEW).

It's time to complete your 2024 Annual Return.

Don't get caught out. Stay compliant.

All members (excluding those who are students or fully retired) are required to complete an Annual Return confirming their contact and work details, plus compliance with legal and membership obligations such as:

- Continuing Professional Development
- Anti-Money Laundering supervision
- Professional Indemnity Insurance

Please check that you have completed your return before the deadline of 31 January 2025 by logging on to the Members portal (https://pilot-portal.tax.org.uk) then click on the banner 'Annual return 2024 now open'.

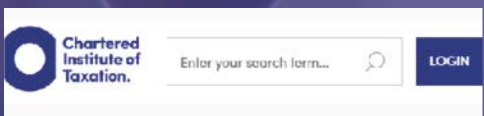
Or you can navigate to Secure area/Members Area/Compliance/Annual Return and select 2024 Annual Return.

STEP BY STEP GUIDE TO COMPLETING YOUR 2024 ANNUAL RETURN

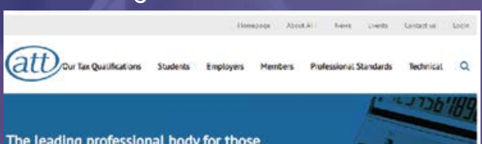
1. Login

On the ATT or CIOT website click 'Login' located in the top right corner of each home page.

www.tax.org.uk



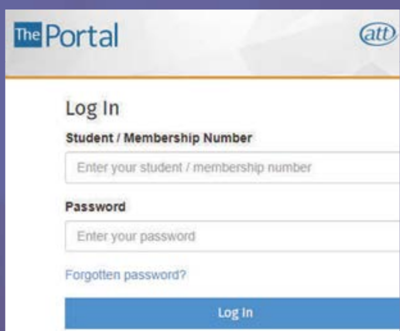
www.att.org.uk



2. Portal

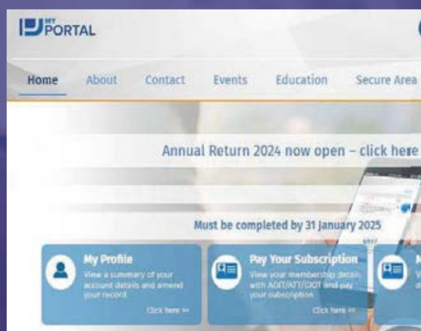
To access your account on the portal please use your:

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



3. Submit

Click on the banner 'Annual return 2024 now open'.



Questions on how to complete the form? Please see our FAQs: https://www.tax.org.uk/annual-return-guidance | https://www.att.org.uk/annual-return-guidance.

31 January 2025 is the deadline for submission. Failure to complete an Annual Return is contrary to membership obligations and will result in a fine or referral to the Taxation Disciplinary Board.

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Qualifying years

Training the future of the tax profession

How can you develop your own career in tax and help those who are starting out in your practice. Alex Maton shares his thoughts on the importance of training and mentoring, and we talk to several ATT members who have benefited from the ATT Qualification.

It might be an easy thing to overlook when we are busy pursuing our careers in tax, but even the busiest of us should pause to remember the beginning of our journey – when we first entered the profession without the knowledge and experience that we now take for granted.

Remembering where we began reminds us of the things that first excited us about our chosen career. We can use this knowledge to inspire the next generation of professionals. This article discusses important aspects of early careers, and how we can work with students, employers and each other to bring on a positive future for the profession.

Where we start, and why it matters

For most people, careers begin at school. Exam results direct us and opinions are formed from what our parents, teachers and contemporaries tell us.

However, according to the Institute of Government and Public Policy, 70% of secondary students 'do not know or are unsure about what they want to do for a career when they leave school' (see tinyurl.com/53xzrazh).

Many of us have seen this for ourselves. I represented my firm at a careers fair to find that most students were unaware of the professional opportunities available to them. Universities enjoyed a bumper uptake, while apprenticeship stands stood empty.

> **Diversity enourages progress and we can only have diversity if we recruit at different levels of experience.**

I entered tax as a graduate, lucky that my degree included taxation modules. Nevertheless, I always find it disappointing to hear talented colleagues' stories of career advisers and teachers warning them away from apprenticeships that turned out to be a perfect fit for them.

This is a shame when young people can gain so much from professional work, whether as a school leaver or as a progression from university. Whichever course students decide is best for them, they need to be aware of the possibilities to make an informed choice.

Diversity encourages progress, and we can only have diversity if we recruit at different levels of experience. To achieve this, we need to educate schools in the opportunities available, whether through outreach events, advertising or work placements. The ATT, CIOT and other professional bodies are already doing excellent work to promote professional training among young people, but there is always more to be done.

Where and how we train

A large part of our experience as young professionals is informed by the place we choose to train. A good fit leads to a lifelong career, while a bad fit encourages us to look elsewhere. In order to ensure the best fit in as many cases as possible, firms need to make prospective employees aware of the many different options available to them.

Working from home means we do not have to head for big cities, and work-life balance prompts many to avoid big firms too. There are now many possibilities in industry, the public sector, law and finance, as well as the traditional private client firms.

The choice of employer is therefore about more than scale and reputation. We need to have this in mind when advertising the tax profession to young people, and when choosing who to hire.

Smaller firms need not try to compete on salary when they can win on flexibility, and specialists might convince a candidate who is not attracted by general practice. By playing to our strengths and differences, we can encourage a broader and better uptake of new talent.

STARTING OUT AS AN APPRENTICE

'I joined Larking Gowen straight from sixth form. I had applied for university but decided that I would also apply for some apprenticeships, as I thought they might lead to a good career. I had applied to Larking Gowen to work in their accounting department, but they offered me a position in tax and I've really enjoyed it!

When I joined, I was set up with a 'buddy', who I could talk to about the training and the work. That's really helpful because when you are on an apprenticeship straight from school, you are suddenly surrounded by people of all different ages and levels of experience – which is very different to what you're used to. But you soon find out that you can talk to everyone and learn about everyone's lives.

It would be useful for employers to let new starters know what area of tax they'll be working in, and give them some information and basic pointers about the tax rules. Then even though everything is new at the start, they'll have notes to refer back to and can build upon that. I initially started out in personal tax where I was taught our internal processes and how to prepare a tax return. I have since progressed to CGT, trusts and Inheritance tax for trusts. At the start, I found there was quite a lot of information to take in. You'll have lots of questions and it's important to have assistance. But, of course, your work is reviewed by someone with more experience who will give you feedback, and you'll learn from that process.

When I started to study with ATT, my first written paper was the personal tax paper. That helped a lot because as I studied I was learning more about the rules. I remember thinking, "Oh, so that's why we do that at work!"'

Chloe Griner, Tax Assistant at Larking Gowen

CHANGING CAREER PATHS

'After attending an open day at my local college by the Association of Accounting Technicians, I started working in accountancy at a local airport for private jets and people learning to fly – a strange place for a 19 year old to find themselves. But quite a lot of people who worked for Big Four companies used to go flying for the afternoon – and by sheer fluke I heard that there was a job opening in Deloitte's tax team!

I was already AAT qualified and I'd studied a little bit of tax as part of that which I'd enjoyed, and when I was at Deloitte I started studying the ATT. I completed the qualification when I was at another firm. I had an exemption for two of the exams because I was AAT qualified, so I was able to finish the qualification quite quickly – and passed first time with a distinction.

'That was about ten years ago, and it did help me to build my career. The opportunities have to be there, of course, but it did open up doors. And the quality of my work was improved because I had a better grasp of the technical issues. It was a really good grounding to my tax career.

People won't know everything on day one so it's important to be patient. It's not just about learning the tax rules but everything else that goes along with it, including how a business works! But it's important to be open and willing to work with your new starters. I had one manager who had done the role for a long time – but just because you've always done things in a certain way doesn't always mean it's the right way. Be open to what your new recruit can offer and it might help you to see something with a fresh pair of eyes.'

Connor Whelan, Tax Manager at Mercedes-Benz

Teaching and learning

Once we have decided to pursue a career in tax and where to do it, the next stage is professional training.

This is the trainee's chance to find out whether they have made the right decision, so they should be given as much encouragement as possible. This means having the opportunity and time to learn.

Studying may not count towards chargeable hours but pays in loyalty and enthusiasm. It is also important to be up to date with new rules, not just experienced with old ones, which means that a trainee's contribution to a meeting or piece of work can be as valuable as a partner's.

For employers, this may mean reviewing study leave entitlements, or it may mean giving breathing space for senior staff to train others without affecting efficiency targets. Training should be kept at the top of any firm's priorities, not least because it benefits us as much as the people we mentor. As Seneca the Younger said around 2,000 years ago, 'By teaching, we learn.'

What next for members...

Learning does not stop at qualification, as any member will have discovered.

BUILDING A LIFELONG CAREER

‘I started out working in accountancy but soon realised that tax was much more interesting! Although you can be working with the same clients every year, what you might be doing for them can be very different. So I changed track to do my ATT and I’ve now been working in tax for nearly 20 years.

I’ve always worked full time, so used my holiday for studying for a number of years, but I found it very useful to do the ATT alongside my job. It can be so helpful when what you’re studying correlates with what you’re doing in practice in the tax department. For me, the two worked really well together. There were things that I’d heard people talking about in the office but hadn’t had any practical experience with, such as inheritance tax, so the ATT does really help your professional development.

About 10 years ago, I had lunch with Vanessa Fuller – we’d worked together in the tax department in an accountancy practice, and were still friends. She asked me if we should do this for ourselves, and together we started Premier Tax Solutions!

When you’re taking on new starters, it’s important to think about their skills and personality type, and how they will fit into the business. Some people are very engaged and keep coming to you asking what they can do next. Do you need someone who likes to get things done quickly and be in charge, or someone who is a caring team player? Are they going to be detail oriented and want their work to be as perfect as possible? You can help people to develop their technical skills, but getting the right people in the right roles is good for everyone!’

Emily Precious, Director at Premier Tax Solutions

ATT IS A MILESTONE, NOT A STEPPING STONE

Georgiana Head, ATT member and ATT Council Member, reflects on why gaining ATT membership is a milestone in your tax career.

ATT is a great qualification for a tax professional who wants to show that they understand UK tax and are capable of dealing with complicated compliance work. When I completed the exams in 1997, it helped me to understand the practical tax work that I had been doing over the previous couple of years. ATT is the gold standard for tax compliance work. To qualify, you need to pass your exams and have two years of practical tax experience – then students can apply for ATT membership. Members are entitled to use the designatory letters ‘ATT’ after their name and the descriptive title ‘Taxation Technician’. It is not enough to just complete your exams – you need to become a member to gain all the benefits of being an ATT.

As part of your membership of ATT, you are given a wide variety of members’ benefits including the annual annotated copy of the Finance Act, Tolley’s Annual Tax Guide, a Tax Rate Card, Whillans’s Tax Tables, a weekly newsletter, access to the ATT mentoring programme – and, of course, Tax Adviser! It would actually cost you more than the cost of your membership to buy all these publications directly.

Your membership also helps to access all sorts of support from the Association, such as AML supervision and an ‘Employer Focus’ newsletter if you set up your own practice. We even support for hardship through the Tax Advisor’s Benevolent Fund. After 10 years, you can also apply to become a Fellow of ATT.

If you decide to go and complete CTA your joint membership cost is heavily discounted.

It’s amazing what membership of ATT can do. For me, it has led to volunteering on steering groups, and gaining confidence in my knowledge of governance of a charity. As a direct result of my volunteering and the skills I have picked up chairing meetings, I have gone on to become a school governor, a chair of governors, a parish meeting chair and a trustee of other charities. My membership of ATT with its ongoing CPD has also helped me to have confidence when dealing with my own business’s tax – whether that be VAT, payroll issues or corporate tax.

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Profile: Alex is a Chartered Accountant and Chartered Tax Adviser. He was Law Editor for an educational magazine and worked at a top ten accounting firm where he also trained junior staff. Alex read Law, including Taxation, at the University of Oxford.

To keep them interested, junior professionals need to have exposure to as many practice areas as possible. Even those who find their niche early on benefit from variety, because few problems are simple enough to be solved by one tax discipline alone. Experience in different areas reduces the risk of omission and means that we can provide a more comprehensive service to our clients.

This means managers being supportive when a trainee wants to explore a new discipline and more understanding when a qualified member wishes to diversify their workload. As with training before qualification, it is in the employer’s interest to have staff who are knowledgeable and motivated, and time given to this end is often repaid many times over.

...and what next for the profession?

Below are key takeaways that I believe could make a positive change for the future of the profession. These are drawn from my experience as a junior member, my involvement in early careers training and my collaboration with those I worked with and helped to train.

This is by no means an exhaustive list and I would be glad to hear suggestions and experiences from other members and students.

- Educate schools and universities about the benefits that tax careers can offer, especially professional apprenticeships.
- Advertise the variety in the tax profession; throw out old stereotypes.
- Encourage new talent by giving attention to training and mentoring.
- Mandatory professional supervision could go a long way to publicise the value of careers under the ATT, CIOT and counterparts. At the time of writing, this is under review as part of the government consultation on ‘Raising standards in the tax advice market – strengthening the regulatory framework and improving registration’ (see tinyurl.com/mpwesxc9).

The tax landscape is not becoming any simpler, making professional tax advisers more important than ever. The positive difference they can make is the best encouragement we can give to anyone considering a future in tax.

AI for Tax

Navigating the future of taxation

The CIOT is delighted to launch AI for Tax to help you start your AI journey.

AI for Tax modules

Module 1: Introduction to AI and Machine Learning in Tax

1.1 What is AI?
1.2 Traditional AI Applications in Tax

Module 2: Generative AI and Large Language Models (LLMs)

2.1 Understanding Generative AI and LLMs
2.2 Real-world applications of GenAI in tax

Module 3: Ethical, Legal and Privacy Considerations

3.1 Ethical Implications of AI in Tax
3.2 Legal and Privacy Concerns

Module 4: Implementing AI in Tax Workflows

4.1 Designing AI-Powered Tax Solutions
4.2 Practical Productivity Tips for Working with LLMs

Module 5: Risks, Challenges and Future Trends

5.1 Risks and challenges of AI in tax
5.2 The future of AI in tax

AI for Tax is a new short course designed to help kick start AI learning. It will provide you with the skills and knowledge to begin to understand how AI can add to the tools you use to deliver tax advice to your clients. The tax landscape is constantly changing and advances in tax technology are increasing efficiencies. Tax advisers can work faster, more accurately and respond better to regulatory and reporting changes.

It's critical that we keep up with the rapid pace of change. This is why we are delighted to launch our second digitally focused learning programme, AI for Tax, following the success of the CIOT Diploma in Tax Technology.

What can AI do?

AI and Generative AI (GenAI) are revolutionising the tax profession, opening up new possibilities for efficiency, accuracy and strategic decision making. As in many other sectors, AI is radically changing the way that tax professionals will work, from automating time-consuming tasks like data entry, compliance checks and reporting, to enhancing fraud detection and helping to manage audit risks. Gen AI takes this even further, offering powerful tools to analyse vast amounts of data, generate actionable insights and assist in providing responses to complex tax queries.

Understanding AI and GenAI as they are being deployed in tax is essential for professionals who are looking to remain competitive in a rapidly evolving field. As these technologies become integral to tax workflows, those who can critically embrace them will be able to provide more effective client support. Understanding AI capabilities allows professionals to better perceive the opportunities and risks that these technologies present, helping them to stay at the forefront of change in this new era of tax.

How can we help?

That is why we have introduced AI for Tax, an introductory eight hour course on these revolutionising technologies, designed to provide professionals with the foundational knowledge to start exploring the fascinating world of AI and GenAI in tax contexts. If you are a tax professional working in practice or industry, or if you are seeking to move into a tax technology environment, then this course will help you to kick start your learning and provide a relevant introduction to AI and machine learning.

Coefficient has been selected as the course provider to develop and deliver this introductory course, and we consulted with industry experts to ensure that the latest and most relevant learning is available across the five modules, which includes a total of eight hours of learning.

Through this course, participants will gain understanding of AI and GenAI technologies, and the knowledge to make informed decisions when overseeing AI projects and working with technical vendors. CIOT's AI for Tax is an accessible, online, easily digestible short course which includes quizzes, case studies and podcasts for an engaging learning experience. The course includes modern AI (GenAI and large language models), as well as more traditional AI. It also covers data science, deep learning and machine learning. It offers a light introduction to general AI concepts, the history of AI and machine learning, and neural networks, with interactive and real-world examples, case studies and exercises relevant to the tax domain.

The course is designed to develop learning and can count towards your continuing professional development obligations for the year. There is no examination beyond the self-assessment exercises within the programme and it provides the ideal introduction to tax technology from which you can move into our Diploma in Tax Technology.

As an Institute, we pride ourselves on being at the forefront of tax education where evolving technologies will support our members. We strive to update and develop the Diploma in Tax Technology and our new AI for Tax course, to keep pace with the ever-changing tax technology environment. Find out more at: www.tax.org.uk/ai-for-tax

Vicky Purtill
Director of Education, CIOT

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WELCOME

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December Technical newsdesk

I have just celebrated nine years as Head of Tax Technical at the CIOT, starting in the role on 16 November 2015. Just four weeks later – and so 'celebrating' its own nine-year anniversary on 14 December – making tax digital (MTD) was announced. I remember a room full of professional body representatives and other tax stakeholders at the Government Conference Centre in London, waiting to hear what the fuss was all about – and everyone's shock when the then Financial Secretary to the Treasury David Gauke MP announced MTD.

I could not find the original 'road map' online but I do have my own copy from the launch. In this vision of digitalisation, tax and tax administration would be transformed by 2020 to make it more effective and more efficient for taxpayers. Bureaucratic form-filling would be eradicated (taxpayers would not have to tell HMRC information they already know), unnecessary time delays would be eliminated (the tax system would operate much more closely to real time) and taxpayers would have access to digital accounts (with the information HMRC needs automatically uploaded, bringing an end to the tax return). These reforms would transform the experience of millions of taxpayers by building a transparent and accessible tax system fit for the digital age.

By 2020 most businesses, self-employed people and landlords would be keeping track of their tax affairs digitally and updating HMRC at least quarterly via their digital tax account. These changes would be introduced for the self-employed and landlords for income tax from April 2018, for VAT from April 2019, and for corporation tax from April 2020.

Nine years later, it would be tempting to say that none of this has been achieved. But millions of individuals and businesses are using personal and business tax accounts, and the HMRC app is increasing in popularity. However, the tax return lives on, delays seem to have increased and the challenges of delivering the business aspects of MTD have been well documented.

The CIOT, ATT and LITRG have been 'living and breathing' MTD since its announcement. Many of us at the launch event nine years ago are still part of that engagement process now, which can be contrasted with the frequent changes in project leadership or technical personnel we work with at HMRC.

Coincidentally, I think we are on our ninth minister for tax since MTD's announcement – an average of one a year. Each of these changes in personnel, whether at the helm of the project within HMRC, or at ministerial level, have offered a glimmer of hope for those who want the project to go away. You would be forgiven for thinking that the project – which has been deferred several times, is already eight years late (assuming income tax goes ahead in April 2026), has had swathes of the population taken out of scope and is well over budget – might finally be put out of its misery. Surely a new government would finally scrap it?

Well, the Budget would have disappointed anyone in that camp. Far from calling it a day, the government has 'doubled down' on MTD and has promised to reduce the income tax turnover threshold from £30,000 to £20,000 by the end of the Parliament.

Maybe in another nine years we will look back and wonder what all the fuss was about. But mostly I hope that what we have already learned will not be forgotten, so that future policy development on such a scale is not quite so bumpy.

GENERAL FEATURE

The future looks… varied and busy: a roundup of Budget consultations

The Budget announcements included a large number of consultations that the technical teams of the CIOT, LITRG and ATT will be looking at over the coming months. As ever, input from our members is always valuable and welcome.

Our work on the day of Autumn Budget 2024 and immediately afterwards are covered in the article by George Crozier in the Briefings on page 58. We will also be providing briefings to MPs ahead of their Parliamentary scrutiny of the budget and the Finance Bill.

As well as the measures that were announced or confirmed, and which will be legislated for in the Finance Bill, the government announced a large number of consultations on a broad spectrum of other measures that are being considered and/or need further work. The technical teams of CIOT, LITRG and ATT will be busy looking at these in the coming months and we always welcome input from our members.

We summarise the consultations that have been published below.

The Tax Administration Framework Review: new ways to tackle non-compliance

This consultation (see tinyurl.com/yv9m7sf5) forms part of the government's commitment to modernising and reforming the tax administration framework. The government is seeking views on how HMRC tackles non-compliance and how this could be made more efficient and effective. Two areas for potential improvement are considered in the consultation document:

1. Changes to HMRC's existing powers and processes:
   - introducing additional information requirements for claims for tax reliefs and allowances;
   - reforming the revenue correction notice provisions; and
   - introducing a 'partial enquiry' power to allow an enquiry into a specific issue.
2. A new power for HMRC to issue a 'taxpayer self-correction notice' to impose a legal obligation on taxpayers to self-correct inaccuracies in a submitted return, without needing HMRC to pursue the risk by using their enquiry powers.

Simplifying the taxation of offshore interest

The government is seeking views on how to simplify the taxation of offshore investment income to reduce administrative burdens for taxpayers and to improve the efficiency of HMRC's compliance work.

The consultation document, 'Simplifying the taxation of offshore interest' (see tinyurl.com/3pett53v), explains the challenges arising from information on offshore interest being provided under international exchange of information agreements on a calendar year basis, rather than on a UK tax year basis. It asks for views on how to address these challenges, including the option of taxing individuals on non-UK interest arising in the year ended 31 December in their self-assessment tax returns. It notes that the number of taxpayers affected is likely to increase with the reform of the non-dom rules and removal of the remittance basis.

Inheritance tax on pensions: liability, reporting and payment

The government has published a technical consultation on the processes required to implement changes to inheritance tax rules for pension funds and death benefits, 'Inheritance tax on pensions: liability, reporting and payment' (see tinyurl.com/d9hmpu8p). The government has also said that after the consultation, it will publish a response document and carry out a technical consultation on draft legislation for these changes in 2025.

Business rates

The government has published a discussion paper which sets out its priority areas for reform of the current business rates system, 'Transforming business rates' (see tinyurl.com/2knvbcn8). These include:

- whether the current 12 months improvement relief is effective;
- the importance of business rates and other taxes and reliefs, such as capital allowances, in making investment decisions;
- the impact of losing small business rates relief on expanding to a second property;
- the effect of cliff edges in the multipliers (that is, the current system is a 'slab' not a 'slice' system); and
- the efficacy of empty property relief in facilitating improvements to property.

The government will also consider shortening the gap between the antecedent valuation date and valuations coming into effect, increasing the frequency of revaluations. It will consult separately on introducing a business rates general anti-avoidance rule.

The new information obligation (broadly, a requirement to notify of business rates liability) will now begin rollout from 1 April 2026. Digitisation of business rates (matching business rates data with HMRC business level tax data) will be delivered by March 2028.

Tackling the hidden economy by expanding tax conditionality to new sectors

This consultation discusses expanding tax conditionality to new sectors, namely waste, animal welfare and transport, 'Tackling the hidden economy by expanding tax conditionality to new sectors' (see tinyurl.com/bp6awbmk). This would require licence holders in these sectors to undertake checks that confirm they are appropriately registered for tax. Tax conditionality is already in force in the taxi and scrap metal sectors. We are particularly interested in hearing from members who have some knowledge of how it is working in these two sectors.

Carried interest

Broadly, carried interest is the allocation of an equity fund's profit share paid to investment managers in connection with their management activities. The CIOT responded to a consultation earlier this year considering how carried interest should be taxed. In our response, we said that any decision to subject these payments to income tax, rather than capital gains tax, should be made with a complete understanding of the likely commercial implications (particularly amongst international markets). Thought should also be given to how any changes would apply to non-UK resident individuals and entities as part of a wider review of the rules. Our submission can be found here: www.tax.org.uk/ref1354.

The government published a summary of responses to this consultation, and this document also included a further consultation around its plans to introduce a revised tax regime for carried interest which sits wholly within the income tax framework. The consultation asks about the qualifying conditions that would put a carried interest within the new regime. Further details can be found at: tinyurl.com/yd8w9ua4.

Offshore anti-avoidance legislation

The government has published a call for evidence, 'Personal tax: offshore anti-avoidance legislation' (see tinyurl.com/3unpjm5v) that seeks to understand and identify areas where the personal tax offshore anti-avoidance rules could be improved or updated, including the settlements legislation and transfer of assets abroad rules. The government intends to explore options to modernise these rules to remove ambiguity and uncertainty in the legislation, make the rules simpler to apply in practice and ensure these anti-avoidance provisions are effective. It is intended that this exercise will be the beginning of a process, with responses to the call for evidence being used to inform areas which will be subject to a formal consultation in 2025.

International tax compliance and cryptoasset reporting

The previous government announced its intention to implement the Organisation for Economic Co-operation and Development's (OECD) amendments to the Common Reporting Standard and the OECD's Cryptoasset Reporting Framework (CARF). A consultation was launched at Spring Budget 2024 seeking views on the implementation of these new rules and changes. The government has now published draft regulations.

The International Tax Compliance (Amendment) Regulations 2025 (see tinyurl.com/2whacdrn) will amend the existing rules to reflect the OECD's recent amendments to the Common Reporting Standard. The Cryptoasset Service Providers (Due Diligence and Reporting Requirements) Regulations 2025 (see tinyurl.com/2tkcesn8) will implement the OECD's CARF.

The draft regulations are open for consultation and have been published alongside the summary of responses 'Cryptoasset Reporting Framework and Common Reporting Standard' (see tinyurl.com/3nf92hnw) to the previous consultation.

Reform of air passenger duty for private jets

The government is consulting on a proposal to extend the scope of the higher rate of air passenger duty (APD) to all private jets, including business jets, 'Reform of air passenger duty for private jets' (seetinyurl.com/mhtr5fdj).

Soft drinks industry levy review

The government is reviewing the soft drinks industry levy's sugar content thresholds and the exemptions for milk-based and milk substitute drinks. It has published a policy paper, 'Soft drinks industry levy review' (see tinyurl.com/4ajhn97s) setting out the objectives, scope, approach and points of contact for the review, welcoming contributions from all interested stakeholders.

We would welcome your thoughts and comments on any of the above calls for evidence, consultations, discussion and policy papers. Please send these to your organisation's technical inbox – technical@ciot.org.uk, atttechnical@att.org.uk or technical@litrg.org.uk – or to one of the technical officers.

Looking further ahead

The Budget also trailed a significant number of consultations for 2025, so watch this space for these coming out as well.

Strengthening the controls on access to HMRC's agent services

The government has said that it will invest in improvements to HMRC's tax practitioner registration services and will mandate registration of tax practitioners who interact with HMRC. In the summary of responses to the 'Raising standards' consultation undertaken earlier this year, 'Raising standards in the tax advice market: strengthening the regulatory framework and improving registration' (see tinyurl.com/2d95h9bh), it is noted that consultation respondents were strongly in favour of taking this step.

Consequently, it is the government's intention that from April 2026 onwards, all practitioners who interact with HMRC on behalf of a client will have to register with HMRC before doing so. HMRC will apply checks to all tax practitioners who register. HMRC will publish a technical consultation on the legislation ahead of Budget 2025 that our Professional Standards team will respond to.

Other future consultations are listed below, with their paragraph reference in the Autumn Budget document (Autumn Budget 2024 (see tinyurl.com/2jckkjym):

- E-invoicing (5.20);
- Enhancing HMRC's powers and sanctions against tax adviser facilitated non-compliance (5.25);
- Ending contrived car ownership schemes (5.28);
- Tackling promoters of marketed tax avoidance (5.36);
- Making better use of third-party data (5.45);
- Energy profits levy (5.76);
- Land remediation relief (5.97);
- Guest beers consultation (5.99);
- Spirit Drinks Verification Scheme (5.100);
- Remote gambling duty reform (5.107);
- R&D tax reliefs: improving administration (5.111);
- Advance tax certainty for major projects (5.112);
- Capital allowances: tax treatment of predevelopment costs (5.116); and
- Modernising transfer pricing (5.119).

Look out for these in the New Year – our technical teams certainly will be.

Sacha Dalton sdalton@ciot.org.uk

GENERAL FEATURE PERSONAL TAX
MANAGEMENT OF TAXES

Simple assessment: not so simple perhaps?

LITRG considers some of the knotty imperfections of the simple assessment system.

From HMRC's point of view, there are three main ways an individual can be assessed to income tax:

- by submitting a self assessment tax return;
- under the PAYE system; and
- by receiving a simple assessment calculation.

Simple assessment can almost be thought of as a 'last chance saloon'. Anyone who owes income tax, but does not fall within HMRC's self assessment criteria and/or does not have a suitable source of PAYE income to collect the liability, will usually fall within simple assessment.

HMRC issue simple assessments automatically in the months following the end of the tax year. Taxpayers do not have to register for simple assessment or prompt HMRC in any way, save for cases where HMRC are not aware of a particular income source. However, can this lull a taxpayer into a false sense of security? Or for some taxpayers, can this lack of control result in a certain sense of unease? The picture might be different depending on the taxpayer concerned and the income sources in question.

Simple assessment in the legislation

Simple assessment is an important feature of the legislation regarding 'notice of liability to income tax and capital gains tax' (Taxes Management Act (TMA) 1970 s 7), as it provides a legislative 'let out'.

In summary, TMA 1970 s 7 sets out that a person is required to notify HMRC that they are chargeable to income tax within six months of the end of the tax year (that is 5 October), unless:

- they are already within self assessment and have received a notice to file (which has not been withdrawn);
- all of their income is taxed under PAYE or is otherwise deducted at source at the appropriate marginal rate; or
- they have received a simple assessment, and this correctly assesses the income tax due.

This final bullet is the 'let out' referred to earlier, and can be both a great strength and potential weakness in the system. This becomes clear when looking at how simple assessment works in practice.

GENERAL FEATURE

Scotland: inquiry on framework legislation and Henry VIII powers

The CIOT, LITRG and the ATT submitted a joint response to the inquiry into framework legislation and Henry VIII powers published by the Delegated Powers and Law Reform Committee of the Scottish Parliament.

The committee launched the inquiry with a view to finding out more about how framework bills affect parliamentary scrutiny and stakeholders engaging with the Scottish Parliament on legislation. It also wished to hear stakeholders' thoughts on how Henry VIII powers are used. The inquiry can be found on the Scottish Parliament's website at: tinyurl.com/4w87y62j.

Framework legislation sets out principles for a policy but does not provide substantial detail on the face of the bill as to how that policy will be given practical effect. Instead, it provides broad powers to fill in the detail at a later point, often by ministers through secondary legislation. Henry VIII powers allow ministers to amend acts of parliament by secondary legislation. The joint CIOT, LITRG and ATT response focuses on tax legislation.

We state our view that tax law should be set out in primary legislation, particularly where it relates to the exercise of powers setting out what is subject to tax and imposing obligations or burdens on citizens. Similarly, changes to that primary legislation should be made by primary legislation. Secondary legislation should ideally be used only for administrative matters. We do not think the use of Henry VIII powers is appropriate in respect of tax law.

Questions have been raised as to why this should be the case, and why the current process of using Scottish Statutory Instruments is not sufficient for changing tax law. In our response, we explain that it is difficult to scrutinise framework legislation, because by its very nature, the full import of measures that can result from it are unknown at the time given over to its scrutiny.

In addition, there are significant challenges in relation to the accompanying secondary legislation. This is because a Scottish Statutory Instrument, once laid, has to be adopted in its entirety. It cannot be amended and must stand or fall as drafted.

We note the tension between introducing a tax change quickly and ensuring adequate scrutiny, so that the legislation is effective. While Henry VIII powers offer the ability to make changes quickly, they do not offer the space for consultation and scrutiny that tax legislation, which can often be complex, requires.

We use our response to set out why we think it would be helpful if there was an annual finance or tax bill process in Scotland. In particular, we think this would offer an appropriate and timely opportunity to make changes to tax legislation, while ensuring the need for robust scrutiny is met. This would mean there is no need to wait for a parliamentary slot and would allow inequities to be alleviated more quickly. This would help to ensure the tax system is viewed as fair, building trust in the tax system. Having to await the next piece of primary tax legislation, as is currently the case, means a lack of certainty for taxpayers, stakeholders and policymakers as to when necessary changes are likely to be made.

The full joint CIOT, LITRG and ATT submission is available here: www.tax.org.uk/ref1394.

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Simple assessment in practice: the concerns

LITRG has been taking stock of the current simple assessment process and has the following concerns:

- HMRC have indicated that simple assessments will not be issued where the tax owed is 'small' and would be outweighed by the cost of collection. HMRC are unwilling to explicitly set out what they consider to be a small liability. This leaves advisers (and LITRG!) in a tricky spot. For instance, how can we provide guidance on the LITRG website advising a taxpayer with a small liability (and who has not received a simple assessment) to just ignore their obligations, when TMA 1970 s 7 specifically says they have a duty to notify HMRC? In the absence of a simple assessment, the taxpayer must technically make the notification.
- Simple assessment calculations are not always issued before the statutory notification deadline of 5 October. HMRC have suggested that most simple assessments will be issued by the end of October, but this leaves taxpayers who have not received a simple assessment by 5 October in limbo – to notify or not to notify? And again, can advisers comfortably just tell taxpayers to 'wait and see', given the notification deadline in TMA 1970 s 7?
- Simple assessments are based on the information HMRC have in their possession. Often, this will be income sources such as state pension and bank interest. But how reliable is this data? And what about income where there is no data feed? HMRC do not receive data for dividend income or other sources, unless the taxpayer has already got in touch to tell them. The simple assessment letter does advise taxpayers that they can 'appeal' a simple assessment within 60 days in cases where there is a discrepancy, but this is an additional burden on the taxpayer. Further, there is currently no 'easy' way to tell HMRC about other income sources before the simple assessment is issued, other than by phone or post.
- Finally, we have heard anecdotally that the simple assessment calculation itself can be wrong. Our assumption is that HMRC's computation software for simple assessment is not programmed to the same parameters as for self assessment, which can lead to incorrect tax liabilities showing due (both for and against the taxpayer). It is currently unclear how many taxpayers might be affected by this. But whatever the number, how many taxpayers will be able to recognise and challenge such errors? Again, in the case of an 'under-assessment' a taxpayer faces another situation where they are left exposed under TMA 1970 s 7, as the simple assessment 'let out' is not fully satisfied. We consider this an urgent problem and advise any agents who deal with simple assessment cases to check the calculation carefully.

LITRG is raising these issues with HMRC, as we feel they have the potential to severely undermine taxpayers' trust in this 'simple' method of settling outstanding income tax liabilities.

If members have any views or experiences of the current simple assessment process, please feel free to get in touch.

Antonia Stokes *astokes@litrg.org.uk*

INDIRECT TAX

That's of interest (VAT)

On 1 January 2023, HMRC introduced new penalty and interest rules that changed the way VAT registered persons were penalised if they made late submissions of VAT returns and made late payments of VAT. Whilst the new system was welcomed for its less punitive approach for late payment penalties than the former default penalty system, not everything improved for late payment interest.

Late payment interest is charged on underpaid taxes in order to represent 'commercial restitution'; that is to compensate the Exchequer for the loss of the use of monies during the period the tax had been unpaid. However, for transactions subject to VAT supplied to 'fully taxable' VAT registered persons, that is those who are able to recover all VAT on their costs (subject to the usual rules), the VAT declared by the supplier is normally able to be promptly recovered by the customer. If the supplier charges the VAT late, the customer can only recover it at the later time so there is still no overall loss of use of the monies.

Example

If the supplier does not charge the right amount of VAT at the right time, say where a supply of construction services was treated as zero-rated initially but subsequently found to be standard rated, the supplier must raise a VAT invoice to correct the tax. The customer is only able to recover the VAT at the time they received the corrected invoice. However, for the supplier, the corrected VAT would still be due from the original date of the supply (ignoring transactions below the voluntary disclosure thresholds).

Under the old default interest system, the late payment interest due on a VAT error in an earlier period where that same VAT was fully recoverable by the customer could be inhibited by HMRC under their discretionary powers. This was on the basis that if it had been charged at the right time, the customer would have recovered it at the right time too. Under the new system, HMRC no longer have discretionary powers to inhibit the interest, so the supplier in this example would have to pay interest on the error from the date of the original supply to the date that the error was resolved.

Autumn Budget 2024

Prior to the Autumn Budget, the CIOT submitted a Budget representation (see www.tax.org.uk/ref1361) on repayment interest and commercial restitution. The submission discussed the wider issue of the impact of HMRC charging a higher interest rate for late payments made by taxpayers as opposed to cases where they repay taxpayers late themselves, and also called for the re-introduction of HMRC discretionary powers to inhibit late payment interest for VAT.

Unfortunately, the Budget did not re-introduce discretionary powers and the position will be worsened by the introduction of a 1.5% increase to the interest rate on unpaid tax from April 2025. We voiced our concerns in our post-Budget press release (see tinyurl.com/3m38wtkz). We will continue to raise our view with the government that the re-introduction of discretionary powers for HMRC to inhibit interest in cases where no commercial restitution applies is long overdue.

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OMB INDIRECT TAXES

Using a simplified VAT scheme could unexpectedly trigger Making Tax Digital for Income Tax compliance

LITRG explores how the way in which turnover is calculated for accounts purposes when a small business uses the VAT flat rate scheme may inadvertently create Making Tax Digital for Income Tax obligations.

The 2024/25 tax year is effectively the 'base year' for triggering Making Tax Digital (MTD) for Income Tax compliance from 6 April 2026. It might be helpful to consider how accounts are prepared for self-employed clients with turnover of under £50,000 who are voluntarily registered for VAT, to ensure that they are not unintentionally brought into the MTD for Income Tax net. These clients should of course already be submitting VAT returns in line with the MTD for VAT rules unless they have been granted exemption. There is more on exemptions from MTD below.

For a client who is voluntarily VAT registered and using the Flat Rate Scheme (FRS), their turnover would usually be shown in the accounts inclusive of the associated VAT; and then the FRS VAT due at the appropriate percentage rate would be charged as an expense in the accounts. For example, for someone with sales income from self-employment of £45,000 in 2024/25, using the limited cost trader rate of VAT of 16.5%, the relevant figures in the accounts would be:

Turnover: sales £45,000 + VAT £9,000 = £54,000
Expenses: FRS VAT due £54,0000 x 16.5% = £8,910

In this example, the turnover figure on the short self-employment pages of the 2024/25 self assessment tax return would be £54,000. This exceeds the MTD for Income Tax entry threshold of turnover of £50,000 or more, even though the net income position for this business is £45,090 (i.e. £54,000 - £8,910). HMRC have recently confirmed that this business would need to comply with the MTD for Income Tax rules from 6 April 2026, unless it was granted exemption by HMRC (see below).

It is worth noting that HMRC's Business Income Manual (at BIM31585) suggests that where a trader is using the FRS VAT scheme, their turnover should be shown as the net position, that is sales including VAT less FRS VAT due. This would be £45,090 in the above example and so would mean that the MTD for Income Tax threshold would not be breached.

For voluntarily VAT registered small businesses using the cash basis for accounting purposes (which is the default accounting basis for 2024/25 onwards), guidance on GOV.UK says they can record income and expenses either VAT inclusive or VAT exclusive (see tinyurl.com/2j9f62m7).

Therefore, if the trader chooses to record income as VAT inclusive in their business records, the turnover figure on the self-employment pages of the 2024/25 tax return will be a VAT inclusive amount. This will then give a similar problem as above in that the VAT element of the income itself could tip a self-employed trader over the MTD for Income Tax threshold.

If a business is filing VAT returns under the MTD for VAT rules, it should already be using software for record-keeping. Depending on the software used, it is perhaps unlikely that the accounting will lead to this issue arising. But for those currently using spreadsheets and bridging software, modifications may be needed to the record-keeping, so the VAT is accounted for separately and the income and expenses are shown net of VAT in the accounts.

With regard to exemption from MTD obligations, if a trader has been granted exemption from MTD for VAT, they should also be automatically entitled to exemption from MTD for Income Tax without having to reapply. Even if a trader is not exempt from MTD for VAT, they might still consider that they meet the criteria to be exempt from MTD for Income Tax and so wish to submit an exemption application to HMRC. The exemption process is still being developed by HMRC but we expect exemption applications to be possible from

GENERAL FEATURE

Tribunal Procedure Committee: Written reasons consultation

The CIOT and LITRG have submitted a joint response to the Tribunal Procedure Committee's recent consultation which proposes changes to the First-tier Tribunal (Tax Chamber) rules concerning the provision of written reasons for decisions.

Time limit for requesting written reasons

The consultation proposes reducing the time limit for requesting written reasons for a tribunal decision from 28 days to 14 days. In our submission, we acknowledge that prompt requests can improve the efficiency of proceedings, but we are concerned that a 14 day period may disproportionately affect unrepresented or vulnerable taxpayers.

These groups may need more time to understand the issues, seek advice and respond effectively. The existing 28 day period offers flexibility, also accounting for potential delays such as postal issues or holidays. Shortening the time limit could increase late requests, consuming judicial resources and potentially leading to greater administrative burdens. Therefore, we suggest retaining the 28 day time limit to ensure fairness, particularly for taxpayers who may need additional support.

If the reduction to 14 days is implemented, we recommend that the tribunal adopts guidelines for late requests in cases involving vulnerable or unrepresented taxpayers, considering personal circumstances such as digital capability. This safeguard would ensure that taxpayers in these categories are not unfairly disadvantaged by the shorter timeframe.

Provision of written decisions

We express some concerns with the proposal to restrict full written reasons to the unsuccessful party when an oral decision, with reasons, has already been given at the hearing. We recommend the introduction of a practice direction to guide judges on which cases are in scope and when a full written decision is required, ensuring consistency and clarity in the tribunal's approach.

We think the proposal presents a risk that decisions on substantive or complex points of law may not be written up, leading to the loss of important decisions that could have wider relevance. There will be times, for example, when advisers would need to know the reasons for the successful appeal to assist in their arguments relating to similar cases. Limiting access to full written reasons to the unsuccessful party could also create an imbalance between taxpayers and HMRC, who will always have a better understanding of unpublished case information since they are party to all tax cases.

We have reservations about relying solely on the 'interests of justice' test for determining whether a full written decision is warranted. We support the tribunal's desire to streamline and speed up the process, but we believe that a more structured approach, through a practice direction, would offer clearer guidance.

This would also help to ensure that key decisions, particularly those with wider implications, are documented and accessible to all parties.

In cases where oral reasons are provided, it would also be helpful to ensure that these reasons are captured in some form of written or recorded format, particularly for unrepresented parties who may not have the resources to request or retain transcripts of hearings.

The full joint CIOT and LITRG response is available here: www.tax.org.uk/ref1395.

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April 2025, well in advance of the MTD for Income Tax start date of 6 April 2026. There is more information on exemption from MTD for Income Tax on GOV.UK at tinyurl.com/mre5yuk2.

We would be interested to hear from you if you think some of your clients might be brought into MTD for Income Tax as a direct consequence of their VAT accounting.

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PERSONAL TAX EMPLOYMENT TAX

Form P87: new evidence requirements for employment expenses

LITRG explains HMRC's new evidence requirements for people making standalone claims for tax relief on employment expenses using form P87.

From 14 October 2024, people who want to claim tax relief on employment expenses using form P87 also have to provide supporting evidence. For many claims, the process has also reverted to 'paper and post' until HMRC are able to build the digital capability to accept evidence via the online claim form.

HMRC have published a briefing paper setting out the background and explaining more about the new evidence requirements (see tinyurl.com/mtw2tjdy). At LITRG, we have published a news article to highlight the changes to the P87 process and updated our website guidance (see tinyurl.com/mr326aph). The new requirements only apply to standalone P87 claims – there is no change for claims made via self assessment.

The purpose of the new evidence requirements is to try to ensure that HMRC only pay tax refunds to taxpayers who are eligible for tax relief. HMRC say that they will check the evidence and confirm whether claimants are entitled to tax relief before processing claims. This is a change to HMRC's normal 'process now, check later' approach to tax relief claims, and illustrates HMRC's significant concern of abuse in this area.

HMRC's new approach

HMRC wished to introduce the evidence requirements as quickly as possible. As a result, most P87 claims made on or after 14 October 2024 can only be made by post using the paper form. HMRC have removed the options of making claims online or by telephone. Taxpayers have to submit form P87 by post, together with the appropriate supporting evidence. The exception is for claims relating to uniforms, work clothing and tools ('flat rate expenses'). No specific evidence is required for flat rate expenses. HMRC are making a digital service available for those claims from 31 October 2024. They are intending to fully reinstate the digital claim service for all other employment expenses by April 2025.

The evidence requirements

For all claims for tax relief on employment expenses, the taxpayer must tell HMRC the employment for which they incurred the expense, whether their employer reimbursed any of the cost, and if so, how much. They must provide evidence of any reimbursements.

With the exception of claims for tax relief on flat rate expenses, taxpayers must provide evidence that supports the amounts they are claiming for. In the case of subsistence expenses, this might be copies of receipts that include the date the expense was incurred, and the name of the hotel or restaurant. In the case of subscriptions, this could be a receipt that shows how much the taxpayer paid. For mileage allowance claims, HMRC require a copy of the mileage log, including details such as the postcodes of the start and end points of journeys and the reason for each journey. For working from home tax relief claims, the taxpayer should provide a copy of their employment contract or other document that states they must work from home.

Wider context

HMRC have decided to take this action because they have identified an increasing number of ineligible claims for tax relief on employment expenses, in part due to activity by tax refund companies. This creates a significant tax risk. The changes to the process and the evidence requirements are aimed at ensuring that HMRC can check the accuracy of claims and eligibility of claimants upfront.

The changes to the form P87 process follow other changes aimed at making it more difficult for individuals and/or tax refund companies to abuse the tax system and tax processes. For example, in December 2023 HMRC changed form R40, and introduced a requirement to provide evidence of a payment protection insurance claim.

Self assessment claims

As mentioned, the recent changes only apply to standalone claims for tax relief. People who claim tax relief on employment expenses through their self assessment tax return will not need to provide supporting evidence when they submit the tax return. However, HMRC may carry out checks on some claims made through self assessment, and ask affected claimants for supporting evidence.

Joanne Walker *jwalker@litrg.org.uk*

CIOT	Date sent
Changes to the procedure rules on the provision of written reasons for decisions www.tax.org.uk/ref1395	22/10/2024
Framework legislation and Henry VIII powers www.tax.org.uk/ref1394	31/10/2024
LITRG	
Framework legislation and Henry VIII powers www.litrg.org.uk/henryviii	31/10/2024

Briefings

Budget reaction

Non-dom changes praised, but warnings over NI

ATT, CIOT and LITRG commented on significant tax announcements in the Budget, from Making Tax Digital to inheritance tax.


John Barnett


Victoria Todd

CIOT has welcomed adjustments to the government's non-dom plans announced in the Budget, saying these reflect recommendations made by the Institute in response to the previous government's proposals. 'Changes to the 10 year new-arrival window and the tapering of the 10 year "tail" are to be welcomed,' said John Barnett, chair of the Institute's Technical Policy and Oversight Committee. 'A consultation reviewing the settlements legislation and the transfer of assets abroad rules is also very welcome; a wholesale review of these rules is long overdue.'

However, both CIOT and ATT have warned that the increase in employers' national insurance will further widen the difference in cost between taking on an employee compared to a self-employed contractor and could lead to an increase in 'false self-employment'. 'The higher employers' NI goes, the greater the likelihood that employers may seek ways to mitigate or absorb the burden, which could include potential alternative arrangements to taking on people as employees,' warned Eleanor Meredith, chair of CIOT's Employment Taxes Committee. ATT President Senga Prior encouraged the government to launch a wider review of the taxation of employment versus self-employment.

On the Chancellor's decision to freeze fuel duty again, Senga warned that, with growing number of motorists turning to electric vehicles, the government must now put a plan in place to deal with declining revenue.

The tapering of business and agricultural property reliefs for inheritance tax is likely to trigger an increase in the number of lifetime gifts, CIOT warned. The Institute also pointed out that the need for more formal valuations would create a lot more work for both HMRC and executors, and suggested that the Budget was a missed opportunity for a wider review of inheritance tax.

> **A consultation reviewing the settlements legislation and the transfer of assets abroad rules is very welcome.**

CIOT described the increase to capital gains tax rates as 'pragmatic', while observing that the gap between the immediate introduction of the changes to the main capital gains tax rates and those for realising gains under business asset disposal relief means the relief will be of particularly high benefit for the next few months. CIOT also noted that business asset disposal relief is a relief that only benefits entrepreneurs when they sell up, and suggested the government should look at how more help can be provided to new entrepreneurs.

Making Tax Digital for Income Tax should not be rolled out to those with income between £20,000 and £30,000 until HMRC has been able to properly assess how the initial rollout has gone, so not before April 2027, said ATT. Sharron West of LITRG agreed, saying HMRC should not try to run before they can walk with MTD.

CIOT's Ellen Milner welcomed what she called 'a bold, billion-pound bet on tackling the tax gap', but said the additional revenue estimates were ambitious and taxpayers could be forgiven for wondering whether they would be delivered. The Institute also welcomed the government's attempts to provide more predictability to companies through the Corporate Tax Roadmap. However, Ellen Milner warned that a narrow focus and the lack of a clear statement of strategic aims missed a trick for greater coherence across business taxation and wider government priorities.

LITRG responded to the announcement that recruitment agencies, or end clients where there is no agency, are to be responsible for accounting for PAYE tax and NI on payments made to workers that are supplied by umbrella companies. 'Action to tackle non-compliance in the umbrella market ... is long overdue,' said Victoria Todd, though she noted that the move might lead some responsible umbrella companies to leave the market.

Political update

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

CIOT wrote to the new chair of the House of Commons Treasury Committee ahead of the committee's evidence session with the Chancellor on 6 November setting out the Institute's views on measures in the Budget, and offering support for the committee's work over the Parliament on tax matters.

CIOT and ATT have written to the newly appointed Conservative Shadow Chancellor Mel Stride and Shadow Exchequer Secretary James Wild, as well as the new Lib Dem Treasury spokesperson Daisy Cooper, congratulating them on their appointments and looking forward to working with them, including on the current Finance Bill. The two bodies provide briefing notes to opposition Treasury teams and other MPs scrutinising tax legislation, and oral briefings where requested, in support of our public benefit objectives.

The Finance Secretary of the Welsh government Mark Drakeford was the guest speaker at ATT and CIOT's networking lunch in Cardiff on 14 November. We'll have a report on that event in the next *Tax Adviser*. We are delighted to say that James Murray, Exchequer Secretary, will be among the illustrious speakers at CIOT and ICAEW's conference in March to mark 20 years since the formation of HMRC (see page 32 for more information).

LITRG

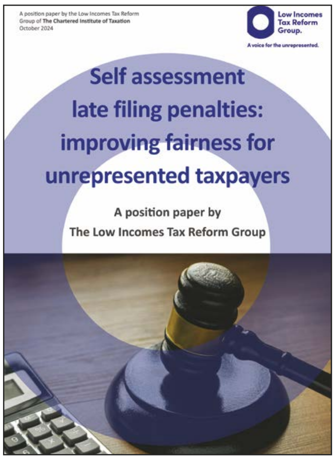
Two-tier penalties system creates unfairness

CIOT's Low Incomes Tax Reform Group (LITRG) has urged HMRC to speed up the implementation of the new self assessment penalty regime. The LITRG has expressed concern that delays will leave some taxpayers, including those on low incomes, paying over a thousand pounds more for delays in filing their tax return on time.

In a new paper, 'Self assessment late filing penalties: improving fairness for unrepresented taxpayers', LITRG sets out a series of interim steps that could be taken to smooth out the difference between the two regimes if early implementation is not possible.

A new penalty regime was introduced in April 2024 and is initially being rolled out to volunteers in the Making Tax Digital for Income Tax programme. Taxpayers outside of MTD for ITSA will continue under the current penalty regime, as HMRC has been unable to put a timetable on the roll-out of the new regime for these taxpayers. It cites IT limitations as the reason for the delay.

Victoria Todd, Head of LITRG, said: 'We urge HMRC to bring in the new penalty regime for all taxpayers as soon as they can, but if this is not possible, there are a series of tweaks they could make to the existing regime that will bring it closer to its replacement. These will help to mitigate the unfairness created by a two-tier penalty regime and will offer some protection for low-income taxpayers.'



LITRG's suggestions include:

- greater leniency so that first-time missed deadlines do not incur penalties;
- easier exit from self assessment for those who no longer need to file a return;
- automatic cancellation of late filing penalties for those in self assessment who are found to no longer need to file a return;
- replacing self assessment with simple assessment for taxpayers with PAYE tax debts; and
- ensuring that GOV.UK guidance on self assessment matches the legal requirements for filing a tax return.

Read LITRG's report at tinyurl.com/LITRG-penalties.

HMRC

No extra help for customer service

CIOT has expressed disappointment at the government's failure to announce extra help for HMRC customer service in the Budget.

CIOT's Tax Policy Director, Ellen Milner, said: 'We remain concerned that, in a Budget about fixing the foundations, no additional investment has been made to underpin the commitment to improve HMRC's customer service.' She said that poor service levels are continuing to have a detrimental impact on the tax system as a whole, the ability to do business and the wider economy.

This followed a joint call by CIOT and ICAEW ahead of the Budget for the Chancellor to make such an investment. That call followed emerging findings of a study of tax agents' contact with HMRC, conducted jointly by CIOT and ICAEW during September and October 2024.

The study found that while 85% of attempts to contact HMRC across a range of helplines and webchats got through to an adviser, a quarter of issues raised through helplines and webchats go unresolved, while in 41% of cases, agents needed to contact HMRC again.

The full findings of the survey will be published in December and will be reported in an article in the next *Tax Adviser*.

In the news

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

'Helen Thornley, technical officer of the Association of Taxation Technicians, said the Chancellor is likely to continue to focus on tax avoidance and evasion as noted in the Labour manifesto.'

'The i' Budget preview, 11 October. ATT's Emma Rawson was also quoted and both Helen and Emma contributed to BBC Radio Budget previews too.

'Taxpayers can now print off their own tax returns rather than relying on being sent one by HMRC… Antonia Stokes, a technical officer for the Low Incomes Tax Reform Group, said: "This is a welcome step by HMRC that will make it easier for some taxpayers."'

The Times, 13 October

John Barnett, chair of the technical policy and oversight committee of the Chartered Institute of Taxation, a professional body, said the Lawson CGT regime 'arguably restricted entrepreneurship'. 'If you tinker with CGT there's more chance for behavioural change [from taxpayers],' added Emma Rawson, technical officer for the Association of Taxation Technicians.

Financial Times article on the history of CGT, 19 October

'Joanne Walker, a technical officer for the Low Incomes Tax Reform Group, has suggested that "until the new system can be introduced for everyone, HMRC should take steps to make late filing penalties fairer and more consistent for all taxpayers".'

The Guardian, article on HMRC levying fines on people who don't owe tax, 28 October

'This change is likely to trigger an increase in the number of lifetime gifts, as all but those owning the smallest value farms and businesses scramble to avoid paying inheritance tax.'

John Barnett of CIOT quoted in Financial Times article on IHT Budget changes, 31 October

'Rachel Reeves warned the country this would be a Budget of tough choices – and her tax announcements show that.'

Ellen Milner, CIOT Director of Public Policy, opinion article in the Scottish Sun, 31 October

Membership

Annual Returns now due: Top ten tips

An Annual Return must be completed by all CIOT or ATT members and ADIT Affiliates each year, excluding students or those fully retired.

You should receive an email reminder to submit the Annual Return and pay subscriptions due. If you do not receive the reminder you must still fulfil this mandatory membership requirement, otherwise you could become subject to a financial penalty or referral to the Taxation Disciplinary Board.

To ensure you receive our emails, we recommend adding membership@ciot.org.uk or membership@att.org.uk to your email contact list. If you don't receive the reminder in November, we suggest checking your spam folder and ensuring that we have your current email address on record. Members can view and update their details in their Portal account.

Why do we require an Annual Return?

CIOT and ATT members and ADIT Affiliates are required to meet high professional standards as these are essential in retaining our reputation for excellence in tax, and in maintaining trust in the tax profession by the public, HMRC and others. The Annual Return is one of the tools we use to ensure that these standards are being met as members confirm they are meeting membership and legal requirements.

Top ten tips to complete your return

1. The form can be accessed at https://pilot-portal.tax.org.uk and it works best accessed through the following browsers:
   - Microsoft Edge v86 or higher; and
   - Google Chrome v86 or higher.

   Some members have previously experienced problems using Firefox and Internet Explorer so these browsers are best avoided where possible.
2. The questions cover the period from 1 January to 31 December 2024. The deadline for submission is 31 January 2025.
3. Members are asked whether they work in tax. Make sure you answer this correctly so that the form generates the right follow up questions. You are working in tax if you provide tax compliance, tax advice, consultancy or guidance in tax services in: private practice; the public sector (e.g. HMRC); commerce and industry; the not-for-profit sector; mixed tax and technology or tax software development roles; and in any other form, including roles that are not client focused such as writers, lecturers and trainers in the area of tax.
4. If you have more than one tax role – for example, you are in employed as an 'in-house' tax adviser in industry and also run your own private practice – you MUST select all the appropriate options so that the required questions relating to each role are generated. If you have more than one tax role applicable to the individual listed options, e.g. you are a director of two different tax or accounting practices on Companies House, please email us at standards@tax.org.uk with details of your additional tax roles.
5. If you are working in tax and have your own business, you will be asked to confirm your anti-money laundering (AML) supervisor. Please provide information that you have confirmed is correct when indicating your AML supervisor. You must be able to provide evidence of this if requested.

   If your supervisor is not on the drop-down list, please answer 'No' to the question 'Does your practice/firm/partnership have an anti-money laundering supervisor?' and give an explanation in the box provided.
6. AML supervision with CIOT or ATT is not automatically provided as part of your membership subscription and requires a separate registration and annual renewal. Members are not meeting their legal requirements if they are in business providing tax or accounting services and are not registered for AML supervision. Further information about registration is available on the CIOT website at tinyurl.com/3s36242n and the ATT website at tinyurl.com/5ezfkkbk.

Charity

Will you donate your last hour to help people like Mary?

Can you support vulnerable people in the UK by donating to TaxAid and Tax Help for Older People this Christmas?

Mary, a pensioner living with brain cancer, called our helpline earlier this year about a tax underpayment. This is not unusual on our helpline. However, in Mary's case we were quite surprised, as in 2017 we had successfully appealed this same underpayment and the tax had been remitted.

In 2017, we had found that the tax underpayment of £1,723 for the tax year 2016/17 had arisen because of a coding error on Mary's pension following the death of her husband. We appealed the debt with HMRC on the grounds of Mary's ill health and the impact of her recent bereavement; her debt was remitted.

When the same debt reappeared five years later, Mary couldn't quite believe it and was incredibly worried about how she would manage to pay it. She was surviving on her state pension and two small private pensions. Our adviser contacted HMRC to find out why this underpayment had come back into play after all this time but the reason remains unclear.

We appealed the underpayment again, stating that there had been no change to Mary's circumstances, and again the appeal was accepted and the debt was remitted. Understandably, Mary couldn't quite believe it and asked that we send her a letter confirming that the debt had been removed, and saying: 'Thank you. It has caused some sleepless nights but I would rather go to prison than pay as I don't think it is fair.'

At TaxAid and Tax Help for Older People, our mission is to help people who need tax advice and support but who are unable to pay for it – people like Mary who find themselves in tax debt due to no fault of their own. We are the only charities in the UK providing specialist direct tax help to vulnerable people in the UK, and it is only with your help that we can continue to support people like Mary through their tax issues.

7. The return asks members providing tax services by way of their own business to confirm they have professional indemnity insurance (PII) in place and to identify which insurer is providing that cover. It may be helpful to have these details to hand before starting to complete the form.
8. There is further guidance on how to complete the Annual Return questions on the CIOT website at www.tax.org.uk/annual-return-guidance and the ATT website at www.att.org.uk/annual-return-guidance. This guidance includes a reference point on how to answer the PII or CPD questions. A table sets out the requirements and what you need to tell us (depending on your circumstances).
9. The form generates a summary of all the answers provided for you to review and edit (if necessary) before final submission. We recommend checking the summary, as experience has shown that it can sometimes be easy to hit a wrong button and give an erroneous non-compliant answer!
10. If you need any other assistance with completion of the Annual Return – for example, with how to answer particular questions or if you have concerns that you have not met all your membership requirements – then please contact membership@tax.org.uk. It is important to contact us if you need any help so we can work with you to ensure compliance. Ignoring reminders and failing to meet this membership requirement will result in a fine or a referral to the Tax Disciplinary Board: www.tax-board.org.uk

Can you donate your last hour?

This is why we are asking our wonderful supporters in the tax community to please gift us the last hour of your pay this Christmas. Last year, we supported 18,667 people like Mary through our expert tax advice helplines. We helped to generate £315,937 in tax refunds and remitted £1,063,139 in tax debt for the most financially vulnerable people in the UK. Together, we can stop vulnerable people from falling further into financial hardship paying tax debt that they do not owe.

Please donate your last hour's pay this Christmas. You can donate to the tax charities through our joint fundraising campaign, Bridge the Gap, using this link: https://cafdonate.cafonline.org/27176. The funds raised will be split evenly between the two charities. You can also use our QR code to donate. Thank you for your generosity.

ADIT

A round-up from our ADIT Champions

The wonderful world of ADIT Champions and how they spread the word about the benefits on offer.

Whether it's a professional hoping to build a career in international tax or an organisation seeking to enhance and formalise their employee learning and development, nobody decides their professional education route on a whim. In promoting our educational services, the CIOT relies on positive and repeated word-of-mouth about the value that our qualifications bring, the continued relevance of the learning to the real world, and the technical and professional excellence of our members and those who hold certification with us.

When it comes to ADIT, these key attributes are exemplified by the eight volunteers from around the world – Anas Salhieh, Andrada Gorita, Ann Barnshaw Kengaaju, Clayton Bonnette, Colm Mooney, Jia Yu Wong, Katia Papanicolaou and Siddharth Banwat – who serve as our ADIT Champions. They play a crucial role in promoting both the qualification and Affiliate certification to audiences in their respective countries and regions.

This year has seen a record number of ADIT Champion-led events, including both face-to-face events and webinars. These activities help to grow the ADIT community and connect international tax professionals with their peers, while also equipping members of each regional ADIT network with the latest technical knowledge on tax topics that are specific to their locality.

Among the highlights have been: an evening networking reception for ADIT Ireland Network members in Dublin; a three-part series on recent Pillar Two developments in Southeast Asia; webinars on a variety of personal and corporate tax topics in Cyprus, the Gulf States and Romania; and our first joint webinar with the Singapore Chartered Tax

ADIT Champions: Katia Papanicolaou, Anas Salhieh, Siddharth Banwat, Colm Mooney, Jia Yu Wong, Andrada Gorita, Clayton Bonnette and Ann Barnshaw Kengaaju.

Professionals, which compared the transfer pricing audit landscape in Singapore, Ireland and the UK.

In addition to helping us organise events, our Champions play a valuable role in assisting students and employers in their regions with queries relating to their ADIT progress, collecting feedback that can help us to improve the way we deliver our services, and building relationships with key institutional stakeholders.

Each Champion not only works full time in international tax practice, but also holds the ADIT qualification, giving them both first-hand experience of studying for ADIT and knowledge of how to apply the resulting international tax expertise to the workplace. After all, nobody can 'talk the talk' on ADIT better than somebody who has 'walked the walk'!

Find out more about our ADIT Champions at www.tax.org.uk/adit/champions.

CONTACT DETAILS

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Uganda Champion:
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Disciplinary reports

NOTIFICATION

Mr David Hannah CTA

At its hearing on 19 to 21 June 2024, the Disciplinary Tribunal of the Taxation Disciplinary Board considered three complaints against Mr David Hannah of Kibworth, a member of the CIOT.

1. Complaint by HMRC and CIOT

1. Following the judgment of the First-tier Tribunal in the case of *David Hannah and another v HMRC* [2019] UKFTT 342 (TC), [2019] SFTD 976 involving tax planning carried out for the purchase of a property, penalties were imposed upon Mr Hannah which were subsequently upheld by the First-tier Tribunal and Upper Tribunal.
2. The penalties were upheld on the basis that there had been deliberate conduct by Mr Hannah when he filed form SDLT1 on 5 October 2011, which materially understated the consideration payable for the property. An appeal by Mr Hannah was dismissed by the Upper Tribunal.

Mr Hannah faced the following charge:
Charge 1: By knowingly providing HMRC with a document that contained an error with the intention that HMRC should rely upon it as an accurate document, Mr Hannah failed to:
a) act with integrity; and
b) uphold the professional standards of the CIOT as set out in the Laws of the CIOT.

The Tribunal found that Mr Hannah was in breach of PRPG 2011 Rules 1.7, 2.1 and 2.2.2. The Tribunal determined that Mr Hannah be expelled from membership of CIOT.

2. Complaint by Mr and Mrs D

1. At the relevant time, Mr Hannah was a director of Cornerstone Tax Ltd. Cornerstone Tax Ltd provided services, including tax planning and advice services, which included advice and planning in relation to schemes designed to avoid payment of stamp duty land tax. This included an annuity based Stamp Duty Land Tax Mitigation Scheme known as 'Hussey' (the 'Scheme').
2. In or around July 2016, Mrs D was advised by Mr Hannah to enter into the Scheme.
3. In or around 2017, HMRC commenced an inquiry into the Scheme and challenged its validity. As a result, both Mr and Mrs D were required to make a payment to HMRC of £13,750 each, plus interest.
4. As a result of the actions and omissions of Mr Hannah and/or Cornerstone Tax Ltd, Mr and Mrs D suffered financial loss.

Mr Hannah faced the following charges:
Charge 1: Mr Hannah failed to advise Mr and Mrs D appropriately about the risks of entering into the Scheme.
Charge 2: Mr Hannah failed to respond appropriately to the HMRC investigation into the Scheme or keep Mrs D updated about the HMRC investigation.
Charge 3: Mr Hannah and/or Cornerstone Tax Ltd have failed to respond adequately to the concerns raised by Mr and Mrs D and have subsequently refused to correspond with them about the matter. Accordingly, Mr Hannah has:
a) failed to uphold the professional standards of the CIOT; and
b) failed in his duty:
   i. to act towards his clients Mr and Mrs D with professionalism; and
   ii. not to act in such a way as to bring CIOT into disrepute.

Charge 4: Mr Hannah has failed to ensure that the businesses of which he was a Director were conducted with honesty and integrity. In particular, Mr Hannah failed to ensure that the selling of the Scheme was done in a way which properly highlighted the risks to potential clients.
Charge 5: Mr Hannah has:
a) failed to uphold the professional standards of the CIOT; and
b) failed in his duty not to act in such a way as to bring CIOT into disrepute.

The above charges alleged numerous breaches of the PRPG 2011 and Professional Conduct in Relation to Taxation 2011. The Tribunal found the majority of the breaches charged to be proved.

Sanction

The Tribunal determined that the appropriate sanction was that Mr Hannah be expelled from membership of CIOT. It also ordered that he pay compensation of £3,000 to Mr and Mrs D. The Tribunal decided that it did not have jurisdiction in relation to the third complaint. The Tribunal ordered that Mr Hannah pay costs to the TDB of £36,365.

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

Spotlight

Spotlight on the Capital Taxes Liaison Group

The Capital Taxes Liaison Group is an HMRC forum within which members of the accountancy and legal profession, as well as other interested bodies, can discuss matters relating to capital gains tax, inheritance tax and trusts.

The Capital Taxes Liaison Group helps to advise on draft guidance and provides members with an opportunity to raise matters of uncertainty regarding legislation, guidance or procedure.

CIOT and ATT are both represented at the Capital Taxes Liaison Group, through a combination of staff and volunteers. Other members of the Capital Taxes Liaison Group include the main accounting and tax bodies, along with representatives from the legal profession and industry, as well as HM Treasury.

The Capital Taxes Liaison Group is chaired jointly by Sarah Kelsey (Deputy Director, Assets, Residence and Valuation) and James Konya (Deputy Director, CT Structure). It meets every six months to discuss open issues from earlier meetings, but prior to each meeting members are invited to place new items on the agenda for discussion.

Once new guidance has been drafted, members are invited to participate in reviewing it, allowing HMRC the benefit of that feedback before the guidance is finalised. Matters discussed in 2024 so far have included guidance on matters such as ESC D32 with respect to incorporation when business liabilities are involved; and whether the assets transferred need to include the legal, or just the beneficial, ownership. The current guidance on ESC D32 is rather dated and does not factor in the modern commercial practice of lenders with respect to these liabilities. The Capital Taxes Liaison Group is a forum where this guidance can be discussed and refined.

Another subject of guidance review has been that on the extension of residential leases and the tax consequences where a property management company owns the freehold. More recently, following the October Budget, the CIOT has offered to review the guidance concerning the mid-year change of capital gains tax rates.

As well as guidance, legislation itself and definitions therein are sometimes discussed. One such recent example concerned cryptoassets and whether they might be included in the provisions for inheritance tax loss relief alongside ‘qualifying investments’ within the Inheritance Tax Act 1984.

Also, the question has been raised as to whether there is a defect in s 22 of the Taxation of Chargeable Gains Act 1992 concerning the potential exposure to capital gains tax of dividends to non-UK resident individuals from a non-UK resident company holding UK property.

In all these cases, HMRC (and HMT when concerning legislation) will ask forum members for examples of where any areas of uncertainty have led to actual difficulties with taxpayers and how many people are likely to be affected. As much detail as possible should be provided when placing matters for discussion before the group so that HMRC and HMT can prioritise their resources accordingly.

Further information about the Capital Taxes Liaison Group can be found on GOV.UK at tinyurl.com/5esh5fwd, including ‘meeting minutes’ prepared by HMRC. Please be aware that because these are for public consumption, they are necessarily sanitised and do not fully reflect everything discussed during the meetings, nor the extent of the debate and challenge put forward by the representative bodies.

International

Chinese State Taxation Administration

CIOT Technical Officers Margaret Curran, Sacha Dalton and Jayne Simpson welcomed 25 delegates from China’s State Taxation Administration to the CIOT’s head office for a fact finding visit in September.

The session began with a formal introduction where, through an interpreter, we shared the CIOT’s history and mission and gave an overview of its qualifications and membership. We explained the organisation’s charitable educational purpose, and that it works for a more effective tax system and to improve public understanding of taxation. We highlighted the work of its technical committees and the Low Incomes Tax Reform Group.

We spoke to the delegation about various tax technical topics. This included a broad outline of the UK’s income tax self-assessment regime, focusing on key administrative processes, registration, filing and payment deadlines, plus the penalties that can be charged for compliance failures. We covered the main elements of the UK’s corporation tax system and international cooperation efforts, particularly in the context of the OECD’s Base Erosion and Profit Shifting project, and how the UK has responded to these initiatives.

Additionally, we discussed the UK’s VAT system, the security measures implemented for international businesses, and the interaction between UK tax policies and the country’s goal of achieving net zero emissions. Our presentation also covered agent standards and the regulation of tax professionals in the UK.

A thought-provoking Q&A session followed, which gave delegates the opportunity to ask us questions and share insights with us about the Chinese tax system. We concluded the afternoon by exchanging gifts. The Chinese presented us with an attractive box containing a plaque depicting pandas with bamboo which is now on display at head office.

This session was a great opportunity for us to exchange knowledge and understanding between our two countries in the field of taxation. In later feedback, the organisers told us that the delegation had gained invaluable insights and experiences from the visit and thanked the CIOT for its assistance and support to the delegation.

CIOT was delighted to welcome Chinese delegates to a fact finding mission.


The gift of a plaque depicting pandas was gratefully received.

Career development

The power of mentoring in tax

Mentoring is widely recognised as a powerful tool for career development, but its benefits extend beyond climbing the corporate ladder.

For tax professionals, mentoring provides essential support, guidance and insight to navigate the field's complexities. Whether early in your career or a seasoned adviser, having a mentor – or becoming one – can be transformative.

Mentorship as a career asset

Mentorship serves as a foundation for growth and resilience in a fast-paced profession like tax. A 2023 study by Newable, Enterprise Nation and the Association of Business Mentors found that 76% of respondents viewed mentors as vital for personal and professional development, with 64% noting increased confidence in their strategic skills as a result of mentoring.

A good mentor doesn't just provide technical guidance; they help mentees to set and achieve broader career goals. For tax professionals, these goals might include career progression, specialisation or role transition. Mentors bring objectivity, experience and insights that help mentees to build confidence, refine their career focus and develop beyond technical skills.

Benefits for mentors and mentees

Mentoring enriches both mentors and mentees. For mentees, it offers guidance on identifying strengths, addressing weaknesses and creating a structured approach to professional development. Mentors help mentees to set clear objectives and break down larger goals into achievable steps, fostering a sense of progress. Importantly, a mentor can be a source of encouragement, sharing real-life strategies for managing stress, achieving work-life balance and facing other challenges.

For mentors, guiding others can be equally rewarding. Supporting others provides an opportunity to reflect on their own journey, refine leadership styles and stay connected with emerging trends. Mentors often find renewed purpose in nurturing the next generation and building professional connections.

Overcoming barriers

Despite the benefits, some professionals hesitate to seek or accept mentorship. A common barrier is a reluctance to ask for help, particularly in a field where independence is highly valued. Others may feel they lack the time to engage when balancing demanding roles. However, the right mentoring relationship doesn't have to be time-intensive; it's about quality over quantity.

Another challenge can be the fear of vulnerability. Sharing uncertainties can be daunting but with a trusted mentor this openness can lead to invaluable insights and a clearer path forward.

Why mentoring matters

Management consultant Peter Drucker once said, 'The best way to predict the future is to create it.' In today's evolving tax landscape, mentorship is one of the most effective ways to shape your future.

By embracing mentorship, tax professionals can gain valuable support to progress in their careers. Whether you're looking for guidance or are ready to share your expertise, mentorship offers a powerful, mutual journey of growth and success.

Finding a mentor through our member platform

ATT recently launched ATT Mentor Match, a platform where members and students can join as a mentor or mentee, and get a choice of customised matches to best support each mentoring relationship. This ATT members and students-only service provides tax professionals with a chance to find mentors who align with their goals.

Whether you're aiming to specialise in a particular area of tax or looking to develop skills like communication and leadership, the platform offers a tailored approach to support. See https://att.onpld.com.

Membership

Membership subscription rates for CIOT, ATT and ADIT Affiliates

CIOT 2025	
Associate/Standard	£437
Overseas Standard	£403
Fellow	£456
Overseas Fellow	£417
Retired with Literature	£86
Retired without Literature	£22
Reduced Rate	£86
Life Associate/No fee renewal	£149

ATT 2025	
Standard	£242
Fellow	£263
Joint Rate	£149
Joint Fellow	£160
Retired with Literature	£139
Retired without Literature	£20
Reduced Rate (Not working)	£77
Low Income Reduced Rate	£139
Life Member	£200

ADIT 2025	
ADIT Affiliate	£203
Reduced Rate	£47
Joint Rate	£101

Please log into your Portal account at: https://pilot-portal.tax.org.uk to renew your membership.

Taxation Disciplinary Board

Update to Indicative Sanctions Guidance

The Taxation Disciplinary Board annually reviews the Indicative Sanctions Guidance, which sets out the range of sanctions that are available to the Tribunal with indications of how these may be applied to various situations. The review involves benchmarking the sanctions that the Taxation Disciplinary Board applies against those of similar regulators and some general tidying up to remove some elements of ambiguity and inconsistency.

The update includes new guidance for anti-money laundering related breaches.

The result of this has shown that the level of fines imposed by the Taxation Disciplinary Board have been set at levels below those felt appropriate by similar professional regulators and therefore the suggested sanctions and appropriate level of fines have been updated.

The Indicative Sanctions Guidance is to be treated as guidance with Taxation Disciplinary Board panellists using their judgment and reaching conclusions about taking mitigating and aggravating circumstances into account when determining sanctions. The update also includes new guidance for anti-money laundering related breaches. The guideline on the fine for failure to register for supervision is £1,000 with higher suggested amounts for other anti-money laundering breaches.

These changes have been needed because Regulation 49(1)(d) of the Money Laundering Regulations 2017 requires a professional body supervisor to make arrangements to ensure that contravention of a relevant requirement by a member of their supervised population renders that member liable to effective, proportionate and dissuasive disciplinary measures under the professional body's rules.

The latest version of that Guidance is now available on the TDB website at: www.tax-board.org.uk

A MEMBER'S VIEW

Hoi Yan Kinki Lam

Trust Tax Assistant, Larking Gowen LLP

This month's ATT member spotlight is on Hoi Yan Kinki Lam, Associate in Tax and Trust Tax Assistant at Larking Gowen LLP.

How did you find out about a career in tax?

Originally, I did not consider a career in tax. However, my first job in an accountancy firm was in their tax team. I found tax to be fascinating and also challenging and decided that it was a career for me.

Why is the ATT qualification important?

The ATT qualification has helped me to understand the implications of different taxes such as income tax, capital gains tax, inheritance tax and corporation tax. I now use the knowledge from my studies in practice to support and improve my skills and performance at work.

Why did you pursue a career in tax?

Tax legislation changes often and can be complicated, so I like the challenge of staying up to date and figuring out the best way to apply them. Although, I have no direct experience on advising clients on tax planning, I am sure it will be rewarding to make a difference by helping them plan their finances confidently and correctly.

How would you describe yourself in three words?

Approachable, determined and organised.

Who has influenced you in your career so far?

A key influence in my tax career are the people I work with at Larking Gowen, who emphasised the importance of staying curious, always asking questions and challenging myself. They encouraged me to look at tax legislation and truly understand the reasoning behind the rules and application of those in various situations. This approach has taught me to think critically, stay updated on changes and seek out solutions for clients. Their commitment to both technical excellence and client services showed me how valuable it is to be thorough, adaptable and client focused. This perspective has shaped my approach and continues to guide me as I develop my career.

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

If you are considering doing the ATT qualification, my advice would be to go for it. It will give you a strong foundation and credibility to progress your career in tax but be prepared for a career that requires continuous learning.

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

The future for tax advisers and the tax industry is likely to involve significant changes, primarily driven by technology, regulation changes and a growing focus on sustainability. Therefore, the tax industry will demand adaptability, technical knowledge and a client focused approach, making it essential for future tax advisers to be flexible, proficient in use of modern technology and forward thinking.

What advice would you give to your future self?

Stay curious and adaptable. Keeping up to date with technical knowledge and technology is essential but building strong relationships with clients by communicating clearly and understanding their needs is equally important. Also, don't forget to prioritise work-life balance, take time for yourself to stay motivated and energised for the long term.

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

I came to England 11 years ago. At that time, I was struggling to communicate with others in English. Studying in a second language is not easy but achievable – nothing is impossible if you have a clear goal.

Contact

If you would like to take part in A member's view, please contact: Melanie Dragu at: mdragu@ciot.org.uk

The Association of Taxation Technicians is recruiting Technical Officer – full-time home based Salary Circa £77,000

The Role

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

In this role, you will:

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

The Person

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

Applicants should:

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

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

Please email Sharon Jepson at Sjepson@ciot.org.uk for further information or visit www.att.org.uk. The application deadline is 5pm, 13 December 2024.

Quality Assurance Manager: Owner Managed Businesses

Chartered Institute of Taxation.

The CIOT is looking for a new Quality Assurance Manager: Owner Managed Businesses (OMB), to join our examiner team and oversee the development and marking of the CIOT's OMB examinations.

The primary purpose of the Quality Assurance Manager is to ensure that the allocated papers and their accompanying answers are fit for purpose and maintain and enhance the reputation of the CTA qualification. The Quality Assurance Manager also supports the Chief Examiner. Key responsibilities include managing a team of examiners, creating, marking and quality assuring the exam papers in accordance with the annual timetable and assisting in the completion of each exam session.

The position is part-time (19 days p.a.) and is home-based. The current salary for the position is £134,960.80 pro rata and reports to the CIOT's Chief Examiner. The job pack, including the job description can be found at www.tax.org.uk/vacancies.

If you are CTA qualified, with strong and demonstrable technical skills in the OMB area of tax, we would like to hear from you. To apply for the role please submit your up-to-date CV and a covering letter by 31 December 2024, which sets out how your skills and experience meet the job description.

Constable
VAT CONSULTANCY

VAT Manager/ Senior Manager

Dedham, Essex, with the opportunity for hybrid working
£55,000 - £76,000 plus performance bonus

We are currently seeking experienced VAT professionals to join Constable VAT Consultancy as permanent members of our team. We would welcome applications from VAT specialists with at least 8 years' experience gained either in practice or HMRC.

This is a consultancy focussed role and most work is advisory in nature. Ideally, you will hold a VAT related qualification such as CTA, AIIT, HMRC's VAT Legal and Technical qualification or BTEC in VAT Assurance; however, candidates demonstrating that they have the relevant experience and aptitude are also encouraged to apply.

Constable VAT is a thriving VAT consultancy business established over 20 years ago, with clients ranging from Fortune 500 companies, large multinationals, OMBs, charities and other not-for-profits and our work covers wide and varied aspects of VAT.

At Constable VAT, we offer a professional but relaxed and happy working environment, with support from like-minded VAT professionals and the opportunity to work collaboratively on interesting projects. You will be supported in your role and the right candidate will have an opportunity to progress.

If you are interested in this role, please see our website for more details and send your CV along with a brief summary of why you are a good fit for us to
robert.thorpe@constablevat.com

www.constablevat.com
01206 321029

Pure

Customs Manager

We are partnering with a leading global automotive company who are looking for an experienced Customs Assistant Manager / Manager to join their in-house tax team. This unique opportunity offers the chance to step into a senior role overseeing customs compliance, strategy, and advisory functions. The role provides direct involvement with high-profile projects, including support for related group companies and interactions with international stakeholders.

Key responsibilities:

- Lead and manage customs compliance for all imports, overseeing duties, compliance, and strategic planning.
- Provide advisory support, working closely with international teams and headquarters, ensuring alignment on customs procedures.
- Manage two direct reports and support their development within customs operations.
- Collaborate with internal departments and affiliated teams, including high-profile groups, to ensure customs compliance and mitigate risks.
- Support unique, high-profile projects such as securing compliance for specialized imports, including custom vehicles.

Qualifications and skills:

- Prior experience in customs management, ideally with a background in finance or tax.
- Comfortable stepping up into a managerial role; mentoring and team management skills are a plus.
- Strong knowledge of customs compliance, regulations, and advisory functions.
- Able to liaise effectively with internal and external stakeholders, including international teams.

Benefits:

- Competitive salary.
- Company car allowance (up to three cars at any given time, rotated every six months).
- Generous bonus structure (up to 15%).
- Flexible benefits pot of 3.65%, with the option to take as cash.
- Hybrid working model: three days in the office per week.

This role is ideal for a customs professional ready to take the next step in their career within a supportive, dynamic team environment.

Please contact **Thomas Fisher, Principal Consultant, Indirect Tax** | **+44 (0)7789 821 898**
125 London Wall, London, EC2Y 5AS

GEORGIANA HEAD
Taxation Recruitment

MERRY CHRISTMAS

GEORGIANA HEAD

Director

Tel: 0113 418 0767
Mob: 07957 842 402

georgiana@ghrtax.com

Tax Technical Officer
UK remote
£excellent

Our client is a well-regarded professional body. They seek an experienced tax professional to join their technical team. In this role, you will provide comprehensive guidance for members and the public as well as work with HMRC and HMT to improve the tax system to make it better for taxpayers, their advisers and the authorities. You will draft responses to consultations across the full range of taxes, and copy for articles and the body's website. You will present at conferences and seminars and generally contribute to thought leadership on all things tax. **Call Georgiana Ref: 3520**

Corporate Tax Director
Slough or London
£excellent

Our client is a dynamic firm which includes a mix of lawyers, tax advisers and financial advisers. They provide all-round professional support to a diverse portfolio of corporate clients ranging from startups to major international groups. Their client base would be the envy of any Top 20 firm. In this role, you will have a small team of people reporting to you, and partners above to support you. The work is broad based and cross discipline. There is plenty of interesting advisory work and as the firm is rapidly expanding, there are plenty of opportunities to progress. **Call Georgiana Ref: 3591**

Corporate Tax Manager
Cheltenham or Cardiff
£excellent

Our client is a large independent accountancy firm with a big tax team. Their corporate tax function seeks an ambitious and dynamic corporate tax hire to become part of their expanding team. This firm is multi award winning, well regarded, with a sound reputation earned through serving a wide-ranging and diverse clientele. In this role, you will deal with a mix of compliance and advisory work. You will also manage and develop staff. Excellent salary and benefits plus flexible and part-time working available. **Call Georgiana Ref: 3455**

Mixed Tax Manager
Stoke-on-Trent
£excellent

Our client is a well regarded independent firm based in Stoke. In this key role, you will be reporting directly to the Tax Director. Predominantly, you will play a critical role in the review and completion of tax returns for a varied client portfolio. You will also identify opportunities to contribute towards the development of a larger advisory function. This includes management of P11ds, oversight of personal tax returns, supporting junior staff with technical queries and completion of complex tax returns. Great salary package and parking. **Call Georgiana Ref: 3506**

Tax Senior or Manager
Harrogate
£excellent

Our client is an independent firm. They seek a tax professional to join a growing tax team. In this mixed tax role, you will deal with both personal and corporate tax for HNW individuals, entrepreneurs and their businesses. Day to day, this will include tax compliance including preparing and reviewing tax returns for director/shareholders, landlords, sole traders, partnerships and trusts. You will work to partners on tax advisory work including remuneration planning, company reorganisations and IHT and CGT. **Call Georgiana Ref: 3521**

Private Client Partner
Leeds
£excellent

Top 20 firm with seeks a Private Client Partner for key role helping run the tax team in a new office based in central Leeds. You will help lead the personal tax offering across Yorkshire, and will manage and develop a team of staff. This role comes with a diverse client base which includes HNW individuals and families, entrepreneurs, landed estates, trusts and individuals with cross border wealth. You will have oversight of compliance and delivery of advisory services. Would consider a director looking for a step up to partner. **Call Georgiana Ref: 3502**

Personal Tax AD or Director
Gloucestershire
£excellent

A landed estates specialist is sought by a large independent firm based near Cheltenham. You will deal with an expanding portfolio of rural clients including landed estates, farms and HNW individuals and families. You will support partners on advisory projects and implementation of complex tax planning arrangements for farmers and landowners, including CGT and IHT and succession planning. Alongside this, you will oversee compliance for your portfolio and manage more junior staff. **Call Georgiana Ref: 3465**

Mixed Tax Senior Manager
Ilkley
To £55,000 + bens

This is a great role for a qualified tax professional based in the lovely spa town of Ilkley in West Yorkshire. This is the gateway to the Dales and our client is a forward thinking, modern practice which can offer the perfect blend of office and home-working. They will even set up a home office for you. This practice prides itself on offering superior client service, and they are looking for someone who really enjoys getting to know their clients and delivering an outstanding service. Mixed tax with a personal tax bias. Great local role. **Call Georgiana Ref: 3516**

Private Client Advisory
Leeds or York

Advisory focused personal tax role in a growing team. This role can be based in Leeds or York, and the firm will consider a hire at any level from junior manager through to experienced senior manager. You will deal with a mix of HNW individuals, trusts and entrepreneurs. Your role will include advice on family investment companies, structuring of property assets, international tax issues arising from properties in different locations, IHT and CGT planning. Hybrid and flexible working available in a friendly team. **Call Georgiana Ref: 3511**

Corporate Tax Director
Bristol, Exeter, Southampton or Poole

A fantastic role in a tax team for an individual with significant compliance and advisory experience. You will help manage and develop the corporate tax team and a well-established portfolio of OMB/SME and large corporate clients, providing a mix of compliance and advisory services. You will play a key and leading role in developing and maintaining relationships with our corporate clients, and will provide technical and mentoring support to team members and will also be a key point of contact for HMRC. Hybrid and flexible working. **Call Georgiana Ref: 3501**

Trust Manager / Senior Manager
Law firm – Leeds

Our client is a well regarded law firm known for its highly rated private client practice. This firm seeks an experienced trust manager – this is a chance to work with partners in a legal practice, helping with planning and project work alongside trust tax and admin. You will need proven UK trust experience – STEP or ATT would be advantageous. Would suit someone working in an accountancy firm who is looking for a change of scene and likes the idea of working for a law firm. Hybrid working available, minimum 2 days in the office. **Call Georgiana Ref: 3510**

Transaction Tax Director
Exeter, Poole, or Bristol

This pivotal role sees you working alongside an award-winning corporate finance team to provide advisory services to a well established portfolio of large corporate clients and private equity houses. You will help manage a team and deal with a wide range of M&A tax work, including: due diligence projects; vendor advice including clearances and pre-sale structuring; structuring for PE-backed transactions; and corporate restructuring, demergers, reorganisations and management buy-outs. Hybrid and flexible working available. **Call Georgiana Ref: 3500**

WE'RE HERE TO BE YOUR MATCHMAKER

Whether you are chasing your tail with tax recruitment or sniffing out the perfect career.


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Celebrating 6 years of connecting exceptional talent with outstanding opportunities.